

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Case No. 10-cv-02528-PAB-MEH

-----  
VIDEOTAPED DEPOSITION OF ANN S. MAEST and the  
30(b)(6) DEPOSITION OF STRATUS (Topics 2 & 3)  
DECEMBER 8, 2010  
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In re Application of,  
RODRIGO PEREZ PALLARES, an Ecuadorian citizen, and  
RICARDO REIS VEIGA, an American citizen,  
for an Order to Conduct Discovery for Use in  
Foreign Proceedings.

-----  
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Appearing on behalf of

Chevron Corporation

Also Present: Maryvonne Tompkins, Videographer

Erica Stein, Esq. (by telephone)

1 Pursuant to Notice and the Federal  
2 Rules of Civil Procedure, the videotaped deposition  
3 of ANN S. MAEST and the videotaped 30(b)(6)  
4 deposition of Stratus (Topics 2 & 3), called by  
5 Applicants, was taken on Wednesday, December 8,  
6 2010, commencing at 9:13 a.m. at 1801 California  
7 Street, Suite 3100, Denver, Colorado, before Kathy  
8 L. Davis, Certified Realtime Reporter and Notary  
9 Public within and for the State of Colorado.

10

11

12 I N D E X

13 DEPOSITION OF ANN S. MAEST

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1           P R O C E E D I N G S

2           VIDEOGRAPHER: The time is 9:13. We  
3 are on the record. Today is December 8, 2010.  
4 This begins the videotaped deposition of Ann Maest  
5 In Re Application of Rodrigo Perez Pallares and  
6 Ricardo Reis Veiga.

7           We are located at 1801 California,  
8 Suite 3100 in Denver, Colorado. The court reporter  
9 is Kathy Davis. The videographer is Maryvonne  
10 Tompkins. The attorneys will introduce themselves,  
11 starting with the attorney on my left and the  
12 deponent's right.

13          MR. BEIER: Martin Beier, Silver &  
14 Debosky, appearing on behalf of the witness, Ann  
15 Maest, and Stratus respondents.

16          MR. DANS: Paul Dans. With me is my  
17 colleague, Catherine Grieve, of Rivero Mestre, on  
18 behalf of Applicant Rodrigo Perez Pallares.

19          MR. CRISS: Jason Criss, Covington &  
20 Burling, LLP, on behalf of Applicant Ricardo Reis  
21 Veiga.

22          MR. SABOVICH: Jim Sabovich, Gibson,  
23 Dunn & Crutcher, for Chevron Corporation.

24          MS. GRIEVE: People on the phone?  
25 Megan?



1 MR. BEIER: On the phone.  
2 MS. KUNDU: Megan Kundu, Gibson, Dunn &  
3 Crutcher, for Chevron Corporation.  
4 MS. STEIN: And Erica Stein from Patton  
5 Boggs on behalf of the Ecuadorian plaintiffs.  
6 MR. DANS: Ms. Stein --  
7 THE REPORTER: Hold on one second. Let  
8 me swear in the witness.  
9 MR. DANS: Okay.  
10 ANN S. MAEST,  
11 being duly sworn to state the truth, was examined  
12 and testified as follows:  
13 MR. DANS: Ms. Stein, I might address  
14 for a moment your participation in this proceeding.  
15 We had -- obviously, we've always objected to the  
16 standing of the Lagro Agrio plaintiffs, their  
17 participation at all in this application. That  
18 said, Ms. Moll has appeared on behalf of the Lagro  
19 Agrio plaintiffs and another firm as well, the  
20 Emery Celli firm.  
21 We're not aware of any filing of an  
22 appearance by your firm. Has your firm filed an  
23 appearance in this matter?  
24 MS. STEIN: I believe that we have.  
25 MR. DANS: As of this morning at

1 8 a.m., it was not reflected on the docket. Could  
2 you immediately advise whether it's been filed.

3 MS. STEIN: Yes. I will get back to  
4 you shortly.

5 MR. DANS: And are you admitted to the  
6 District Court of the District of Colorado?

7 MS. STEIN: No, I am not.

8 MR. DANS: Okay. Well, we will object  
9 to any participation by yourself today or anybody  
10 on (sic) your firm on behalf of the Lagro Agrio  
11 plaintiffs. That said, as a professional  
12 accommodation, we will allow you to listen in on  
13 the phone as also present on this deposition  
14 transcript. But to the extent you attempt to make  
15 any objection or interfere in any way with this  
16 proceeding, we will address it at that point.

17 And be advised that we object to  
18 anyone's participation in these proceedings who has  
19 not sought to become a member of the District Court  
20 of the District of Colorado.

21 We also wanted to address one  
22 housekeeping matter, as well, with the respondents'  
23 counsel, Mr. Beier. Prior to taking the deposition  
24 of Mr. Beltman, I believe at 6 p.m. the eve of that  
25 deposition, Mr. Beier offered us a proposed

1 stipulation whereby he would stipulate certain  
2 testimony would bind his other client, Stratus  
3 Corporation.

4         We were not prepared for that. He  
5 apparently waited a month to make that offer. But,  
6 that said, Mr. Criss has had a discussion off the  
7 record with Mr. Beier about our objections. We  
8 don't need to put them on the record right now.

9         We are prepared, as an accommodation  
10 for this witness, to accept her testimony as  
11 binding with respect to 2 of the 14 identified  
12 categories of deposition topics for Stratus.  
13 However, we reserve our right, given the witness's  
14 performance, to see whether that testimony will be  
15 satisfactory with respect to her preparation on  
16 those issues.

17         And Mr. Beier has advised that he  
18 will -- he is considering filing a protective  
19 motion. We have -- with respect to the Stratus  
20 30(b)(6). We've objected. We've advised him that  
21 we think such a motion would violate the local  
22 rules and would be baseless, and we'd reserve our  
23 right to seek all costs. He will advise us after  
24 lunch of his position, and we will proceed from  
25 there.

1           That said, I would like to turn to the  
2 examination.

3           EXAMINATION

4 BY MR. DANS:

5       Q    Good morning, Ms. Maest.

6       A    Good morning.

7       Q    My name is Paul Dans. I'm with the  
8 firm Rivero Mestre. We represent Rodrigo Perez  
9 Pallares. Do you know who Mr. Perez is?

10      A    I don't know him personally, no.

11      Q    When did you first learn of who  
12 Mr. Perez was?

13      A    I don't recall.

14      Q    Well, do you know who Steven Donzinger  
15 is?

16      A    Yes.

17      Q    And when did you first meet  
18 Mr. Donzinger?

19      A    I think that would have been in January  
20 2006.

21      Q    When did you first have contact with  
22 Mr. Donziger?

23      A    I don't recall.

24      Q    Well, are you aware that, as we speak,  
25 Mr. Donziger is being deposed in the Southern

1 District of New York pursuant to a court order and  
2 a subpoena? He's giving testimony with respect to  
3 the very matters that you'll be giving testimony to  
4 today?

5 A No, I am not.

6 Q Are you aware that Mr. Donziger was  
7 subpoenaed and under court order to surrender  
8 documents that describe Stratus and your  
9 involvement in this proceeding?

10 A No.

11 Q Have you reviewed any of those  
12 documents, to your knowledge?

13 A Which documents?

14 Q Any documents of Mr. Donziger's.

15 A No.

16 Q When was the last time you talked with  
17 Steven Donziger?

18 A I don't recall.

19 Q Well, was it a month ago?

20 A No.

21 Q Was it a week ago?

22 A No.

23 Q Was it a year ago?

24 A I think it was less than a year ago.

25 Q And do you remember what in relation --

1 strike that -- what you talked about?

2 A No. I don't recall the exact time.

3 Q Well, do you remember what the purpose  
4 of the conversation was?

5 A No.

6 Q Was it with respect to the Ecuador  
7 matter?

8 A I said I don't recall.

9 Q Well, do you have any other matters  
10 that you deal with Mr. Donziger on, other than the  
11 Ecuador matters?

12 A No.

13 Q Do you have a personal relationship  
14 with Mr. Donziger?

15 A No.

16 Q Have you in the past?

17 A No.

18 Q Did you have any other communications  
19 with Mr. Donziger other than this conversation  
20 subsequent to it?

21 A Which conversation?

22 Q The conversation you testified you had  
23 less than a year ago, but you don't remember the  
24 subject matter of.

25 A Well, no. I didn't say that I had a

1 conversation. I said that I believe that I was in  
2 contact with him less than a year ago. But I don't  
3 remember the exact time or anything else.

4 Q Well, what was the nature of the  
5 contact? Was it by e-mail?

6 A I don't recall.

7 Q Was it in person?

8 A I don't believe so.

9 Q When was the last time you remember  
10 seeing Mr. Donziger in person?

11 A I don't recall.

12 Q Are you represented by counsel today?

13 A Yes, I am.

14 Q And who is your counsel?

15 A Marty Beier. Martin Beier.

16 Q And are you aware if Mr. Beier  
17 represents Stratus Consulting?

18 A Yes.

19 Q As well as yourself?

20 A Yes.

21 Q Does that pose any conflict, in your  
22 mind?

23 MR. BEIER: Objection. Calls for legal  
24 conclusion.

25 You can answer.

1       A    I don't know what you mean by a  
2 "conflict." I don't -- I guess I don't know what  
3 that means.

4       Q    (BY MR. DANS) Well, if your interests  
5 at some point diverge from that of your employer,  
6 Stratus --

7       A    Mm-hmm.

8       Q    -- Consulting, would you see that as a  
9 conflict?

10       MR. BEIER: Same objection.

11       You may answer.

12       A    I don't -- I don't know.

13       Q    (BY MR. DANS) Do you have an ownership  
14 interest in Stratus Consulting?

15       A    No, I don't.

16       Q    Are you an employee of Stratus  
17 Consulting?

18       A    Yes.

19       Q    Who is paying for your counsel today?

20       A    I actually don't know.

21       Q    Well, how did you find Mr. Beier to  
22 represent you?

23       MR. BEIER: Caution the witness not to  
24 disclose our discussions. But to the extent that  
25 you can testify about how you were told to get in



1 contact with me, you can testify to that.

2 A Okay. Could you repeat the question.

3 MR. DANS: If the court reporter could  
4 re-read the last question.

5 (The following question was read back:

6 "Well, how did you find Mr. Beier to  
7 represent you?")

8 A I didn't find him.

9 Q (BY MR. DANS) Was Mr. Beier  
10 recommended to represent you by someone?

11 A No.

12 Q Did Mr. Beier approach you to represent  
13 you?

14 A No. He -- well, he --

15 MR. BEIER: Again, you're not to  
16 discuss our conversations, so . . . .

17 THE DEPONENT: Okay.

18 Q (BY MR. DANS) Did anyone approach you  
19 with respect to retaining Mr. Beier as your  
20 attorney?

21 A Well, he is retained by Stratus, and  
22 I'm an employee of Stratus. So that's how I met  
23 Mr. Breier (sic).

24 Q And at what point did Mr. Breier  
25 undertake your representation?

1       A    It's probably been a couple of months.

2       Q    And was it with respect to the subpoena  
3 that you're appearing in this action?

4       A    Yes.

5       Q    Had you, previous to that, been  
6 represented by Mr. Breier?

7       A    Yes.

8       Q    With respect to what matters?

9       A    The Chevron case.

10      Q    Does any other attorney represent you  
11 in this matter, this application?

12      A    I don't know. But, you know, the firm  
13 that Mr. Breier represents is our attorney.

14      Q    Anyone other than Mr. Breier's firm?

15      A    No. No.

16      Q    Have you entered into any  
17 arrangement -- strike that.

18           Are you aware that other persons have  
19 been subpoenaed in connection with the application  
20 to which you're appearing today?

21      A    Yes.

22      Q    And who are the persons, to your  
23 knowledge?

24      A    Douglas Beltman, Jennifer Peers, David  
25 Mills. That's all I know.

1 Q Are you aware Mr. Carney has been  
2 subpoenaed in this application?

3 A Yes.

4 Q Are you aware Ms. Belanger has been  
5 subpoenaed in this application?

6 A Ms. who?

7 Q Belanger.

8 A No.

9 Q You're not aware that she has been?

10 A I was not aware.

11 Q Are you aware that Stratus Consulting  
12 has been subpoenaed in this matter?

13 A Yes.

14 Q I'd ask the court reporter to mark as  
15 Exhibit 551 a Subpoena addressed to Ann Maest dated  
16 October 20th, 2010.

17 (Deposition Exhibit 551 was marked.)

18 Q (BY MR. DANS) Ms. Maest, the court  
19 reporter has handed you a copy of a Subpoena. Do  
20 you recall receiving this subpoena, or a copy of  
21 it?

22 A Yes.

23 Q And have you ever testified pursuant to  
24 a subpoena?

25 A I don't believe so.

1 Q Have you ever been deposed?

2 A Yes.

3 Q How many occasions?

4 A About half a dozen.

5 Q Okay. So I can avoid kind of giving  
6 you the ground rules, unless you need -- that is,  
7 the reporter here today can only take one of us at  
8 a time. If I'm speaking, you'll have to refrain,  
9 and vice versa. If you're in the middle of an  
10 answer, I'll refrain from speaking. Do you  
11 understand that?

12 A Yes.

13 Q Okay. And you'll have to speak orally.  
14 You can't nod your head. Otherwise, the court  
15 reporter can't acknowledge your answer. Is that  
16 understood?

17 A Yes.

18 Q Okay. And if you don't understand  
19 something I'm asking you, ask me to rephrase it,  
20 and I will try to. Other than that, we're going to  
21 have to proceed that you understand the question.  
22 Is that understood?

23 A Yes.

24 Q And if you remember at any point later  
25 on this afternoon an answer to a question and you'd

1 like to go back and flesh that out, tell me, and  
2 I'll give you a chance to do that.

3 A Okay.

4 Q Otherwise, I'm going to understand your  
5 answer is complete. Correct?

6 A Yes.

7 Q Okay. And you understand today that  
8 you took an oath, and it's the same as if you were  
9 testifying in open court?

10 A Yes.

11 Q With respect to any of the other  
12 persons you had previously named who you were aware  
13 of and that I later added to that have been  
14 subpoenaed in this matter, do you have any sort of  
15 agreement to keep a confidential relationship  
16 between you and they with respect to the matters  
17 under the subpoena?

18 MR. BEIER: Object to the form. I'm  
19 also going to instruct the witness not to discuss  
20 communications in the presence of counsel. You can  
21 testify as to communications outside of the  
22 attorney/client privilege.

23 A Could you repeat the question.

24 Q (BY MR. DANS) Well, the court reporter  
25 can re-read it. And if necessary, I can restate

1 it.

2 (The following question was read back:  
3 "With respect to any of the other  
4 persons you had previously named who  
5 you were aware of and that I later  
6 added to that have been subpoenaed in  
7 this matter, do you have any sort of  
8 agreement to keep a confidential  
9 relationship between you and they with  
10 respect to the matters under the  
11 subpoena?")

12 A I have a confidential relationship with  
13 my attorney, but he's not named in the subpoena,  
14 so . . . . I guess I'm not . . . .

15 Q (BY MR. DANS) Well, I can ask more  
16 generally.

17 A Are you asking about a confidentiality  
18 agreement?

19 Q Have you entered into what's known as a  
20 joint defense agreement with any of the other  
21 respondents, that is, Mr. Beltman, Ms. Peers,  
22 Mr. Carney --

23 MS. GRIEVE: Mr. Mills.

24 Q (BY MR. DANS) -- Mr. Mills,  
25 Ms. Belanger, Stratus, a written joint defense

1 agreement signed by you and signed by them with  
2 respect to your participation in the Subpoena?

3 A No.

4 Q And have you entered into any oral  
5 agreement of the same caliber with respect to your  
6 compliance with this Subpoena before you as Exhibit  
7 551?

8 MR. BEIER: I'm going to object to the  
9 form.

10 Same instruction. But you can answer.

11 A I don't believe so.

12 Q (BY MR. DANS) And when you say you  
13 don't believe, is that because you're unclear of  
14 the nature of the agreement or that you have never  
15 come to an actual agreement with any of these  
16 persons with respect to maintaining confidences and  
17 sharing documents, sharing advice of counsel?

18 MR. BEIER: Object to the form.

19 Same instructions to the witness. You  
20 can answer.

21 A I -- the reason I'm hesitating is  
22 'cause I -- it sounds like a legal thing, and I'm  
23 not really sure what -- I don't have anything that  
24 I've signed that is a confidentiality agreement.  
25 You're saying between me and any of those parties?

1 Q (BY MR. DANS) Correct.

2 A No. I don't -- I've not signed

3 anything, and I don't --

4 Q And do you --

5 A As I said, I have a confidential

6 agreement with the attorney and any conversations

7 that I've had with any of the individuals or

8 Stratus Consulting.

9 Q But you don't recall an event where

10 everyone manifested his or her oral assent to a

11 certain oral agreement with respect to their

12 participation in this?

13 A No, not that I recall. No.

14 Q Have you spoken to Mr. Beltman about

15 your subpoena?

16 A Yes.

17 Q And what have you talked to him about?

18 A You're asking specifically about this

19 subpoena?

20 Q Yes.

21 A Okay. Yes. We talked about the

22 requirements of the subpoena, and we met to make

23 sure that we were complying with the requirements

24 of the subpoena.

25 Q When did you talk to Mr. Beltman?



1       A    I don't recall exactly, but probably  
2 about a month ago.

3       Q    On how many occasions have you talked  
4 with him about this subpoena and your compliance  
5 with it?

6       A    Probably two.

7       Q    What did Mr. Beltman say to you?

8       A    He -- we went through each requirement  
9 in order. And, you know, he asked if we had  
10 anything related to 1, anything related to 2. And  
11 we went down and made sure that, you know, I  
12 understood exactly what was being asked for and  
13 that I considered all the possible, you know,  
14 implications of each requirement of the subpoena.

15      Q    Okay. And when you -- in your answer,  
16 you said, "and he asked if we had anything." Are  
17 you talking about "we" as in yourself or "we," as  
18 in anybody other, including yourself and . . . .

19      A    By "we," I meant I and others at  
20 Stratus who were subpoenaed.

21      Q    Did you at some point undertake a  
22 document search in connection with the materials  
23 demanded by the subpoena?

24      A    Yes.

25      Q    And which -- which areas did you search

1 for documents?

2 MR. BEIER: Object to the form.

3 You can answer.

4 A What -- what do you mean by "which  
5 areas"?

6 Q (BY MR. DANS) Well, did you search  
7 your office space at Stratus for hard copies --

8 A Yes.

9 Q -- of documents? Do you store any hard  
10 copies off-site?

11 A I also looked at home.

12 Q Okay. Other than at home and the  
13 office, did you search any other areas, like a  
14 storage facility or anything of that nature?

15 A No. I don't have any storage  
16 facilities.

17 Q And did you recover responsive  
18 documents at your office?

19 A Yes.

20 Q Did you provide those to Counsel?

21 A I provided them to -- to Doug, and I  
22 believe he provided them to Counsel.

23 Q And did you find responsive documents  
24 at home?

25 A I don't believe I did for this

1 subpoena.

2 Q When you say "for this subpoena," did  
3 you also take a previous search for the Chevron  
4 subpoena and in the related application?

5 A Yes.

6 Q And had you found responsive documents  
7 at home with respect to that subpoena?

8 A Yes.

9 Q And, likewise, had you found responsive  
10 documents at work with respect to the Chevron  
11 subpoena, when you previously searched for those?

12 A Yes.

13 Q And when did you undertake the search  
14 for the Chevron subpoenaed documents?

15 A Two or three months ago.

16 Q Two or three months ago?

17 A (Deponent nodded.)

18 Q Subpoena, I understand from Chevron,  
19 had been outstanding for -- since early spring.  
20 Was the first time you looked for documents two or  
21 three months ago?

22 A I don't recall exactly.

23 Q What did Mr. Beltman do with the  
24 documents you provided to him?

25 A I believe he gave them to Mr. Beier's

1 firm.

2 Q Do you know if he gave all of the  
3 documents to Mr. Beier's firm?

4 A Do I know if he gave all -- which  
5 documents?

6 Q The documents that you handed to  
7 Mr. Beltman, do you know that -- whether or not he,  
8 in turn, handed all of those documents to  
9 Mr. Beier?

10 A I don't know.

11 Q Do you know whether he removed any of  
12 the documents?

13 A I don't know.

14 Q Did you have any discussions with  
15 Mr. Beltman about whether or not he thought a  
16 document wasn't responsive?

17 A I believe they were reviewed -- after I  
18 produced the documents, I believe they were  
19 reviewed, and I -- you know, to see which ones  
20 would be submitted. But I don't know which ones  
21 were and which ones weren't.

22 Q Well, reviewed by whom?

23 A I don't know.

24 Q Was it reviewed by a lawyer?

25 MR. BEIER: Objection. Calls for

1 speculation.

2           You can answer.

3       A    I don't know.

4       Q    (BY MR. DANS) Mr. Breier ever tell  
5 you -- strike that.

6           Did Mr. Beltman ever tell you that he  
7 didn't want to produce a certain document?

8       A    No.

9           MR. DANS: I'd make a request to  
10 Counsel to assure us that all the documents the  
11 witness identified as responsive were provided to  
12 Counsel and not intercepted.

13          MR. BEIER: Counsel, all responsive  
14 documents have been produced. I will represent  
15 that.

16       Q    (BY MR. DANS) Ms. Maest, did you  
17 undertake any sort of search of electronic  
18 documents in your possession?

19       A    Yes, I did.

20       Q    And where did you search?

21       A    I searched my e-mails at work. I  
22 searched my directories and the Stratus company  
23 directories. I also searched my home computer for  
24 documents that might be responsive to the subpoena.

25       Q    When you say you searched, did you --

1 how did you search? Was it yourself personally who  
2 did the searches?

3 A Yes.

4 Q And did you use any sort of keyword  
5 searching?

6 A When I started for the Chevron  
7 subpoena --

8 Q Mm-hmm.

9 A -- I actually went through every single  
10 e-mail. And then I also used keywords to put them  
11 into categories. And for the Pallares subpoena, I  
12 also did both of those.

13 Q Do you remember what the keywords were  
14 you -- that you used?

15 A I used "Pallares," "Veiga," "Reis,"  
16 "Perez," and then different combinations of those.  
17 And we're still talking just about the e-mails,  
18 right?

19 Q Yes, e-mails first --

20 A Okay.

21 Q -- and then the documents.

22 A That's all that I can recall right now  
23 for this subpoena, because I had already produced a  
24 large number of documents for the Chevron.

25 Q Did you make a list of these search

1 terms?

2 A Yes.

3 Q Did you provide that search list to  
4 counsel?

5 A I don't recall.

6 Q Now, you testified that you had looked  
7 at every single e-mail?

8 A Yes.

9 Q Is that correct?

10 A Yes.

11 Q How many e-mails, on approximation,  
12 would that be?

13 A Hundreds.

14 Q And what would the date range of these  
15 e-mails be?

16 A I went -- are we talking about the  
17 Chevron and Pallares now, or just --

18 Q Let's first talk about the Pallares.

19 A Oh, okay. I went back to 2005, and  
20 then I ended in current time, 2010.

21 Q Do you organize your e-mails, as a  
22 general practice?

23 A Yes.

24 Q So were any of these -- when you went  
25 and looked at the e-mails, did you look at

1 preorganized e-mails?

2 A Yes.

3 Q And then what purpose was served by  
4 later on using search terms, in addition to first  
5 looking at all the e-mails?

6 A Not all the e-mails that I had were  
7 preorganized.

8 Q So how did you search the ones that  
9 weren't preorganized?

10 A Well, in Outlook, you know, there are  
11 different folders for e-mails. And I had one for  
12 Ecuador that had all the Ecuador e-mails. Then I  
13 had that broken down into several different  
14 categories.

15 I also had one for the Chevron matter.  
16 And then I have my current nonsegregated e-mails  
17 that go back to, I believe, the beginning of 2010.  
18 So just in case I hadn't moved any of them over  
19 into the segregated categories, I also searched  
20 my -- my in box and my sent items and my drafts and  
21 my deleted e-mails.

22 Q And why is -- there's an Ecuador file  
23 and a Chevron file? Did I understand that right?

24 A There's an Ecuador file that's broader  
25 that would have anything that could possibly be



1 related to the work I've done in Ecuador over the  
2 years. And then kind of a subheading in that is  
3 the Chevron v. Stratus matter.

4 Q So is that -- when you say "Chevron v.  
5 Stratus," is that the subpoena that Chevron served  
6 on Stratus and yourself on or -- on or about  
7 November 2009, or is that this course of prior  
8 engagement on the Ecuador project?

9 A It's more the latter, but it's broader  
10 than just the subpoena, you know, any- -- itself.  
11 Anything that would be related to producing  
12 documents would go into that subdirectory.

13 Q So when you say it was titled Chevron  
14 v. Stratus -- Chevron v. Stratus, it wasn't with  
15 relation to a litigation per -- that is, a subpoena  
16 on you. It was something broader with respect to  
17 work related to Chevron?

18 MR. BEIER: Object to the form.

19 You can answer.

20 A I think the answer to that is no, but I  
21 was a little confused. Could you restate that.

22 Q (BY MR. DANS) Well, did you create  
23 this folder speci- -- for the specific purpose of  
24 responding to the subpoena that Chevron served in  
25 the fall of last year, or did you have that folder

1 existing for another reason?

2 A It was not for another reason.

3 Q It was only with respect to -- to your  
4 litigation preparation with respect to the Chevron  
5 subpoena?

6 A And -- yes, and anything related to it.

7 Q And you searched both for these  
8 responsive terms? The terms you identified  
9 earlier, "Perez," "Veiga," "Reis," and the like,  
10 you searched within those folders for e-mails that  
11 had these terms?

12 A That's one place I searched, yes.

13 Q Did you search them more generally for  
14 responsiveness to the various categories in the  
15 subpoena?

16 A What do you mean?

17 Q Well, the subpoena calls on certain  
18 classes of documents that may or may not have  
19 these -- these certain search terms within them.

20 A Mm-hmm.

21 Q But they still need to be produced.

22 A Right.

23 Q Did you undertake any sort of search to  
24 assure yourself that you were producing all of the  
25 responsive documents --

1 A Yes.

2 Q -- that didn't have these search terms  
3 in them?

4 A Yes.

5 Q And you did that how?

6 A Well, we were just talking about  
7 e-mails. But if we broaden it to electronic files,  
8 then -- for example, for the March 3rd, 2007  
9 meeting, Number 6 --

10 Q Mm-hmm.

11 A -- I went through the directories on  
12 the Stratus drives and my hard drives to see if I  
13 had -- you know, to see where my notes were. Now,  
14 I had produced pretty much everything before for  
15 Chevron. So that's the first place I searched.

16 Q And if you had produced it to Chevron,  
17 did you produce it again?

18 A I -- I did. I made another -- I made  
19 another category saying -- you know, I pulled over  
20 some documents that I thought were particularly  
21 responsive to this, even if I had produced them  
22 before.

23 Q And, likewise, for all the electronic  
24 documents, other than e-mails, you -- you looked in  
25 the various directories where you thought they

1 would be found and manually pulled them into a  
2 folder for production?

3 A Yes.

4 Q Did you undertake any sort of search  
5 terms with respect to those documents?

6 A I don't believe so.

7 Q Did you search the local -- the local  
8 drives to your workstation at work?

9 A Yes.

10 Q Has -- how long have you had that  
11 workstation?

12 A You mean the computer?

13 Q Yes.

14 A My computer? It's probably been about  
15 two years.

16 Q Do you have the prior computer you  
17 used?

18 A No.

19 Q Do you know what happened to it?

20 A No.

21 Q Do you have any laptops? Do you have a  
22 laptop computer?

23 A It is a laptop computer.

24 Q Oh, your computer at work is a laptop?

25 A Yes.

1 Q Do you have any other laptops other  
2 than your work computer?

3 A Yes.

4 Q And did you search those laptops?

5 A Yes.

6 Q And which laptops were those?

7 A I have a home computer. And, as I  
8 mentioned, I searched that. And it's a laptop.

9 Q And did you have -- how long have you  
10 had that laptop for?

11 A Five to seven years.

12 Q We'll talk this afternoon generally  
13 about the Ecuador project. When I say that, I'm  
14 going to be referring to all the work that you did  
15 with respect to this Lagro Agrio litigation or any  
16 follow-on or work directed, you know, to this  
17 matter.

18 As I understand your testimony, you  
19 began working on this matter in roughly 2005,  
20 correct?

21 MR. BEIER: Object to the form.

22 You can answer.

23 A I don't believe I said that. I said  
24 that I started my searches going back to 2005.

25 Q (BY MR. DANS) Well, did you start on

1 anything dealing with the Ecuador project prior to  
2 2005?

3 A No.

4 Q Why did you choose 2005 to begin your  
5 searches?

6 A Because that's when we were first  
7 contacted about the Ecuador work.

8 Q Okay. And prior to the home computer  
9 that you have now, did you use a computer at any  
10 point from 2005 up until the inception of this new  
11 computer at home?

12 A You mean did I use any other home  
13 computers?

14 Q Did you have any other old laptops that  
15 you're not presently using, but you may have used  
16 on Project Ecuador?

17 A Are you talking about home or work?

18 Q Either.

19 A Either.

20 Q Home first.

21 A No, not at home.

22 Q And at work?

23 A Yes. I mentioned that I've had  
24 another -- the computer I have now is, I don't  
25 know, about two years old. And I had another one

1 before that.

2 Q And when you started with your new  
3 computer at work, did you transfer all the files  
4 from the old computer?

5 A Yes.

6 Q Were any files not transferred?

7 A No.

8 Q Did you -- what e-mail addresses did  
9 you search?

10 A AMAest -- what e-mail addresses?

11 Q Strike that. Can you tell me the  
12 e-mail addresses that you currently use.

13 A Amaest@stratusconsulting.com. And  
14 aamaest@gmail.com.

15 Q Do you have any other e-mail addresses  
16 at Stratus?

17 A No.

18 Q Do you ever use a project-related  
19 e-mail at Stratus?

20 A I don't know what that means.

21 Q Do you ever receive any other  
22 electronic mail from Stratus from any other  
23 different account than amaest@stratus?

24 A No.

25 Q Amaest@gmail, is that your only

1 personal e-mail account?  
2 A Yes.  
3 Q Have you had ones in the past?  
4 A Yes.  
5 Q What are those addresses?  
6 A Amaest@aol.com.  
7 Q Do you still have your AOL account?  
8 A No.  
9 Q What period of time did you have the  
10 AOL account?  
11 A I don't recall when I started having  
12 it, but I don't have it now. And I think that  
13 ended in 2008, 2007.  
14 Q And when did you begin the gmail  
15 account?  
16 A Hmm. Probably within the year.  
17 (Mr. Criss left the deposition room.)  
18 Q (BY MR. DANS) Within this year?  
19 A Yes.  
20 Q Was there a reason you stopped using  
21 your AOL account?  
22 A Yes. I just didn't need it anymore.  
23 Q How many e-mails were on your AOL  
24 account at the point when you stopped using it?  
25 A I don't recall.



1 Q Did you stop using the AOL account  
2 after receiving the subpoena from Chevron?

3 A Did I stop using it?

4 Q Yeah.

5 A You mean did I have it anymore?

6 Q Yes. Was it active at the time you  
7 received the subpoena from Chevron?

8 A No.

9 Q When had you closed your AOL account,  
10 approximately?

11 A Well, as I said, 2007 or 2008. I don't  
12 recall exactly.

13 Q And when did you start your gmail  
14 account, though?

15 MR. BEIER: Objection. Asked and  
16 answered.

17 A I said within the past -- within this  
18 year.

19 Q (BY MR. DANS) So did you use any  
20 e-mail from 2008 to 2009?

21 A Yes.

22 Q What e-mail was that?

23 A Amaest@stratusconsulting.com.

24 Q Did you have any personal e-mail during  
25 that period?

1       A    No.

2       Q    The only e-mail account you had during  
3 the years 2008 and 2009 was your Stratus work  
4 account; is that correct?

5       A    That's about the time period, yes.

6       Q    Did you make any effort to save any of  
7 the documents from your AOL account prior to  
8 closing it?

9       A    Yes.

10      Q    And where did you save them?

11      A    I sent them to my Stratus account.

12      Q    And were those searched in conjunction  
13 with the subpoena?

14      A    Yes.

15      Q    And they were produced to Counsel?

16      A    Yes.

17      Q    Do you work for a company called  
18 E-Tech?

19      A    It's not a company. It's a nonprofit  
20 organization. Yes.

21      Q    And what is the nature of your  
22 engagement with E-Tech?

23      A    I am a chief -- the chief scientist of  
24 E-Tech.

25      Q    And in your work with E-Tech, have you

1 worked on anything related to the Ecuador project?

2 A Yes.

3 Q And did you search any of your  
4 documents from E-Tech with relation to the subpoena  
5 marked as Exhibit 551?

6 (Mr. Criss reentered the deposition  
7 room.)

8 A Yes.

9 Q (BY MR. DANS) And where did you  
10 search?

11 A No. I'm sorry. Wait a minute. This  
12 one?

13 Q Yes.

14 A Yes.

15 Q What documents did you search?

16 A They were on my Stratus computer in a  
17 directory called Ann's Old Files.

18 Q And they were searched, likewise, for  
19 responsive documents?

20 A Yes.

21 Q Do you have any sort of e-mail for your  
22 work at E-Tech, separate and apart from your AOL  
23 account, or your gmail account?

24 A No.

25 Q Does Stratus have a server anywhere

1 with respect to documents that you -- that you work  
2 on?

3 MR. BEIER: Object to the form.

4 A I don't know what that means.

5 Q (BY MR. DANS) Well, does Stratus  
6 maintain a repository of documents, other than on  
7 your home computer, your work computer, and your  
8 e-mail account?

9 A You mean just generally does Stratus do  
10 that?

11 Q Yes. Does Stratus have its own server?

12 A It has a server, yes.

13 Q Did you search that server for  
14 responsive documents?

15 A Yes.

16 Q Just go over some general personal  
17 issues. Can you just state your name, your full  
18 name, for the record.

19 A Ann Maest.

20 Q And your age and date of birth.

21 A 55, March 19th, 1955.

22 Q And you were born where?

23 A Philadelphia, Pennsylvania.

24 Q Did you speak any languages in  
25 particular growing up, other than English?

1 A No.

2 Q Do you speak Spanish?

3 A Yes.

4 Q When did you learn Spanish?

5 A Let's see. 1994 is when I first  
6 started learning Spanish.

7 Q What is your command of Spanish,  
8 generally speaking?

9 A I would say it's intermediate to  
10 advanced.

11 Q And from 2005 to present, was it always  
12 at the same level, or did it --

13 A No.

14 Q -- improve?

15 A It improved.

16 Q Do you feel confident you can write in  
17 Spanish?

18 A Not -- writing is not as good as  
19 speaking and reading.

20 Q Have you ever written a document  
21 provided for public consumption in Spanish?

22 A "Public consumption." What do you mean  
23 by "public consumption"?

24 Q Well, for anyone other than -- for  
25 submission to -- strike that. For filing in open

1 court?

2 A No.

3 Q For provision to the media?

4 A Not that I recall.

5 Q For provision to any third party, other  
6 than someone you were in, you know, work contact  
7 with?

8 A No.

9 Q Do you feel confident in your ability  
10 to understand spoken Spanish?

11 A At the intermediate to advanced level,  
12 yes.

13 Q And would you speak Spanish in front of  
14 public audiences?

15 A I have, yes.

16 Q What audiences were those?

17 A I've -- E-Tech puts on a forum in Peru.  
18 They have for the past few years. And I've been on  
19 panels at that forum and given talks in Spanish at  
20 that conference.

21 I was on a radio show in Guatemala in  
22 Spanish, without translators. I was on TV in  
23 Guatemala in Spanish without translators. I gave a  
24 talk to Congress in Guatemala in Spanish. What  
25 else? All these were without translators. And

1 I've given talks to the public in Peru and  
2 Guatemala in Spanish.

3 Q The work you did in Guatemala, what was  
4 the nature of that?

5 A That was for E-Tech.

6 Q And what was the project for?

7 A It was a project for Oxfam America on  
8 the Marlin Mine, which is a Goldmine in the western  
9 part of the country.

10 Q And the work you did in Peru, what's  
11 the nature of that work?

12 A That was the work that I mentioned  
13 before with E-Tech at the forum, which was funded  
14 by the MacArthur Foundation.

15 Q What's the subject matter of that?

16 A Oil and gas development in the Amazon.

17 Q At that time did you discuss any of the  
18 knowledge that you learned through your involvement  
19 with Project Ecuador at Stratus?

20 A No, not that I recall.

21 Q When did you give these speeches in  
22 Peru?

23 A April. I believe it was 2008.

24 Q And with respect to understanding  
25 written Spanish, what's your level of fluency?

1       A    In my field, I would say it's advanced.

2       Q    Do you feel confident reviewing  
3 technical documents written in Spanish?

4       A    Yes.

5       Q    Do you read personal things in Spanish?

6       A    Sometimes, yes.

7       Q    Do you exchange e-mail communications  
8 with others in Spanish?

9       A    Yes.

10      Q    Do you ever read something in an e-mail  
11 that you don't understand and then --

12           MR. DANS: Bless you.

13      Q    (BY MR. DANS) What exactly do you do  
14 in such an instance?

15      A    In Spanish? Yes.

16      Q    Do you consult a translator?

17      A    Yes, I do.

18      Q    Do you use a computer program, or do  
19 you consult a person?

20      A    A computer program.

21      Q    Which program?

22      A    The one I use most often right now is  
23 Google Translate.

24      Q    Had you used ones in the past?

25      A    Yes.



1 Q Do you recall which ones?

2 A I don't recall the name right now, but  
3 it was a program that would translate whole  
4 documents, and it was hooked in with Word,  
5 Microsoft Word.

6 Q Is it a Web-based program?

7 A I don't know. You mean, does it  
8 operate on the Web?

9 Q Yeah. Do you access it by --

10 A No.

11 Q -- a Web site, or is it software local  
12 to your computer?

13 A Local software.

14 Q Are you married?

15 A Yes.

16 Q And when -- how long have you been  
17 married?

18 A 14 years.

19 Q And what's the name of your spouse?

20 A Kevin Coony.

21 Q Where do you live, your current  
22 address?

23 A Where do I live?

24 Q Your home address.

25 A Boulder, Colorado.

1 Q How long have you lived there?

2 A Almost 12 years.

3 Q And what's your address?

4 A 941 8th Street.

5 Q And how long have you worked at Stratus

6 Consulting?

7 A On and off since 1993.

8 Q When you -- how did you become involved  
9 with Stratus in 1993?

10 A I met Josh Lipton, who's currently the  
11 CEO, at a meeting in Montana.

12 Q Why did you stop for intermittent  
13 periods at Stratus?

14 A I worked at another firm in 1997. And  
15 then -- well . . . .

16 MR. DANS: I'm going to ask the court  
17 reporter to mark as Exhibit 552 a resume of Ann S.  
18 Maest, Ph.D.

19 (Deposition Exhibit 552 was marked.)

20 MS. GRIEVE: Just writing the number on  
21 it.

22 Q (BY MR. DANS) Ms. Maest, court  
23 reporter has handed you a document. Have you seen  
24 this before?

25 A Yes.

1 Q Did you prepare it?

2 A I don't recall exactly preparing it,  
3 but it is my -- it's a portion of my resume.

4 Q Well, I represent to you that it was  
5 taken from the E-Tech Web site.

6 A Mm-hmm.

7 Q Do you have any reason to believe  
8 anything on it is inaccurate?

9 A No.

10 Q Would you say that this is a pretty  
11 fair compilation of your professional and  
12 educational experience?

13 MR. BEIER: Object to the form.

14 You can answer.

15 A No.

16 Q (BY MR. DANS) No? Is there more that  
17 should be added to it?

18 A It's not up to date, and it's not  
19 inclusive of everything that I've done.

20 Q When -- when was this last updated, to  
21 your knowledge?

22 A Well, it must have been about 2004 or  
23 2005.

24 Q Do you have more recent versions of  
25 your resume?

1       A    Yes.

2       Q    Do those resumes list any of the work  
3 that you've done in conjunction with Project  
4 Ecuador?

5       A    Yes.

6       Q    Did you produce those resumes to your  
7 Counsel?

8       A    I don't recall.

9           MR. DANS: Okay. I'd call on Counsel  
10 to assure of us their production.

11          MR. BEIER: If you'll send me a letter  
12 afterwards, we'll check and see.

13       Q    (BY MR. DANS) In conjunction with your  
14 appearance today, did you undertake any  
15 preparation?

16       A    Yes.

17       Q    What was the nature of that  
18 preparation?

19       A    I met with Mr. Beltman and Ms. Peers  
20 and Mr. Mills and Mr. Carney with Mr. Beier on the  
21 phone.

22       Q    On how many different occasions?

23       A    For the deposition today?

24       Q    Yes.

25       A    Just one.

1 Q And previously, with respect to the  
2 Chevron application, had you met with them?

3 A Yes.

4 Q What was the nature of those meetings?

5 A Well, I had a couple of other meetings  
6 with Mr. Beier.

7 Q Did you ever have any meetings outside  
8 of Mr. Beier's presence with any of those  
9 individuals with relation to their application --  
10 their subpoenas in this application?

11 A You mean any meetings related to other  
12 people's --

13 Q Yeah.

14 A -- subpoenas? Not specifically.

15 Q So is it correct that the only time you  
16 ever spoke with Mr. Beltman about his subpoena in  
17 this application was that one occasion in front of  
18 Mr. Beier?

19 A No.

20 Q When else did you speak to him about  
21 his subpoena, this application?

22 A We had other meetings -- I mentioned  
23 one before -- where we went through all the  
24 requirements of the subpoena. And that was a  
25 separate meeting.

1 Q Well, was that meeting that you had  
2 with respect to the requirements of your subpoena,  
3 or was it with respect to the requirements on -- of  
4 his subpoena?

5 A Of all of our subpoenas.

6 Q And was anyone else present at that  
7 meeting?

8 A Yes.

9 Q Who was present?

10 A Ms. Peers, Mr. Mills, Mr. Carney. I  
11 believe that's it.

12 Q And was this -- was any counsel present  
13 for that meeting?

14 A I don't believe so.

15 Q Where was this meeting held?

16 A At Stratus Consulting.

17 Q Do you recall the approximate date?

18 A I think it was in the past -- about a  
19 month ago.

20 Q How long did the meeting last for?

21 A About an hour.

22 Q Did you review any documents during the  
23 meeting?

24 A I don't recall.

25 Q Did you take notes during the meeting?

1       A    I believe so.

2       Q    Did you produce those notes to Counsel?

3       A    I don't believe so.

4           MR. DANS: Call on Counsel to produce  
5 those documents.

6           MR. BEIER: Counsel, I believe she's  
7 talking about a meeting after the subpoena.

8       A    Yeah, it was after this.

9           MR. BEIER: But if you will send me a  
10 letter, we'll check and see if it's responsive.

11       Q    (BY MR. DANS) Did you, in the  
12 undertaking your document search, exclude any  
13 documents that occurred after this subpoena was  
14 served on you?

15       A    I don't believe so.

16       Q    Other than these notes?

17       A    Other than the notes.

18       Q    Did anyone else at that meeting take  
19 notes?

20       A    I don't recall.

21       Q    Did you review any electronic material  
22 during that meeting?

23       A    I don't recall.

24       Q    Do you remember any of the topics of  
25 conversation during that meeting?

1 A Yes.

2 Q What were they?

3 A As I said, we went through the list  
4 that starts on Page 15 of the subpoena, just went  
5 through it one by one, and discussed what --  
6 everything we could think of that might be  
7 responsive to each one of these requests or  
8 requirements.

9 Q Okay. Other than that, were any other  
10 topics discussed?

11 A No.

12 Q Did anyone discuss, to your  
13 recollection, previous testimony with respect to  
14 Chevron subpoenas?

15 A No.

16 Q Have you reviewed any deposition taken  
17 in the Chevron matter prior to your appearance here  
18 today?

19 A Yes.

20 Q Which transcripts have you reviewed?

21 A Doug Beltman's.

22 Q Which -- which days of testimony?

23 A I don't recall.

24 Q Did you review his testimony from this  
25 past Monday?



1 A No.

2 Q Did you review anyone other than  
3 Mr. Beltman's testimony?

4 A Wait. This past Monday. You  
5 mean . . . .

6 MS. GRIEVE: Last Thursday.

7 Q (BY MR. DANS) Strike that.

8 A It was --

9 MS. GRIEVE: Last Thursday.

10 Q (BY MR. DANS) The testimony he gave  
11 within this past week.

12 A No, I did not.

13 Q Who else -- strike that.

14 What other transcripts did you review?

15 A On the Chevron matter?

16 Q Yes.

17 A Bill Powers' deposition.

18 Q And how much of that transcript did you  
19 review?

20 A Not all of it. I scanned it.

21 Q And any others?

22 A I don't believe so.

23 Q Did you review Mr. Kamp's testimony?

24 A No. I -- I don't have that.

25 Q Did you review any other transcripts,

1 other than what were in the Chevron matter?

2 A Yes.

3 Q Which transcripts did you review?

4 A Jennifer Peers'.

5 Q In this matter?

6 A Yes.

7 Q And did you review Ms. Peers' testimony  
8 from this past -- this past week?

9 A No.

10 Q And how much of Ms. Peers' did you  
11 review?

12 A Again, I skimmed it.

13 Q Why were you reviewing these  
14 transcripts?

15 A Well, to see if -- what the general  
16 nature of the questions was and to see if my name  
17 had been mentioned in the depositions.

18 Q Did Counsel tell you to review these --  
19 strike that.

20 Did you review any documents in  
21 conjunction with these transcripts?

22 A You mean -- what do you mean?

23 Q Any other documents, other than the  
24 transcript itself?

25 A Other than the transcript? That were

1 associated with the --

2 Q Yes. The exhibits, for example.

3 A -- exhibits? No.

4 Q Do you recall reviewing any other  
5 transcripts in connection with the Ecuador matter  
6 more generally?

7 A No.

8 Q When was the last time you met with  
9 Counsel for preparation for today, other than this  
10 morning before we met?

11 A I believe last week. We met, but  
12 Mr. Beier was on the phone.

13 Q And other than that meeting with Mr.  
14 Beier, have you had any other meetings with Mr.  
15 Beier to prepare for your testimony today?

16 A Well, we met -- I don't recall  
17 exactly -- a couple of weeks ago, but then the  
18 deposition was cancelled -- or postponed.

19 Q And who was at that meeting?

20 A That, I believe, was Mr. Beier,  
21 Mr. Beltman, Ms. Peers, Mr. Carney, and Mr. Mills,  
22 I believe.

23 Q How long did that meeting last?

24 A I think it was about an hour.

25 Q Did you do anything other than that

1 meeting with Mr. Beier to prepare for your  
2 testimony?

3 MR. BEIER: Object to the form.

4 You can answer.

5 A Could you rephrase that.

6 Q (BY MR. DANS) Did you have any other  
7 conversations or contact with Mr. Beier, other than  
8 that one-hour meeting, to prepare for your  
9 testimony prior to it being called off?

10 A Before the one that was called off?

11 Q Yes.

12 A I might have. I don't -- don't recall.

13 Q Did you review any other documents,  
14 other than -- well, you -- strike that.

15 Apart from exhibit documents to the  
16 transcripts which you reviewed -- and I understand  
17 your testimony you didn't actually look at the  
18 exhibits.

19 A Right.

20 Q -- did you review any other documents  
21 in preparation for today?

22 A Any other documents at all? Any other  
23 documents at all?

24 Q Yes.

25 A Yes.

1 Q What documents were those?

2 A I looked through directories on the  
3 Stratus server, the Stratus server, the Cabrera  
4 report. Some of the appendices, I looked through  
5 those briefly. And I reviewed just kind of the  
6 structure of some of the files in the -- on the  
7 Stratus server.

8 Q And this review was separate from the  
9 review you testified doing with respect to the  
10 search for responsive documents, right?

11 A Right.

12 Q And when did you undertake this review?

13 A Yesterday.

14 Q And had you reviewed anything prior to  
15 that? Between, that is, your document search and  
16 what you did yesterday?

17 A For this deposition?

18 Q Yes.

19 A I don't believe so.

20 Q And how much time did you spend  
21 yesterday looking at documents?

22 A Probably about an hour.

23 Q Was there anything you were looking for  
24 in particular with respect to those documents?

25 A Not -- not in particular, no.

1 Q Did it help refresh your recollection,  
2 looking at those documents?

3 A Yes. Well, I also reviewed the  
4 outtakes. I guess that was for --

5 Q Okay.

6 A -- this deposition.

7 Q Which outtakes did you review?

8 A The outtakes from the movie "Crude."

9 Q And where did you get a copy of these  
10 outtakes?

11 A I believe it was from Mr. Beier's firm.

12 Q Which outtakes did you review?

13 A I don't know if there was more than one  
14 outtakes. I just reviewed what was available on  
15 DVD.

16 Q Do you recall how many scenes you  
17 watched?

18 A I watched the whole CD.

19 Q Was this -- was this the CD that  
20 accompanied the application pursuant to which this  
21 subpoena was issued, if you know?

22 A I do not know.

23 Q Was the DVD label apparently ours, or  
24 was it something Mr. Beier produced?

25 MR. BEIER: Objection, foundation.

1 Q (BY MR. DANS) If you know.

2 MR. BEIER: You can answer.

3 A I really don't know.

4 Q (BY MR. DANS) Do you recall what was  
5 on the label, though?

6 A No.

7 Q Did you undertake any sort of Internet  
8 searches with respect to the nature of the general  
9 litigation that's proceeding now between my client,  
10 Mr. Perez; Mr. Veiga, Mr. Criss's client; Chevron;  
11 and any other persons who have been the subject of  
12 litigation called the 1782 applications?

13 A No.

14 Q Are you aware that my client, among  
15 others, has sought information throughout various  
16 districts in the U.S. in preparation for a criminal  
17 defense against them?

18 A No.

19 Q Are you aware that the outtakes from  
20 the movie "Crude" were subpoenaed by my client,  
21 Mr. Perez, Mr. Veiga, and Chevron, and that the  
22 court ordered the filmmaker to produce 600 hours of  
23 that footage?

24 A I'm not aware of all that detail. I am  
25 aware that Chevron requested them.

1 Q Do you understand that Chevron had to  
2 go to court to get those outtakes?

3 A Yes.

4 Q Did you -- I guess, to step back, the  
5 documents you reviewed yesterday as you went  
6 through the various directories, you testified  
7 you -- you looked at several aspects of the Cabrera  
8 report?

9 A Yes.

10 Q Is that correct? Was that in Spanish?

11 A No.

12 Q There were English versions?

13 A Yes.

14 Q Were they translations from Spanish?

15 A I don't know.

16 Q Were they the as-filed versions?

17 Putting aside that they were in English --

18 A Mm-hmm.

19 Q -- do you understand that what you  
20 reviewed was the final version, or were they  
21 drafts?

22 MR. BEIER: Object to the form.

23 You can answer.

24 A I believe they were final. I'm not  
25 sure.



1 Q (BY MR. DANS) And did you review -- do  
2 you recall any of the other sort of documents you  
3 reviewed?

4 A Pardon me? Could you say that again.

5 Q Any -- do you recall the other  
6 documents you reviewed, other than these various  
7 appendices to the Cabrera report?

8 A I reviewed the directory that I  
9 mentioned before, Ann's Old E-mails, just to see  
10 kind of generally what was in there and,  
11 specifically, to look at the dates of my trips to  
12 Ecuador, so . . . .

13 Q How many trips did you make to Ecuador?

14 A I believe it was five. Five or six.

15 Q Did you look at your passport?

16 A Yesterday?

17 Q At any point.

18 A Ever?

19 Q To refresh your recollection on the  
20 number of trips.

21 A Oh, no.

22 Q Did you produce a copy of your  
23 passport?

24 A For . . . .

25 Q To your Counsel for production in this

1 matter?

2 A No.

3 Q Did -- do you recall the dates of the  
4 trips?

5 A January 2006, March 2006. I think  
6 there was a -- there were two, I think, in 2007.  
7 And then I believe it was March 2008.

8 Q When in 2007, to your memory?

9 A Pardon me?

10 Q When in 2007?

11 A I believe one was in January.

12 Q And the second . . . .

13 A Possibly April. I'm not sure.

14 Q Do you know the dates of your January  
15 2006 trip?

16 A No.

17 Q Do you know --

18 A You mean the day?

19 Q -- the duration of it? The start date,  
20 the end date --

21 A No.

22 Q -- number of days?

23 A I believe it was about a week.

24 Q And the second trip, in March 2006, do  
25 you know when that occurred, approximately, and for

1 how many days?

2 A I don't recall the days, but I believe  
3 it was also about a week.

4 Q Similarly, with the two trips in 2007,  
5 the January potential one in 2007, how many days  
6 was that for?

7 A I don't recall.

8 Q And the April 2007 trip?

9 A I don't recall.

10 MR. DANS: Call on Counsel to produce  
11 the copy of the passport so we can have these dates  
12 nailed down.

13 MR. BEIER: Send me a letter, and we'll  
14 see if it's responsive.

15 Q (BY MR. DANS) And the 2008 trip, how  
16 long were you down in Ecuador for?

17 A I don't recall.

18 Q Do you recall the purpose of your trip  
19 in 2008?

20 A To meet with -- yeah, with Steven  
21 Donziger and the -- the Frente.

22 Q Anybody else?

23 A Not that I recall.

24 Q Did you end up meeting with anybody  
25 else other than Mr. Donziger and the Frente?

1       A    You mean anyone else at all or . . . .

2       Q    With respect to your work at Project  
3 Ecuador?

4       A    Doug Beltman was there.

5       Q    And anybody other than those persons?

6       A    No, not that I recall.

7       Q    Do you know who Richard Stalin Cabrera  
8 is?

9       A    Yes.

10      Q    How long have you known Mr. Cabrera  
11 for?

12      A    Well, I don't know Mr. Cabrera, but I  
13 met him a couple of times.

14      Q    When did you first make his  
15 acquaintance?

16      A    I believe it was in March -- hmm. I'm  
17 not -- I don't recall exactly.

18      Q    Well, who do you understand Mr. Cabrera  
19 to be?

20      A    I understand him to be the  
21 court-appointed expert.

22      Q    In . . . .

23      A    In the -- for the Chevron case.

24      Q    When did you first learn of Mr. Cabrera  
25 with respect to the Chevron case?

1       A    I believe it was March 2006.

2       Q    And what was the nature of that? What  
3 did you learn about him then?

4       A    That he was a Perito, an expert.

5       Q    And who told you this?

6       A    I don't recall exactly, but it was  
7 probably Steven Donziger.

8       Q    Did you meet Mr. Cabrera at that point  
9 in time?

10      A    Yes, I met -- I'm not sure I'm getting  
11 the date right, but I did meet him around that  
12 time.

13      Q    March 2006?

14      A    I believe that's right.

15      Q    Where did you meet him?

16      A    At the offices for the Frente in Quito.

17      Q    And what was the context of that  
18 meeting?

19      A    It was a meeting about the case and the  
20 strategy moving forward.

21      Q    Who was at the meeting?

22      A    You mean individuals, or just general?

23      Q    Individuals.

24      A    Pablo Fajardo, Steven Donziger, I  
25 believe Charles Champ, Dick Kamp, some of the

1 attorneys who worked for the Frente in Quito.

2 Q Well, to be clear, you may be confusing  
3 the date.

4 A Yeah.

5 Q In the application, we make reference  
6 to a meeting in 2007.

7 A Oh, it was 2007.

8 Q March 3rd.

9 A Sorry. Right. Okay.

10 Q And we won't -- we'll talk about that,  
11 but not right now.

12 A Okay.

13 Q When was the first time you remember  
14 learning of Mr. Cabrera? And if it helps, you  
15 know, prior to that meeting?

16 A What do you mean, if it helps, prior to  
17 that meeting?

18 Q I mean, if it helps you organize in  
19 your mind. I'm not talking now about the March  
20 2007 meeting. I'm talking about the very first  
21 time --

22 A Oh.

23 Q -- you became aware of Mr. Cabrera's  
24 existence.

25 A That --

1 Q When was that?

2 A That was the first time.

3 Q That was the first time, in March of  
4 2007?

5 A Right.

6 Q And you had never heard of Mr. Cabrera  
7 prior to that meeting?

8 A No, not that I recall.

9 Q When did you first become involved in  
10 Project Ecuador?

11 A It was very late 2005/early 2006.

12 Q And how did you become involved in the  
13 project?

14 A Bill Powers had spoken to Steven  
15 Donziger, and I believe Bill suggested that E-Tech  
16 get involved in the case.

17 Q What was E-Tech's proposed involvement  
18 in the case to be?

19 A At that time, we weren't sure  
20 specifically, but it was related to technical  
21 issues related to the case.

22 Q And did you, shortly thereafter, get  
23 involved with the case?

24 A Yes.

25 Q Did you make a determination with

1 Mr. Kamp and others in February 2006 about whether  
2 E-Tech should proceed with -- with its involvement  
3 in Project Ecuador?

4 A I don't recall the date.

5 Q At some point E-Tech decided it was  
6 going to assist in this project, correct?

7 A Yes.

8 Q And do you remember -- do you recall  
9 what the nature of the assistance E-Tech was  
10 supposed to provide at that stage was?

11 A General technical strategy for the  
12 case.

13 Q And who retained E-Tech, to your  
14 knowledge?

15 A Mr. Kamp would have dealt with that  
16 more directly, but I believe it was Steven  
17 Donziger --

18 Q Now --

19 A -- and the Frente.

20 Q Do you have an understanding of who the  
21 client was?

22 A Ultimately, the client was the Frente.

23 Q And how do you have that understanding?

24 A Just from discussions with Dick Kamp.

25 Q You had testified earlier this morning



1 that this isn't your first deposition, correct?

2 A That's correct.

3 Q And what other occasions have you been  
4 deposed?

5 A Well, all the other ones were as an  
6 expert related to water quality and mining.

7 Q Which cases were those?

8 A One was a case in Federal District  
9 Court in Montana in 1996 related to the Butte  
10 Superfund site.

11 Q Do you remember the parties involved in  
12 that action?

13 A I believe it was Arco and the State of  
14 Montana.

15 Q And you appeared as an -- a testifying  
16 expert in that case?

17 A Yes.

18 Q On behalf of which party?

19 A The State of Montana. Also -- no, that  
20 was it. Yeah. The State of Montana.

21 Q Did you think someone else, you were  
22 appearing as well for?

23 A I was thinking of another case.

24 Q Okay. Did you give testimony in court,  
25 as well?

1       A    Yes.

2       Q    Do you understand -- understand what  
3 the disposition of that case was?

4       A    Well, unfortunately, the judge died  
5 before he ruled, so . . . .

6       Q    And what happened to the case?

7       A    Some of the parts of the case were  
8 retried. And the State, I believe, won those  
9 portions. There was a ruling on liability, which  
10 the State won. I'm not sure of any of the other  
11 specifics, but it was kind of unusual, because the  
12 judge died.

13      Q    And do you recall approximately when  
14 that case terminated?

15      A    Well, I'm not sure about the whole  
16 case, but, as I mentioned, I testified in -- I  
17 remember it was January nineteen ninety- -- wait.  
18 Hold on a minute. I was pregnant. So it must have  
19 been January '98, January '98.

20      Q    Did you testify -- strike that.

21            I guess we could start with the most  
22 recent time you've appeared as an expert in  
23 deposition. Do you recall that?

24      A    It's been a while. Deposition. I was  
25 deposed in a case in Idaho in Federal District

1 Court. That was -- let's see. '98. I think that  
2 was 2000. And, again, it was a mining case. And I  
3 was representing the -- the Coeur d'Alene tribe and  
4 NOAA, I believe, U.S. Fish and Wild- -- Federal  
5 Trustees.

6 Q Well, have you been deposed in any  
7 other more recent action than that one?

8 A Yes, I was deposed -- I think I was  
9 deposed in a Clean Water Act lawsuit related to a  
10 mine in Colorado.

11 Q In any -- and do you recall the  
12 approximate date of that?

13 A It was probably 2005, somewhere in  
14 there.

15 Q And, to your memory, anything after  
16 that Colorado case?

17 A I can't recall anything right now.

18 Q In connection with these appearances as  
19 an expert, have you ever been called upon to make  
20 disclosures with respect to your past testimonial  
21 experience?

22 MR. BEIER: Object to the form.  
23 You can answer.

24 A What do you mean by "disclosures"?

25 Q (BY MR. DANS) Well, under federal

1 procedure, an expert witness is called upon to  
2 provide information to opposing counsel with  
3 respect to their qualifications and the like.

4 A Mm-hmm.

5 Q Did you at any point assist your  
6 Counsel in any of these other actions with  
7 providing those disclosures?

8 A Yes.

9 Q And have any of those disclosures  
10 mentioned your involvement with Project Ecuador?

11 A No.

12 MR. DANS: We might take a break right  
13 now. And we could go off the record for about ten  
14 minutes.

15 MR. BEIER: Sure.

16 VIDEOGRAPHER: The time is 10:40. we  
17 are going off the record.

18 (A recess was taken.)

19 VIDEOGRAPHER: The time is 10:57. We  
20 are back on the record.

21 Q (BY MR. DANS) Ms. Maest, you  
22 understand you're still under oath?

23 A Yes.

24 Q Did you take an opportunity to consult  
25 with your counsel during the break?

1 A Yes.

2 Q Did you have any answers you wanted to  
3 change with respect to the prior testimony?

4 A No.

5 Q You testified that in 2005 or so you  
6 worked as an expert witness in a case in Colorado.  
7 Subsequent to that case, have you served as an  
8 expert witness in any other matter?

9 A I don't recall.

10 Q Are you currently now engaged in any  
11 expert witness work?

12 A No.

13 Q Have you testified in any sort of  
14 arbitration, other than -- other than a courtroom  
15 setting? Have you testified in arbitrations?

16 A What's an arbitration?

17 Q Well, outside of a traditional  
18 courtroom, have you been in any sort of -- before a  
19 tribunal, any other kind of adversarial system?

20 A An adversarial system?

21 Q Yeah. Have you been engaged in an  
22 arbitration, for example?

23 A No.

24 Q Have you testified anywhere before a  
25 legislative body, like Congress?

1       A    Yes.

2       Q    And on what occasions have you done  
3 that?

4       A    I testified about mining regulations  
5 before Congress in -- I don't remember the exact  
6 date.

7       Q    Any other testimony?

8       A    Of any type?

9       Q    Yes.

10      A    You mean . . . .

11      Q    Before a legislative body.

12      A    I guess I'm not completely sure what  
13 constitutes a legislative body.

14      Q    Well, have you spoken in front of any  
15 sort of administration -- administrative body,  
16 testimony with respect to a certain commission?

17      A    I've testified before state boards in  
18 California and Colorado.

19      Q    And any other sort of testimony in  
20 public?

21      A    Just the one I mentioned before in  
22 Guatemala. Other than that, I don't believe so.

23      Q    What was the nature of the testimony in  
24 California?

25      A    It was about a case where the State had

1 remediated some --

2 (An alarm sounded.)

3 Q (BY MR. DANS) Well, we can continue.

4 There's a Civil Air Defense System going off

5 apparently, but hopefully it's a drill. You were

6 saying in California you were testifying with

7 respect to --

8 A Yes.

9 Q -- certain . . . .

10 A Remediation of mine waste.

11 Q And the Colorado testimony?

12 A It was about water quality standards

13 related to a ski area, I believe.

14 Q Have you appeared before any political

15 branch with respect to your work on Project

16 Ecuador?

17 A Could you --

18 Q Well, have you met with anybody who's a

19 member of federal administration with respect to

20 Project Ecuador?

21 A I don't believe so.

22 Q Have you ever met with anybody who is a

23 staffer or otherwise a member of the United States

24 Congress with respect to your work in Ecuador?

25 A No.

1 Q Have you met with any state legislators  
2 with respect to Ecuador?

3 A No.

4 Q Have you met with any city  
5 administrators with respect to Ecuador?

6 A No.

7 Q Your work as an expert witness, does  
8 that come with an understanding that you are to  
9 preserve documents with respect to that work?

10 MR. BEIER: Object to the form.

11 You can answer.

12 A What do you mean exactly?

13 Q (BY MR. DANS) Well, if you have  
14 materials that you use in preparation for your  
15 expert report, do you make a point to catalog them  
16 and keep them?

17 A Yes.

18 Q Do you understand that those materials  
19 could become discoverable by the opposing party  
20 during litigation?

21 MR. BEIER: Objection to the form.

22 You can answer.

23 A Well, generally, I've put those  
24 together for discovery purposes, so . . . .

25 Q (BY MR. DANS) So when you say "for



1 discovery purposes," you're aware that those  
2 materials are likely going to be produced to the  
3 opposing party?

4 A Yes.

5 Q And are you also aware that your  
6 communications with respect to your report are  
7 going to be produced to the other party?

8 MR. BEIER: Object to the form.

9 You can answer.

10 A What -- what do you mean exactly?

11 Q (BY MR. DANS) Well, if you have an  
12 e-mail communication with somebody with respect to  
13 the report you're writing, do you have an  
14 anticipation that you'll have to produce that  
15 e-mail to the opposing party?

16 A Specifically related to a report, you  
17 mean?

18 Q The expert report you're writing in a  
19 particular case?

20 A The expert report. Yes.

21 Q And, similarly, if you take notes with  
22 respect to the subject matter of your expert  
23 report, you understand that you may have to produce  
24 those materials, as well, correct?

25 A Yes.

1 Q Are there any instances where you've  
2 worked in an expert capacity where you're under the  
3 impression that you won't have to produce similar  
4 materials, that is, notes you take in preparation  
5 for a report or communications with others with  
6 respect to that report?

7 MR. BEIER: Object to the form. Calls  
8 for a legal conclusion.

9 You can answer.

10 A Could you restate that.

11 Q (BY MR. DANS) Well, other than --  
12 strike that.

13 Are there times when you serve as an  
14 expert where you have an understanding different  
15 than what you previously testified with respect to  
16 the discoverability of materials?

17 MR. BEIER: Same objections.

18 You can answer.

19 A You mean all the keeping of the  
20 documents and all of that --

21 Q (BY MR. DANS) Yes.

22 A -- and notes? It's my understanding  
23 that documents and notes are discoverable when I'm  
24 serving as an expert.

25 Q Now, previously I'd asked you if you

1 were aware of my client, Rodrigo Perez Pallares.  
2 And I believe you said yes. What do you understand  
3 Mr. Pallares' role in Ecuador and his relation to  
4 the Lagro Agrio litigation is?

5 A I don't think I said yes, but . . . .  
6 My understanding of his role in the Lagro Agrio  
7 litigation is that he was involved in the  
8 remediation.

9 Q And what -- do you have any other  
10 further understanding of his involvement in that  
11 remediation?

12 A I can't recall right now, no.

13 Q Are you aware that Mr. Pallares has  
14 been charged with a crime that carries a ten-year  
15 prison sentence in Ecuador with respect to an  
16 allegation of fraud in connection with that  
17 remediation?

18 A No.

19 Q Are you aware of an individual named  
20 Ricardo Reis Veiga?

21 A Yes.

22 Q And who do you know Mr. Veiga to be?

23 A He was also involved in the  
24 remediation. And beyond than that, I'm not really  
25 sure.

1 Q And do you know what aspect of his  
2 involvement in that remediation?

3 A I don't recall.

4 Q Do you understand -- what's the basis  
5 for your knowledge of the involvement of these two  
6 gentlemen in the remediation?

7 A Let's see. Well, there were press  
8 releases that I read about their involvement.

9 Q These press releases were issued by  
10 whom?

11 A I don't recall.

12 Q Do you recall when you read them?

13 A Within the year.

14 Q And prior to the year, were you aware  
15 of Mr. Perez and Veiga or either one of them?

16 A Yes.

17 Q And when did you become aware of them?

18 A Guess it would have been in -- I don't  
19 remember the year exactly. But during the -- the  
20 brief settlement negotiations, I met Mr. Veiga.

21 Q And prior to those settlement agreement  
22 negotiations, did you have any understanding of who  
23 Mr. Veiga was?

24 A I don't recall right now.

25 Q You're aware Mr. Perez is 74 years old?

1       A   No.

2       Q   Are you aware that -- well, strike  
3 that.

4           I'm going to ask -- I'm going to put in  
5 front of the witness a document that's previously  
6 been marked as Exhibit 533.

7           MS. GRIEVE: She has the binders.

8       Q   (BY MR. DANS) There's binders in front  
9 of you, Ms. Maest. And it may help if you could  
10 pick the one out with the tab that says 533, and  
11 you can flip to the exhibit.

12          MS. GRIEVE: I believe it's the first  
13 one in this binder.

14          THE DEPONENT: Oh, okay. Thank you.

15       Q   (BY MR. DANS) Ms. Maest, this, I'll  
16 represent to you, is a criminal accusation filed by  
17 the Prosecutor General of Ecuador against certain  
18 individuals, including Mr. Perez and Mr. Veiga.  
19 Have you ever reviewed this document before?

20       A   No.

21       Q   This is an English translation. I take  
22 it you never reviewed the original in Spanish, by  
23 any chance?

24       A   I have not reviewed it.

25       Q   Well, this document sets forth various

1 elements of alleged evidence that the prosecutor  
2 maintains would show that Messrs. Perez and Veiga  
3 are guilty of a crime. And I'm going to direct  
4 your attention to Page 95 of this document, 533.

5 A Okay.

6 Q The first page, at the very top at  
7 Paragraph 3.77, it indicates that the record at  
8 Page 2679 includes a voluntary, unsworn statement  
9 of Richard Stalin Cabrera, who, in substance, is a  
10 geological engineer appointed as an expert in a  
11 civil case. Are you aware of what civil case  
12 Mr. Stalin Cabrera was appointed to that the  
13 prosecutor's referencing in this paragraph?

14 MR. BEIER: Objection. Foundation.

15 You can answer.

16 A I don't know by -- just from reading  
17 what's here.

18 Q (BY MR. DANS) Are you aware that  
19 Mr. Cabrera was appointed in a litigation in the  
20 Provincial Court of Sucumbios whereby certain  
21 individuals have sued Chevron Corporation?

22 A Yes.

23 Q Does this appear the same litigation  
24 that's being referenced in this, Paragraph 3.77?

25 A It doesn't say that. It just -- I

1 don't know if it's that case or another case. It  
2 says it's the Provincial Court of Sucumbios. I  
3 don't -- that's all it says.

4 Q Okay. Well, in the fourth -- sixth  
5 line down it says, "in the lawsuit that Maria  
6 Aguinda and others brought against Chevron  
7 Corporation." And previous to that it says, "The  
8 Chief Justice of the Superior Court of Justice of  
9 Sucumbios." Do you have any reason to believe that  
10 the case that you're aware that Mr. Cabrera's  
11 serving as an expert in is different than the one  
12 that's being cited here?

13 A Let me read it.

14 MR. BEIER: Object on foundation  
15 grounds.

16 You can answer.

17 A I see what's written here, but I don't  
18 know -- I'm sorry. What was your question, again?

19 Q (BY MR. DANS) I'm asking you if you  
20 have any reason to believe that the evidence being  
21 cited here against my client is other than the case  
22 of which you are aware in which Mr. Stalin Cabrera  
23 has been appointed by the court in Sucumbios as an  
24 expert in a case brought against Chevron  
25 Corporation?

1 MR. BEIER: Same objection.

2 You can answer.

3 A I don't know.

4 Q (BY MR. DANS) Did you work on the case

5 brought by Maria Aguinda against the Chevron

6 Corporation?

7 A I was not an expert in that case, but I

8 worked on it.

9 Q And through your work on that case,

10 were you ever aware of Mr. Stalin Cabrera?

11 A Yes.

12 Q Okay. Do you see something at the very  
13 end of this paragraph where it says, "the inventory

14 of the pits and their values are set forth in Annex

15 H of his report"?

16 A (Deponent nodded.)

17 Q Do you know what Annex H of his report  
18 would mean?

19 A What do you mean by, do I know what it  
20 would mean?

21 Q Do you know what that would reference,  
22 Annex H of his report?

23 A No.

24 Q Are you aware of an Annex H to the  
25 report of Richard Stalin Cabrera dated on or about



1 April 1st, 2007?

2 A Yes.

3 Q Are you aware that there was an Annex H  
4 to that report?

5 A Yes.

6 Q And in reading this now, do you  
7 understand that the prosecutor general of Ecuador  
8 is charging my client with a crime that carries ten  
9 years in prison based on Richard Stalin Cabrera's  
10 report, and he highlights in particular this Annex  
11 H?

12 MR. BEIER: Objection. Form.  
13 Argumentative.

14 You can answer.

15 A I don't see the ten years mentioned. I  
16 guess I should read this and see. I don't see  
17 anything in there about ten years in prison.

18 Q (BY MR. DANS) Well, other than ten  
19 years --

20 A Is that --

21 Q -- in prison, which I'll represent to  
22 you is not reflected in that particular paragraph,  
23 do you have an understanding that the -- having  
24 read this paragraph, that the prosecutor general of  
25 Ecuador maintains that Annex H to the report of

1 Richard Stalin Cabrera dated on or about April 1st,  
2 2007, contains evidence tending to show my client  
3 is guilty of a crime in Ecuador?

4 MR. BEIER: Objection. Foundation.

5 You can answer.

6 A No.

7 Q (BY MR. DANS) Did you ever review the  
8 materials that were filed in court in the  
9 application in this matter pursuant to which the  
10 subpoena marked as Exhibit 551 was issued?

11 A Did I ever review the documents --

12 Q Yeah --

13 A -- that were related to this?

14 Q -- the pleadings that caused that  
15 subpoena to be ordered --

16 A No.

17 Q -- by court?

18 A I don't believe so, no.

19 Q Direct your attention to Page 114.

20 A Okay.

21 Q Again there's a reference here in  
22 Paragraph 3.98 to "Exhibit H and the conclusions in  
23 the suit filed for environmental damages against  
24 Chevron Texaco Corporation, submitted together with  
25 the main report by expert Richard Cabrera." Do you

1 understand that that report, the Cabrera report, is  
2 being cited as evidence against Mr. Perez and Veiga  
3 in connection with these criminal charges?

4 MR. BEIER: Objection. Foundation.

5 You can answer.

6 A Not from just reading this paragraph,  
7 no.

8 Q (BY MR. DANS) Are you aware of any  
9 other reports by Mr. Cabrera with respect to  
10 alleged contamination in the Napo concession in  
11 Ecuador that this prosecutor general could be  
12 citing, other than the April 1st, 2007 report that  
13 Mr. Cabrera issued?

14 MR. BEIER: Objection. Form.  
15 Foundation.

16 You can answer.

17 A I don't know.

18 Q (BY MR. DANS) Two thousand -- strike  
19 the record.

20 If any -- I've been referring to this  
21 as April 1st, 2007. In fact, the report was issued  
22 April 1st, 2008. With that clarification, would  
23 you want to amend any of your prior answers?

24 A No.

25 Q And is that the issue?

1 A No.

2 MR. BEIER: Same objection.

3 A No.

4 Q (BY MR. DANS) Are you aware of any  
5 reports by Mr. Cabrera other than the reports in  
6 the Aguinda case versus Chevron?

7 A No.

8 Q Do you know what inculpatory evidence  
9 is?

10 MR. BEIER: Objection. Calls for a  
11 legal conclusion.

12 A No, I don't.

13 Q (BY MR. DANS) Well, the prosecutor  
14 general on Page 19 (sic) of the exhibit in front of  
15 you writes that from this --

16 MR. CRISS: Paul, I'm sorry. What  
17 page?

18 MR. DANS: Page 119.

19 A Oh, 119.

20 Q (BY MR. DANS) "Inculpatory evidence  
21 gathered by the Office of the Prosecutor, through  
22 this investigation, mentioned and described in this  
23 Opinion," he concludes -- "it is established that."  
24 And he continues on to the next page making various  
25 assertions of fact.

1           And he concludes that, at the bottom of  
2 Page 120, "Several of the projects carried out by  
3 TexPet in the implementation of the Remedial Action  
4 Plan, specifically those related to reforestation,  
5 the treatment of waste water, and the cleanup of  
6 pits, platforms, and spills that took place in  
7 swamps, streams, and rivers, have breached National  
8 Environmental Regulations."

9           Are you aware that the prosecutor  
10 general is claiming that Mr. Reis Veiga and  
11 Mr. Pallares, at the top of 120, are criminally  
12 liable by virtue of various breaches with respect  
13 to a remedial action plan?

14           MR. BEIER: Objection. Form.  
15 Foundation.

16           You can answer.

17       A    No.

18       Q    (BY MR. DANS) Do you know what  
19 "remedial action plan" refers to in this statement  
20 by the prosecutor?

21           MR. BEIER: Same objection.

22       A    Yes.

23       Q    (BY MR. DANS) And what remedial action  
24 plan is that?

25       A    My understanding, based on this -- very

1 brief reading of a part of this long document, is  
2 that it's the remedial action plan related to the  
3 cleanup of the concession, the Napo concession.

4 Q And does that understanding come from  
5 your connection with the Ecuador project --

6 A Yes.

7 Q -- that Stratus worked on?

8 A Yes.

9 Q On the last portion on Page 121. I  
10 direct you to the bottom of the paragraph where it  
11 says, "despite the fact that they did not meet the  
12 contractual terms of the Remedial Action Plan and  
13 with knowledge of the irreparable damage to the  
14 environment caused by Texaco in the Amazon region  
15 of the country."

16 Then it continues, "These facts were  
17 verified by the technical team from the Office of  
18 the Comptroller General of Ecuador," comma,  
19 "through four inspections," comma, "performed after  
20 the works executed by Texaco," comma, "and  
21 subsequently corroborated with the procedures  
22 carried out within this investigation, such as the  
23 technical reports prepared by experts Jaime  
24 Gutierrez Granja, Ian -- Ian Narvaez, Bolivar  
25 Garcia, William Bedon, Richard Cabrera."

1           Do you understand from reading this  
2 that the prosecutor general of Ecuador maintains  
3 that the report of Richard Cabrera verifies that  
4 the contractual terms of the remedial action plan,  
5 in his opinion, were not followed and had been  
6 breached?

7           MR. BEIER: Objection. Form,  
8 foundation.

9           You can answer.

10          A    You might have to break that into a  
11 couple of ques- -- could you rephrase that.

12          Q    (BY MR. DANS) Do you understand that  
13 the prosecutor general of Ecuador claims that  
14 Mr. Cabrera's report establishes that my client and  
15 Mr. Veiga broke -- breached the remedial action  
16 plan?

17           MR. BEIER: Same objections.

18           You can answer.

19          A    Not -- no.

20           MR. DANS: Okay. We need to switch the  
21 tape, so if we could go off the record.

22           MS. GRIEVE: Just for a minute or two.

23           VIDEOGRAPHER: The time is 11:25. We  
24 are going off the record. This is the end of  
25 Tape 1.

1 (A discussion was had off the record.)

2 VIDEOGRAPHER: The time is 11:29. We  
3 are back on the record. This is beginning of  
4 Tape 2.

5 Q (BY MR. DANS) Ms. Maest, having been  
6 pointed to portions of Exhibit 533, do you  
7 understand the generalized concept that the  
8 prosecutor general of Ecuador is alleging -- is  
9 charging my client, Mr. Veiga, with a crime and is  
10 pointing to evidence based on the report of Richard  
11 Stalin Cabrera?

12 MR. BEIER: Objection. Form.  
13 Foundation.

14 You can answer.

15 A Yes.

16 Q (BY MR. DANS) Have you ever been  
17 accused of a crime?

18 A No.

19 Q Okay.

20 A Well, outside of a parking ticket  
21 or . . . . Is that a crime?

22 Q Well, you've never been arrested for  
23 anything?

24 A No.

25 Q And has any member of your family ever



1 been accused of a crime?

2 A No.

3 Q Have you ever accused someone of a  
4 crime?

5 A No.

6 Q You've never filed a police report  
7 against someone?

8 A No.

9 Q Have you ever been accused of  
10 wrongdoing?

11 MR. BEIER: Object to the form.

12 A What do you mean by "wrong-" -- what do  
13 you mean?

14 Q (BY MR. DANS) Has anyone filed a civil  
15 complaint against you in court? Have you been  
16 sued?

17 A No.

18 Q Have you ever sued someone?

19 A No.

20 Q Well, do you think a criminal defendant  
21 who has evidence put against him or her has a right  
22 to know where that evidence comes from?

23 MR. BEIER: Object to the form.

24 Foundation.

25 You can answer.

1       A    Could you repeat that or rephrase it.

2       Q    (BY MR. DANS) Do you want it repeated  
3 or rephrased?

4       A    Repeat.

5       MR. DANS: Madam reporter . . . .

6       (The following question was read back:

7       "Do you think a criminal defendant who  
8       has evidence put against him or her has  
9       a right to know where that evidence  
10       comes from?")

11       MR. BEIER: Same objections.

12       You can answer.

13       A    As a general matter, yes.

14       Q    (BY MR. DANS) And if you were sitting  
15 accused of a crime, someone was putting evidence  
16 against you, wouldn't you want to take every effort  
17 to learn the genesis or providence of the evidence  
18 that the prosecutor was alleging proved your guilt?

19       A    Yes.

20       Q    So you understand that part of our  
21 exercise today is to understand where the Cabrera  
22 report came from and, specifically, to learn about  
23 Annex H, among others?

24       MR. BEIER: Objection. Form.  
25 Foundation.

1       A    I don't know that, but . . . .

2       Q    (BY MR. DANS) When did you first  
3 become aware that there were criminal charges being  
4 lodged or investigated against employees of Chevron  
5 or their -- their subsidiaries, more correctly?

6       A    I don't recall.

7       Q    Did you ever become aware that  
8 Mr. Donziger and his colleagues alleged that there  
9 was fraud with respect to the remediation  
10 undertaken by TexPet in the Napo concession?

11      A    What -- what do you mean, that they  
12 alleged there was fraud? What do you mean by that?

13      Q    Do you recall Mr. -- Mr. Donziger ever  
14 saying to you that he believed that the remediation  
15 was fraudulent?

16      A    Yes.

17      Q    When do you recall him saying that?

18      A    I don't recall.

19      Q    Do you ever recall him saying that this  
20 fraud was the subject of a criminal investigation  
21 in Ecuador?

22      A    I don't recall, no.

23      Q    Do you ever recall anyone on the  
24 plaintiffs' making a strategy to pursue a criminal  
25 investigation and charging of Mr. Perez and Veiga,

1 among others, in connection with the remediation  
2 undertaken by TexPet?

3 A No.

4 MR. BEIER: Object to the form.

5 THE DEPONENT: I'm sorry.

6 Q (BY MR. DANS) Do you recall meeting  
7 with attorneys from Winston & Strawn?

8 A Yes.

9 Q When do you recall meeting them?

10 A Oh, I didn't meet them in person.

11 Q Do you recall communicating with them?

12 A Yes.

13 Q And when was that that you communicated  
14 with them first?

15 A I don't recall exactly.

16 Q Do you remember the nature of that  
17 communication?

18 A It was about the information in the  
19 case related to remediation of the Napo concession.  
20 In the Chevron case.

21 Q And what, with respect to that  
22 remediation, were they interested in?

23 MR. BEIER: Objection. Foundation.

24 You can answer.

25 A I don't know.

1 Q (BY MR. DANS) Do you recall them being  
2 interested in a fraud investigation with respect to  
3 that remediation?

4 A No.

5 MR. DANS: I ask the court reporter to  
6 mark as Exhibit 553 a one-page handwritten note  
7 dated 12/1/06.

8 (Deposition Exhibit 553 was marked.)

9 MR. DANS: Strike that. You know, I'd  
10 ask the court reporter to amend that marking.  
11 That's been previously entered as Exhibit Kamp 93.  
12 So I'm going to refer to it as that, if we could  
13 save that 553 designation for the next exhibit.

14 MR. CRISS: I'm sorry. No, Paul, I  
15 think we're fine. Does the witness have notes  
16 marked December 1st?

17 MR. DANS: Yes.

18 MR. CRISS: Okay.

19 Q (BY MR. DANS) Ms. Maest, do you  
20 recognize this document?

21 A Yes.

22 Q Do you recognize the handwriting on it?

23 A Yes, I do.

24 Q Whose is it -- whose is it?

25 A That's my handwriting.

1 Q Do you recall writing these notes?

2 A Not specifically.

3 Q Do you have any doubt that you wrote  
4 these notes?

5 A No.

6 Q At the top right there is a notation,  
7 "Winston & Strong (sic) represent" something "Latin  
8 American governments. Get Ecuador's AG to file  
9 complaint to US AG about Texaco fraud." Do you  
10 remember who told you that?

11 MR. BEIER: Object to the form.

12 You can answer.

13 A No.

14 Q (BY MR. DANS) Well, on the first of  
15 December, 2006 these notes seem to indicate that  
16 you had a call about Ecuador with Steven, Mark, and  
17 Dick. Did you have a call on or about December  
18 1st, 2006, regarding Ecuador with Steven, if it's  
19 Mark, and Dick? Do you recall that?

20 A I don't recall it.

21 Q Does this refresh your recollection at  
22 any time being told that an investigation with  
23 respect to fraud was being pursued?

24 A Well, it mentions fraud.

25 Q Well, does it recall -- refresh your

1 recollection as to whether or not you learned that  
2 there was a fraud investigation undertaken by  
3 anyone with respect to the Texaco remediation in or  
4 about this time period?

5 A Yes.

6 Q And what do you recall then?

7 A What I recall is that Winston & Strong  
8 (sic) were representing the Ecuadorian government.  
9 And -- I didn't realize it went back this far. And  
10 it had something to do with the Texaco fraud.

11 Q And do you recall any mention by Steven  
12 Donziger or his colleagues, including, but not  
13 limited to, Mr. Fajardo and others in Quito, about  
14 the desire to pursue criminal charges against  
15 anyone with respect to that remediation?

16 A I remember hearing about it, but it was  
17 not a focus of what I was doing there.

18 Q Well, what did you hear about it?

19 A What I recall, you know, sitting here  
20 today, is that the remediation -- what do I recall  
21 about what? Sorry. Say that again.

22 Q About a desire on behalf of  
23 Mr. Donziger, Mr. Fajardo, and his colleagues to  
24 pursue criminal charges -- that the government of  
25 Ecuador pursue criminal charges against persons

1 with respect to the remediation?

2 A I don't believe that Steven Donziger  
3 and his colleagues were the ones who were pursuing  
4 that.

5 Q Who do you believe was pursuing that?

6 A Winston & Strong.

7 Q Are you aware that Mr. Donziger had  
8 press conferences with mug shots of my client and  
9 Mr. Veiga and sat in front of a microphone and  
10 talked about the fraud at Chevron and pointed to  
11 them?

12 A No.

13 Q Are you aware of any contact between  
14 anyone -- and I'll use this generally -- Lagro  
15 Agrio plaintiffs' representatives -- and when I use  
16 this term, I mean Luis Yanza. Do you know who  
17 Mr. Yanza is?

18 A Yes.

19 Q Mr. Fajardo. You know who Mr. Fajardo  
20 is?

21 A Yes.

22 Q Do you know a gentleman, Alejandro  
23 Ponce Villacres? Villacres? I might be  
24 pronouncing that wrong. Villacres.

25 A What were the first two names, again?



1 Q Alejandro Ponce Villacres.

2 A I don't know anyone by that name.

3 Q Do you know anyone named Juan Pablo  
4 Prieto?

5 A Yes.

6 Q Known as -- do you know him also to be  
7 known as Juampa?

8 A Yes.

9 Q Do you remember any of these persons,  
10 Juampa, Luis Yanza, Pablo Fajardo, Steve Donziger,  
11 and anyone working with them ever approaching  
12 anyone in the Ecuadorian government with respect to  
13 the pursuit of a criminal investigation into the  
14 remediation undertaken by TexPet?

15 A No.

16 Q Are you aware of any point where the  
17 government contacted them with respect to the -- a  
18 criminal investigation of the remediation?

19 A No.

20 Q Are you aware of any communications  
21 among the government of Ecuador and these Lagro  
22 Agrio plaintiffs' representatives with respect to  
23 pursuing criminal charges against anyone with  
24 respect to the operation of Texaco in the Napo  
25 concession?

1       A    I don't recall any.

2       Q    Did you ever speak with anyone at the  
3 prosecutor general's office in Ecuador?

4       A    No.

5       Q    Have you ever communicated with anyone  
6 at the prosecutor general's office in Ecuador?

7       A    No.

8       Q    Have you ever communicated with anyone  
9 at the controller general's office of Ecuador?

10      A    No.

11      Q    Have you ever communicated with anyone  
12 at the attorney general's office of Ecuador?

13      A    No.

14      Q    Do you know anyone at Stratus who has  
15 provided materials or communicated with anyone in  
16 the prosecutor general's office in Ecuador?

17      A    I don't know.

18      Q    And are you aware of whether -- whether  
19 or not they communicated, are you aware of any  
20 materials that anyone at Stratus has provided,  
21 directly or indirectly, to the prosecutor general's  
22 office in Ecuador?

23      A    No.

24      Q    Did Mr. Donziger or anyone else ever  
25 ask Chevron -- strike that -- ask Stratus to

1 prepare materials for use in conjunction with a  
2 criminal investigation in Ecuador?

3 A I don't recall. We -- we had a phone  
4 call with Winston & Strong, and we talked about,  
5 you know, the remediation and the results from some  
6 of the Perito reports in the Chevron case, and --  
7 I'm sorry. Your question, again, was whether I  
8 recall --

9 Q Well, did you ever recall Mr. Donziger  
10 or anyone else asking Stratus to prepare materials  
11 for use in conjunction with the criminal  
12 investigation in Ecuador?

13 A We had some graphs that we had made  
14 that we discussed during that call. And -- but I  
15 don't recall what happened with them after that.

16 Q When was the call?

17 A I don't recall.

18 Q Who asked you to make the graphs?

19 A Well, they were made already,  
20 so . . . .

21 Q Well, can you describe the graphs?

22 A Yes. They were concentration of total  
23 petroleum hydrocarbon at different -- in different  
24 pits at different locations in the Napo concession.

25 Q And who provided you the copies of the

1 graphs?

2 A I made them.

3 Q Did you make the graphs up yourself?

4 Were you the original author of the graphs?

5 A The ones I'm thinking about right now,

6 yes.

7 Q And what was your conclusion with

8 making the graphs?

9 A What do you mean?

10 Q Well, what was the purpose of making

11 the graphs?

12 A The purpose was to show that there were  
13 high concentrations of total petroleum hydrocarbons

14 remaining in sites that had been remediated.

15 Q Where did you get the data to put in  
16 these charts, these graphs?

17 A It was from the expert reports for the  
18 Chevron trial.

19 Q The expert reports. Which expert  
20 reports are you referring to?

21 A I don't recall specifically which ones,  
22 sitting here right now, but . . . .

23 Q Where was this data maintained?

24 A In Quito.

25 Q I'm going to ask you to turn in your

1 binder, Ms. Maest, to Tab 547, which is a  
2 previously marked exhibit.

3 A Okay.

4 Q Have you ever seen this document,  
5 including its attachment, or, rather, or its  
6 attachment?

7 A Yes.

8 Q And are these the graphs that you  
9 testified you were preparing for these different --

10 A These are not the graphs.

11 Q Did you prepare this exhibit?

12 A No.

13 Q Who prepared this exhibit?

14 MR. BEIER: Object to foundation.

15 You can answer.

16 A As best as I can recall, Jennifer  
17 Peers.

18 Q (BY MR. DANS) When do you recall  
19 seeing this exhibit?

20 A I don't recall.

21 Q But you do recall seeing it?

22 A Yes.

23 Q Do you know why it was prepared by  
24 Ms. Peers?

25 A No. I don't -- well, because Steven

1 Donziger asked her to prepare it.

2 Q Do you know why Steven Donziger was  
3 asking for it to be prepared?

4 A No.

5 Q Do you know that in or about September  
6 2008, the prosecutor general of Ecuador opened a  
7 criminal -- formal criminal investigation of former  
8 employees of TexPet and government officials in  
9 connection with the remediation?

10 A I don't recall that, no.

11 Q Now, the -- the graphs you testified  
12 that you had presented to Winston & Strawn, why had  
13 they asked for those to be prepared?

14 MR. BEIER: Object to the form.  
15 Mischaracterizes her testimony.

16 You can answer.

17 A I don't know that they asked for them  
18 to be made and -- what was the first part of your  
19 question?

20 Q (BY MR. DANS) Why -- well, if  
21 Winston & Strawn didn't ask, do you recall who  
22 asked for those -- who asked you to prepare those  
23 graphs?

24 MR. BEIER: Object to the form.  
25 Mischaracterizes her testimony.

1       A    Right. They were already -- I had  
2 already prepared them for the Chevron case.

3       Q    (BY MR. DANS) So were you taking  
4 preexisting graphs that had been used in the  
5 Chevron case and providing them to Winston &  
6 Strawn?

7       A    Well, as I mentioned, I was not and am  
8 not an expert in that case. So I was just  
9 evaluating the data using graphs.

10      Q    When you say you were not an expert in  
11 the case, you're referring to the Lagro Agrio  
12 litigation in Ecuador?

13      A    Yes.

14      Q    Did you ever work for an expert in that  
15 case?

16           MR. BEIER: Object to the form.

17      A    Did I ever work for an expert in the  
18 case?

19      Q    (BY MR. DANS) Yes.

20      A    No. No.

21      Q    Did you ever prepare expert materials  
22 for use in the Lagro Agrio litigation?

23      A    No.

24      Q    What was the nature of your work in the  
25 Lagro Agrio litigation?

1       A    Oh, we evaluated the data and prepared  
2 materials based on our review and evaluation of the  
3 data from the Lagro Agrio case.

4       Q    Did you write a report?

5           MR. BEIER: Object to form.

6           You can answer.

7       A    Did I write a report for -- what do you  
8 mean?

9       Q    (BY MR. DANS) For your work in the  
10 Lagro Agrio litigation.

11       A    Guess there was one report that I wrote  
12 that was very general, but it wasn't submitted as  
13 part of the information in the case.

14       Q    Well, did you prepare any written --  
15 written work product in conjunction with your work  
16 on Project Ecuador?

17       A    Yes.

18       Q    What was that work product?

19       A    Well, there were a number of different  
20 products, but . . . . One was a general report on,  
21 you know, environmental conditions at the site.  
22 Let's see. That's the only report.

23       Q    Well, do you recall preparing something  
24 called the Peritaje Global report?

25           MR. BEIER: Object to form.



1           You can answer.

2       A   No, I didn't prepare that report.

3       Q   (BY MR. DANS) When you say, No, you,  
4 do you mean you as opposed to Stratus?

5           MR. BEIER: Same objection. Also  
6 foundation.

7       A   I didn't prepare it, and Stratus didn't  
8 prepare it.

9       Q   (BY MR. DANS) Well, maybe -- we'll get  
10 into the documents later about what was prepared,  
11 but what is your contention that you prepared with  
12 respect to the expert submission of Richard Cal- --  
13 Richard Cabrera?

14           MR. BEIER: Object to the form.  
15 Argumentative.

16           You can answer.

17       A   Which expert submission are you  
18 referring to?

19       Q   (BY MR. DANS) Dated on or about April  
20 1st, 2008.

21       A   And your question is . . . .

22       Q   What was your -- what was the documents  
23 you prepared in conjunction with that submission?

24       A   We prepared materials that we submitted  
25 to Steven Donziger. And then my understanding is

1 that he submitted those to attorneys with the  
2 Frente, and they submitted those to Richard Cabrera  
3 for his consideration.

4 Q When you prepared these materials, did  
5 you understand that you were preparing an expert  
6 report in the voice of Richard Stalin Cabrera?

7 A No.

8 Q Did you understand that you were going  
9 to be drafting an expert report?

10 A No.

11 Q Did you have any contact with  
12 Mr. Cabrera in conjunction with your work preparing  
13 these materials for the attorneys, as you claim?

14 A No.

15 Q Did you have any communication through  
16 someone with respect to -- through -- strike that.

17 Did you have any contact indirectly  
18 with Mr. Cabrera in conjunction with preparing  
19 these materials?

20 MR. BEIER: Object to the form.

21 You can answer.

22 A I don't -- I'm not sure what you mean  
23 by that. Can you rephrase it.

24 Q (BY MR. DANS) Did anybody act as a  
25 pass-through for information between you and

1 Mr. Cabrera?

2 A Well, as I said, I prepared materials  
3 that I submitted to Steven Donziger. And after  
4 that, I'm not sure, but my understanding is that he  
5 submitted those to the attorneys in Ecuador working  
6 for the Frente, and they submitted them to Richard  
7 Cabrera for his consideration.

8 Q Do you know if they were ever submitted  
9 to Mr. Cabrera for his consideration?

10 A I don't know for sure, but I believe  
11 so.

12 Q Do you know how long Mr. Cabrera  
13 considered them?

14 A Well, there were a number of different  
15 drafts of the material that we produced. And I  
16 don't know exactly how long he had to consider  
17 them, no.

18 Q Well, do you understand when he first  
19 got a draft to review?

20 A No.

21 Q So, as you sit here today, you don't  
22 know for a fact whether or not Mr. Cabrera ever  
23 reviewed any of these materials?

24 A I -- I don't have any firsthand  
25 knowledge of that, no.

1 Q And what -- do you have any knowledge  
2 of it?

3 A Just what I already said, which is  
4 that, you know, we submitted the materials, and  
5 there were several different drafts at different  
6 times. And there were translations involved. And  
7 then those were submitted to Mr. Donziger.

8 And my understanding from -- after that  
9 is that he submitted them to the Frente attorneys,  
10 who in turn submitted them to Richard Cabrera for  
11 his consideration.

12 Q Well, I had asked you, do you have any  
13 knowledge that Mr. Cabrera actually reviewed these  
14 materials. You said no firsthand knowledge.

15 A No firsthand knowledge.

16 Q Did anybody ever tell you that  
17 Mr. Cabrera reviewed these materials?

18 A Not that I recall.

19 Q Did you ever see any document  
20 indicating that Mr. Cabrera had reviewed the  
21 materials, other than the actual report itself?

22 A Could you say that again.

23 Q Did you see any other materials than  
24 the report itself that would indicate that  
25 Mr. Cabrera ever reviewed it?

1 MR. BEIER: Object to the form.

2 You can answer.

3 A At this point I can only tell you what  
4 I've told you already, which is I know that our  
5 materials were submitted to Mr. Donziger and then  
6 to the Frente attorneys, who then gave them to  
7 Mr. Cabrera for his consideration. My involvement  
8 stopped after the first part of that.

9 Q (BY MR. DANS) Okay. I'm asking you  
10 again, have you ever seen any document that would  
11 indicate to you whether or not Mr. Cabrera actually  
12 reviewed the report prior to signing it?

13 A Do you mean something that said that he  
14 reviewed them? I guess I'm not really sure what  
15 you're getting at.

16 Q Well, do you ever review reports prior  
17 to signing them?

18 A Yes.

19 Q Do you make comments when you review  
20 things?

21 A Sometimes. Not always.

22 Q Well, did you see any mark-up by  
23 Mr. Cabrera of the Cabrera report?

24 A No, I didn't see that.

25 Q Did you see any comments written by

1 Mr. Cabrera about the draft of the Cabrera report?

2 A He did submit comments, but I'm not  
3 clear exactly on the timing of them.

4 Q His comments were after he signed it,  
5 correct?

6 A I believe so.

7 Q Did you ever see any comments on any  
8 drafts prior to his signature on the report?

9 A Not that I recall.

10 Q Did you ever get any sort of feedback  
11 passed through anyone about Mr. Cabrera's view on  
12 the report?

13 A About his what?

14 Q Review on the draft of the report.

15 A Not that I recall.

16 Q Did you ever -- well, you testified you  
17 hadn't participated -- you had never spoken with  
18 him with respect to comments. Did anybody pass  
19 along any sort of comments by Mr. Cabrera to you  
20 prior to April 1st, 2008?

21 A I don't recall.

22 Q Ms. Maest, you have a doctorate,  
23 correct --

24 A Right.

25 Q -- from Princeton? What's your

1   doctorate in?

2       A   Geochemistry and water resources.

3       Q   And how many years of graduate school  
4   did that take to get?

5       A   Four.

6       Q   Do you know what Mr. Cabrera's  
7   educational formation is?

8       A   Pardon me? What his what?

9       Q   Educational formation is.

10      A   I don't know what you mean by that.

11      Q   Do you know what his background is, his  
12   formal education?

13      A   I believe he's a geologic engineer.

14      Q   Well, in your opinion as a geochemist,  
15   do you believe that a geologic engineer, like  
16   Mr. Cabrera, could prepare the report that he  
17   signed on or about April 1st, 2008?

18           MR. BEIER: Objection. Form.  
19   Foundation.

20      A   Mr. Cabrera had a team. It wasn't just  
21   him. So the report was created by Mr. Cabrera and  
22   his team.

23      Q   (BY MR. DANS) Were you member of that  
24   team?

25      A   No.

1 Q Were people at Stratus a member of that  
2 team?

3 A No.

4 Q Didn't you have a meeting on March 3rd,  
5 2007, where everyone in the room was referred to as  
6 "the team that was going to write the report"?

7 A I don't recall that.

8 Q Do you know anyone on his --  
9 Mr. Cabrera's identified team that would have had  
10 the competence to write such a report?

11 A I don't -- I don't know them  
12 personally.

13 Q Well, did you ever review the port --  
14 report?

15 A You mean after -- what do you mean?

16 Q Afterwards. Did you ever take --  
17 undertake a critique of Mr. Cabrera's report?

18 A I have reviewed parts of it.

19 Q And what was of the purpose of that  
20 review?

21 A What I recall right now is that there  
22 were questions submitted, and we were assisting  
23 Steven Donziger in answering those questions.

24 Q Did you espouse any sort of opinion on  
25 whether the report was tight science, so to speak?



1 MR. BEIER: Object to the form.

2 A What do you mean by that?

3 Q (BY MR. DANS) Have you ever used the  
4 word "tight science" -- the expression "tight  
5 science"?

6 A Not that I recall.

7 Q Did you ever espouse an opinion about  
8 whether or not the report's conclusions were  
9 reasonable --

10 A Yes.

11 Q -- given its methodology and the  
12 apparent conclusions?

13 A Yes.

14 Q And, in your opinion, do you believe  
15 that the identified individuals in Mr. Cabrera's  
16 team were capable of having produced that report?

17 A What do you mean, "The identified  
18 individuals"? What do you mean by that?

19 Q Well, when you undertook your analysis  
20 of the report, did you look into who the authors  
21 were?

22 A Not outside of Mr. Cabrera, that I  
23 recall right now.

24 Q Mr. Cabrera doesn't have a Ph.D. from  
25 Princeton, does he?

1 A No.

2 Q Did you think he could have turned out  
3 that report?

4 MR. BEIER: Objection to foundation.  
5 Argumentative.

6 A I don't know. As I mentioned, he had a  
7 team. It wasn't just him.

8 Q (BY MR. DANS) Well, did you ever  
9 communicate with anyone on the -- on the Richard  
10 Cabrera team?

11 A Not that I recall.

12 Q In conjunction with the materials you  
13 prepared, as you allege, for Mr. Donziger, did you  
14 ever communicate with -- with anybody with respect  
15 to the preparation of those materials, outside of  
16 Stratus?

17 MR. BEIER: Objection. Form.

18 A Did I ever communicate with -- could  
19 you rephrase that.

20 Q (BY MR. DANS) Well, in the report that  
21 you provided to Steven Donziger prior to April 1,  
22 2008, that you had that you previously testified  
23 would ultimately be provided to Mr. Cabrera for his  
24 consideration, did you communicate with anybody  
25 outside of Stratus in preparing those materials?

1       A   Well, first of all, I didn't prepare a  
2 report. I prepared materials that were, as I said  
3 before, submitted to Mr. Donziger. And there were  
4 other people involved outside of Stratus, yes.

5       Q   Who were those other people?

6       A   Bill Powers. 3TM is a company out of  
7 Texas. That's all I can recall that I was involved  
8 with directly.

9       Q   Well, were -- generally are you aware  
10 of whether anyone from Stratus had contact with  
11 anybody outside of Stratus with respect to the  
12 preparation of the materials that Stratus would  
13 provide to Mr. Donziger for ultimate consideration  
14 by Mr. Cabrera, as you contend?

15           MR. BEIER: Object to the form.

16           You can answer.

17       A   Aside from those two companies or  
18 individuals, I was not aware of any, no.

19       Q   (BY MR. DANS) So, as you sit here  
20 today, you're not aware of anybody at the Quito  
21 office or involved in the Frente who contributed  
22 materials that Stratus -- strike that -- that would  
23 become part of the material submitted to  
24 Mr. Cabrera for his consideration?

25       A   There was a database that was made in

1 the Quito office that we used.

2 Q And who in the Quito office did you  
3 work with in making this database?

4 A Well, I didn't make the database.

5 Q Who made the database?

6 A It was a -- you know, a number of  
7 people who were involved in that.

8 Q Was anybody on Richard Stalin Cabrera's  
9 team who made this database?

10 A I don't believe so, but I don't know.

11 Q Who were the people who were involved  
12 in the making of the database, to your knowledge?

13 A The ones I know of were Olga Lucia  
14 Ceron, I think is her last name. I can't remember  
15 right now. Sorry. And Laura Belanger. And then  
16 there were other people, Tania Naranja -- Naranjo.

17 Q Anyone else?

18 A There were -- there were a couple of  
19 other people. I can't recall their names right  
20 now.

21 Q And do you know if Tania was a member  
22 of Mr. Stalin Cabrera's team?

23 A I don't know.

24 Q Do you know if Laura was a member of  
25 Mr. Cabrera's team?

1 A She was not.

2 Q Do you know of any of these other  
3 individuals who may have been a member of  
4 Mr. Cabrera's team?

5 A I don't know.

6 Q Are you a member of any scientific  
7 accreditation societies?

8 A No.

9 Q Do you have any professional licenses?

10 A No.

11 Q So you don't require any sort of state  
12 certification in conjunction with your work?

13 A No.

14 Q Do you have to take any sort of  
15 admission to a board in order to practice before  
16 the federal government with respect to any of your  
17 work?

18 A No.

19 Q Do you hold any other degrees higher  
20 than your Princeton Ph.D.?

21 A I don't -- are there any? I don't  
22 know.

23 Q No. Do you hold any?

24 A Do I hold any? No.

25 Q Did you ever take any sort of further

1 education following Princeton?

2 A I did a postdoctoral fellowship at the  
3 U.S. Geological Survey in Menlo Park, California.

4 Q In conjunction with any of your  
5 activities, have you ever been a member of an honor  
6 society?

7 A Society? No.  
8 (Mr. Sabovich left the deposition  
9 room.)

10 Q (BY MR. DANS) Were you elected to  
11 Sigma Xi?

12 A Oh, yeah, but I think everybody was.

13 Q Do they have any sort of ethical  
14 requirements at Sigma Xi?

15 A I don't know.

16 Q Are you a full member of Sigma Xi?

17 A I don't even know.

18 Q Do you participate in any professional  
19 societies now?

20 A Yes.

21 Q What societies are those?

22 A The Geological Society of America, the  
23 Society of Mining Metallurgy, SME, and the American  
24 Chemical Society.

25 Q Do any of these societies have any sort

1 of ethical code that you need to acknowledge in  
2 order to become a member?

3 A No.

4 Q When you were at Princeton, was there  
5 an honor code there?

6 A There was something referred to as an  
7 honor code. And it -- it just referred to not  
8 cheating on tests.

9 Q Did it have anything to do with written  
10 submissions outside of examinations?

11 A No.

12 Q Are you aware of whether or not that  
13 honor code was subject -- strike that -- whether  
14 the graduate students had to follow the honor code  
15 at Princeton?

16 A It was -- as far as I can recall, it  
17 was undergraduates. It was really aimed at  
18 undergraduates.

19 Q Was there any sense at Princeton that a  
20 scientist needs to conduct him or herself in the  
21 highest manner to avoid activities that would tend  
22 to undermine the profession?

23 MR. BEIER: Object to the form.

24 You can answer.

25 A We were really focusing on research.

1 And that was not -- I don't recall anything like  
2 that ever being discussed.

3 MR. DANS: Okay. I'd ask the court  
4 reporter to mark as 553 the statement from the  
5 graduate school of Princeton.

6 (Deposition Exhibit 553 was marked.)

7 Q (BY MR. DANS) At the bottom of this  
8 page, Ms. Maest, it reads, "The Graduate School  
9 Judicial System." It says, "As members of the  
10 University community, graduate students are bound  
11 by the rules and procedures described in the  
12 sections on 'University Regulations.'"

13 And it continues, quote, "Graduate  
14 students are governed by the presumption that their  
15 academic word" -- "work is held to the highest  
16 standards of research and scholarship," ellipses,  
17 quote, "all forms of academic fraud," ellipses,  
18 dash, "specifically plagiarism, multiple  
19 submission, false citation, and the use of false  
20 data - are regarded as serious violations and will  
21 be subjected to disciplinary action."

22 When you were at Princeton, were you  
23 aware of this prohibition against academic fraud,  
24 plagiarism, false citation, false data?

25 A Not officially, no.



1 Q Well, did you engage in any of that, to  
2 your knowledge, while you were at Princeton?

3 A Any of what?

4 Q Submission of false data, plagiarism,  
5 or any of these -- these prohibition that

6 Princeton --

7 A No.

8 Q -- proscribes? And when you left  
9 Princeton, did you have any reason to depart from  
10 that code of conduct?

11 MR. BEIER: Objection. Form. This is  
12 abusive and harassing.

13 You can answer.

14 A Did I have any -- could you --

15 Q (BY MR. DANS) Well, did you --

16 A -- rephrase that.

17 Q When you walked out of the gates of  
18 Princeton, was there any reason why you thought you  
19 might be free to no longer govern your work by the  
20 highest standards of research and scholarship, you  
21 know, and avoid plagiarism, multiple submission,  
22 false citation, and use of false data?

23 MR. BEIER: Objection.

24 Q (BY MR. DANS) Did you intend to  
25 continue to carry yourself in that manner?

1 MR. BEIER: Objection. Abusive and  
2 harassing. I'd also note Counsel's voice is rising  
3 in level.

4 You can answer.

5 THE DEPONENT: Yes, it is.

6 A No.

7 Q (BY MR. DANS) So you still -- you  
8 still abide by that? You still recognize that  
9 plagiarism's wrong in the scientific world?

10 MR. BEIER: Objection. Foundation.  
11 Form.

12 You can answer.

13 A Of course.

14 Q (BY MR. DANS) And manipulating data  
15 would be wrong --

16 MR. BEIER: Same objection.

17 Q (BY MR. DANS) -- for a scientist?

18 MR. BEIER: You can answer.

19 A That -- that would be wrong.

20 Q (BY MR. DANS) What about falsely  
21 citing work as your own when it was someone else's?  
22 Would that be wrong?

23 A Yes.

24 MR. BEIER: Same objections.

25 Q (BY MR. DANS) Have you ever

1 manipulated data in connection with the submissions  
2 to Richard Stalin Cabrera's report?

3 A Manipulated data? What do you mean by  
4 that?

5 Q Well, have you ever worked with the  
6 expert's data and changed it?

7 A No.

8 Q You didn't change any of the data?

9 A From the expert reports?

10 Q Did you ever manipulate any of  
11 Cabrera's data?

12 MR. BEIER: Object to the form. Vague.  
13 Ambiguous.

14 A What do you mean by "Cabrera's data"?

15 Q (BY MR. DANS) Any data collected by  
16 Richard Cabrera in the Lagro Agrio litigation.

17 A Did I ever change the data? No.

18 Q Are you aware, under Penalties here, on  
19 Page 2 of 4, that Princeton cites the range of  
20 possible penalties include revocation of a  
21 Princeton University degree for violation of the  
22 above?

23 A No, I wasn't aware of that.

24 Q When you read the Richard Stalin  
25 Cabrera report and he said that he had performed

1 certain activities and that he had written this  
2 report, do you think he was committing an act of  
3 plagiarism?

4 MR. BEIER: Objection. Form,  
5 foundation. Calls for speculation.

6 A I don't recall seeing anything like  
7 that, so I don't -- I don't know.

8 Q (BY MR. DANS) Do you -- have you ever  
9 read the report?

10 MR. BEIER: Objection. Asked and  
11 answered.

12 You can answer again.

13 A I -- not in its entirety, but I've read  
14 portions of it, yes.

15 Q (BY MR. DANS) Where he says, "I,  
16 Richard Stalin Cabrera," did this, that, and the  
17 other thing, did that ever strike you as false?

18 MR. BEIER: Objection. Form.

19 A I don't --

20 MR. BEIER: Argumentative.

21 A I don't know what you're referring to.

22 Q (BY MR. DANS) Well, we'll walk through  
23 some of the mentions.

24 A Okay.

25 Q Do you have any knowledge of anything

1 that Mr. Cabrera did with respect to the report  
2 that was produced and submitted on April 1st, 2008?  
3 That he personally did?

4 MR. BEIER: Object to the form.

5 A Could you rephrase that.

6 Q (BY MR. DANS) Of all the activities  
7 that Mr. Cabrera cites in his report, are you aware  
8 of any of them that he actually himself,  
9 personally, physically undertook?

10 MR. BEIER: Objection. Form.  
11 Foundation.

12 You can answer.

13 A I know that Mr. Cabrera was out in the  
14 field collecting samples.

15 Q (BY MR. DANS) And what happened to  
16 those samples after he collected them?

17 A I don't know. I wasn't in the field  
18 with him.

19 Q Well, do you know if he analyzed those  
20 samples?

21 A Do you mean -- what do you mean by  
22 "analyzed"? What do you mean?

23 Q Well, I'm not the scientist, but -- I  
24 don't know. What do you do with samples after you  
25 collect them?

1 MR. BEIER: Objection. Argumentative.

2 You can answer.

3 A Depends what they're for.

4 Q (BY MR. DANS) Okay. Well, what did  
5 you understand he was taking samples for?

6 A Soils and groundwater.

7 Q And what would you do with those  
8 sampled soil and groundwater?

9 A You would send them to a laboratory.

10 Q And what would you do after they were  
11 sent to the laboratory?

12 A Depends. You know, you would have them  
13 analyzed for the constituents of concern.

14 Q Do you understand whether or not  
15 Mr. Cabrera analyzed any of the samples that he  
16 took for the constituents of concern?

17 A My understanding is that he sent them  
18 to a laboratory. He, himself, did not analyze  
19 them, of course. But he sent them to a laboratory.

20 Q And which laboratory was this?

21 A I don't recall. May --

22 Q Where does your understanding come from  
23 that he sent them to a laboratory?

24 A From data that were collected in the  
25 field.

1 Q How did you get an understanding that  
2 it was sent to the laboratory from data collected  
3 in the field?

4 A How do I -- say that again. Rephrase  
5 it, please.

6 Q Well, I asked you, How did you know  
7 that any of these samples were ever sent to a  
8 laboratory? And you answered, "From data that were  
9 collected in the field." And I'm asking you --

10 A Mm-hmm.

11 Q -- how do you know that they were  
12 actually sent to a laboratory?

13 A Because there were Perito reports as  
14 part of the judicial inspections.

15 Q And who created these Perito reports?

16 A The Peritos.

17 Q Which Peritos?

18 A There's a long list.

19 Q What about the examination by  
20 Mr. Cabrera of his samples?

21 A What about them?

22 Q Who created those reports?

23 A I guess I don't know what you're  
24 referring to.

25 Q I'm asking if you know who created

1 Richard Stalin Cabrera's reports dealing with the  
2 samples that he took?

3 A Oh, as a Perito?

4 Q As a Perito.

5 A I assume that he did.

6 Q Did anyone at Stratus prepare drafts of  
7 those?

8 A No.

9 Q When did you first read these reports?

10 A Which reports?

11 Q The reports that you just assume that  
12 he did.

13 A Well, I'm referring generally to Perito  
14 reports that were part of the judicial inspection.

15 Q Okay. Well, I'm asking about the --  
16 whatever written product came out of the samples  
17 that he took as a part of this so-called Global  
18 Peritaje sampling endeavor.

19 A The only ones I recall right now that I  
20 was involved in at all were Mr. Gomez collected  
21 some samples. I believe they were groundwater  
22 samples.

23 Q And how do you know that those samples  
24 were sent to a laboratory?

25 A Actually, what I recall is seeing a



1 plan for Mr. Gomez to collect samples.

2 Q Did you ever receive any reports from  
3 Mr. Gomez about his sampling?

4 A I don't recall right now.

5 Q So is your testimony that you have no  
6 knowledge that the samples collected by Mr. Gomez  
7 were ever sent to a laboratory?

8 MR. BEIER: Objection. Foundation.

9 A That's -- that's not what I said, no.

10 Q (BY MR. DANS) Well, do you have any  
11 knowledge of whether or not the samples collected  
12 by Mr. Gomez were ever sent to a laboratory?

13 A Well, sitting here right now, I cannot  
14 remember if I saw the results or if I just saw the  
15 plan to collect the samples.

16 MR. DANS: We're probably at a good  
17 breaking point, if you want, Counsel. We can break  
18 for a 45 minute or so lunch.

19 MR. BEIER: Sure.

20 MR. DANS: Maybe -- do you want an  
21 hour?

22 THE DEPONENT: No.

23 MR. DANS: What do you guys want?

24 MR. BEIER: Let's make it 45 minutes,  
25 please.

1           MR. DANS: 45? So it's 12:30 now. Say  
2 be back here at quarter after?

3           VIDEOGRAPHER: The time is 12:28. We  
4 are going off the record.

5           (A recess was taken for lunch.)

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1 AFTERNOON SESSION 1:41 P.M.

2 VIDEOGRAPHER: The time is 1:41. We  
3 are back on the record.

4 Q (BY MR. DANS) Good afternoon,  
5 Ms. Maest.

6 A Good afternoon.

7 Q Do you recall that you're still under  
8 oath in this proceeding?

9 A Yes.

10 Q Do you keep any sort of journal on a  
11 daily basis or a weekly basis of your activities?

12 A No.

13 Q And during the time you worked on  
14 Project Ecuador, that is, your work relating to the  
15 Chevron case in Ecuador, did you keep any sort of  
16 system of notes or journal entry or log or diary or  
17 something to that effect?

18 A I have a number of notes.

19 Q And those notes you produced in -- you  
20 gave those notes over to your Counsel?

21 A Yes, I did.

22 Q Was -- that portion that we looked at  
23 earlier today was a portion of notes. Would that  
24 be representative?

25 A Mm-hmm.

1 Q I believe it's marked as Exhibit 552?  
2 That would be a representation of the notes you  
3 would take?

4 Oh, Kamp 93. Strike that.

5 Is that a representation of the sort of  
6 notes you kept?

7 A Yes.

8 Q And were you aware that Mr. Donziger  
9 also was keeping a log of his activities with  
10 relation to the lawsuit over -- over this period?

11 A No.

12 Q When was the first time you had any  
13 discussions with Mr. Donziger about the Global  
14 Peritaje report?

15 A I don't recall exactly.

16 Q Well, do you remember any -- your first  
17 discussions about how the Global Peritaje report  
18 would be structured?

19 MR. BEIER: Object to the form.

20 A I know there were discussions about  
21 that. I just don't recall the first time.

22 Q (BY MR. DANS) Did you understand that  
23 it would be a report submitted to the court by an  
24 expert?

25 MR. BEIER: Object to the form.

1       A    I don't know if I did at that time.

2       Q    (BY MR. DANS) Do you recall when you  
3 learned that the expert would be appointed by the  
4 court?

5       A    I think it was the meeting in March  
6 '06.

7       Q    And when -- we talked earlier, and I  
8 guess the dates had gotten a little mixed up. But  
9 there was a meeting in March '07.

10      A    Oh.

11      Q    Is that the one we're talking about?

12      A    I'm sorry. Yes, March '07.

13      Q    And prior to that, had you had any  
14 discussions with Mr. Donziger or others about the  
15 potential identity of the Perito?

16           MR. BEIER: Object to the form.

17           You can answer.

18      A    I can't recall.

19           MR. DANS: Ask the court reporter to  
20 mark as Exhibit 554 a series of log entries from  
21 Page 1 to 52 Bates stamp DONZ 00023089 to DONZ  
22 0023089.

23           MS. GRIEVE: Paul, they all have the  
24 same Bates stamp number.

25           MR. DANS: Oh, sorry. It's all the

1 same Bates stamp number, but it's 52 pages.

2 THE DEPONENT: Thank you.

3 (Deposition Exhibit 554 was marked.)

4 Q (BY MR. DANS) Ms. Maest, I take it  
5 you've never seen Mr. Donziger's journal entries  
6 before, have you?

7 A No, I have not.

8 Q Well, I'm going to point to you the  
9 certain -- certain descriptions of events that he  
10 has in here and ask you about them more fully.

11 On Page 2 of 52, Mr. Donziger writes,  
12 apparently, an entry dated June 3rd, 2006, about  
13 eight lines down, "Ann's story about [the] case in  
14 Denver scared me - all expert witness testimony got  
15 tossed out on Daubert grounds." And then, "She  
16 said you have to have great lawyering and really  
17 tight science to win these cases, and of course I  
18 am worried we have neither."

19 A Mm-hmm.

20 Q Do you recall having a conversation  
21 with Mr. Donziger on or about June 3rd, 2006, about  
22 a case in Denver?

23 A I remember having a discussion with him  
24 about a case in Denver, but I don't remember the  
25 date.

1 Q Well, what was the story you told him?

2 A I was involved in a Clean Water Act  
3 lawsuit in Federal District Court in Denver. And  
4 we lost. We had an attorney who thought we had to  
5 prove one thing, and we actually had to prove  
6 another thing, so . . . .

7 Q Did you participate as an expert  
8 witness in that case?

9 A Yes, I did.

10 Q And was your testimony rejected?

11 A Yes, it was.

12 Q Do you recall the grounds for which it  
13 was rejected?

14 A Not exactly. I recall the judge  
15 saying, You gave me 50 percent, and I needed 51,  
16 but . . . .

17 Q Well, were there any other aspects of  
18 the judge's ruling that you remember?

19 A I don't recall right now.

20 Q What did you tell Mr. Donziger in  
21 relation to that ruling?

22 A Well, I remember telling him what the  
23 attorney in that case thought he had to prove. And  
24 that was that we just needed one molecule of  
25 contamination to win the case. And it turned out,

1   apparently, that was not true.

2           And there were a lot of other things  
3   that kind of fell out from that. It was an  
4   underfunded case moneywise. You know, we collected  
5   some samples, but not enough. And so I was just  
6   telling him my -- you know, the whole story about  
7   that and my involvement in it and -- just to let  
8   him know what can happen in those kinds of  
9   circumstances.

10   Q   And this work you had done on the  
11   Colorado case, was that in conjunction with  
12   Stratus?

13   A   No.

14   Q   Which -- who had you done that work on  
15   behalf of?

16   A   It was -- it was on behalf of Sierra  
17   Club.

18   Q   And you were an independent contractor?

19   A   Yes.

20   Q   And do you remember Mr. Donziger  
21   talking to you more generally about the challenges  
22   in this case?

23   A   You mean just ever, or --

24   Q   With respect to this conversation.

25   A   I don't recall that part of the



1 conversation.

2 Q Well, do you know what scared him about  
3 your story?

4 MR. BEIER: Objection. Foundation.

5 You can answer.

6 A I don't recall exactly what he said,  
7 but I do recall that he looked worried.

8 Q (BY MR. DANS) Well, he also at the end  
9 here says something about a requirement of "having  
10 great lawyering and really tight science," and he  
11 doubts that they have either.

12 A Mm-hmm.

13 Q Do you think that the Lagro Agrio  
14 litigation and the Ecuador project had really tight  
15 science?

16 MR. BEIER: Object to the form.

17 You can answer.

18 A That's a very broad question. You mean  
19 just generally or -- what do you mean?

20 Q (BY MR. DANS) Well, generally as --  
21 you know, Mr. Donziger here is expressing some  
22 concern, it appears. Knowing what you know and  
23 this product of the Cabrera report, would you call  
24 that tight science?

25 MR. BEIER: Object to the form and

1 foundation.

2       A    You can answer.

3       A    I don't -- well, I know that that's not  
4 what he was referring to.

5       Q    (BY MR. DANS) What was he referring  
6 to?

7       A    I believe he was referring to the --  
8 the work that had been done up to that point.

9       Q    And what was -- what was the nature of  
10 that work, in your estimation?

11       A    Mostly it was the reports from the  
12 Peritos on both sides.

13       Q    And what did you take away from that,  
14 in terms of the caliber of work being produced?

15       MR. BEIER: Object to the form.

16       You can answer.

17       A    I don't under- -- I don't understand  
18 the question.

19       Q    (BY MR. DANS) Well, was there some  
20 deficiency with the science to date at that stage,  
21 with the likelihood that the plaintiffs could  
22 prevail?

23       A    I don't think I knew at that time what  
24 the -- how tight or not tight the science was.

25       Q    Had you -- based on your other

1 experience with lawyers as service as an expert,  
2 what's your opinion on the lawyering caliber of  
3 Mr. Donziger and his colleagues?

4 MR. BEIER: Object to the form.

5 You can answer.

6 A I really can't answer that. My  
7 understanding is that the attorneys who are really  
8 attorneys on the case are the Quito attorneys.

9 Q (BY MR. DANS) And who are those?

10 A For the plaintiffs, they're -- you  
11 know, for the -- well, Pablo Fajardo is the lead.  
12 And then there are, you know, a number of other  
13 attorneys that were in the Quito office. And I do  
14 not understand Ecuadorian law. I really have --  
15 could not answer that question.

16 Q And with respect to Mr. Donziger,  
17 what's his role, as you understand it?

18 A He is, obviously, not an Ecuadorian  
19 attorney, but he's, you know, sort of a consulting  
20 attorney on the case. That's my understanding.

21 Q What's a consulting attorney?

22 A Someone who is providing assistance but  
23 is not the primary attorney on the case. The  
24 primary attorney is -- as I understand it, is Pablo  
25 Fajardo.

1 Q So you had previously said, the real  
2 attorneys on the case are the Quito attorneys.  
3 Therefore, would you describe Mr. Donziger as a  
4 real attorney?

5 A I don't believe I said that.

6 Q Well, I asked you, "Had you, based on  
7 your other experience with lawyers as service as an  
8 expert, what's your opinion on the lawyering  
9 caliber of Mr. Donziger and his colleagues?" And  
10 you answered, What was that? "I really can't  
11 answer that. My understanding is that the  
12 attorneys who are really attorneys on the case are  
13 the Quito attorneys."

14 A Okay.

15 Q So --

16 A Okay. That's different than "the real  
17 attorneys."

18 Q Well, who -- is Mr. Donziger really an  
19 attorney on the case, according to your -- your  
20 view of things?

21 MR. BEIER: Objection. Form.

22 You can answer.

23 A He was -- I don't really know. I don't  
24 know that part of it. That's the legal part of it.  
25 I have -- you know, he's certainly an attorney who

1 was working on the case.

2 Q (BY MR. DANS) Well, did you understand  
3 at the time you undertook the work that he was not  
4 the attorney in Ecuador who was appearing before  
5 the courts?

6 A I just didn't know.

7 Q Did you think he was admitted to appear  
8 in Ecuador?

9 A I didn't know.

10 Q Did you ever consult with any  
11 Ecuadorian attorneys about the nature of the job  
12 you were being contracted to do?

13 A We talked with a number of the  
14 attorneys -- the plaintiffs' attorneys, yes.

15 Q Did you ever verify with them what  
16 Mr. Donziger had told you the nature of the project  
17 was, to make sure that his explanation was  
18 consistent with Ecuadorian law?

19 MR. BEIER: Object to the form.

20 You can answer.

21 A Can you rephrase that, please.

22 Q (BY MR. DANS) Well, with these  
23 Ecuadorian attorneys you testified you spoke with,  
24 did you ever confirm with them the instructions  
25 that Mr. Donziger had given you and whether those

1 instructions were consistent with Ecuadorian law?

2 A Well, when we met, we all met together.  
3 Mr. Donziger and the Ecuadorian attorneys were in  
4 the room at the same time. So I didn't feel that I  
5 needed to ask the Ecuadorian attorneys separately  
6 about what Mr. Donziger had said or was doing.  
7 And, as I mentioned, I really -- I don't have any  
8 idea, you know, what -- in a deep sense at all what  
9 Ecuadorian law is, so . . . .

10 Q Did Mr. Donziger ever tell you about  
11 the functioning of the Perito who was to sign the  
12 Global Peritaje report, what his function would be?

13 A I think in general terms, yes.

14 Q Did he tell you that the court-  
15 appointed -- the expert -- strike that.

16 Did he tell you that the expert would  
17 be appointed by the court?

18 A Yes.

19 Q Did he tell you any prohibitions with  
20 respect to working with the expert?

21 A Not that I recall.

22 Q Did you understand that the expert was  
23 supposed to be independent of the parties?

24 A Yes.

25 Q Where did you get that understanding

1 from?

2 A I don't recall.

3 Q Did you, at the time you undertook the  
4 project, think that there was any difference  
5 between the way you were to interact with the  
6 court-appointed expert in Ecuador versus any  
7 court-appointed, say, special master in the United  
8 States?

9 MR. BEIER: Object to the form.

10 You can answer.

11 A Could you rephrase that, please.

12 Q (BY MR. DANS) Back in 2005 and over  
13 the period in which you were working on the Global  
14 Peritaje report, did you believe that there was any  
15 difference between the way you were entitled to  
16 interact with the court-appointed expert in  
17 Ecuador --

18 A Mm-hmm.

19 Q -- versus how you understand you're  
20 entitled to act with any court-appointed officer,  
21 say, a special master, in the United States?

22 MR. BEIER: Object to the form.

23 Mischaracterizes her testimony.

24 You can answer.

25 A I really don't know.

1 Q (BY MR. DANS) Did you have a  
2 conception that Ecuadorian legal system was  
3 different than the United States with respect to  
4 independence of court-appointed officers?

5 A I don't know. I just didn't know at  
6 the time or now.

7 Q Did you ever -- were you ever told by  
8 Mr. Donziger that the Court would appoint the  
9 expert, but the person who was going to be  
10 appointed would be a friend or on the side of the  
11 plaintiffs?

12 A I don't recall him saying that, no.

13 Q Did you ever recall Mr. Donziger  
14 suggesting that he knew who was going to be  
15 appointed the expert?

16 MR. BEIER: Object to the form.

17 A I think in the meeting in March '07  
18 that I was told that it was possible that Richard  
19 Cabrera could be -- he was being considered as one  
20 of the court-appointed experts.

21 Q (BY MR. DANS) And prior to that, do  
22 you remember any conversations with Mr. Donziger  
23 where he indicated that he knew who would be likely  
24 appointed the court expert?

25 A I don't recall any.



1 Q Well, let's move to Page 3 of 52,  
2 second paragraph. Mr. Donziger writes on the third  
3 line, "But" -- well, let's start with the top.  
4 "Had lunch with Fernando Reyes." Do you know who  
5 Fernando Reyes is?

6 A I've heard the name. I don't -- I  
7 don't recall what he does or . . . .

8 Q Do you remember ever meeting Mr. Reyes?

9 A I think I did meet him. I think so.

10 Q Do you recall when you met him?

11 A No.

12 Q Well, this entry is dated June 2nd,  
13 2006, and you previously testified you were down in  
14 Ecuador in or about June 2006. Is -- do you have  
15 any recollection of meeting Mr. Reyes in connection  
16 with that trip?

17 A I didn't say I was there in June 2006.  
18 I said, as I recall, I was there in January and  
19 March of 2006.

20 Q Okay. I'm sorry.

21 And you weren't there in June 2006,  
22 then?

23 A I don't believe so.

24 Q Okay. This second paragraph continues,  
25 quote, "We ended the arrangement, and it might pick

1 up later." Do you know what arrangement  
2 Mr. Donziger is speaking of with respect to  
3 Mr. Reyes?

4 A I don't know.

5 Q What do you understand Mr. Reyes' role  
6 was in this litigation?

7 A I don't know what it was.

8 Q And do you have any recollection the  
9 first time you had contact with Mr. Reyes?

10 A I -- no, I can't remember.

11 Q Okay. Well, he continues, quote, "He  
12 is a perfect example of what is right and wrong  
13 with Ecuador technical people. So weak, so  
14 unwilling to out front (sic). But had dinner with  
15 Ann and u realize why." Do you recall having  
16 dinner on or about June 2nd, 2006, with  
17 Mr. Donziger and discussing the Perito?

18 A No.

19 Q Well, he continues, "There is no market  
20 for people willing to do work that holds oil  
21 companies accountable." Do you ever remember  
22 expressing such a notion to Mr. Donziger about the  
23 difficulty of finding a Perito and that rationale?

24 MR. BEIER: Object to the form.

25 You can answer.

1       A    Could you rephrase that. I don't think  
2 that -- there's a couple things combined there.  
3 I'm not sure.

4       Q    (BY MR. DANS) Well, do you have any  
5 recollection about having a conversation with  
6 Mr. Donziger in which you expressed the notion that  
7 it is hard to find a Perito because to go against  
8 the oil companies, that person would have a  
9 difficulty making a living?

10      A    I don't recall saying anything about a  
11 Perito with that.

12      Q    What do you recall saying that about?

13      A    I do recall saying that there's not  
14 much money on -- to be made on kind of the other  
15 side of the fence, so to speak. You know, people  
16 who work for entities, you know, what he says here,  
17 holding oil companies accountable.

18      Q    Do you remember Mr. Donziger speaking  
19 with you about the necessity of having an American  
20 appointed as the Perito, as opposed to an  
21 Ecuadorian?

22      A    No.

23      Q    Do you recall anything to do with this  
24 dinner that Mr. Donziger records in his journal?

25      A    I don't remember it.

1 Q Do you think it's possible you were in  
2 Ecuador at the time, after reading this?

3 A Sure, it's possible. I just don't  
4 recall it.

5 Q And your testimony is you never spoke  
6 with Mr. Donziger -- or strike that.

7 You hadn't, to your memory, met  
8 Mr. Reyes during this trip to Ecuador?

9 A I don't remember. I don't recall.

10 Q Did Mr. Donziger ever say he wanted to  
11 introduce you to a potential expert in the case?

12 A Not that I recall.

13 Q Flip over to Page 4 of 52. On May  
14 31st, 2006, Mr. Donziger writes, "Yesterday we had  
15 a 5-hour taller" -- perhaps he means talker -- "and  
16 it was extremely tense and frustrating. Went  
17 through options on Global Peritaje - had Plans A  
18 through E, and I realized how difficult this aspect  
19 of the case is going to be."

20 Do you recall being part of a  
21 conversation with Mr. Donziger on or about May  
22 twenty -- May 31st, 2006, discussing the plan of  
23 the Global Peritaje?

24 A I don't recall when it was. I remember  
25 discussing a plan with him, but I don't recall what

1 it was.

2 Q But do you recall this conversation?

3 MR. BEIER: Object to the form.

4 You can answer.

5 A Which conversation?

6 Q (BY MR. DANS) Well, he talks about, I  
7 guess, on or about May 31st, perhaps May 30th, he  
8 says he had a five-hour talk -- I take it is a  
9 conversation with others -- about the Global  
10 Peritaje and Plans A through E. Do you recall  
11 being part of that conversation?

12 A No.

13 Q Do you know what he meant when he talks  
14 about Plans A through E?

15 A I remember that we talked about  
16 different plans, and we had them numbered in some  
17 way.

18 Q When did you develop the numbering of  
19 the plans?

20 MR. BEIER: Object to form.

21 Mischaracterizes her testimony.

22 A I don't remember.

23 Q (BY MR. DANS) When did you talk about  
24 the different plans with him?

25 A I said I don't remember.

1 Q Who else was part of that conversation  
2 about the structuring?

3 A I -- I don't recall.

4 Q Do you ever remember Mr. Donziger  
5 expressing a contempt for the Ecuadorian judicial  
6 system as being weak?

7 A I don't know about "contempt." That's  
8 a pretty strong word. I don't remember him ever  
9 expressing anything that strong, no.

10 Q Well, what -- do you remember him  
11 expressing some sort of observation about the  
12 Ecuadorian judicial system that had a very negative  
13 connotation?

14 A I remember he talked about it, but I  
15 don't recall what he said about it.

16 Q Do you recall him making exhortations  
17 about the necessity to pressure the judiciary to  
18 get your way in Ecuador?

19 A No.

20 Q Do you remember making any sort of,  
21 like -- strike that.

22 Do you remember making a statement  
23 like, This is Ecuador. There's no rules here.  
24 It's not the United States. You can do anything as  
25 you please, something to that effect?

1 A That I --

2 MR. BEIER: Object to the form.

3 Q (BY MR. DANS) Mr. Donziger making  
4 such --

5 A Oh.

6 Q -- remarks to you.

7 A No.

8 Q Do you -- do you know that "taller"  
9 apparently means workshop in Spanish?

10 A Yes.

11 Q Okay. So with that said, if we go back  
12 to my question, do you recall being part of a  
13 workshop on or about May 31st, 2006, discussing an  
14 outline and potential plans for the Global  
15 Peritaje?

16 A I know that I was in a meeting about  
17 that at some point. I don't remember when.

18 Q Do you remember where?

19 A We discussed it in Quito, and we  
20 discussed it in Boulder.

21 Q I'll turn your attention to Page 8 of  
22 52, where Mr. Donziger writes, according to the  
23 prior page, apparently on May 13th, entry,  
24 "Conversation with E-Tech yesterday about" -- this  
25 is the third paragraph down.

1       A    I'm sorry. Which pages are we on?

2       Q    8 of 52. "Conversation with E-Tech  
3 yesterday about trip planned for late May, and  
4 feeling like they too are overwhelmed with the  
5 combination of annexes and field work [that] they  
6 have to do."

7       A    I don't see that. Oh, here we go.

8       Okay. Okay.

9       Q    Does that entry refresh your  
10 recollection of whether or not you may have been in  
11 Ecuador in or about May 2006?

12      A    I don't recall.

13      Q    Do you remember expressing to  
14 Mr. Donziger, you know, concern about being  
15 overwhelmed with the combination of annexes and  
16 field work you had to do?

17      A    I don't recall that specifically, no.

18      Q    Do you remember what E-Tech had to do  
19 with respect to annexes and field work in May 2006?

20      A    Well, I don't recall anything about  
21 annexes. I'm not sure what he's referring to  
22 there. But we were planning some field work.

23      Q    And the field work was what nature?

24      A    Collecting water sample --

25           MR. BEIER: Excuse me.



1 THE DEPONENT: Sorry.

2 A Collecting water samples in the  
3 concession.

4 Q (BY MR. DANS) And what was the purpose  
5 of that?

6 A To look for the presence of petroleum  
7 contaminants in water.

8 Q And what would you do with the results  
9 of this detection?

10 A What would we do with them?

11 Q What were you planning to do with the  
12 results of this search for contaminants?

13 A At that point it was just to look for  
14 the presence or absence of oil-related  
15 contaminants. So we weren't sure. It was part of,  
16 you know, an investigation to see what we could  
17 find.

18 Q And what did you find?

19 A We found some elevated concentrations  
20 of total petroleum hydrocarbons and polycyclic  
21 aromatic hydrocarbons.

22 Q Where did you find those?

23 A I believe it was downstream of one of  
24 the separation stations in the concession.

25 Q And did you find -- make any other

1 conclusions?

2 A Not that I recall.

3 Q When did you make this determination?

4 A I can't remember when we were there.

5 Q Was this still in 2006?

6 A I can't remember. It could have been.

7 Q Who did the testing that you're talking  
8 about, the sampling?

9 A The sampling? Mark Quarles and Bill  
10 Powers and I.

11 Q And where was the products tested --  
12 that is, the samples tested?

13 A Where were they analyzed?

14 Q Yes.

15 A I believe it was at HAVOC, a laboratory  
16 in Quito.

17 Q Direct your attention to Page 14 of  
18 52 -- rather, 13 of 52. I'm sorry.

19 A Okay.

20 Q Bottom of the second to last paragraph,  
21 it says, "And we still have some key cards to play.  
22 FCPA," comma, "more shareholder pressure," comma,  
23 "the fact their key people don't pay taxes," comma,  
24 "ramping up the legal arguments," comma, "and the  
25 AG filing a civil and penal lawsuit against them."

1 Do you recall Mr. Donziger ever talking to you  
2 about a FCPA violation against Chevron or its  
3 employees?

4 A I don't know what that stands for.

5 Q Do you recall Mr. Donziger speaking  
6 about a Foreign Corrupt Practices Act violation --

7 A Ah.

8 Q -- brought against Chevron or employees  
9 of its subsidiaries, TexPet?

10 A I remember him mentioning Foreign  
11 Corrupt Practices Act, but I don't remember  
12 anything beyond that.

13 Q And when do you remember him talking  
14 about that?

15 A When?

16 Q Yeah.

17 A I don't recall.

18 Q Well, did you ever provide materials  
19 that you understood would be helpful for  
20 Mr. Donziger to use in the prospective FCPA  
21 violation claim?

22 A Not that I -- not that I recall, no.

23 Q Did he ever ask you to prepare  
24 materials for the Department of Justice with  
25 respect to the TexPet remediation?

1       A   For the -- for which Department of  
2 Justice?

3       Q   For submission to the Department of  
4 Justice.

5       A   In . . . .

6       Q   In the United States?

7       A   Oh, in the United States? No.

8       Q   And for submission to the -- I guess,  
9 the attorney general in Ecuador? Were you aware of  
10 that?

11      A   No.

12      Q   Well, he writes here, "and the AG  
13 filing a civil and penal lawsuit against them."  
14 Does that refresh your recollection of whether or  
15 not Mr. Donziger ever mentioned to you that he was  
16 intending to pursue -- strike that -- that he was  
17 intending to play a key card about the filing of a  
18 criminal lawsuit?

19           MR. BEIER: Objection. Foundation.  
20           You can answer.

21      A   What -- I guess I've lost track about  
22 what we're talking about here. Could you --

23      Q   (BY MR. DANS) Well, I'm asking you --

24      A   -- put this in a context.

25      Q   -- in 2006 or earlier, do you recall

1 Mr. Donziger talking to you about the plaintiffs  
2 and their representatives' aspirations of the  
3 attorney general in Ecuador pursuing a criminal  
4 case against Chevron executives?

5 A Hm-mm. No, I don't recall that.

6 Q Similarly, I think we had looked at  
7 Exhibit 553 (sic) in front of you earlier this  
8 morning. There was a notation there about the  
9 "government get Ecuador's AG to file complaint to  
10 US AG about Texaco fraud." Does reading  
11 Mr. Donziger's diary refresh your recollection in  
12 any respect to why you had written those notes?

13 MR. BEIER: I'm going to object.  
14 Mischaracterizes the notes. I believe it says  
15 "got" rather than "get."

16 A Yeah. My understanding of that note on  
17 the top right of Exhibit 533 is that "Winston &  
18 Strong represent Latin American governments got  
19 Ecuador AG to file complaint to US AG about Texaco  
20 fraud." So this is -- my understanding of that is  
21 that this is something Winston & Strong got Ecuador  
22 to do. It had already been done.

23 Q (BY MR. DANS) If you'd flip to Page 14  
24 of 52. There's a entry at the end of the second  
25 paragraph reads, "But I keep" -- quote, "But I keep

1 thinking of what Mateo told me." Do you know any  
2 Mateo that worked with a Lagro Agrio plaintiffs?

3 A No.

4 Q He continues, quote, "The only way we  
5 will win this case is if the judge thinks he will  
6 be doused with gasoline and burned if he rules  
7 against us. Given the morality or immorality of  
8 Ecuador's justice system, that type of comment did  
9 not even shock me. It's part" -- "It is part of  
10 the rules of the game here." Did Mr. Donziger  
11 express that sentiment to you, or a similar one,  
12 with respect to the necessity of intimidating the  
13 judge?

14 MR. BEIER: Objection. Foundation.  
15 Form.

16 You can answer.

17 A I believe what this is saying is that  
18 this is what someone else told Mr. Donziger, not  
19 that he said this.

20 Q (BY MR. DANS) Well, I'm asking you,  
21 did he ever say anything about the necessity of  
22 intimidating the judge in a like manner to prevail  
23 in the case?

24 A Not that I recall, no.

25 Q Do you remember Mr. Donziger talking to

1 you about the number of times he met with the  
2 judge?

3 A I don't.

4 Q Do you remember him ever mentioning to  
5 you that he met with the judge?

6 A I know he met the judge during judicial  
7 inspections.

8 Q Well, do you know if he ever met the  
9 judge outside of judicial inspections?

10 A I don't know.

11 Q Did he ever tell you that he went to  
12 the judge's house?

13 A I don't recall, no.

14 Q Did he tell you that he would meet with  
15 the judge in abandoned warehouses?

16 A No.

17 Q Did he tell you that he would lunch  
18 with the judge?

19 A Not that I recall.

20 Q Well, down here, it says, the next  
21 paragraph, "Lunch meeting with judge. This was  
22 second meeting with the judge - had lunch with him  
23 the previous Friday at Canegrejo Rojo. I love it -  
24 this lobbying." Were you aware at any time during  
25 your work with Stratus that Mr. Donziger was having

1 ex parte meetings with the judge and lobbying him?

2 MR. BEIER: Object to the form.

3 You may answer.

4 A I -- I don't know.

5 MR. DANS: I'm going to ask the court

6 reporter to mark as Exhibit 555 a one-page of  
7 notes.

8 (Deposition Exhibit 555 was marked.)

9 Q (BY MR. DANS) Ms. Maest, do you  
10 recognize this handwriting as your own?

11 A Yes.

12 Q Do you recall having a conference call  
13 about Ecuador on or about November 20th, 2006?

14 A Not specifically, no.

15 Q Well, were you told -- does this  
16 refresh your recollection that you were told, at  
17 least as early as November 2006, that the judge  
18 will name the expert, that probably will name  
19 Fernando Reis (sic), and he will work closely with,  
20 quote, us?

21 A I see that here. I don't remember  
22 that.

23 Q Is your testimony today that you had no  
24 understanding that Mr. Donziger told you that the  
25 court-appointed expert would be working closely



1 with you and your fellow members at E-Tech in the  
2 preparation of a Global Peritaje report?

3 MR. BEIER: Objection. Form.

4 You can answer.

5 A I don't recall it. I see that it says  
6 that here, but I don't recall that.

7 Q (BY MR. DANS) I'm going to ask the  
8 court reporter to mark -- hold on for one moment --  
9 as Exhibit 556 an e-mail from Steven Donziger to  
10 Richard Kamp copying Bill Powers and A. Maest dated  
11 January 19th, 2006.

12 (Deposition Exhibit 556 was marked.)

13 Q (BY MR. DANS) Ms. Maest, do you recall  
14 receiving this e-mail?

15 A I don't recall, but I see that I'm  
16 copied on this.

17 Q Do you remember having discussions with  
18 Mr. Donziger on or about -- strike that -- in or  
19 about January 2006 about retaining E-Tech to write  
20 a Peritaje Global report that an Ecuadorian would  
21 just sign?

22 MR. BEIER: Object to the form.

23 You can answer.

24 A I recall that we talked with  
25 Mr. Donziger about writing some portions of, you

1 know, an evaluation of the site, and -- and I  
2 remember him calling it a Peritaje Global.

3 Q (BY MR. DANS) Do you remember him  
4 saying that it was going to be signed by an  
5 Ecuadorian?

6 A I remember that, yes, he said the  
7 Peritaje Global would be signed by an Ecuador.

8 Q Do you remember him saying anything  
9 about the Ecuadorian participating in the  
10 preparation of that report?

11 A Yes.

12 Q And what did he say about that?

13 A I don't recall exactly, but the team in  
14 Quito was very involved in collecting samples and  
15 having them analyzed and making the database and  
16 all that.

17 Q So when he said it would be signed by  
18 an Ecuadorian, did you think it would be signed by  
19 somebody in this team at Quito?

20 A I didn't know. I wasn't sure.

21 Q I'd ask you to turn in your binder an  
22 exhibit that's been marked as 506.

23 A 506?

24 Q Yes. Actually -- yes, 506. Actually,  
25 you can put that aside for now.

1 Did there come a time where you  
2 understood that the court was going to be naming an  
3 expert to conduct the Peritaje Global? You can put  
4 the exhibit --

5 A Okay.

6 Q -- aside for now.

7 Did there come a point when you  
8 determined that -- you were informed that the court  
9 would be naming an expert to conduct the Peritaje  
10 Global?

11 A Yes.

12 Q And when was that point?

13 A I don't recall. It was probably 2006.

14 Q And do you remember who told you that?

15 A Probably Mr. Donziger.

16 Q And did he tell you who he suspected  
17 was going to be named?

18 A I think some names were mentioned, but  
19 I don't recall right now, you know, who they were.  
20 And I think they changed.

21 Q Did he ask you at any point to start  
22 preparing an outline for --

23 A Mm-hmm.

24 Q -- the prospective report?

25 A Yes.

1 Q And who undertook to draft that  
2 outline?

3 A Hmm. It was E-Tech. I don't recall  
4 exact- -- I was involved in it. Bill Powers was, I  
5 believe, involved in it. And Dick Kamp.

6 Q Did you go to Ecuador in relation to  
7 the upcoming Ecuador -- Peritaje Global report?  
8 Did you make any trips to Ecuador in  
9 anticipation --

10 A Of . . . . I don't understand the  
11 question.

12 Q Well, after you learned that there was  
13 going to be a Peritaje Global, did you plan any  
14 trip to Ecuador?

15 A I'm sure I did.

16 Q Do you recall going down to Ecuador in  
17 or about March 2007 to have a taller, I guess you'd  
18 call it, a workshop, to plan the Peritaje Global?

19 MR. BEIER: Object to the form.

20 You can answer.

21 A I remember going to Quito in March  
22 2007.

23 Q (BY MR. DANS) What was the purpose of  
24 that trip?

25 A To meet with people in -- as far as I

1 knew when I went on it, to meet with people in the  
2 Quito office and Steven Donziger.

3 Q Who did you think you'd be meeting  
4 with?

5 A I don't think I knew in advance.

6 Q Did you travel with anyone from  
7 Stratus?

8 A Not that I recall. In March 2007?

9 Q Yes.

10 A No.

11 Q I'd like to play a clip from "Crude."  
12 And while we get it set up, I'd ask, first, do you  
13 remember the filming of a movie "Crude" taking  
14 place?

15 A Yes.

16 Q And when was the first time you  
17 remember being in the presence of the cameras for  
18 the filming of the movie "Crude"?

19 A I think it was March 2006.

20 Q March 2006?

21 A I think so -- oh, I'm sorry. 2007. I  
22 keep on getting those confused.

23 Q Do you know whether or not the movie  
24 was being filmed during 2006?

25 A I don't know.

1 Q Do you remember meeting anyone from the  
2 film crew who was filming a documentary during the  
3 judicial inspections?

4 A Yes.

5 Q And who were those people?

6 A Joe Berlinger. I don't remember any  
7 other names right now, but Joe Berlinger was one.

8 Q Did you understand that Mr. Berlinger  
9 was filming "Crude" at the time?

10 A I don't know if he knew what he was  
11 going to call it, but he was filming a documentary.

12 Q Okay. And what -- what were the nature  
13 of your conversations with Mr. Berlinger?

14 A I didn't talk to him very much.

15 Q Did you sign a release at that stage,  
16 when you first talked to him?

17 A Not that I recall.

18 Q Did you ever sign a release for him?

19 A Not that I recall.

20 Q Did you ever have any sort of agreement  
21 where he was going to keep you out of the movie --

22 A No.

23 Q -- unless you told him otherwise?

24 A No.

25 Q I'd ask to play what we can mark as

1 Exhibit 557. It will play over here on the  
2 screen -- it's a Clip CRS 19100, Clip 3(a).  
3 (Thereinafter Exhibit 556 was played.)  
4 Q (BY MR. DANS) Ms. Maest, do you recall  
5 the event portrayed in the clip?  
6 A Yes.  
7 Q Have you seen this clip before?  
8 A I believe so.  
9 Q When did you last look at this clip?  
10 A Probably in the last two weeks.  
11 Q Have you discussed this clip with  
12 anybody other than your attorney?  
13 A No.  
14 Q And where did you watch this clip?  
15 A In my office at Stratus.  
16 Q And was this clip from the disk you  
17 testified about earlier?  
18 A Yes.  
19 Q Do you recognize Mr. Fajardo in that  
20 clip?  
21 A Yes.  
22 Q And who is he?  
23 A He was the man at the board.  
24 Q When he said, "This work isn't going to  
25 be the expert's," what did you understand that he

1 meant?

2 A Well, I don't know what he meant. I  
3 don't know.

4 Q Well, at that stage did you come to  
5 realize that you were going to be writing the  
6 expert report? The expert wasn't going to be  
7 writing it?

8 A No.

9 Q Did you have a reason to believe that  
10 Mr. Fajardo was -- was lost in his direction that  
11 he was giving the group?

12 MR. BEIER: Objection. Form.  
13 Foundation. Argumentative.

14 You can answer.

15 A So the question is what? Could you  
16 rephrase that.

17 Q (BY MR. DANS) Well, do you -- did you  
18 believe that Mr. Fajardo had a misconception about  
19 whether or not the expert would be writing the  
20 report, when he told everyone in the audience that  
21 the expert would not be writing the report?

22 MR. BEIER: Objection. Foundation.

23 You can answer.

24 A I really don't know what Pablo meant at  
25 that time. He -- I mean, he said that we were



1 supporting the expert, and that was my  
2 understanding.

3 Q (BY MR. DANS) You understood the  
4 expert to be Mr. Cabrera, correct?

5 A No.

6 Q You didn't understand Mr. Cabrera was  
7 going to be the expert when you sat there March  
8 3rd, 2007?

9 A No, I didn't understand that.

10 Q What did you think Mr. Cabrera was  
11 doing there?

12 A He -- my understanding is that he had  
13 been a Perito on the case and that he was being  
14 considered as a possible court-appointed Perito for  
15 the Peritaje Global, but I don't believe at that  
16 time that he was the court-appointed expert for the  
17 Peritaje global.

18 Q Well, did you understand any  
19 expectation on behalf of Mr. Fajardo that  
20 Mr. Cabrera was soon to be appointed the expert?

21 MR. BEIER: Objection. Form.  
22 Foundation.

23 You can answer.

24 A Could you rephrase that or repeat it  
25 even.

1 MR. DANS: Could the court reporter  
2 re-read it, please.

3 (The following question was read back:  
4 "Well, did you understand any  
5 expectation on behalf of Mr. Fajardo  
6 that Mr. Cabrera was soon to be  
7 appointed the expert?")

8 MR. BEIER: Same objections.

9 A I don't know what Mr. Fajardo's  
10 expectation was.

11 Q (BY MR. DANS) Did anyone else at the  
12 meeting indicate that Mr. Cabrera was going to be  
13 appointed the expert by the court?

14 A Well, as I said, I was told that it was  
15 possible that he would be. But my understanding at  
16 the time was that he was -- had not been appointed  
17 yet.

18 Q Were there any other candidates for  
19 appointment present at that meeting to be expert?

20 A I don't know.

21 Q Do you recall who was at the meeting?

22 A Not everyone.

23 Q Do you recall Mr. Reis being at the  
24 meeting?

25 A Yes.

1 Q Do you knew -- did you know who  
2 Mr. Reis was prior to March 3rd, 2007?

3 A I don't recall.

4 Q Did you hear anyone talking about in  
5 that meeting about the necessity with having  
6 Richard agree to something?

7 A "Richard agree to something." I  
8 don't -- that's very general. I don't recall that,  
9 no.

10 Q Well, I mean, did you understand that  
11 Richard Cabrera's acceptance would be necessary  
12 with respect to certain elements of the expert  
13 report?

14 MR. BEIER: Object to the form,  
15 foundation.

16 You can answer.

17 A I -- I didn't know.

18 Q (BY MR. DANS) During the clip, you  
19 make a point to interject and ask, in response to  
20 Mr. Fajardo's statement, "What the expert is going  
21 to do is sign the report and review it, but all of  
22 us have to contribute to that report." And then  
23 you interject, "Together." Or, rather, he says  
24 "Together," and you said, "But not Chevron." Why  
25 were you asking whether Chevron would be involved

1 in the writing of the expert report?

2 A Well, at that point I didn't know  
3 very -- I didn't really understand the whole  
4 concept of the Peritaje Global, so I was just  
5 trying to understand more about it.

6 Q Well, did you think it was at all  
7 bizarre that a potential court-appointed expert was  
8 meeting with only one side for the litigation and  
9 planning the work that that expert would be doing?  
10 Did that strike you in any way as bizarre?

11 A Well, first of all, he was not the  
12 court-appointed expert yet. And I don't know how  
13 the system works in Ecuador. And I -- I didn't  
14 know.

15 Q Well, no. You testified that he was a  
16 potential court-appointed expert.

17 A Right.

18 Q In your experience, have you ever met  
19 ex parte, that is, with one side in a litigation,  
20 and a potential soon-to-be appointed judicial  
21 officer?

22 MR. BEIER: Object to the form.

23 A No. I -- I mean, I've never been in --  
24 I don't know. It was Ecuador.

25 Q (BY MR. DANS) Did anyone else express

1 to you some sort of confusion or dismay about the  
2 presence of Mr. Cabrera at that meeting?

3 A Not that I recall.

4 Q Do you recall Mr. Kamp ever saying to  
5 the -- to the extent that, The Perito being there  
6 in retrospect was bizarre?

7 A I think I do remember him saying  
8 something like that.

9 Q When did he say that to you?

10 A I don't remember.

11 MR. DANS: Okay. We're going to have  
12 to stop to change the tape.

13 VIDEOGRAPHER: The time is 2:20 -- no,  
14 sorry -- 2:41. We are going off the record. This  
15 is the end of Tape 2.

16 (A recess was taken.)

17 VIDEOGRAPHER: The time is 2:54. We  
18 are back on the record. This is beginning of Tape  
19 3.

20 Q (BY MR. DANS) Ms. Maest, we just  
21 broke, and, actually, I'm going to ask you more  
22 questions about the clip. So if we can replay the  
23 same clip that's been marked as Exhibit 556 -- 557,  
24 rather.

25 (Thereinafter, Deposition Exhibit 557

1           was played.)

2       Q   (BY MR. DANS) Ms. Maest, in this  
3 video, Mr. Fajardo is explaining to you and the  
4 others that -- and he was very passionate about it  
5 and forceful, if you watch the clip. He says, "The  
6 work isn't going to be the expert's." And he  
7 pauses. And he says, "All of us bear the burden."

8       A   Mm-hmm.

9       Q   Why, in your estimation, wouldn't the  
10 work be the expert's? Why did plaintiffs have  
11 anything to do with the expert's work?

12       MR. BEIER: Objection. Form.  
13 Foundation.

14       A   I don't know.

15       MR. BEIER: You can answer.

16       Q   (BY MR. DANS) I mean, was the expert  
17 incapable of doing the work himself?

18       MR. BEIER: Same objections.

19       A   I don't know.

20       MR. BEIER: You can answer.

21       A   I don't -- at that point, we didn't  
22 know who the expert was, at this point.

23       Q   (BY MR. DANS) Why did you think you  
24 would have any role to play in the work of a  
25 court-appointed expert?

1 MR. BEIER: Same objections.

2 A In Ecuador, I don't know.

3 Q (BY MR. DANS) Did you think that there  
4 was some difference between Ecuador and the U.S.?

5 A I didn't know.

6 Q Weren't you kind of surprised that the  
7 court-appointed expert wasn't coming to you to ask  
8 for help, as opposed to the plaintiffs telling you  
9 to go work with the expert?

10 A No.

11 Q Well, in this clip -- strike that.

12 At this March 3rd, 2007 meeting, was  
13 anyone from Chevron present?

14 A No.

15 Q Did that surprise you?

16 A No.

17 Q You understood there was only going to  
18 be a meeting of the plaintiffs' team, correct?

19 A I don't know what you mean by  
20 "plaintiffs' team." I mean, I understood that the  
21 meeting was at the plaintiffs' offices.

22 Q Well, did you expect anyone from  
23 Chevron to be in attendance to help plan the expert  
24 report?

25 A No.

1 Q So when you say up there -- and I'd  
2 asked you previously why you said, "but not  
3 Chevron" -- you weren't confused about the ex- --  
4 about the nonpresence of Chevron. You were trying  
5 to make a joke, weren't you?

6 A No.

7 Q Your testimony is that you were  
8 confused as to whether or not Chevron would be  
9 included in helping the expert write his report?

10 A Yes.

11 Q And what did Mr. Fajardo tell you?

12 A I don't recall. I don't think he  
13 answered it there. The Peritaje Global was  
14 requested by the plaintiffs, not Chevron.

15 Q Well, the whole room broke up after you  
16 made the joke, correct?

17 A Right.

18 Q Did you -- and Mr. Fajardo, if you --  
19 we can watch the clip again -- he says, "We're  
20 going to invite them, yes." And he says that  
21 facetiously.

22 A Mm-hmm.

23 Q Did you take away from that that Texaco  
24 in any way would be supporting the Perito to write  
25 his report?



1 A No.

2 Q Now, Mr. Fajardo continues about  
3 supporting the expert, and he talks about giving  
4 the expert social, political, technical,  
5 scientific, physical support, bodyguards. Why do  
6 you think he would need body guards for an expert?

7 MR. BEIER: Objection. Foundation.

8 A I don't know.

9 Q (BY MR. DANS) What do you think he  
10 meant by "social support"?

11 MR. BEIER: Same objection.

12 A I don't know.

13 Q (BY MR. DANS) Do you know the  
14 plaintiffs paid Mr. Cabrera?

15 A I don't know.

16 Q How much did the plaintiffs pay Stratus  
17 to write the report?

18 MR. BEIER: Object to the form.

19 You can answer.

20 A We didn't write the report.

21 Q (BY MR. DANS) Well, Stratus's work on  
22 the report, how much did Stratus get paid for that?

23 A You mean the work that we were doing  
24 for Mr. Donziger?

25 Q I mean the work you were doing for the

1 report.

2 MR. BEIER: Object to the form.

3 You can answer.

4 A Okay. For Mr. Donziger. I don't know.

5 Q (BY MR. DANS) Do you have an

6 estimation of how much it was paid?

7 A No.

8 Q Do you know how much you were paid?

9 A No.

10 Q Well, what's your salary at Stratus?

11 A I'm part time.

12 Q Were you part time at that time?

13 A What time?

14 Q The time you were working on -- on the

15 report, the Peritaje Global project for Project

16 Ecuador.

17 MR. BEIER: Object to the form.

18 You may answer.

19 A Okay. Well, I'm not sure what -- you

20 know, when the project started, I was with E-Tech.

21 Q (BY MR. DANS) And --

22 A And --

23 Q -- were you being paid by E-Tech?

24 A Yes.

25 Q And how much did you make as a result

1 of that work for E-Tech with respect to Project  
2 Ecuador?

3 A I don't know.

4 Q Well, when did you start working for  
5 Stratus with respect to Project Ecuador?

6 A I don't recall exactly, but mid-2007,  
7 somewhere around there.

8 Q And do you have a notion of how much  
9 you were paid from mid-2007 to, say, April 2008?

10 A That just related to the Chevron case?

11 Q Yes.

12 A No.

13 Q Did you receive any bonus in connection  
14 with your work on the Chevron case?

15 A No.

16 Q Do you think you were underpaid for  
17 that work?

18 MR. BEIER: Objection. Argumentative.

19 A Which work?

20 MR. BEIER: You can answer.

21 Q (BY MR. DANS) The work you did in  
22 preparing the report that you testified you  
23 submitted to Mr. Donziger --

24 MR. BEIER: Object to the form.

25 Q (BY MR. DANS) -- in relation to the

1 amount of work you did on it.

2 A I'm not sure which phase -- what you're  
3 talking about. Could you rephrase.

4 Q Well, the report -- we'll look at it  
5 and the various drafts. But the drafting of a  
6 summary and various annexes that were supplied in  
7 or about March 2008.

8 A Mm-hmm.

9 Q That report.

10 A Mm-hmm.

11 Q Do you think you were underpaid for  
12 that work?

13 MR. BEIER: Object to the form.

14 Mischaracterizes her testimony.

15 You can answer.

16 A First of all --

17 THE DEPONENT: Sorry.

18 A First of all, I didn't write the  
19 report. And do I think I was underpaid? No. For  
20 the work that I did on the Ecuador project? No.

21 Q (BY MR. DANS) Do you know how much  
22 Mr. Cabrera was paid?

23 A No.

24 Q Do you know how much anyone on his team  
25 was paid?

1 A No.

2 Q Do you know who paid them?

3 A No.

4 Q Okay. I'd like to mark as Exhibit

5 CRS -- well, as Exhibit 1- -- strike that -- 558 a

6 clip, Number CRS 188-00-Clip-03.

7 MS. GRIEVE: Ready, Paul?

8 MR. DANS: Yes.

9 (Thereinafter, Deposition Exhibit 558

10 was played.)

11 Q (BY MR. DANS) Ms. Maest, do you recall

12 Mr. Donziger making the comment that it wasn't

13 sufficient to emphasize that this was a job badly

14 done, but the emphasis in the report should be that

15 there was a crime committed?

16 A Could you play the first part of that

17 again --

18 Q Sure.

19 A -- before that.

20 (Thereinafter, Deposition Exhibit 558

21 was played.)

22 Q (BY MR. DANS) Do you want the question

23 re-read to you?

24 A Yes.

25 (The following question was read back:

1 "Ms. Maest, do you recall Mr. Donziger  
2 making the comment that it wasn't  
3 sufficient to emphasize that this was a  
4 job badly done, but the emphasis in the  
5 report should be that there was a crime  
6 committed?")

7 A I think -- you know, he doesn't talk  
8 about the report there. What he said is that this  
9 should be treated in a special way, not discussed  
10 in a proper way, in a special way. So that's -- I  
11 think the translation is off there a little bit.

12 And then later he talks about  
13 emphasizing it. But I remember thinking at the  
14 time, I wasn't really sure what that meant.  
15 Emphasizing it where? So what he's saying is that  
16 the government has said that this is a crime. But,  
17 you know, for us working as technical people, I  
18 don't know how we -- there's nothing we would do,  
19 as technical people, to say that this was a crime.  
20 So . . . .

21 Q (BY MR. DANS) Well, let's break your  
22 answer down a little bit. You said he wasn't  
23 talking about the report there.

24 A Mm-hmm.

25 Q He was talking about the way this

1 should be discussed. Did you understand that the  
2 purpose of the meeting was to plan the writing of  
3 the Pareja (sic) -- the Peritaje Global report?

4 A I don't know if it was to plan the  
5 writing, but it was to discuss the Peritaje Global.

6 Q So did you take his exhortation to mean  
7 that it was only with respect to your own internal  
8 discussions about how you talked about it, and not  
9 to go into actual written product?

10 A I said that I don't know what he was  
11 referring to when he said we should emphasize this.  
12 Emphasize it where?

13 Q Did you ever take any pains to  
14 emphasize that what Texaco did in its remediation  
15 was a crime?

16 A No.

17 Q Did you think -- do you think Texaco  
18 committed a crime with respect to remediation?

19 MR. BEIER: Objection. Calls for a  
20 legal conclusion.

21 A I have no idea.

22 Q (BY MR. DANS) Do you have any evidence  
23 that Mr. Perez committed a crime when he executed  
24 the release and certified that the cleanup had been  
25 approved by the government of Ecuador and

1 PetroEcuador?

2 MR. BEIER: Objection. Calls for a  
3 legal conclusion.

4 You can answer.

5 A As I said, I'm not familiar with the  
6 Ecuadorian legal system, so I really can't answer  
7 that.

8 Q (BY MR. DANS) At any point after those  
9 remarks by Mr. Donziger, did you ask him to clarify  
10 what he meant by treating this in a special manner,  
11 the fact that this was not a job badly done, but a  
12 crime?

13 A No. I just didn't think that --  
14 whatever it was didn't apply to me, because I'm a  
15 technical person.

16 Q Did you hear later references to the  
17 necessity to emphasize something as being criminal,  
18 as opposed to negligent or just poorly performed?

19 MR. BEIER: Object to the form.

20 You can answer.

21 A Do you mean after this or . . .

22 Q (BY MR. DANS) Yes, subsequent to this.

23 A I don't recall any -- anything like  
24 that, no.

25 Q What did you do after this meeting? Do



1 you -- strike that.

2 How long did the meeting run for; do  
3 you recall?

4 A I don't recall exactly. I think -- it  
5 seemed like it was the better part of a day.

6 Q And did you take notes at the meeting?

7 A Yes.

8 Q And did you produce those notes?

9 A Yes.

10 Q Did you take them in handwritten form  
11 or on the computer?

12 A Handwritten.

13 Q Did you review those notes prior to  
14 your testimony today?

15 A Yes.

16 Q When did you review them?

17 A I reviewed them two weeks ago and then  
18 again this morning.

19 Q And why did you review them this  
20 morning?

21 A Because my understanding is that I  
22 might be asked to testify about that meeting on  
23 behalf of Stratus, so I just wanted to make sure  
24 that I had reviewed them before we discussed them.

25 Q Well, when you got back home after the

1 trip, did you share your notes with anybody at  
2 Stratus?

3 A No.

4 Q Did you discuss your meeting with  
5 others at Stratus?

6 A I don't recall.

7 Q Did anyone else -- and I guess we're  
8 kind of getting in -- to be clear to your Counsel,  
9 this is going to count as 30(b)(6) testimony.  
10 You're supposed to be knowledgeable on whether  
11 anybody else from Stratus knew about this. So I'll  
12 ask you --

13 A Mm-hmm.

14 Q -- did any other employee at Stratus  
15 understand the directive from Mr. Donziger that in  
16 writing the materials that Stratus was called upon  
17 to author, that they should emphasize that this was  
18 not just a job badly done, but also a crime?

19 MR. BEIER: Object to the form.

20 A Could --

21 MR. BEIER: Also object to the  
22 characterization. You can answer.

23 A Could you rephrase that, please.

24 Q (BY MR. DANS) Was anyone other than  
25 yourself at Stratus aware of Mr. Donziger's

1 directive, as shown in this clip, that, in  
2 preparing the materials Stratus provided to him,  
3 that they should put emphasis on the fact that the  
4 remediation was not simply badly done, but that it  
5 was a crime?

6 MR. BEIER: Same objections.

7 You can answer.

8 A I don't believe they were. I  
9 mean . . . .

10 Q (BY MR. DANS) Did Mr. Beltman ever  
11 mention to you the necessity of writing the report  
12 to focus on the remediation as a criminal offense?

13 A No.

14 Q Was Stratus aware that at the time  
15 Mr. Donziger made the statement that the Ecuadorian  
16 state was pursuing a fraud claim against Chevron,  
17 that in point of fact the Ecuadorian government had  
18 withdrawn its fraud claim for lack of evidence?

19 A There was a couple things put together.  
20 Could you rephrase that, please.

21 MR. DANS: Can we re-read the question  
22 and see if you can answer it.

23 (The following question was read back:

24 "Was Stratus aware that at the time Mr.

25 Donziger made the statement that the

1           Ecuadorian state was pursuing a fraud  
2           claim against Chevron, that in point of  
3           fact the Ecuadorian government had  
4           withdrawn its fraud claim for lack of  
5           evidence?"

6        A    I don't know the timing of that, but I  
7    can tell you that Stratus was never told to treat  
8    the remediation as a crime and -- or to emphasize  
9    that.

10       Q    (BY MR. DANS) Well, was Stratus aware  
11   that, in fact, the Ecuadorian prosecutor had  
12   conducted an informal investigation with respect to  
13   the remediation, and on several occasions those  
14   prosecutors ruled that there was absolutely no  
15   evidence of fraud or a crime --

16           MR. BEIER: Objection. Foundation.  
17           You can answer.

18       Q    (BY MR. DANS) -- prior to Mr. -- that  
19   is, in 2006, prior to Mr. Donziger's advice to  
20   everyone at the meeting?

21       A    That's really -- I'm sorry. I find  
22   that very confused. It -- could you rephrase that.

23       Q    At the time Stratus was instructed by  
24   Mr. Donziger to put emphasis in the report about  
25   the criminality of Chevron's remediation, were --

1 was Stratus aware that the Ecuadorian prosecutors  
2 had dismissed the charges -- or dismissed the  
3 investigation regarding fraud in the remediation as  
4 baseless?

5 MR. BEIER: I'm going to object to that  
6 assumes facts not in evidence.

7 Just to clarify, Counsel, as indicated  
8 in her designation, she was not a Stratus employee  
9 at the time of this meeting. I don't know if that  
10 changes your question, but I just wanted to clarify  
11 that to you.

12 MR. DANS: Well, is she competent to  
13 answer with respect to the Stratus employees at the  
14 time of this meeting? Because if that's not the  
15 case, then we're going to need someone who's  
16 educated on the issue.

17 MR. BEIER: There is no one that's  
18 educated, then.

19 MR. DANS: Well, somebody needs to get  
20 educated on that --

21 MR. BEIER: Somebody --

22 MR. DANS: -- and then we'll have that.

23 MR. BEIER: She is the person that can  
24 testify as to what she knows, her knowledge. To  
25 the extent her knowledge is legally imputable to

1 Stratus, you can ask her about that. But you  
2 cannot change the fact that she wasn't a Stratus  
3 employee at the time.

4 MR. DANS: I want -- I want to save my  
5 minutes for my questioning. I'm happy to take this  
6 up off-line. Our position remains, is that you,  
7 Stratus, are under an obligation to produce a  
8 knowledgeable employee --

9 MR. BEIER: Right here.

10 MR. DANS: -- with respect --

11 MR. BEIER: She --

12 MR. DANS: Well, she already is  
13 testifying that she doesn't know about the other  
14 employees at Stratus.

15 THE DEPONENT: No. Wait. Hold on  
16 here.

17 MR. BEIER: No.

18 Q (BY MR. DANS) Then I'll ask you again.

19 A Let's do it again.

20 Q At the time of Mr. Donziger's March  
21 3rd, 2000 exhortation to emphasize the criminality  
22 in the remediation, were the employees of Stratus  
23 aware that the prosecutor general of Ecuador had  
24 moved for dismissal of the investigation into the  
25 fraud on the basis that the claim was without

1 foundation and without any evidence?

2 A Okay.

3 MR. BEIER: I'll restate my objection.

4 You can answer.

5 A All right. Stratus was not informed --  
6 and I think I've said this at least twice. Stratus  
7 was not told to emphasize the criminality of the  
8 remediation. That -- Stratus was not working on  
9 the Ecuador project at the time that this happened.  
10 And Stratus was never told by Mr. Donziger to  
11 emphasize the fraudulent nature of the remediation.

12 Q (BY MR. DANS) And your testimony is,  
13 with respect to these notes that you took and the  
14 events at this meeting, that you did not relay to  
15 anyone at Stratus Mr. Donziger's exhortation  
16 regarding criminality?

17 A That's right. I did not relay that to  
18 any employee at Stratus.

19 Q Okay. Now, the day following the  
20 meeting, did you meet again with the persons  
21 regarding the Peritaje Global report?

22 A Which -- with -- with whom?

23 Q With anyone to plan the Peritaje Global  
24 report?

25 A Yes.

1 Q And do you recall that meeting?

2 A What I recall the following day was a  
3 lunch meeting with Mr. Donziger, Mr. Champ, and  
4 Mr. Kamp.

5 Q And was that meeting filmed?

6 A Yes, it was. Or portions of it were.

7 Q And how much of the meeting wasn't  
8 filmed?

9 A I don't know.

10 Q Well, do you recall the cameras rolling  
11 from the very beginning when you arrived at the  
12 meeting?

13 A I don't recall.

14 Q Do you recall how long the meeting  
15 lasted?

16 A I would say two to three hours.

17 Q And what did you do after the meeting?

18 A I don't recall.

19 Q What is your memory of the meeting?

20 A We sat -- excuse me -- on a kind of  
21 outside patio and talked about, you know, the case  
22 and the technical aspects of the case. And Charlie  
23 Champ was talking about possible remediation  
24 strategies that could be used to clean up the  
25 concession.



1 Q Have you watched any of the clips from  
2 this meeting?

3 A Yes, mm-hmm.

4 Q Which ones?

5 A Well, I don't -- I mean, it was the one  
6 of the lunch meeting.

7 Q Do you remember any of the remarks in  
8 the clips you watched that stand out, so I know  
9 which clip you're talking about?

10 A I don't -- I mean, I don't recall any  
11 specific comments that stand out. But it was, you  
12 know, filming of the lunch meeting at this  
13 restaurant in Quito.

14 Q Did you work up any sort of outline  
15 that same day with respect to your notes, or a  
16 potential outline for the Peritaje Global report?

17 MR. BEIER: Object to the form.

18 You can answer.

19 A I don't recall taking any notes.

20 MR. DANS: We'll mark as Exhibit 3 --  
21 rather, 559 a three-page document.

22 (Deposition Exhibit 559 was marked.)

23 Q (BY MR. DANS) Ms. Maest, do you  
24 recognize this document?

25 A I recognize the first two pages. I

1 don't recall the third page.

2 Q Well, did you write the first two  
3 pages?

4 A Yes.

5 Q Did you write the third?

6 A I -- no, I don't believe I did. No.

7 Q This -- on the second page, "Outline of  
8 opinions in the case," were those ideas of yours  
9 that you wrote down? Whose opinions are those?

10 A Those are a combination of different  
11 people's opinions, including my own.

12 Q And in the third bullet from the  
13 bottom, where it reads, quote, "remediation," end  
14 quote, "was not effective," whose opinion is that?

15 A I believe that was -- could have been  
16 anyone working on the plaintiffs' side.

17 Q Was it your opinion?

18 A That is my opinion, yes.

19 Q Why -- what's the basis for that  
20 opinion?

21 A The fact that concentrations in pits  
22 and other areas that were remediated are still  
23 high, concentrations of total petroleum  
24 hydrocarbons especially.

25 Q Any other basis for that opinion?

1       A   And there are also pHs that are high in  
2 soil and groundwater immediately under the -- the  
3 pits that were allegedly remediated.

4       Q   And which -- which scientific samples  
5 are you relying upon to base your opinion?

6       A   A combination of Chevron's and the  
7 Frente's, the plaintiffs'.

8       Q   Any of Mr. Cabrera's?

9       A   I believe Mr. Cabrera -- well, at this  
10 time -- there's no date on this, but . . . . I  
11 don't think he had any samples.

12      Q   Well, I mean, as you sit here today, is  
13 that still your opinion?

14      A   Yes.

15      Q   And you had formed this opinion that  
16 the "'remediation' was not effective" as of March  
17 3rd, 2007?

18      A   Yes.

19      Q   And had you done any investigation as  
20 to what the remediation entailed?

21      A   Yes.

22      Q   And what was the basis of that  
23 investigation?

24      A   The remedial action plan, and the  
25 Woodward-Clyde report from, I believe it was, May

1 2000. And I'm not sure when this was relative to  
2 the controleria report, but that report also.

3 Q So you reviewed the controleria report?

4 A Yes.

5 Q Do you know what the controleria is?

6 A That's -- I don't know if it's the  
7 attorney general or a comptroller in Ecuador.

8 Q Did you ever speak with anybody at the  
9 controleria about that report?

10 A No.

11 Q Did you ever speak with anybody at the  
12 controleria about anything dealing with your work  
13 in Ecuador?

14 A No.

15 Q Are you aware that the controleria  
16 filed the Denuncia claiming criminal liability on  
17 behalf of Messrs. Perez and Veiga?

18 A Could you speak a little louder.

19 Q Are you aware that the controleria filed  
20 the Denuncia alleging a crime against Mr. Perez and  
21 Mr. Veiga?

22 A I'm not aware of that. Just -- I'm  
23 just referring to the report.

24 Q Did you have any concern that the  
25 evidence you were finding in Ecuador did not bear

1 out the contamination that the plaintiffs were  
2 alleging?

3 MR. BEIER: Object to the form.

4 A What do you mean? Could you rephrase  
5 that?

6 Q (BY MR. DANS) Well, the groundwater,  
7 for example. Did you find any evidence of  
8 contamination in the groundwater?

9 A I personally didn't, but, yes, that was  
10 part of the -- the plaintiffs' Perito reports.

11 Q And who found it? Who found this  
12 evidence?

13 A The Peritos working for the plaintiffs.

14 Q And you're relying on those reports as  
15 evidence of groundwater contamination?

16 A Yes.

17 Q And when did they make this  
18 determination?

19 A It was over a long period of time  
20 during the judicial inspections.

21 Q Well, the judicial inspections ended  
22 about when, to your knowledge?

23 A I don't know. They ended and then  
24 started up again. I'm not really sure.

25 Q Well, which ones are you talking about

1 that proved the groundwater contamination?

2 A I don't know exactly which ones, but  
3 there were a number of the plaintiffs' expert  
4 reports that included samples of groundwater taken  
5 underneath pits.

6 Q Was there any evidence of any  
7 widespread contamination?

8 A They didn't do widespread monitoring.

9 Q So there's no evidence of any  
10 contamination wide- --

11 MR. BEIER: Objection.

12 Q (BY MR. DANS) -- spread?

13 MR. BEIER: Objection. Foundation and  
14 form.

15 You can answer.

16 A There's an enormous amount of evidence  
17 of widespread contamination in the Napo concession.

18 Q (BY MR. DANS) In the groundwater?

19 A Oh, specifically in the groundwater?

20 Q Yes.

21 A At -- I would say yes.

22 Q Well, what is the basis for your  
23 statement?

24 A Because a number of pits at many  
25 locations throughout the concession were found to

1 have contaminated groundwater.

2 Q Do you have any evidence, scientific  
3 evidence, showing that any of that contamination,  
4 provided it even exists, has spread throughout the  
5 groundwater?

6 A What do you mean, "throughout the  
7 groundwater"? What do you mean?

8 Q Has spread from those pits elsewhere.

9 A Mm-hmm. From individual pits? No.  
10 That's what I was saying before. They haven't done  
11 monitoring away from each pit to look at how far  
12 the groundwater contamination spread.

13 MR. DANS: I'd like the court reporter  
14 to mark as Exhibit 560 Clip CRS 195-05, Clip 1.  
15 (Thereinafter Deposition Exhibit 560  
16 was played.)

17 Q (BY MR. DANS) Ms. Maest, do you recall  
18 that conversation?

19 A Yes.

20 Q When was the last time you watched that  
21 clip?

22 A Probably -- within the last two weeks.

23 Q Well, Mr. Champ says, "This is where I  
24 agree with Ann a thousand percent. There is not  
25 enough information on the groundwater."

1 A Mm-hmm.

2 Q And then Mr. Donziger accuses you and  
3 the rest of the gang of conspiring against him.

4 Were you conspiring against Mr. Donziger?

5 MR. BEIER: Object to the form.

6 You can answer.

7 A No. Just stating what I knew about the  
8 groundwater data.

9 Q (BY MR. DANS) Was he trying to push  
10 you to say something that wasn't true based on the  
11 science that you knew?

12 MR. BEIER: Objection. Foundation.

13 You can answer.

14 A I didn't feel that way.

15 Q (BY MR. DANS) Well, when he said to  
16 you, "Because at the end of the day this is all for  
17 the court, just a bunch of smoke and mirrors and  
18 bullshit. It really is," did you think you could  
19 bullshit about the science and get away with it,  
20 per his instruction?

21 MR. BEIER: Objection. Argumentative.

22 You can answer.

23 Q (BY MR. DANS) Or did you think that  
24 you had to prove the groundwater by showing some  
25 sort of contamination?



1 MR. BEIER: Objection. Argumentative.

2 Foundation.

3 You can answer.

4 A I think I -- did I think that I had to  
5 show contamination? Is that your question?

6 Q (BY MR. DANS) Did you agree with  
7 Mr. Donziger that what you were being called upon  
8 to do was just going to be "smoke and mirrors and  
9 bullshit," or did you think that you had to provide  
10 actual science to show that there was contamination  
11 in the groundwater?

12 A The latter.

13 Q What did you think, when the attorney  
14 that had hired you to work on the project told you  
15 that your work product was just going to be "smoke  
16 and mirrors and bullshit"? Did you put -- did that  
17 make you put faith in the person you were working  
18 for?

19 MR. BEIER: Object to the form.

20 A That's not what he was saying.

21 Q (BY MR. DANS) What was he saying?

22 A You know, I'm not really sure what he  
23 was referring to when he made that statement. But  
24 I certainly didn't feel that it was the work that  
25 we were going to be doing.

1 Q Well, he continues saying, quote, "This  
2 is Ecuador," you know, and he says to the effect,  
3 you get a thousand people around the courthouse,  
4 you're going to win. You can say whatever you  
5 want. Is that what you understood that  
6 Mr. Donziger wanted you to do, was to say whatever  
7 he wanted you to say, and that you guys would  
8 prevail?

9 A No.

10 Q What did -- what did you understand  
11 Mr. Donziger to say -- to mean when he asked you  
12 whether you were conspiring against him?

13 A What did I think he meant?

14 Q Yeah.

15 A I don't know what he meant. I don't  
16 know.

17 Q What did he tell you when he turned off  
18 the camera there at the end of the clip?

19 A I don't recall.

20 Q How many times did he tell the  
21 cameraman to turn something off because he wanted  
22 to make a point off camera?

23 A I don't recall.

24 Q Do you recall the elements of that  
25 conversation that you see on the film?

1       A   Well, the clips refresh my memory, but  
2 I don't recall what was talked about after the  
3 cameras were turned off.

4       Q   Have you had any conversations with  
5 anybody else about what was said when the cameras  
6 were turned off?

7       A   No.

8       Q   Do you recall how many times he turned  
9 off the cameras that day?

10      A   No.

11      Q   When he turned off the cameras, do you  
12 remember any impression that what he was telling  
13 you was extremely delicate and couldn't be filmed?

14      A   I don't recall.

15           MR. DANS: Play CRS 198-00 Clip 8. And  
16 we'll mark that as Exhibit 561.

17           (Thereinafter Deposition Exhibit 561  
18 was played.)

19      Q   (BY MR. DANS) Ms. Maest, do you recall  
20 that conversation?

21      A   More or less, mm-hmm.

22      Q   Well, Mr. Donziger says, quote, "I once  
23 worked for a lawyer who said something I've never  
24 forgotten. He said, 'Facts do not exist. Facts  
25 are created.'" And you smiled, laughed, and

1    nodded. Do you agree with that statement?

2       A    That might be true in the law. It's  
3   not true in science.

4       Q    Well, is it true in this case?

5           MR. BEIER: Objection. Form.

6           You can answer.

7       A    Were the facts created?

8       Q    (BY MR. DANS) Yes.

9       A    In this case? No. There's ample  
10   evidence. We didn't need to make anything up.

11       Q    Well, at the time you had this meeting,  
12   did you have some worry about the existence of  
13   groundwater contamination?

14       A    No. The --

15       Q    You had no worry about finding --  
16   whether you were going to find it or not?

17       A    No. We knew at that time that they had  
18   found groundwater contamination.

19       Q    And where was that found?

20       A    Under pretty much every pit that they  
21   looked at.

22       Q    And did you undertake any more  
23   experimentation after that?

24           MR. BEIER: Object to the form.

25           You can answer.

1 A What do you mean?

2 Q (BY MR. DANS) Well, did you sample any  
3 further for any groundwater contamination?

4 A I didn't, but others did.

5 Q Who was that?

6 A Other -- I'm not sure of the timing  
7 exactly, if it was other Peritos or Cabrera and his  
8 team.

9 Q You understand that -- your testimony  
10 today is that Cabrera and his team a sampled for  
11 groundwater contamination?

12 MR. BEIER: Objection.  
13 Mischaracterized the testimony.

14 You can answer.

15 A I believe they did. Gomez.

16 Q (BY MR. DANS) Did you have any concern  
17 about the data at the time you met in March -- on  
18 March 4th with respect to the contamination in Napo  
19 concession generally?

20 A What do you mean by that?

21 Q Well, the state of the data. Did you  
22 think it was riddled with defects?

23 A No. I didn't think the data that we  
24 had was -- were riddled with defects, no.

25 MR. DANS: I'm going to ask the court

1 reporter to mark as Exhibit 562 --

2       Could we go off the record for one  
3 moment.

4       VIDEOGRAPHER: The time is 3:45. We  
5 are going off the record.

6       (A discussion was had off the record.)

7       VIDEOGRAPHER: The time is 3:46. We  
8 are back on the record.

9       MR. DANS: I'm going to ask the court  
10 reporter to mark as Exhibit 562 a document with  
11 Bates Number DONZ 00027256. And it's Pages 2 of --  
12 rather, 1 of 109.

13       (Deposition Exhibit 562 was marked.)

14       Q   (BY MR. DANS) Similar to the previous  
15 document, Ms. Maest, I'm just going to point you to  
16 entries in Mr. Donziger's journal here, see if  
17 they're correct with your recollection.

18       On Page 6 of 109, in an entry dated  
19 March 7, 2007, Mr. Donziger recounts the events of,  
20 I believe, the March 3rd meeting that you  
21 previously testified to.

22       He says, quote, that they had an  
23 "all-day Tech meeting in the office." And he later  
24 on describes that Richard and Fernando were there,  
25 "as was Ann, Dick, and Champ."

1           He says further down the line, "Anyway,  
2 in terms of E-Tech Ann realized how screwed up the  
3 database was, so we have to fix that before  
4 starting the PG." What is Mr. Donziger referring  
5 to when he talks about how screwed up the database  
6 was?

7       A    Mm-hmm. He's referring to how the  
8 database is put together and how you can query the  
9 database.

10       Q   And he's not referring to any problem  
11 with the data itself, as far as you know?

12       A   No, he's not.

13       Q   Well, did you ever change any of the  
14 data in the database?

15       A   We did, because we -- when Stratus kind  
16 of took it over, we checked against the original  
17 laboratory sheets for all the data. And we found  
18 that there were some small errors. And we  
19 corrected those errors. That's part of what anyone  
20 would do in a database as part of a quality control  
21 check.

22       Q   Where did you get the original  
23 laboratory sheets from?

24       A   The Perito reports from both Chevron  
25 and the plaintiffs --

1 Q Did you --

2 A -- from appendices.

3 Q Did you find any other problems with  
4 the data?

5 A I can't recall right now finding any  
6 other problems. That was one of the main things  
7 that we focused on, was doing a good quality  
8 control check.

9 Q And did you add the data from  
10 Mr. Cabrera into this database?

11 A There -- you mean from his Peritaje  
12 Global?

13 Q Yes.

14 A I don't believe that existed yet.

15 Q Did it ever get added into the  
16 database?

17 A I believe it did, but I'm not sure.

18 Q When?

19 A I don't recall.

20 Q By whom?

21 A I don't recall.

22 Q What's your basis for saying you  
23 believe it was added?

24 A I remember seeing some data from Gomez,  
25 who was a part of Mr. Cabrera's team. And I



1 believe that that -- those data were included in  
2 the database.

3 Q Did Mr. Cabrera release any of his data  
4 prior to the release of his April 1st, 2008 report?

5 MR. BEIER: Objection. Foundation.

6 You can answer.

7 A I don't know if he did. I don't know.

8 Q (BY MR. DANS) Did anyone release any  
9 of his data collected in the Peritajo -- Peritaje  
10 Global inspection, prior to the release of his  
11 April 1 report?

12 A Well, as I said, the only thing I  
13 remember was data from Gomez. And it was my  
14 understanding at the time that that was part of the  
15 Peritaje Global.

16 Q And when did you learn that this Gomez  
17 data had been entered in the database?

18 A I don't recall.

19 Q What's the purpose in making a  
20 database?

21 A The -- well, the primary purpose is to  
22 be able to pull data out of the database to plot it  
23 or evaluate it in a way to, you know, evaluate  
24 what's going on with environmental conditions at  
25 all the sites.

1 Q Pull it out for use in what? In a  
2 report?

3 A In summaries of, you know, the data.

4 Q Did Stratus Consulting have possession  
5 of Richard Cabrera's data prior to April 1, 2008?

6 A As I said, the only thing I can recall  
7 is the Gomez data. And I'm -- I'd have to check on  
8 that. I'm not a hundred percent sure.

9 Q And other than the Gomez data, what is  
10 your testimony as to whether or not Stratus had  
11 possession of Mr. Cabrera's data collected during  
12 the Peritaje Global prior to April 1, 2008?

13 A Prior to what date?

14 Q April 1, 2008.

15 A Well, I've told you everything I know.  
16 The database was primarily Texaco's data -- or  
17 Chevron's data and the plaintiffs' data.

18 MR. DANS: Okay. I'm -- strike the  
19 answer and ask the court reporter to re-read the  
20 question. And tell me, yes or no, please.

21 (The following question was read back:  
22 "And other than the Gomez data, what is  
23 your testimony as to whether or not  
24 Stratus had possession of Mr. Cabrera's  
25 data collected during the Peritaje

1 Global prior to April 1, 2008?")

2 MR. BEIER: Objection. Form. Object  
3 to the instruction.

4 Q (BY MR. DANS) Yes, it had possession  
5 of the data prior to April 1, 2008, or, no, it did  
6 not have possession of the data?

7 A I don't recall.

8 Q Okay. I'm going to direct your  
9 attention in the binder to Exhibit 506. Ms. Maest,  
10 do you see the e-mail on the first page,  
11 STRATUS-NATIVE 049071?

12 A I'm sorry. Where is that number?

13 Q First page.

14 A This?

15 MR. BEIER: Down at the bottom.

16 MS. GRIEVE: At the very bottom.

17 THE DEPONENT: Oh, I see.

18 A Yes.

19 Q (BY MR. DANS) Do you recall receiving  
20 this e-mail?

21 A No.

22 Q At the bottom Mr. Sowell writes to you  
23 and others, "Richard" -- "The GW sampling folder  
24 includes Richard Cabrera TPH soils data for the 5  
25 GW sample sites."

1 A Mm-hmm.

2 Q "These data are not officially released  
3 yet and are considered," quote, unquote,  
4 "secret."

5 A Mm-hmm.

6 Q What did Mr. Preston mean by that?

7 MR. BEIER: Objection. Foundation.

8 You can answer.

9 A I don't know what he meant.

10 Q (BY MR. DANS) Do you know why Preston  
11 had possession of, quote, unquote, "secret" data  
12 from Mr. Cabrera on October 2, 2007?

13 MR. BEIER: Object to the form.

14 You can answer.

15 A No.

16 Q (BY MR. DANS) Going to direct your  
17 attention to the following page, if you leaf over,  
18 STRATUS-NATIVE 053161. This is an e-mail from Ann  
19 Maest, February 8, 200, to Doug Beltman and  
20 Jennifer Peers.

21 A Is that two pages over?

22 Q Two pages over. The embedded e-mail  
23 that Mr. Beltman writes, do you recall receiving  
24 that? It's dated February 8, 2008, at 6:04 p.m.

25 A I remember these points. I don't

1 remember receiving this e-mail.

2 Q In Number 1, Mr. Beltman writes,  
3 "Reconcile database. Jen will work with Tania and  
4 Olga to incorporate the changes that we've noticed  
5 need to be made." What were the changes you  
6 noticed need to have been made?

7 A That's the qual- -- the QA/QC checking  
8 that I referred to earlier.

9 Q Any other changes?

10 A Not that I can recall.

11 Q And the second column -- second  
12 paragraph, reads, regarding the QA/QC backup  
13 information, "Ann will work with Luis Villacreces  
14 to compile all data or information related to the  
15 quality of data collected by FDA and CVX and Jis,  
16 by Cabrera, and by Gomez."

17 Did you collect compiled data and  
18 information related to the quality of data  
19 collected by Mr. Cabrera?

20 A Mr. Cabrera. I'm not sure. What this  
21 refers to is quality assurance/quality control  
22 information that has to do with the laboratory  
23 sheets, you know, the laboratory analysis of the  
24 samples.

25 Q Well, did you conduct -- did you

1 compile all data information related to the quality  
2 of the data collected by Mr. Cabrera?

3 A I don't recall doing that, no.

4 Q Do you -- did you recall doing that  
5 with respect to the quality of data collected by  
6 Mr. Gomez?

7 A No. I don't recall. The other two, I  
8 do.

9 Q I'm going to direct you to  
10 STRATUS-NATIVE 043849, if you leaf two pages  
11 forward.

12 A 043232?

13 Q 043849.

14 A Okay.

15 Q Do you recall receiving this e-mail  
16 that's dated February 26, 2008, from Mr. Beltman?

17 A I remember these points. I don't  
18 remember receiving this e-mail.

19 Q Well, one point it says "Summary of  
20 historical data."

21 A Mm-hmm.

22 Q "This hasn't been assigned to anyone  
23 yet. Jen, can you go this? It should borrow from  
24 Ann's," quote, unquote, "affidavit." What is he  
25 referring to by "Ann's," quote, unquote,

1    "affidavit"?

2       A    I'm not sure.

3       Q    Did you write an affidavit with respect  
4 to historical data?

5       A    No. I mentioned earlier that I -- the  
6 one report that I wrote was kind of a summary of  
7 environmental conditions at the site. That's the  
8 only thing I could think of that might be an  
9 affidavit.

10      Q    Do you know why he put "affidavit" in  
11 quotes?

12      A    No, I don't.

13      Q    Now, did Mr. Beltman write this summary  
14 Perita- -- Peritaje Global report?

15           MR. BEIER: Objection. Form,  
16 foundation.

17      A    No.

18      Q    (BY MR. DANS) Okay. Well, he says,  
19 "This is what I will be working on mostly."

20      A    Mm-hmm.

21      Q    Is it your testimony today that Mr. --  
22 Mr. Beltman did not write the summary Peritaje  
23 Global report that appears in Mr. Cabrera's  
24 April 1, 2008 report?

25           MR. BEIER: Objection. Form.

1 Foundation. Argumentative.

2 You can answer.

3 A I know that he wrote sections of  
4 summaries that were then given to Mr. Donziger that  
5 were then translated and then given to the  
6 plaintiff attorneys for Mr. Cabrera to consider.

7 Q (BY MR. DANS) Well, did Mr. Cabrera  
8 attribute any of his report to Mr. Beltman's work?

9 A You mean officially attribute?

10 Q Yes.

11 A Not that I know of.

12 Q Did he attribute any of his report to  
13 anybody by Stratus?

14 A No.

15 Q Did he disclose that anyone at Stratus  
16 had worked on the report?

17 MR. BEIER: Objection. Foundation.

18 You can answer.

19 A I don't know.

20 Q (BY MR. DANS) Did he disclose whether  
21 any of the plaintiffs' representatives had worked  
22 on his report?

23 MR. BEIER: Same objection.

24 You can answer.

25 A I don't know.



1 Q (BY MR. DANS) Well, from your days  
2 back at Princeton, if Mr. Cabrera had handed in his  
3 April 1, 2008 report to, let's say, the dean of the  
4 graduate school and signed it Richard Cabrera,  
5 would he be in violation of the code we looked at  
6 earlier today?

7 MR. BEIER: Objection. Argumentative.  
8 This is also abusive and harassing.

9 You can answer.

10 A It's a completely different situation.

11 Q (BY MR. DANS) Why so?

12 A Because --

13 MR. BEIER: Same objections.

14 A -- you know, when you write, for  
15 example, a Ph.D. dissertation, that's your work.  
16 Now, there could be a team, but it's -- you're the  
17 main person doing it.

18 Mr. Cabrera's report was like a  
19 consulting report. He had a team. And, you know,  
20 it's a -- just a completely different situation.

21 Q (BY MR. DANS) Well, was Stratus any  
22 member of that team?

23 MR. BEIER: Objection. Form.

24 A His team?

25 MR. BEIER: Foundation.

1 Q (BY MR. DANS) Yes.

2 A No.

3 Q Do you know if any member of his team  
4 actually wrote any of that report?

5 A I don't have any personal knowledge of  
6 that.

7 Q Well, if -- why would a report authored  
8 for a court-appointed neutral assessing \$16 billion  
9 in damage have to be subject to a different set of  
10 rules than a Ph.D. dissertation at Princeton, with  
11 respect to who the original author was and who  
12 conducted the experiments and whose science and who  
13 made the conclusions?

14 MR. BEIER: Objection. Form.  
15 Foundation. Argumentative. This is abusive and  
16 harassing.

17 A I've already said --

18 MR. BEIER: You can answer.

19 A -- that they are completely different.  
20 This is a -- you know, Cabrera's work was part of a  
21 team 4,000-page document. That's why he had a  
22 team, was to help him put together that enormous  
23 document.

24 Q (BY MR. DANS) Well, with the absence  
25 of Stratus, do you think he could have done it?

1 MR. BEIER: Objection. Calls for  
2 speculation. Foundation.

3 A The work that we did for  
4 Mr. Donziger --

5 Q (BY MR. DANS) Yes.

6 A -- that was then translated and sent to  
7 the plaintiffs' attorneys and then given to  
8 Mr. Cabrera for his consideration was only a very  
9 small part of the entire Peritaje Global.

10 Q Now, I asked you earlier this morning  
11 whether you knew for a fact whether or not it was  
12 ever given to Mr. Cabrera for his consideration.

13 A Mm-hmm.

14 Q I don't believe you had any basis for  
15 that belief. Do you have one?

16 MR. BEIER: Objection.  
17 Mischaracterizes her testimony.

18 You can answer.

19 A What I said was that I don't have any  
20 personal knowledge. But that's what I was told was  
21 happening. As I said, my involvement -- my  
22 personal involvement stopped when I gave it to  
23 Mr. Donziger.

24 Q (BY MR. DANS) Well, as a Ph.D. from  
25 Princeton and a scientist, how long, in your

1 estimation, would it take Mr. Cabrera to review a  
2 4,000-page report --

3 MR. BEIER: Objection. Form.

4 Q (BY MR. DANS) -- meaningfully?

5 MR. BEIER: Form. Foundation. Assumes  
6 facts not in evidence. Also abusive and harassing.

7 You can answer.

8 A How long it would take him to review a  
9 4,000-page -- I don't know.

10 Q (BY MR. DANS) Do you have any idea,  
11 based on your work as a scientist?

12 MR. BEIER: Same objections.

13 You can answer.

14 A And the only thing I can say to that  
15 is, again, Mr. Cabrera had a team of people.

16 And --

17 Q (BY MR. DANS) Didn't you tell me at  
18 some point Stratus reviewed the Cabrera report?

19 A We reviewed parts of the Cabrera  
20 report.

21 Q And how many people at Stratus did that  
22 review?

23 A Hmm, I don't recall exactly. Four  
24 to -- four to five, I think.

25 Q And how long did it take those four to

1 five people to review it?

2 A I don't recall.

3 Q Well, was it on the order of a month?

4 MR. BEIER: Objection. Asked and  
5 answered.

6 A I don't think it was that long, no.

7 Q (BY MR. DANS) Have any of those people  
8 who reviewed it, have they had a hand in writing  
9 it?

10 MR. BEIER: Objection. Form.

11 You can answer.

12 A In writing the Peritaje Global?

13 Q (BY MR. DANS) Yes.

14 A Well, I have to say again. There were  
15 sections that Stratus wrote -- Stratus employees  
16 wrote that were sent to Mr. Donziger. And some of  
17 those -- you know, then they went to the  
18 plaintiffs' attorneys. Then they were given to  
19 Mr. Cabrera for his consideration. And I know that  
20 some of that material is in the Peritaje Global  
21 report.

22 Q I'm going to direct your attention to  
23 an attachment to Mr. Beltman's e-mail, which is on  
24 the following page at STRATUS-NATIVE 043851. Did  
25 you help compile this Outline for PG Report?

1       A    I don't recall helping to prepare this,  
2 no.

3       Q    Do you remember seeing this document?

4       A    I remember seeing some form of this  
5 outline. I don't know if this was the exact form.

6       Q    Do you know who prepared it?

7       A    I -- I believe Mr. Beltman.

8       Q    Well, at the time this was written --  
9 well, Mr. Beltman is sending it on or about  
10 February 26, 2008. Paragraph 2c reads,  
11 "Approach/methods used by the perito." How would  
12 Mr. Beltman have any idea what the approach or  
13 methods used by the Perito were, if no one from  
14 Stratus had any contact with Mr. Cabrera?

15           MR. BEIER: Objection. Foundation.  
16 Argumentative.

17           You can answer.

18       A    I don't know.

19       Q    (BY MR. DANS) Direct your attention to  
20 Exhibit 502. Flip back in your binder. Do you  
21 recall receiving this e-mail from Mr. Beltman?

22       A    No.

23       Q    Do you recall Mr. Beltman making  
24 comments on the draft outline for the PG report?

25       A    I'm sorry. Could you say that again.

1 Q Do you recall Mr. Beltman giving  
2 comments based on a conversation on the outline for  
3 the Peritaje at this -- the PG report?

4 A No, I don't specifically recall that,  
5 no.

6 Q Mr. Beltman writes, "These revisions  
7 are based on what we talked about last Friday."  
8 You're copied on this e-mail.

9 A Mm-hmm.

10 Q Do you recall having a conversation  
11 with Mr. Beltman and others regarding revisions to  
12 the outline for -- that's attached to his e-mail?

13 A I don't specifically, no.

14 Q Well, flip to the second page of this  
15 Exhibit 502. There's a redline that someone has  
16 stricken in Paragraph 2c, "How I did it," and  
17 replaced it by "Approach/methods used by the perito  
18 (in general - not specifics)." Do you know who  
19 slashed "How I did it" and replaced "approached use  
20 methods (sic) by the perito"?

21 A No.

22 Q Why would somebody sub out "How I did  
23 it" and put in "perito" instead?

24 MR. BEIER: Objection. Foundation.  
25 Calls for speculation.

1           You can answer.

2       A    I don't know.

3       Q    (BY MR. DANS) Okay. We can go back to

4 Exhibit 506 in front of you. Turn to

5 STRATUS-NATIVE 4 -- 043854. It's about three pages

6 from where we were the last time.

7       A    854?

8       Q    Yes.

9       A    Okay.

10      Q    Do you recall seeing this graph

11 before -- chart, rather?

12      A    Some form of it, yes.

13      Q    Who prepared this chart?

14      A    I believe Mr. Beltman.

15      Q    The chart reads, "List of Annexes for

16 PG Report." What do you understand that to refer

17 to?

18           MR. BEIER: Objection. Foundation.

19           You can answer.

20      A    Annexes for the Peritaje Global report.

21      Q    (BY MR. DANS) And that's going -- the

22 report -- that's going to be the report submitted

23 by Mr. Cabrera?

24           MR. BEIER: Objection. Foundation.

25 Form.



1       A    I don't know.

2       Q    (BY MR. DANS) You don't know whether  
3 all the work that's set out here is going to be the  
4 foundation for Mr. Cabrera's report? Is that your  
5 testimony?

6           MR. BEIER: Same objections.

7       A    No. I don't know. I mean, it's  
8 related -- obviously, it's related to the Peritaje  
9 Global, but . . . .

10      Q    (BY MR. DANS) Well, the third column  
11 in reads, "Who will prepare."

12      A    Mm-hmm.

13      Q    Do you understand whether or not the  
14 people included within that column are the authors  
15 of the annex to its immediate left?

16      A    I think the proposal was that the  
17 people or groups in Column 3 would prepare  
18 materials that -- it was the same process -- would  
19 be given to Steven Donziger and then the plaintiff  
20 attorneys and then Mr. Cabrera.

21      Q    Well, why -- what's the purpose of  
22 Column 4, "Attribution in [the] PG Report"?

23           MR. BEIER: Objection. Foundation.  
24 You can answer.

25      A    What's the purpose of it?

1 Q (BY MR. DANS) Yes.

2 A I'm not sure.

3 Q Why weren't the people in Column 3  
4 attributed to it in Column 4?

5 MR. BEIER: Objection. Foundation.

6 You can answer.

7 A It looks like some of them were.

8 Q (BY MR. DANS) Well, anyone from  
9 Stratus?

10 A No.

11 Q The first row, fifth column on Page  
12 043854, it says, "Status of database on Cabrera  
13 data? Ann will work with Luis V to resolve issues  
14 with the Cabrera data."

15 A I'm sorry. What page are you on?

16 Q On 854, the first page of this chart.

17 A Okay.

18 Q What were the issues with the Cabrera  
19 data?

20 A I don't recall.

21 Q Well, as of February 26, 2008, how did  
22 you have possession of the Cabrera data?

23 A I don't know that we did.

24 Q Did you work with Luis V to resolve  
25 issues with the Cabrera data?

1       A    Again, what I recall is the Gomez data,  
2   which I believe was -- well, I'm not sure if it was  
3   separate or part of the Cabrera. I thought it was  
4   part of it.

5       Q    If you can flip to page STRATUS-NATIVE  
6   858. It's about the fifth page of that chart at  
7   the end, two pages there. Yes. Do you know who  
8   wrote these notes to the chart?

9       A    I believe Mr. Beltman.

10      Q    Do you know what Mr. Beltman meant when  
11   he said, quote, "Need to figure out to whom Richard  
12   will attribute each of the annexes"?

13           MR. BEIER: Objection. Foundation.

14           You can answer.

15      A    Where is that?

16      Q    (BY MR. DANS) Fourth line down.

17      A    Am I looking at the wrong page? Is it  
18   part of the chart or just a separate --

19      Q    Comments to the end of the chart.  
20   58 -- 858.

21      A    Okay. One, two, three, four. Oh,  
22   fifth -- sixth. Okay.

23           And I'm sorry. Your question, again?

24      Q    I'm on the fourth line.

25      A    One, two, three, four, five, six.

1 Anyway, I see it. Whatever.

2 Q The line that begins, "Need to figure  
3 out."

4 A Right. Okay. And your question,  
5 again?

6 MR. DANS: Court reporter can re-read  
7 the question.

8 (The following question was read back:  
9 "Do you know what Mr. Beltman meant  
10 when he said, quote, "Need to figure  
11 out to whom Richard will attribute each  
12 of the annexes"?"")

13 MR. BEIER: Same objections.

14 A I don't know what he meant.

15 Q (BY MR. DANS) Well, did Stratus have a  
16 need to figure out who was going to be attributing  
17 the authorship of the annexes -- strike that.

18 Did Stratus have a need to figure out  
19 to whom Mr. Cabrera was going to attribute each of  
20 the annexes in his report?

21 MR. BEIER: Object to the form,  
22 foundation.

23 You can answer.

24 A I don't know. I was not involved in  
25 anything like that.

1 Q (BY MR. DANS) Two lines down from  
2 that, it reads, "Luis says proceed with the data we  
3 have. We essentially ignore it." Do you  
4 understand that to revert back to what we had read  
5 earlier about this "Ann will work with Luis V to  
6 resolve issues with the Cabrera data"?

7 MR. BEIER: Objection. Foundation and  
8 form.

9 A No.

10 Q (BY MR. DANS) No. What do you  
11 understand it to mean?

12 A I assume that it relates to the bullet  
13 right up above it, the "PEPDA cleanup."

14 Q And did you ignore it?

15 MR. BEIER: Objection. Form. Vague.

16 A Did we ignore -- could you give me a  
17 little more information?

18 Q (BY MR. DANS) Well, it reads, "We  
19 essentially ignore it." What do you understand  
20 Stratus did in relation to this comment?

21 MR. BEIER: Objection. Foundation.  
22 Form.

23 You can answer.

24 A Well, as I said, I don't know. But my  
25 understanding is that the PEPDA cleanup, which is

1 the government cleanup, that we would not prepare  
2 anything on that. That's my understanding of what  
3 that means.

4 Q (BY MR. DANS) Direct your attention to  
5 STRATUS-NATIVE 057763, two pages on.

6 A 7763?

7 Q Mm-hmm.

8 A Okay.

9 Q Mr. Beltman writes, "I finally have a  
10 drop-dead date, March 24th...to be submitted to the  
11 court." Did you understand that March 24th, 2008,  
12 was the day that the Richard Cabrera report needed  
13 to be submitted to the court?

14 MR. BEIER: Objection. Form.  
15 Foundation.

16 You can answer.

17 A I do recall that at one point in time  
18 that was the date, March 24th, 2008. And then it  
19 changed.

20 Q (BY MR. DANS) And at what point did  
21 you intend to get the report to Mr. Cabrera for his  
22 review?

23 MR. BEIER: Object to the form.

24 A Again, we did not write the report. We  
25 wrote sections that went to Mr. Donziger, then the

1 attorney -- the plaintiff attorneys, and then to  
2 Mr. Cabrera for his consideration.

3 What was the second part of your  
4 question.

5 Q (BY MR. DANS) My point was -- at  
6 what -- my question is, at what point did you  
7 intend to get the report to Mr. Cabrera for his  
8 review, given that it needed to be submitted to the  
9 court on March 24th, and the date was then February  
10 29th?

11 A Okay.

12 MR. BEIER: Same objection.

13 You can answer.

14 A Again, I didn't write the report. But  
15 the pieces that we were writing for Mr. Donziger  
16 needed to get submitted to him by a certain date.  
17 And I don't know exactly when that was.

18 Q (BY MR. DANS) The -- I'd ask you to  
19 flip over to the next page, STRATUS-NATIVE 071074.  
20 Jennifer Peers writes, on the e-mail halfway down,  
21 "Tania says that she has spoken to Luis V., Pablo,  
22 and others about this." And then she continues,  
23 "And they are expecting these data to be used. I'm  
24 not lobbying either way, but Tania says they were  
25 corrected by the Perito (richard) and it would be

1 strange not to use them."

2       So is this the data that you're  
3 testifying -- the Gomez data that had been  
4 collected by the Perito that you had possession of  
5 prior to March 30th, 2008?

6       A    I don't know. I'm not sure which data  
7 she's referring to.

8       Q    Did you ever hear of something called  
9 the -- the Cabrera database or the RC database?

10      A    I don't recall anything with that name,  
11 no.

12      Q    Well, turn to 069147, two pages down.

13      A    I think we have different versions.

14 Five or so pages? 16- -- 147? 69147?

15      Q    It's 069147.

16      A    Okay.

17      Q    There's an e-mail from you to Ms. Peers  
18 dated Tuesday, March 3rd, 2008. The third bullet  
19 point down, you write, "Why are so many samples  
20 missing (827) from the RC db (Tania is looking  
21 into this)." What did you mean when you wrote  
22 that?

23      A    I don't recall.

24      Q    So you meant -- did you mean the  
25 Richard Cabrera database by "RC db"?



1       A    Hold on a minute.  Would you repeat the  
2 question.

3       MR. DANS:  The court reporter re-read  
4 the question.

5       (The following question was read back:  
6        "So you meant -- did you mean the  
7        Richard Cabrera database by "RC db"?)

8       A    I -- I'm not sure.

9       MR. DANS:  We can take a break for ten  
10 minutes or so.  Off the record.

11       MR. BEIER:  Okay.

12       VIDEOGRAPHER:  The time is 4:27.  We  
13 are going off the record.

14       (A recess was taken.)

15       VIDEOGRAPHER:  The time is 4:43.  We  
16 are back on the record.

17       Q    (BY MR. DANS)  Ms. Maest, you  
18 understand you're still under oath?

19       A    Yes.

20       Q    We were looking at Exhibit 506.  And  
21 I'd direct your attention your to STRATUS-NATIVE  
22 058388.  It's about four pages forward from where  
23 you were.  An e-mail from Mr. Beltman dated March  
24 12th, 2008.

25       A    0 -- would you say that again, the

1 number.

2 Q 058388.

3 A Okay. Okay.

4 Q Did you go down to Quito on or about  
5 Monday, March 17th?

6 A That sounds about right. Of . . . .

7 Q 2008.

8 A Sounds about right.

9 Q What was the purpose of that trip?

10 A I went down with Doug. And the purpose  
11 was to finish up writing the sections that we were  
12 writing for Mr. Donziger.

13 Q Did you meet with Mr. Cabrera at any  
14 point during that trip?

15 A No.

16 Q Did you meet with anybody on  
17 Mr. Cabrera's team at any point during that trip?

18 A Not that I recall.

19 Q Did you provide any of your materials  
20 to Mr. -- or were any of your materials provided to  
21 Mr. Cabrera during that trip?

22 MR. BEIER: Objection. Foundation.  
23 You can answer.

24 A I don't know for sure.

25 Q (BY MR. DANS) Do you know if they were

1 not provided, or do you know if they definitely  
2 were provided?

3 MR. BEIER: Object to the form,  
4 foundation.

5 You can answer.

6 A I don't know.

7 Q (BY MR. DANS) Do you have any basis to  
8 believe that they were actually provided?

9 A That was -- my understanding was that  
10 we would give them to -- we did give them to  
11 Mr. Donziger, that he gave them to plaintiffs'  
12 attorneys, and that they were going to give them to  
13 Mr. Cabrera for his consideration.

14 Q In this e-mail, Mr. Beltman attaches  
15 the draft that he describes as 31 pages long and  
16 70,000 words, and he calls it the "main report."  
17 Is this the report that you prepared for the  
18 plaintiffs to submit to Mr. Cabrera, per your  
19 testimony?

20 A I believe this is a draft of the  
21 summary report that we gave to Mr. Donziger.

22 Q Who wrote this draft?

23 A I believe the draft was largely  
24 written -- well -- by Mr. Beltman, but --

25 Q This --

1       A    -- I think it was a -- I don't  
2 remember. Yeah.

3       Q    What does the second line after  
4 Peritaje Global Summary Report read, if you were to  
5 translate that into English?

6       A    "By the technical team of engineer  
7 Richard Cabrera."

8       Q    And what's the line after that read?

9       A    "As part of the" -- I think "the  
10 Peritaje Global," basically.

11      Q    And the line after that?

12      A    "March 24th, 2008."

13      Q    Now, was, in fact, this report by the  
14 technical team of Richard Cabrera, or was it  
15 prepared by Mr. Beltman?

16           MR. BEIER: Object to the form.

17           You can answer.

18      A    This is a draft that was prepared by  
19 Mr. Beltman and probably some others of -- some  
20 others of us at Stratus that was ultimately, as far  
21 as I understand, given to Mr. Cabrera for his  
22 review.

23      Q    (BY MR. DANS) Did Mr. Beltman at any  
24 point in the writing of this report consult with  
25 Mr. Cabrera?

1 MR. BEIER: Objection. Foundation.

2 A I don't know, but I don't believe so.

3 Q (BY MR. DANS) Did he consult with  
4 anybody on Mr. Cabrera's technical team?

5 MR. BEIER: Same objection.

6 A I don't know.

7 Q (BY MR. DANS) Why did Mr. Beltman  
8 write that this report was written by Richard  
9 Cabrera in the first sentence?

10 MR. BEIER: Same objection.

11 A I don't know.

12 Q (BY MR. DANS) That's not true, is it?

13 A Hmm.

14 MR. BEIER: Argumentative.

15 You can answer.

16 A This draft was written by Doug Beltman  
17 and others at Stratus. I don't know how much of  
18 this ended up, you know, in the final Peritaje  
19 Global, but -- I just keep saying this. You know,  
20 it was submitted to Mr. Cabrera for his review.

21 Q (BY MR. DANS) Well, as it stands as  
22 this draft, this is not true, "This report was  
23 written by Richard Cabrera," correct?

24 MR. BEIER: Objection. Argumentative.  
25 Foundation.

1           You can answer.

2       A    Would you say that again or rephrase  
3 it.

4           MR. DANS: Court reporter, please  
5 re-read it.

6           (The following question was read back:  
7           "Well, as it stands as this draft, this  
8           is not true, "This report was written  
9           by Richard Cabrera," correct?")

10          MR. BEIER: Same objections.

11       A    This draft was written by Mr. Beltman  
12 and others at Stratus. But the report is  
13 Mr. Cabrera's.

14       Q    (BY MR. DANS) Okay. In the draft, it  
15 reads, subsequent line, "Specifically, the Court  
16 requested that I (Richard Cabrera) evaluate the  
17 following." To your knowledge, did Richard Cabrera  
18 evaluate any of the following?

19       A    My understanding is that he did.

20       Q    And what's the basis of that  
21 understanding?

22       A    Well, the -- this refers to everything  
23 that's in the large, 4,000-or-so-page report. And,  
24 as I mentioned before, the parts -- the, you know,  
25 pieces of documents that Stratus produced for

1 Mr. Donziger are a very -- and then went to Cabrera  
2 for his consideration are a very small part of  
3 that, so . . . . I'm assuming that Mr. Cabrera and  
4 his team -- it's their report.

5 Q Are you testifying today that you  
6 understand whether -- strike that -- that you  
7 believe Richard Cabrera actually evaluated the  
8 following six paragraphs numbered a through --  
9 rather, five paragraphs, numbered a through e?

10 A That's my understanding, yes.

11 Q Now, Mr. Beltman wrote on the bottom  
12 line, "I believe that my analysis is fair and  
13 provides the court with my best recommendations."

14 A Mm-hmm.

15 Q Is Mr. Beltman talking about his  
16 analysis?

17 MR. BEIER: Objection. Foundation.  
18 Form.

19 You can answer.

20 A I don't know.

21 Q (BY MR. DANS) Mr. Beltman, similarly,  
22 in the above paragraph writes, "I focused on the  
23 contamination of soil, groundwater, surface water,  
24 and air from Texaco's oil exploration and  
25 production activities."

1 A Mm-hmm.

2 Q Is Mr. Beltman talking about himself,  
3 or is he talking about Mr. Cabrera?

4 MR. BEIER: Objection. Foundation.  
5 Form.

6 A I don't know.

7 Q (BY MR. DANS) Do you know if  
8 Mr. Cabrera ever focused on, quote, "the  
9 contamination of soil, groundwater, surface water,  
10 and air from Texaco's oil exploration and  
11 production activities"?

12 A My understanding is that he did.

13 Q And what is the basis of that  
14 understanding?

15 A Well, he collected a number of samples  
16 from the Napo concession, including soil and  
17 groundwater, and had them analyzed, and that's a  
18 large part of what ended up as the Peritaje Global.

19 Q And --

20 A This is just the summary report, a  
21 draft of it.

22 Q Does this report portend to include  
23 that analysis that you just testified to?

24 MR. BEIER: Objection. Form.  
25 Foundation.



1           You can answer.

2       A    What -- what do you mean?

3       Q    (BY MR. DANS) Well, you believe that  
4 he actually did those things. Isn't this the  
5 report that's supposed to be setting out what he  
6 actually did?

7           MR. BEIER: Objection. Form and  
8 foundation. Argumentative.

9           You can answer.

10      A    Can you tell me what you mean by "those  
11 things"?

12      Q    (BY MR. DANS) The litany which we  
13 talked about, focusing on "contamination of soil,  
14 groundwater, surface water, and air from Texaco's  
15 oil exploration and production activities."

16      A    And the question is, do I believe that  
17 he focused on those?

18      Q    Yes.

19      A    To the best of my understanding, yes.

20      Q    On page STRATUS-NATIVE 058397.

21      A    Okay.

22      Q    He reads, "here" -- quote, on the  
23 second to the last paragraph, "Here I summarize the  
24 data that were collected during the litigation,  
25 with particular attention to whether" -- "whether

1 the measured contaminant concentrations are greater  
2 than Ecuador standards." Did he summarize the  
3 data, or did Doug Beltman summarize the data?

4 MR. BEIER: Objection. Form.  
5 Foundation.

6 You can answer.

7 A I'm not sure what this sentence is  
8 referring to. But I know that Mr. Cabrera  
9 collected a number -- and his team collected a  
10 large number of samples as part of the Peritaje  
11 Global.

12 Q (BY MR. DANS) Ms. Maest, will you  
13 please turn to Exhibit 507. Have you seen this  
14 exhibit before, which is entitled Appendix H,  
15 History of Inventory of Waste Pits? I'll represent  
16 to you that it's a certified translation of the  
17 Spanish language original filed by Mr. Cabrera on  
18 or about April 1st, 2008, known as Anexo H?

19 A Anexo H?

20 Q Yes.

21 A That's what this is? Okay. I -- I  
22 have seen a version of this before --

23 Q Do you know --

24 A -- I think in Spanish.

25 Q Do you know who wrote this document?

1 A I believe it was the team in Quito.

2 Q And who was on that team?

3 A Olga Lucia. That's all I know for  
4 sure.

5 Q Did anybody else from Mr. Cabrera's  
6 team write this?

7 MR. BEIER: Objection. Foundation.

8 You can answer.

9 A I don't know.

10 Q (BY MR. DANS) Do you know if Tania  
11 wrote this, as well?

12 A I --

13 Q Tania?

14 A Tania Naranjo?

15 Q Yes.

16 A I believe she was involved in this.

17 Q Did she write it?

18 A I don't know if she wrote it.

19 Q Did she write portions of it?

20 A I don't know.

21 Q Did you write any portion of this?

22 A No.

23 Q I'm just going to mark -- or, actually,  
24 ask you to turn to Exhibit 540 in your binder.  
25 It's previously marked.

1 A 540?

2 Q Yes.

3 A Okay. I'm there.

4 Q Do you recall this e-mail from

5 Mr. Beltman?

6 A Am I on the wrong -- I don't see

7 anything from Mr. Beltman.

8 Q Exhibit 540?

9 A 540?

10 Q Maybe 539, perhaps?

11 MR. CRISS: It may be a tabbing issue.

12 A That's not anything from Mr. Beltman

13 either.

14 MS. GRIEVE: Which one are you looking

15 for?

16 MR. DANS: Well, I can put a copy of

17 what --

18 MR. CRISS: Oh, 541.

19 Q (BY MR. DANS) 541, rather.

20 A 541. Okay. That is an e-mail -- the

21 top page is an e-mail from Mr. Beltman.

22 MS. GRIEVE: And is the attachment La

23 Huella?

24 MR. DANS: That's correct.

25 MS. GRIEVE: Okay.

1 Q (BY MR. DANS) Do you recall receiving  
2 this e-mail?

3 A I don't recall receiving the e-mail.

4 Q Do you recognize the attachment as an  
5 earlier draft of Exhibit 507?

6 MR. BEIER: Object to the form.

7 A I'm going to have to look. I don't  
8 know if it was earlier or not, but it has -- it  
9 has, more or less, the same title.

10 Q (BY MR. DANS) Well, if it's helpful,  
11 we'll stipulate that this -- this draft, 507, is  
12 dated April 1st, 2008. Mr. Beltman's e-mail is  
13 sent on February 20th, 2008.

14 A You're representing to me that 507, the  
15 date of that, was -- was what?

16 Q Was submitted to the court on or about  
17 April 1st, 2008. It's a true and correct  
18 translation of the -- of the court filed report of  
19 Richard Cabrera in English.

20 MR. BEIER: Objection to the  
21 characterization of the document.

22 A I don't think that's correct.

23 Q (BY MR. DANS) And what's the basis for  
24 your belief?

25 A Well, the date on the certification is

1 the 18th of February, 2070 -- I'm assuming they  
2 meant 2007. So that would have been several months  
3 before the Peritaje Global. So I don't know. You  
4 know, this 20 -- 507, I'm not sure.

5 Q I believe that's 18th February, 2010,  
6 the. The "1" is written like European's write a  
7 "1."

8 A Oh. Okay. It doesn't say that it was  
9 from the -- Cabrera's report, so . . . .

10 Q Well, if you have any doubt, I'm going  
11 to give you the Spanish language original, copy  
12 from the actual filed version.

13 MR. DANS: Ask the court reporter mark  
14 this as 563.

15 (Deposition Exhibit 563 was marked.)

16 THE DEPONENT: Thank you.

17 Q (BY MR. DANS) Ms. Maest, have you seen  
18 Exhibit 563 before?

19 A I've seen versions of it, yes.

20 Q And you're aware that this is the  
21 exhibit that is referenced in the criminal  
22 accusation against Mr. Perez and Mr. Veiga?

23 MR. BEIER: Objection. Foundation.  
24 Form.

25 A I don't know that.

1 Q (BY MR. DANS) Okay. Well, I'm going  
2 to ask you whether you recognize any -- strike  
3 that -- whether you understand, looking at Exhibit  
4 540, whether that is a prior draft of Exhibit 563.

5 And if there is any doubt, I'd direct  
6 your attention, if it's easier, to the third page  
7 of Exhibit 540 (sic) where there's a picture called  
8 Image 1.

9 A Okay. For me, this is Exhibit 541.

10 Q 541, right.

11 A And Page 3 has what, again?

12 Q Oh, there's a photo on it, Image 1,  
13 Piscina 1?

14 A I have that on Page 2.

15 Q Well, Page 3 of Exhibit -- of the  
16 exhibit. It's Page 2 of 21 in the -- it's on  
17 STRATUS-NATIVE 040632.

18 A Okay. I see the photograph, yes.

19 Q Do you recognize that photograph on the  
20 second page of Exhibit 563?

21 A It's a very poor copy. I -- I don't  
22 know.

23 Q Well, Ms. Maest, I would like to walk  
24 you through word for word and show you every  
25 element that lines up from this to that. I don't

1 have the luxury of that time today.

2 But I'm going to ask you one final  
3 question, understanding, as I've told you, the  
4 importance of this to the liberty of my client,  
5 who's facing a charge of ten years.

6 I'm asking you, if you look at Exhibit  
7 563, can you determine that elements of that  
8 exhibit were written by Tania, as Exhibit 541  
9 suggests?

10 MR. BEIER: Objection. Form.  
11 Foundation.

12 You can answer.

13 A No, I cannot confirm that. There's  
14 nothing here that says it was written by Tania  
15 Naranjo.

16 Q (BY MR. DANS) And as a sworn deponent  
17 today, do you have any knowledge of whether or not  
18 Tania wrote elements of Exhibit 563, to the best of  
19 your knowledge?

20 A As I testified before, I said I believe  
21 that she was involved in the creation of -- of  
22 this -- a draft of this document.

23 MR. DANS: Okay. Ms. Maest, thank you  
24 for your cooperation today. I'd like to go off the  
25 record, pass the microphone to Mr. Criss, who will



1 question you on behalf of Mr. Veiga.

2 VIDEOGRAPHER: The time is 5:06. We  
3 are going off the record. This is the end of Tape  
4 3.

5 (A recess was taken.)

6 VIDEOGRAPHER: The time is 5:12. We  
7 are back on the record. This is beginning of  
8 Tape 4.

9 EXAMINATION

10 BY MR. CRISS:

11 Q Good afternoon, Dr. Maest. As I said  
12 when introducing myself at the start of today's  
13 deposition, I represent Ricardo Reis Veiga, who is  
14 an individual like Mr. Perez Pallares who has been  
15 charged with a crime in Ecuador and faces, if  
16 convicted, a sentence of up to ten years in prison.

17 You -- I believe you testified earlier  
18 that you believe that you met my client, Mr. Reis  
19 Veiga, at a settlement meeting; is that correct?

20 A Yes.

21 Q Do you recall when that meeting was?

22 A It was in Washington, D.C., and it  
23 might have been March 2007, somewhere in there.

24 Q Okay. So your -- your best  
25 recollection, it would have been on or about the

1 time that you traveled down to Ecuador for the  
2 meetings that were depicted in the outtakes  
3 Mr. Dans showed you?

4 A I think it was -- I think it was after  
5 that. I think it was -- I'm not sure.

6 Q Do you recall how much after that?

7 A I don't.

8 Q Prior to that meeting, whenever it was,  
9 had you ever heard the name, Ricardo Reis Veiga?

10 A Yes.

11 Q And when do you believe is the first  
12 time that you heard Mr. Veiga's name?

13 A I don't recall. I think it was fairly  
14 early on.

15 Q Do you recall the context in which you  
16 heard Mr. Reis Veiga's name?

17 A No.

18 Q Did you ever have occasion to meet or  
19 observe Mr. Veiga in -- in Ecuador?

20 A Not that I recall.

21 Q Okay. Do you recall at any point  
22 Mr. Beltman reviewing certain documents, including  
23 the remedial action plan, in connection with a  
24 project at Stratus?

25 A I -- I believe Doug reviewed the

1 remedial action plan.

2 Q And, specifically, do you recall  
3 Mr. Beltman ever reviewing the remedial action plan  
4 and other related documents to determine whether or  
5 not TexPet met the contractual conditions to its  
6 remediation?

7 MR. BEIER: Objection. Foundation.

8 You can answer.

9 A I don't -- I'm not -- I don't recall.

10 Q (BY MR. CRISS) Okay. Let me refer you  
11 to Exhibit 503 in the binder there. And you'll see  
12 it's a two-page e-mail, STRATUS-NATIVE 55339 to  
13 55340. do you see that?

14 A Yes.

15 Q And if you -- do you see that the  
16 Subject line is, "Would you please translate into  
17 Spanish for me. Thanks a lot"?

18 A Yes.

19 Q And just looking at the -- at the  
20 documents, do you understand that -- not asking you  
21 to do a word-by-word comparison -- that it appears  
22 to be a e-mail from Douglas Beltman to Brian Lazar  
23 cc'ing yourself and Jennifer Peers, which Mr. Lazar  
24 then translates into Spanish?

25 A Yes.

1 Q Okay. Just for convenience sake and  
2 because time is short, let's just look at the  
3 bottom English version of that document, if we  
4 could. Do you see that it is addressed to "Pablo y  
5 Steven"?

6 A That e-mail?

7 Q The one from Mr. Beltman --

8 A Yes.

9 Q -- on the bottom. As well as the  
10 translation on the top, right?

11 A Yes.

12 Q They both -- and do you have any reason  
13 to believe that "Pablo y Steven" refers to anyone  
14 other than Pablo Fajardo and Steven Donziger?

15 A No.

16 Q And do you see -- do you see how in the  
17 first paragraph Mr. Beltman says that a project was  
18 to, quote, "conduct a technical analysis of whether  
19 the TexPet cleanup in the 1990s complied with the  
20 technical requirements for the cleanup"?

21 A Yes, I see that.

22 Q Okay. And then if you could please  
23 turn the page.

24 A Okay.

25 Q And you'll see that Mr. Beltman says,

1 "I carefully reviewed the technical requirements  
2 for the cleanup that are specified in: The May  
3 1995 contract from implementing remedial work and  
4 release from obligations, liabilities (sic), and  
5 claims; The March 1995 Statement of Work for the  
6 cleanup that is appended to the contract," and the  
7 third bullet point says, "The August 1995 Remedial  
8 Action Plan (RAP) written by a TexPet contractor,  
9 and approved by ROE."

10 A Yes.

11 Q Do you see that --

12 A Yes.

13 Q -- in the document?

14 A Yes, I see that.

15 Q Are you familiar with those documents  
16 that Mr. Beltman describes in his e-mail?

17 A I am familiar with the Remedial Action  
18 Plan written by a TexPet contractor.

19 Q Okay.

20 A I am -- I used to be, at least,  
21 familiar with the May '95 contract for implementing  
22 remedial work. I believe I've also in the past  
23 seen the March '95 Statement of Work for cleanup.

24 Q Okay. And do you understand those  
25 documents to be documents governing what TexPet was

1 supposed to do as part of its remediation project  
2 in the concession area?

3 A I believe that the contract and the  
4 statement of work were.

5 Q Okay. And did you understand that the  
6 RAP was referenced and contemplated in those other  
7 two documents?

8 MR. BEIER: Objection. Foundation.  
9 You can answer.

10 A I don't think it could have been, if it  
11 was in August of '95. Those other documents were  
12 written in May and March.

13 Q (BY MR. CRISS) Well, have you ever  
14 seen a document that, for example, says that,  
15 Pursuant to this agreement, the parties will then  
16 prepare some other document in the -- at some point  
17 in the future? Have you ever encountered that in  
18 the past?

19 A Sure.

20 Q Are you -- do you have any reason to  
21 believe that the RAP was not such a document that  
22 reference -- that was contemplated by prior  
23 documents?

24 MR. BEIER: Object to form.  
25 You can answer.

1       A    I -- I don't know.

2           MR. BEIER: Foundation.

3       A    I don't know.

4       Q    (BY MR. CRISS) Okay. Let's continue  
5 to the next paragraph. Do you see where  
6 Mr. Beltman says that he, quote, "compared the  
7 technical requirements contained in those documents  
8 against the description of the remediation and the  
9 testing results that are described in the 2000  
10 Woodward-Clyde report"?

11       A    Yes.

12       Q    And the -- and then it continues, and  
13 he says, "Although there are some ambiguities of  
14 language and potential legal issues," parens,  
15 "(such as apparent contradictions between the March  
16 1995 Statement of Work and the RAP)" --

17       A    Mm-hmm.

18       Q    -- "I did not find any clear instances  
19 where TexPet did not meet the conditions required  
20 in the cleanup." Do you see that Mr. Beltman says  
21 that?

22       A    Yes, I do.

23       Q    Do you recall, did Mr. Beltman involve  
24 you in any way in this project that is described in  
25 Exhibit 503?

1       A    I -- well, as I testified, I recall  
2 reading those documents, but I don't recall being  
3 involved in this analysis that Mr. Beltman did.

4       Q    Okay. Do you have any reason to doubt  
5 that you received both Mr. Beltman's e-mail and  
6 Mr. Lazar's e-mail, to which you were cc'd?

7       A    No.

8       Q    Okay.

9       A    My name's right there.

10      Q    Sure. And let me ask you, you'll see  
11 in Mr. Beltman's e-mail -- and I'll -- it's at the  
12 very top of the second page. He doesn't simply  
13 refer to a review. He refers to a careful review.  
14 Do you see that?

15      A    Yes, I do.

16      Q    How long -- for how long have you  
17 worked with Mr. Beltman?

18      A    It's about 17 years.

19      Q    Okay. Based on your 17 years of  
20 experience --

21      A    Mm-hmm.

22      Q    -- if Mr. Beltman wrote in an e-mail  
23 that he conducted a, quote, "careful review," do  
24 you have any reason to believe that he, you know,  
25 engaged in an effort that was anything other than a



1 careful review?

2 MR. BEIER: Object to the form.

3 You can answer.

4 A Do I have any reason to believe --

5 could you rephrase that.

6 Q (BY MR. CRISS) Sure.

7 A Okay.

8 Q Let me -- let me simplify the question.

9 A All right.

10 Q Mr. Beltman says in this e-mail that he

11 engaged in a careful review.

12 A Yes.

13 Q Do you have any reason to doubt

14 Mr. Beltman's word when he said that he engaged in

15 a careful review?

16 A No.

17 Q Okay. So no reason to think that, in

18 fact, he engaged in a haphazard and slipshod or

19 quickie review, if you --

20 A Doug's a very careful guy.

21 Q Okay. Fair enough. And if -- when you

22 received this e-mail, if you had any reason to

23 believe that Mr. Beltman was incorrect in his

24 statements to this e-mail that you were cc'd on,

25 would you have, you know, raised that issue with

1 Mr. Beltman?

2 MR. BEIER: Objection to the form.

3 Calls for speculation.

4 A I'm sorry. You're going to have to  
5 rephrase that.

6 Q (BY MR. CRISS) Sure. My question is,  
7 if Mr. Beltman or any one of your colleagues was --

8 A Mm-hmm.

9 Q -- sending out an e-mail internally  
10 within Stratus --

11 A Mm-hmm.

12 Q -- and you recognized that they said  
13 something in it that you thought might be  
14 important, but you thought was misstated or  
15 incorrect --

16 A Mm-hmm.

17 Q -- is that something you would have  
18 brought to the writer's attention?

19 A Yes.

20 Q Okay. Do you have any recollection of  
21 responding in any way to Mr. Beltman's e-mail of  
22 August 1st, 2008, describing his careful review?

23 A I believe that we talked about it.

24 Q Do you recall if that discussion was  
25 before or after he sent this e-mail?

1       A    I do not recall.

2       Q    What do you recall of your discussion  
3 with Mr. Beltman?

4       A    What I recall was that Mr. Beltman was  
5 looking at the letter of the law, so to speak, in  
6 the contract and in the statement of work and in  
7 the RAP.

8       Q    Okay.

9       A    But we talked about the next sentence  
10 here that we didn't get to, which is that, of  
11 course, there are a lot of pits that are not --  
12 that are still, in fact, contaminated.

13      Q    And is your opinion -- is that  
14 information relevant to the compliance with these  
15 three documents, or is that relevant to the  
16 different question of whether or not the concession  
17 area was, in your opinion, adequately remediated?

18      A    I'm sorry. Could you --

19      Q    Sure.

20      A    Could you rephrase?

21      Q    I'm trying to -- I'm trying to just  
22 draw a distinction, if I -- if I could.

23      A    Mm-hmm.

24      Q    There -- you would agree that TexPet  
25 could have complied with its contractual

1 obligations but still having -- could have engaged  
2 in a remediation effort in the concession area that  
3 you or other people, looking at the remediation  
4 after the fact, might determine that that  
5 remediation was wanting. Do you understand -- do  
6 you understand the distinction I'm drawing?

7 A I think so. I -- I guess what I'd like  
8 to say is that I remember talking to Mr. Beltman  
9 about this and looking at the data in the  
10 Woodward-Clyde report --

11 Q Okay.

12 A -- and the requirements. There weren't  
13 any issues that would cause him to say anything  
14 other than what he said here. But then looking  
15 later, with all the information that we have  
16 received in the judicial inspections, obviously,  
17 there's lots of contamination there that was not  
18 reported in the Woodward-Clyde report.

19 Q And that contamination could, for  
20 example, have been the consequence of activities of  
21 PetroEcuador after TexPet ceased operations in the  
22 concession area, for example?

23 MR. BEIER: Objection. Form.  
24 Foundation.

25 You can answer.

1       A    For the sites that were operated by --  
2 by the government, the state-run entity, yes, but  
3 not for the ones where there was no operation by  
4 the state-run entity.

5       Q    (BY MR. CRISS) Okay.

6       A    And those were contaminated, as well.

7       Q    But am I correct in understanding your  
8 testimony that on the basic point that's set forth  
9 in Mr. Beltman's e-mail, quote "I did not find any  
10 clear instances where TexPet did not meet the  
11 conditions required in the cleanup," closed quote,  
12 at or about the time of this e-mail, you agreed  
13 with Mr. Beltman's assessment that he was going to  
14 be providing to Mr. Donziger and Mr. Fajardo?

15       MR. BEIER: Objection. Form.  
16 Foundation.

17       You can answer.

18       A    Was the question that did I have any --  
19 I'm sorry. Could you --

20       Q    (BY MR. CRISS) My question -- my  
21 question was simply, at or about the time that  
22 Mr. Beltman sent this e-mail --

23       A    Mm-hmm.

24       Q    You testified that you believe you had  
25 discussions with Mr. Beltman at or about August

1 1st, 2008, the date of this e-mail?

2 A Yes.

3 Q Did you have any reason to question the  
4 conclusion set forth in Mr. Beltman's e-mail,  
5 quote, "I did not find any clear instances where  
6 TexPet did not meet the conditions required in the  
7 cleanup"?

8 A In that narrow sense, no.

9 Q Okay. And when -- and is your  
10 understanding that when he refers to, quote, "the  
11 conditions required in the cleanup," closed quote,  
12 he's referring to the, quote, "technical  
13 requirements for the cleanup" that are specified in  
14 the three documents listed at the top of 55340?

15 MR. BEIER: Objection. Foundation.

16 A I am not sure.

17 Q (BY MR. CRISS) Okay. Do you -- do you  
18 think that Mr. Beltman could be referring to  
19 something other than those technical requirements  
20 that he describes in his e-mail?

21 A I don't know.

22 Q Okay. Are you aware that Mr. Beltman  
23 has testified that he stands by the analysis set  
24 forth in Exhibit 503; in fact, conveyed that  
25 analysis in substance to a reporter from "The

1 American Lawyer" within the last month or two?

2 MR. BEIER: Object to the form.

3 Foundation.

4 A No, I'm not aware of that.

5 Q (BY MR. CRISS) Has Mr. Beltman ever,  
6 you know, discussed with you, since August 1st,  
7 2008, you know, that he believes that the analysis  
8 set forth in his August 1st, 2008 e-mail was  
9 incorrect?

10 MR. BEIER: Object to form.

11 A Did he ever tell me after the --

12 Q (BY MR. CRISS) Yeah.

13 A I don't know.

14 Q Okay. Do you recall him ever saying,  
15 Gee, you know, upon reflection, you know, I just --  
16 I misread those documents, and TexPet actually did  
17 violate the contract?

18 A No, I don't recall him saying anything  
19 like that.

20 Q Okay. Dr. Maest, if you could please  
21 turn to Exhibit 533. It's in the other binder.

22 A Mm-hmm.

23 Q But you may want to just keep that  
24 binder nearby. Okay.

25 A Okay.

1 Q And if you could please turn to Page  
2 121. I'll remind you, this is a certified  
3 translation of the document that's sometimes called  
4 the Prosecutor's Opinion, sometimes called the  
5 Dictum en Fiscal, sometimes called the Acusacion,  
6 but it's the charging document, like a criminal  
7 complaint, that is pending against Mr. Dans' client  
8 and my client.

9 And if you turn to Page 121. It's  
10 actually a portion of the document that Mr. Dans  
11 showed you earlier.

12 A Okay.

13 Q And do you see where "Final Release" is  
14 in bold about two-thirds of the way down this page?

15 A Yes.

16 Q And do you see just one line and two  
17 lines before it, do you see the name of my client,  
18 "Ricardo Reis Veiga," and Mr. Dans's client,  
19 "Rodrigo Perez Pallares"?

20 A Yes.

21 Q Okay. And do you see that this  
22 document says that they, quote, "signed the Final  
23 Release for the environmental remediation work on  
24 September 30th, 1998, based on the nine Partial  
25 Certificates of Receipt of Work and Certificate 052



1 RAP, despite the fact that they did not meet the  
2 contractual terms of the Remedial Action Plan, and  
3 with knowledge" -- and then it continues and says,  
4 "and with knowledge of the irreparable damage to  
5 the environment caused by Texaco in the Amazon  
6 region of the country." Do you see the language  
7 that I just read to you, Dr. Maest?

8 A Yes.

9 Q So would you agree that at least this  
10 portion of what is a very large document -- we  
11 don't have time to go through it all -- is alleging  
12 that Dr. -- that Mr. Veiga and Mr. Perez -- that a  
13 basis for criminal charges is that they signed the  
14 final release, despite the fact that they did not  
15 meet the contractual terms of the remedial action  
16 plan?

17 MR. BEIER: Object to the form.  
18 Foundation.

19 You can answer.

20 THE DEPONENT: Okay.

21 A I think there is a difference between  
22 what they're referring to here and what Mr. Beltman  
23 is referring to in his e-mail.

24 Q (BY MR. CRISS) What is your -- what is  
25 your belief as to the distinction between the two?

1       A    I don't know that Mr. Beltman reviewed  
2 the partial certificates of receipt of work.

3       Q    Okay.

4       A    And Certificate Number 05 -- 052 RAP.

5       Q    Okay.

6       A    I am pretty sure that they were not in  
7 the Woodward-Clyde report.

8       Q    Okay. But is -- but just look back at  
9 the sentence I read to you. Is your understanding  
10 consistent with mine, that what the allegation is,  
11 is here is -- I recognize the point you just  
12 made -- that there was a failure to meet the  
13 contractual terms of the remedial action plan and  
14 that that is a basis for the allegations pending  
15 against our clients?

16           MR. BEIER: Objection. Form.  
17 Foundation.

18           You can answer.

19       A    I'm sorry. You're going to have to  
20 rephrase that.

21       Q    (BY MR. CRISS) Do you under- -- let me  
22 ask you a simple question. You said that you are  
23 aware -- you were aware of the existence of  
24 criminal charges pending against Mr. Perez and  
25 Mr. Veiga, correct?

1       A    Yes.

2       Q    And that understanding is based on a  
3 review of press releases, perhaps other things as  
4 well. What is your understanding of what the  
5 gravamen of that -- of those charges are?

6       A    You mean the implications for your --  
7 what do you mean?

8       Q    Oh, in other words, for example, if  
9 someone is charged with bank robbery, you  
10 understand that the bank -- the basic thrust of the  
11 charge is that they robbed a bank?

12      A    Mm-hmm.

13      Q    Right? If somebody is charged with  
14 insider trading, you would understand that they  
15 engaged in buying or selling stock based on  
16 information that they shouldn't have traded on.

17      A    Mm-hmm.

18      Q    Right? That would be the gravamen of  
19 the change -- charges.

20      A    Okay.

21      Q    The basic -- you know, what's the core  
22 of the -- of the criminal case?

23      A    Okay.

24      Q    Do you have an understanding of what  
25 the core or the gravamen of the criminal charges

1 pending against our clients is?

2 A It really has not been a focus of mine.  
3 But what I understand is that there were some  
4 issues with the remediation that was conducted in  
5 the mid-1990s, and the issue was whether or not  
6 those were, oh, just oversights or mistakes or  
7 whether something was intentionally concealed.

8 Q Okay. Let me refer you back to Page  
9 121. Do you see here that, at least in this  
10 portion, there is an allegation of failing to meet,  
11 quote, "the contractual terms of the Remedial" --  
12 "Remedial Action Plan"?

13 A What it says is that these certificates  
14 "did not meet the contractual terms of the RAP."

15 Q Okay. I think that's not actually a  
16 correct reading.

17 A Oh, okay.

18 Q Let me suggest an alternative reading  
19 to you.

20 A Okay.

21 Q And I will -- let me make a  
22 representation to you, see if, you know, you  
23 have -- you have any reason to, based on your  
24 knowledge, to disagree.

25 There were a series of certificates

1 that were signed as part of the remediation --

2 A Mm-hmm.

3 Q -- project. Are you aware of that fact  
4 generally?

5 A I am generally.

6 Q And that the signing of the final  
7 release was conditioned on those certificates. In  
8 other words, so, you had -- right, you had -- a  
9 remediation's a big project, right?

10 A Mm-hmm.

11 Q It takes time. It's done in stages,  
12 right?

13 A Right.

14 Q And that, you know, each of those  
15 stages, there would be a certification.

16 A Mm-hmm.

17 Q And that, then, the final release would  
18 be based on the fact that you had these  
19 intermediate signings as well as sort of -- as well  
20 as a -- you know, sort of an overall certificate,  
21 and that that is what led the parties to sign the  
22 final release. Do you have any understanding  
23 that's contrary to what I just told you?

24 MR. BEIER: Object to the form.

25 You can answer.

1 A I don't personally --

2 Q (BY MR. CRISS) Yeah.

3 A -- know that. I understand that that's  
4 what you're representing to me --

5 Q Yeah.

6 A -- and what it says here. But I don't  
7 personally know that.

8 Q Okay. And -- but do you have any  
9 knowledge that is contrary to what I just  
10 represented to you?

11 A No.

12 Q So what I'm suggesting is that -- you  
13 were talking earlier about, you know, something  
14 being conditioned on the certificates. What I'm  
15 suggesting is, is that what was conditioned on the  
16 certificates was not the RAP, as I think you  
17 suggested, but was the final release. Do you  
18 understand how that --

19 A Yes.

20 Q -- is a potential reading of this  
21 language?

22 MR. BEIER: Object to the form.

23 You can answer.

24 A That makes sense.

25 Q (BY MR. CRISS) Okay. So that if we,

1 then -- you know, with that understanding, do you  
2 understand that what this paragraph is saying is,  
3 is that a basis for criminal charges against our  
4 clients was failure to, quote, "meet the  
5 contractual terms of the Remedial Action Plan,"  
6 closed quote, also known as the RAP?

7 MR. BEIER: Objection. Foundation.

8 A We're getting into the weeds here.

9 I --

10 Q (BY MR. CRISS) Well, it's not the  
11 weeds for my -- our clients.

12 A I know. I'm sure. I just don't have a  
13 lot of knowledge about this.

14 Q Sure.

15 A I -- could you read that back

16 or . . . .

17 Q Sure. Well, Dr. Maest, I'll withdraw  
18 the question.

19 A Okay.

20 Q But I do just want to make sure that  
21 your testimony's clear. Based on your, I guess, 17  
22 years of work with Mr. Beltman, you know, you have  
23 no reason to question the analysis that he set  
24 forth in Exhibit 503; is that correct?

25 MR. BEIER: Objection. Asked and

1 answered. Foundation.

2       You can answer.

3       A    That's the other one that we were

4 looking at earlier, right?

5       Q    (BY MR. CRISS) That's the August 1st,

6 2008, that's right?

7       A    No. I think the only caveats are: I

8 don't know that Doug was looking at these receipts

9 of work certificates.

10      Q    Okay. That -- that is fair enough.

11      A    Mm-hmm.

12      Q    Okay. You can put that to the side.

13           Dr. Maest, did you ever work on any

14 material at Stratus that was intended to be

15 provided, directly or indirectly, to any prosecutor

16 in Ecuador?

17      A    Any prosecutor. I guess I don't really

18 know what that -- what does that entail?

19      Q    Well, do you -- do you have an

20 understanding of what a prosecutor is?

21      A    Not in Ecuador, I don't.

22      Q    Okay. What's your understanding of

23 what a prosecutor is in the United States?

24      A    I mean, an attorney who's bringing a

25 lawsuit.



1 Q All right. Well, you know, if I'm  
2 representing a plaintiff in a civil case, right,  
3 you know, Jones v. Smith, I'm not a prosecutor, am  
4 I? I think -- you know, would you agree?

5 A A judge.

6 Q Yeah. Would you agree that a  
7 prosecutor is generally referred to someone who is  
8 bringing criminal charges against a defendant, like  
9 Sam Waterston, Law and Order, if you used to watch  
10 that show?

11 A I did not.

12 Q Okay.

13 A I don't -- you know, I don't know that  
14 much about --

15 Q Sure.

16 A I know specific things about specific  
17 laws, but I --

18 Q Okay.

19 A I'm sorry.

20 Q Have you ever heard the term  
21 "prosecutor," used, you know, interchangeably with,  
22 like, district attorney or assistant district  
23 attorney?

24 A No.

25 Q Okay. Let's -- I'll represent to

1 you -- Mr. Beier can, you know, give additional  
2 context if you want -- that when lawyers refer to a  
3 prosecutor, they're generally referring to someone  
4 who is employed by a -- you know, a local, state,  
5 or national government, and that they are -- they  
6 bring criminal cases against criminal defendants,  
7 as opposed to private lawyers, like Mr. Beier or  
8 myself, who may bring lawsuits seeking money, you  
9 know, on behalf of individuals, entities, or  
10 institutions. I think we -- I think we can operate  
11 on that -- on that definition.

12 MR. CRISS: Mr. Beier, is that fair?

13 A Okay.

14 MR. BEIER: You could ask her -- you  
15 could ask her to accept that. That's fine.

16 A I -- okay.

17 Q (BY MR. CRISS) Sure.

18 A Sure.

19 Q So understanding that I'm using  
20 prosecutor in that sense --

21 A Mm-hmm.

22 Q -- are you aware of any instances when  
23 Stratus was asked to provide materials either  
24 directly or through an intermediary?

25 A Mm-hmm.

1 Q For any prosecutor in Ecuador?

2 A Not that I can think of, no.

3 Q Okay. Dr. Maest, let me refer you to  
4 Exhibit 522. I think it should be in that first  
5 binder right in front of you.

6 A Okay.

7 Q Okay. And just us to make it sure  
8 you're looking at the right document, do you see  
9 StratusPV 0001689 on the bottom?

10 A Yes.

11 Q Okay. I'll represent to you this is a  
12 document that was produced to us by Mr. Beier's  
13 firm in response to the Perez Veiga subpoena, as  
14 opposed to the Chevron subpoena.

15 A Okay.

16 Q Okay. And do you see that it's an  
17 e-mail from Juan Pablo Saenz to Doug Beltman?

18 A Yes.

19 Q And I think -- I believe you testified  
20 earlier that Juan Pablo Saenz is sometimes referred  
21 to as Juampa?

22 A Right.

23 Q Correct?

24 A Yes.

25 Q Okay. Do you see that after the first

1 sentence, about asking how Mr. Beltman's flight  
2 was, Juan Pablo Saenz says, quote, "Yesterday I  
3 told you that I'd need a technical, objective  
4 explanation of why the TCLP method could not  
5 possibly give results above" -- "above certain  
6 number, but without any references to our  
7 litigation. Like I said, we need something  
8 relatively simple, considering the document is for  
9 the Fiscalia and we want them to understand it  
10 completely." And then the e-mail continues.

11 A Yes.

12 Q Dr. Maest, have you ever heard the term  
13 "fiscalia"?

14 A No.

15 Q Okay. Why don't you just turn to  
16 Exhibit 523. Should be the right -- the right --  
17 the next exhibit.

18 A Oh.

19 Q Do you see that Document Number 1685,  
20 do you see that the middle e-mail on that first  
21 page is an e-mail from Douglas Beltman to Juampa  
22 asking "What/who is Fiscalia"?

23 A Yes.

24 Q And then do you see that Juampa  
25 responds, "The," quote, "Fiscalia," closed quote,

1 "is our District Attorney's Office, and the Fiscal  
2 is the DA itself (sic)"?

3 A Yes.

4 Q Okay. So looking at 523, both that top  
5 e-mail and the e-mail at the bottom of the first  
6 page, which is also -- which is the same e-mail  
7 that we looked at on Page 522, do you see that Juan  
8 Pablo Saenz is saying that he needs a "technical,  
9 objective explanation of why the TCLP method could  
10 not give" -- "could not possibly give results above  
11 certain number, but without any references to our  
12 litigation. Like I said, we need something  
13 relatively simple, considering the document is for  
14 the Fiscalia." Do you see that?

15 A Yes.

16 Q And then with the context that  
17 Mr. Saenz provides, so this is a document to be  
18 provided to the district attorney's office?

19 A Yes.

20 Q Great. So you would -- would you agree  
21 that this -- what this e-mail exchange indicates is  
22 that Juan Pablo Saenz was asking Mr. Beltman for a  
23 document to provide to the district attorney's  
24 office?

25 MR. BEIER: Objection. Foundation.

1           You can answer.

2       A    I don't know that he was asking for a  
3 document. Wait. Hold on. I guess, more or less,  
4 that's what it says.

5       Q    (BY MR. CRISS) Okay. And if I refer  
6 you to Exhibit 525 --

7       A    Okay.

8       Q    -- do you see that this is an e-mail  
9 from Douglas Beltman dated November 14th, 2008,  
10 where he says, "Hey, Juampa, attached is a revised  
11 version of the details on the TCLP test." Then the  
12 e-mail continues. And if you turn the page, do you  
13 see that there is a two-page document entitled  
14 "Texaco's Use of the Toxicity Characteristic  
15 Leaching Procedure," parens, "(TCLP) Test to  
16 Certify Cleanup"?

17      A    Yes.

18      Q    Did you play any role in the  
19 preparation of that does every document beginning  
20 on StratusPV 1683?

21      A    I remember Mr. Beltman doing this. And  
22 I believe I reviewed it. Other than that, I don't  
23 recall if I -- what I had -- you know, what I  
24 specifically did in this. I don't recall.

25      Q    Okay. Do you recall when you reviewed

1 that document?

2 A No.

3 Q Okay. Let me refer you to Exhibit 521.

4 A Okay.

5 Q And do you see that in this e-mail,  
6 which is actually earlier than the e-mails we were  
7 just looking at -- it's dated November 12th, while  
8 the others are November 13th or later. Do you see  
9 that Mr. Beltman says, "Attached is a 2-page  
10 description of the TCLP test," and it attaches a  
11 different version of a fact sheet about the TCLP  
12 test?

13 A Yes.

14 Q Let me refer you -- do you see there  
15 are two little balloons in the right-hand margin of  
16 the document?

17 A Yes.

18 Q And they -- the comments are from  
19 a-1 -- the author is identified as "a," and then  
20 it's Comment 1, Comment 2?

21 A Yes.

22 Q Do you recognize those comments?

23 A I'm not -- do I recognize them? I -- I  
24 think they're familiar to me.

25 Q Sure. Do you believe that you provided

1 those comments?

2 A I don't recall.

3 Q Did you play any role in creating this  
4 sheet, this version of the -- the fact sheet?

5 A Same response as before. I -- my  
6 recollection is that I reviewed this, and that's --  
7 right now, I'm not sure if I played any role in  
8 actually creating it.

9 Q Is your recollection that you reviewed  
10 it in connection with the request from Juampa for a  
11 document to provide to the fiscalia, or was it some  
12 other context?

13 A I don't think I knew.

14 Q Okay. Looking at these documents now,  
15 does this refresh your recollection in any way  
16 about any other requests to Stratus to provide  
17 documents for any prosecutor in Ecuador, directly  
18 or indirectly?

19 MR. BEIER: Object to the form.

20 You can answer.

21 A No.

22 Q (BY MR. CRISS) Dr. Maest, if you could  
23 just remind me, your Ph.D., what subject is it in?

24 A Geochemistry and water resources.

25 Q Okay. And Mr. Beltman, his degrees,



1 what are they in?

2 A I don't recall. Doug has a master's.

3 Q Is -- do you know, is it in the same  
4 fields that your degrees are in?

5 A No.

6 Q Are you -- would you consider yourself  
7 to be the person at Stratus most knowledgeable  
8 about issues surrounding the TCLP test?

9 A I think Doug and I are probably --  
10 anyone else? Doug and I are probably the two at  
11 Stratus who know the most about leaching tests like  
12 this, the key leaching tests.

13 Q And, in fact, you've, you know, written  
14 position papers --

15 A Mm-hmm.

16 Q -- addressing issues including the TCLP  
17 test, you know, several years before this November  
18 2008 e-mail exchange. Isn't that right?

19 A Yes.

20 Q Okay. Do you -- do you believe that  
21 Mr. Beltman would have been qualified to provide  
22 information about the TCLP test without your input  
23 or involvement?

24 A Yes, definitely.

25 Q What is the basis for your belief?

1       A   Well, he used to work for EPA on  
2 contaminated sites. He also has about 20 years of  
3 experience, you know, working on contaminated sites  
4 where some of them use the TCLP test to determine  
5 whether or not a waste is hazardous. That's the  
6 purpose of it.

7       Q   Okay. If I represented to you that  
8 Mr. Beltman has a master's in land resources and a  
9 bachelor's in chemistry, do you have any reason to  
10 believe that that's incorrect?

11      A   That sounds right.

12      Q   Okay. So that -- does that refresh  
13 your recollection about what his degrees are in?

14      A   I thought there was a chemistry in  
15 there somewhere, so . . . .

16      Q   I think I said a bachelor's in  
17 chemistry.

18      A   Yes, you did.

19      Q   Okay. While you -- while you have, you  
20 know -- you have, you know, more advanced degrees  
21 than Mr. Beltman and also, would you agree, degrees  
22 that are more directly pertinent to the, you know,  
23 issues surrounding the TCLP test?

24           MR. BEIER: Object to the form.

25           You can answer.

1       A    I don't think that's necessarily true.

2       Q    (BY MR. CRISS) Why not?

3       A    Because -- well, I know for sure that I  
4 never encountered anything related to the TCLP in  
5 my education. I don't know if Mr. Beltman did or  
6 not. But -- and each of us has many years of  
7 experience since then. And both of us have been  
8 involved in evaluating contaminated sites that use  
9 tests like this.

10      Q    Ms. Maest, I'm going to ask the court  
11 reporter to mark as Exhibit 564 a document bearing  
12 Production Numbers STRATUS-NATIVE 128131 through  
13 136.

14           (Deposition Exhibit 564 was marked.)

15           THE DEPONENT: Thank you.

16      Q    (BY MR. CRISS) Ms. Maest, do you  
17 recognize this document?

18      A    Yes.

19      Q    What is this document?

20      A    These appear to be my notes from the  
21 meeting that we were discussing earlier in Quito.

22      Q    And that would be, as indicated in the  
23 top left-hand corner, a March 3rd, 2007 meeting,  
24 correct?

25      A    Yes.

1 Q And that would be the meeting of --  
2 where there were outtakes -- not the lunch, but the  
3 meeting in a -- sort of a conference room depicted  
4 in the outtakes that you viewed when Mr. Dans was  
5 questioning you, correct?

6 A Yes.

7 Q Okay. And the notes are titled "Plan  
8 para el examen pericial global," correct?

9 A Yes.

10 Q What is your understanding of that  
11 phrase in English?

12 A It's basically Plan for the -- you  
13 know, the global report --

14 Q Okay.

15 A -- Peritaje Global.

16 Q What was your purpose in taking these  
17 notes?

18 A Purpose. Just to, you know, summarize  
19 the important information that was given on that  
20 day.

21 Q Was -- did you at any point take these  
22 notes and, you know, use them to form the basis of  
23 a -- you know, a typewritten or computer document?

24 A I don't believe so.

25 Q Did you ever provide copies of these

1 notes to anybody else working on the Ecuador  
2 project?

3 A Not that I recall.

4 Q Did you ever use these notes for  
5 purposes of providing information to individuals  
6 who weren't present at the meeting, but who  
7 might -- you know, who would be working on the  
8 project?

9 A Not that I recall.

10 Q Did you ever have a conference call or  
11 in-person meeting where you described the March  
12 3rd, 2007 meeting to another individual?

13 A Not that I recall.

14 Q Okay. Did you use these notes for any  
15 purpose after taking them?

16 A I don't believe so.

17 Q Okay. So your testimony is, is you  
18 took the notes, put them away. Did -- and did you  
19 ever have occasion to refer to them prior to your  
20 efforts in collecting documents in response to the  
21 subpoenas served by Chevron and our clients?

22 A I don't --

23 MR. BEIER: Object to the form.

24 THE DEPONENT: I'm sorry.

25 MR. BEIER: You can answer. Excuse me.

1 A I don't recall looking at them --

2 Q (BY MR. CRISS) Okay.

3 A -- in between those times, no.

4 Q Do you have any reason to believe that

5 these notes are not a accurate summary of the

6 meeting on March 3rd, 2007, in Quito?

7 MR. BEIER: Object to the form.

8 A Well, it's -- I don't know if it's an

9 accurate summary of everything, but it's my notes

10 from that day. And --

11 Q (BY MR. CRISS) Is your practice to

12 record -- when you're at a meeting, to record in

13 notes the points that you think are most

14 significant, you know -- you know, to take down?

15 A Most significant for me, but I don't

16 know if for everybody. Sure.

17 Q Sure. Fair enough.

18 A Mm-hmm.

19 Q And I understand, you're not a court

20 reporter, like the woman to my right here. But

21 it's your -- your practice would be to, as you're

22 at a meeting, to write down the things that you --

23 that are most important to you potentially for your

24 work in your notes?

25 A Generally, yes.

1 Q Okay. Let me refer you to Page 2 of  
2 this document, Bates Number 132.

3 A Okay.

4 Q Do you see it is the -- do you see the  
5 line that -- the first line that has a five-pointed  
6 star next to it?

7 A Yes.

8 Q Could you please read that out -- that  
9 bullet out loud.

10 A "Only plaintiffs are doing Peritaje  
11 Global, not Chevron."

12 Q Okay. Do you recall what prompted you  
13 to write that down in your notes from the March  
14 3rd, 2007 meeting?

15 A Someone clarified that for me during  
16 the meeting, and I thought that was important, so I  
17 wrote it down.

18 Q Was --

19 A And I didn't know that beforehand.

20 Q Was that clarification in response to  
21 your statement, "But not Chevron," as depicted in  
22 the outtake Mr. Dans showed you?

23 A I don't recall.

24 Q Do you -- what do you recall about the  
25 input or involvement, if any, of Chevron in the

1 Peritaje Global, as discussed in the March 3rd,  
2 2007 meeting?

3 A My recollection is that Chevron was  
4 offered to do -- the judge offered Chevron to do  
5 the Perita- -- a Peritaje Global, and they  
6 declined.

7 Q Let me ask you to turn to the next  
8 page, which you've numbered "3." It's Bates Number  
9 133 at the bottom. Do you see two lines up from  
10 Olga Lucia's name?

11 A Yes.

12 Q And do you see where it says,  
13 "Remediation was a fraud"?

14 A Yes.

15 Q Okay. Let me ask you, refer down -- do  
16 you see where it says "Total samples," with a  
17 squiggle?

18 A Yes.

19 Q Then there's a line which refers to  
20 "Water at stations & wells. Sites" -- I'm sorry.  
21 What does that say after that? "Water at stations  
22 & wells."

23 A "Sites with contaminated water at  
24 stations and wells."

25 Q Oh, I see.



1 A Yeah.

2 Q So that's an insert there with a --

3 A Yes.

4 Q -- little caret? And what does the --

5 what does the next portion of the note say?

6 A "Sites remediated by Texaco - fraud  
7 because not clean."

8 Q Okay. So consistent with your  
9 testimony that your practice in taking notes is to  
10 write down the points that are most important to  
11 your work, you wrote down on Page 3 of these notes,  
12 quote, "Remediation was a fraud," and "Sites  
13 remediated by Texaco - fraud because not clean,"  
14 correct?

15 A Yes.

16 Q Dr. Maest, let me ask you to refer to  
17 Exhibit 508, please.

18 A Okay.

19 Q Okay. And Dr. Maest, this previously  
20 marked exhibit, I'll -- I'll just first represent  
21 to you what we have here is a English translation  
22 of the Spanish document that follows. And you'll  
23 see that the Spanish version is signed. Do you see  
24 that on the last page of the exhibit?

25 A Yes.

1 Q And do you recognize the name Richard  
2 Cabrera Vega, the top right signature block?

3 A Yes.

4 Q Do you have an understanding of what  
5 the word "comparaciente" means?

6 A No.

7 Q Okay.

8 A No, I don't.

9 Q Okay. Let me ask you to refer to the  
10 English version of the document. Although, if you  
11 have any questions about the translation, of  
12 course, you're welcome to refer to the Spanish one,  
13 as well.

14 Do you see that the English version  
15 indicates that this document was on the letterhead  
16 of the Office of the Prosecutor of the Republic,  
17 Office of the Prosecutor General, and if you look  
18 at the Spanish version it's the Fiscalía De La  
19 Republica, Fiscalía General?

20 A Yes. Well, I'm sorry, which --

21 Q Well --

22 A I see that's on the Spanish version.

23 Q On the Spanish version. And the  
24 English version says Office of the Prosecutor of  
25 the Republic?

1 A Yes.

2 Q Because that's a translation of the --

3 A Okay.

4 Q And you'll recognize that term

5 "fiscalia," right, that -- we were looking at

6 documents referring to a fiscalia in the e-mails

7 between Juampa and Mr. Beltman, right?

8 (Mr. Dans left the deposition room.)

9 MR. BEIER: Object to the form,  
10 foundation.

11 You can answer.

12 Q (BY MR. CRISS) If you'd like to  
13 refer --

14 A I'm sorry. I was just -- it's  
15 fiscalia. But anyway . . . .

16 Q I'm sorry. Fiscalia.

17 A Could you repeat what you were saying.

18 Q Oh, sure. Do you recall that Juampa,  
19 in e-mails we were looking at a little while ago,  
20 such as Exhibit 523, explained that The 'Fiscalia'  
21 is our District Attorney's Office, and the Fiscal  
22 is the DA himself?

23 A Yes.

24 Q Okay. I'm going to represent to you,  
25 Dr. Maest, that this is a document that has been

1 submitted in the criminal case pending against  
2 Mr. Dans's client and my client in Ecuador, okay?  
3 A Okay.  
4 Q And let me -- let me refer you to the  
5 second page of the English translation.  
6 A Okay.  
7 Q Do you see where there's a bold Number  
8 1 -- well, first, do you see that -- as you'll see,  
9 what this document says is that "The Acting  
10 Prosecutor General intervened" and asked  
11 Mr. Cabrera a couple of questions. Do you see that  
12 in the document?  
13 (Mr. Dans reentered the deposition  
14 room.)  
15 A I see that that's what it says.  
16 Q (BY MR. CRISS) Yeah.  
17 A Okay.  
18 Q Yeah. And if you have any doubt that  
19 it's -- the question's directed to Mr. Cabrera, if  
20 you just look at the third line of either the --  
21 well, it's the third line of the English  
22 translation or the fourth line of the Spanish  
23 version, you see Richard Stalin Cabrera Veiga in  
24 bold.  
25 A Well, I see that there, yes.

1 Q Yeah.

2 A I don't know for sure that that's --  
3 but, then, this is much later.

4 Q Sure.

5 A So I don't know.

6 Q I can -- you know, Dr. Maest, because  
7 time is very short, I'll represent to you that if  
8 you read the full document, that is the case. But  
9 let me ask you, I take it you've submitted  
10 affidavits or declarations in various court cases  
11 around the country?

12 A Yes.

13 Q And I presume you reviewed those  
14 declarations before signing them?

15 A Yes.

16 Q And do you recall that, generally  
17 speaking, how a declaration or affidavit is set up  
18 is that it would have Ann Maest or Ann Maest, Ph.D.  
19 at the top? Then there would be some paragraphs of  
20 text. Then there would be a line for you to  
21 sign --

22 A Mm-hmm.

23 Q -- on the bottom?

24 A Yes. Mm-hmm.

25 Q And do you generally recognize that

1 this appears to be in, although not in exactly the  
2 same format as a United States declaration or  
3 affidavit, it has some similarities to declarations  
4 or affidavits you might have signed in U.S. cases?

5 MR. BEIER: Object to the form.

6 You can answer it.

7 A This doesn't really look like a  
8 declaration.

9 Q (BY MR. CRISS) No. Well, but do you  
10 see that it's signed by -- well, let me point you  
11 this way. Do you see that there are three  
12 signature blocks on either the English translation  
13 or the U.S. or the Spanish version?

14 A Yes.

15 Q And one of them is an "Acting  
16 Prosecutor General," right, the "Fiscal General  
17 Subrogante"?

18 A Yes.

19 Q One is Mr. Cabrera?

20 A Okay.

21 Q And one is an individual identified as  
22 "Attorney." "Samuel Valarezo Cornejo," correct?

23 A Yes.

24 Q "Abogado"? So there's one person who's  
25 identified here as a witness, right? It's

1 Mr. Cabrera. Do you see any other person  
2 identified as a witness in this -- or declarant in  
3 this document?

4 MR. BEIER: Object to the form.

5 A I see what it says on the signature.

6 Q (BY MR. CRISS) Yeah.

7 A I really don't know what is going on in  
8 the body of the document, though.

9 Q Okay. Well, you know what? Why don't  
10 we, just in case -- so there's no ambiguity here.  
11 Look at the English translation. Do you see it  
12 says "Richard Stalin Cabrera," in bold, right?

13 A Okay. Yes.

14 Q Then it gives his identity card number,  
15 his age, his marital status, his address, and then  
16 it says, quote, "To give his free and voluntary  
17 account about the case under investigation," dot,  
18 dot, dot, "he stated," colon, and then there's some  
19 language in quotes. Do you see that?

20 A Yes.

21 Q Does that now, you know, indicate to  
22 you that in fact that this -- what this document  
23 presents is testimony or information from Richard  
24 Stalin Cabrera?

25 MR. BEIER: Objection. Foundation.

1       A   Wait a minute. Well, it's certainly  
2 not like a regular declaration --

3       Q   (BY MR. CRISS) Yeah.

4       A   -- or affidavit that you would see in  
5 the United States. And it seems that it's just  
6 kind of the first page, and then there are some  
7 questions.

8       Q   Right. But -- and just be clear. Do  
9 you understand -- let me represent to you, because  
10 the time is very short, that these are questions  
11 posed by the acting prosecutor general to  
12 Mr. Cabrera. Do you see anything in the document  
13 that makes you think that they're questions posed  
14 to anyone else?

15      A   No.

16      Q   Okay. Would you agree that -- I  
17 understand your testimony about to whom Stratus  
18 delivered work product -- that Stratus, directly or  
19 indirectly, provided assistance to Mr. Cabrera in  
20 his role as the global expert, or Perito, in the  
21 Lagro Agrio litigation?

22           MR. BEIER: Object to the form.

23      A   You know, we provided materials to  
24 Mr. Donziger, who gave them to the plaintiffs'  
25 attorneys.



1 Q (BY MR. CRISS) Right.

2 A And then he gave them to Mr. Cabrera  
3 for his consideration.

4 Q Right.

5 A So . . . .

6 Q I'm not trying -- and I'm not trying to  
7 argue with that, but I'm -- at least for these  
8 purposes. What I'm just trying to get you to agree  
9 to is that the reason for the sequence of  
10 transmittals that you just testified to was, the  
11 end result, to provide assistance to Mr. Cabrera in  
12 his role as the global expert in this litigation?

13 MR. BEIER: Object to form.

14 Q (BY MR. CRISS) Is that -- is that  
15 fair?

16 MR. BEIER: Sorry. Objection. Form.  
17 Foundation.

18 A I don't think that's fair. Our role --

19 Q (BY MR. CRISS) Yeah.

20 A -- was to provide assistance to the  
21 Frente.

22 Q And what was the purpose of the Frente  
23 providing materials to Mr. Cabrera?

24 MR. BEIER: Objection. Foundation.

25 A I don't know.

1 Q (BY MR. CRISS) Okay. Do you recall a  
2 discussion at the March 3rd, 2007 meeting regarding  
3 how the plaintiffs' team could provide assistance  
4 to who the global -- to the global expert once he  
5 was appointed?

6 A Yes.

7 Q Okay. And that global expert  
8 ultimately became Mr. Cabrera, right?

9 A Yes.

10 Q Okay. So, putting those two  
11 together --

12 A Mm-hmm.

13 Q -- and I'm not going -- I'm not trying  
14 to quibble with your testimony about who you  
15 provided written materials who and who -- that it  
16 was provided and so forth and so on -- would you  
17 agree that ultimate -- that the ultimate intended  
18 result of Stratus preparing certain documents --

19 A Mm-hmm.

20 Q -- was to provide assistance to  
21 Mr. Cabrera as he prepared the Cabrera report?

22 MR. BEIER: Objection. Form.  
23 Foundation.

24 You can answer.

25 A I mean, the -- you know, there's the

1 chain, you know. But our client was kind of the  
2 first step, the first and the second step.

3 (Ms. Grieve left the deposition room.)

4 Q (BY MR. CRISS) Okay. Understood. But  
5 I'm just trying to get you to agree that,  
6 recognizing that you have -- there's that chain  
7 there, that's your testimony, that the ultimate end  
8 result would be to provide assistance to  
9 Mr. Cabrera, you know, in preparation of the report  
10 that he would be filing with the court.

11 MR. BEIER: Same objections.

12 A That's ultimately what our -- the  
13 materials that we prepared were used for through  
14 that chain.

15 Q (BY MR. CRISS) To -- right, through  
16 that chain --

17 A Mm-hmm.

18 Q -- recognizing your testimony, the  
19 ultimate end result of it was -- or purpose was to  
20 provide assistance to Mr. Cabrera in discharging  
21 his duties as the global expert?

22 MR. BEIER: Same objections. Also  
23 asked and answered.

24 Q (BY MR. CRISS) Yeah.

25 A Yeah. I think I've asked -- I've

1 answered that now --  
2 Q Okay.  
3 A -- four different ways.  
4 Q Let me ask you to look at the second  
5 page of the English translation. Do you see it  
6 says, "The Acting Prosecutor General intervened at  
7 this point in his account and went on to ask the  
8 following questions: Please give the names of the  
9 professionals who assisted you with your  
10 assessment"?  
11 A Yes.  
12 Q Could you please read that paragraph up  
13 to the Number 2, which is a different question.  
14 A From A to 2?  
15 Q Yes, that's right.  
16 A Okay. "For the physical component" --  
17 Q I'm sorry, Dr. Maest. You don't have  
18 to read it out loud.  
19 A Oh. Oh.  
20 Q I just want you just to read it --  
21 A Okay.  
22 Q -- so you're prepared to answer my  
23 question.  
24 A Okay. Okay.  
25 Q Okay. Do you see that he identifies an

1 individual -- individuals named Munoz, Naranjo,  
2 Gallo, Ceron, Beristein -- and I think that's it.  
3 Is that correct?

4 A Right. And people who worked for them.

5 Q And people who worked -- and people who  
6 worked for them.

7 A Mm-hmm.

8 Q But Mr. Cabrera does not identify any  
9 individual from Stratus in this answer, correct?

10 A That's right.

11 Q Are you -- are you familiar with any of  
12 the individuals that Mr. Cabrera did identify in  
13 his response?

14 A No.

15 Q Are you aware of work that any of these  
16 individuals performed in any way in connection with  
17 the Cabrera report?

18 A I'm not certainly familiar with it.

19 Q Yeah.

20 A But there are certainly topics that are  
21 covered here that are in his report.

22 Q Understood. Do you see that Question 2  
23 is, "Please summarize the conclusions you reached  
24 in your expertise, specifically in regard to the  
25 pits of the oil wells that you indicate you

1 visited"?

2 MR. BEIER: Excuse me.

3 A Okay.

4 Q (BY MR. CRISS) And do you see that

5 what the substance of Mr. Cabrera's answer to

6 Number 2 is, I can't give you a meaningful opinion

7 because he's under oath in the Court of Sucumbios,

8 but he refers the acting prosecutor general to

9 Attachment H?

10 A Yes.

11 Q And your testimony near the end of

12 Mr. Dans's questioning was that Attachment H was

13 prepared by the Quito office, correct?

14 A I --

15 MR. BEIER: Object to the form.

16 THE DEPONENT: Yeah.

17 A That's my understanding.

18 Q (BY MR. CRISS) And you identified, I

19 believe, Olga Lucia and Tania as people who played

20 a role in the preparation of Annex H; is that

21 correct?

22 A I believe so.

23 Q Okay. Did you play any role in the

24 preparation of Annex H?

25 A I remember seeing versions of it, but I

1 don't recall having any involvement in it.

2 MR. CRISS: Okay. I'm going to ask the  
3 court reporter to mark as Exhibit 565 a document --  
4 it does not bear Bates numbers, but I will  
5 represent to you that this has been produced by --  
6 I believe it was -- I believe it is Stratus, in  
7 response to the Chevron subpoena.

8 (Deposition Exhibit 565 was marked.)

9 Q (BY MR. CRISS) Dr. Maest, do you  
10 recognize this document?

11 A I recognize parts of it, yes.

12 Q Okay. And are you familiar with the  
13 Track Changes feature of Microsoft Word where you  
14 revise a document?

15 A Yes.

16 Q And, in fact, this is what we have  
17 here, right? This is a Track Changes edit. And if  
18 you look at the -- you know, the last two thirds of  
19 the document, what you have here are indications of  
20 revisions that you, Ann Maest, made on February  
21 29th, 2008, correct?

22 A Yes. I see that.

23 Q So these -- this would be -- do you  
24 have an understanding of what purpose this document  
25 was used for?

1 A I don't recall.

2 Q Okay. Let me ask you to look at  
3 Exhibit 507. So that's -- once again, this is a  
4 certified translation of Appendix H to the Cabrera  
5 report.

6 A Okay.

7 Q If you could please turn to Page 6 of  
8 36. It's Section 5.

9 A Okay.

10 Q I'm not asking you to do a word-by-word  
11 comparison, but do you recognize any similarities  
12 between Exhibit 565 and Page 6 of Exhibit 507?

13 MR. BEIER: Object to the form.

14 A There are certainly some similarities.

15 Q (BY MR. CRISS) And would those  
16 similarities include that the first paragraph of  
17 Section 5 and the first paragraph of this document  
18 refer to a 1992 environmental audit conducted by  
19 Fugro-McClelland?

20 A Yes.

21 Q And that same paragraph refers to a  
22 1994 Memorandum of Understanding in both documents?

23 A Yes.

24 Q And then the next paragraph, in both  
25 Page 6 of Exhibit 507 and the first page of Exhibit



1 565, refers to a Statement of -- excuse me -- a  
2 Scope of Environmental Remedial (sic) Work,  
3 abbreviated as S-O-W, and Remedial Action Plan,  
4 abbreviated as R-A-P?

5 A Yes.

6 Q Okay. Does this -- does reviewing this  
7 document in conjunction with Exhibit 507, the  
8 portions we just reviewed, does that refresh your  
9 recollection that you contributed to the drafting  
10 of Annex H?

11 MR. BEIER: Object to form.

12 A I see that there are similarities, but  
13 I don't recall doing this.

14 MR. BEIER: Object.

15 Q (BY MR. CRISS) Okay. Do you think  
16 that the similarities are a coincidence?

17 MR. BEIER: Object to the form.

18 A I don't know.

19 Q (BY MR. CRISS) Okay. You can put  
20 those --

21 A I think there are lots of differences,  
22 too.

23 Q Sure. Well, you -- you see that the  
24 edits you made were on February 29th, 2008, right?  
25 That's what Exhibit 565 indicates?

1 A Yes.

2 Q And is it fair to say that there was a  
3 lot of activity in connection with Stratus's work  
4 on the Ecuador project in March 2008?

5 A Yes.

6 Q Fair to say that documents were, you  
7 know, revised many times, you know, in the course  
8 of that month of activity?

9 MR. BEIER: Object to the form.

10 A Documents of what kind --

11 Q (BY MR. CRISS) You said you were  
12 work- -- Stratus was working on various documents  
13 to be transmitted to Mr. Donziger, right?

14 A Yes.

15 Q Did those documents undergo a large  
16 number of revisions in March 2008?

17 MR. BEIER: Object to the form.

18 A I don't recall exactly when they --

19 Q (BY MR. CRISS) Okay.

20 A But -- there -- there were a number of  
21 activities that we were working on at the time.

22 Q Okay. Dr. Maest, because it's  
23 important, I want to go through a few sort of basic  
24 questions about criminal proceedings, just to make  
25 sure that Mr. Dans covered all the key issues.

1 Did you at any -- when did you first  
2 learn that there was a criminal investigation, as  
3 opposed to a pending criminal case or prosecution,  
4 relating to TexPet's remediation in the concession  
5 area?

6 A A criminal invest- -- I'm not sure I  
7 know the distinctions --

8 Q Sure.

9 A -- among all those terms.

10 Q Well, I'm using "criminal  
11 investigation" to refer to a process that occurs  
12 before the formal filing of charges.

13 A Okay.

14 Q Were you aware of a criminal  
15 investigation relating to TexPet's remediation in  
16 the concession area?

17 A Apparently, I was, in two -- I guess  
18 that's what it would be called, a criminal  
19 investigation. I'm not really sure.

20 Q Okay.

21 A But that was mentioned in 2006.

22 Q Mentioned in 2006.

23 A (Deponent nodded.)

24 Q And at any point did anyone discuss  
25 with you how a criminal investigation or actual

1 criminal case could influence the civil case  
2 brought by the Lagro Agrio plaintiffs against  
3 Chevron?

4 A Not that I recall.

5 Q Did anyone ever indicate to you that a  
6 criminal prosecution of individuals affiliated with  
7 Chevron could be helpful to the criminal -- excuse  
8 me -- to the civil Lagro Agrio case?

9 A I don't recall that specifically, no.

10 MR. CRISS: I'm going to ask the court  
11 reporter to mark as Exhibit 566 a document  
12 previously marked as Exhibit 89 -- or should we --  
13 should we just use the 89 number?

14 MR. DANS: Whatever you want.

15 MR. SABOVICH: Whatever you want.

16 MR. CRISS: Okay. Let's have it  
17 numbered 566. It's a document bearing production  
18 Numbers KAMP-NATIVE 001840 through 42.  
19 (Deposition Exhibit 566 was marked.)

20 Q (BY MR. CRISS) Dr. Maest, do you  
21 recognize that this is an e-mail from Steven  
22 Donziger to Bill Powers, you, Mark Quarles, and an  
23 individual bepduck@att.net?

24 A Yes.

25 Q Do you know, that last e-mail address I

1 read to you, is that the e-mail address of Dick  
2 Kamp?

3 A Yes, it is.

4 Q Okay. And you see that the subject  
5 line is "important Ecuador development"?

6 A Yes.

7 Q And do you see that Mr. Donziger is  
8 forwarding a press release or news article -- I  
9 believe, actually, a press release. And do you see  
10 that the names above the headline of the press  
11 release include Luis Yanza with a telephone number?

12 A Yes.

13 Q Did you see that Mr. Donziger says,  
14 "Friends, the Attorney General of Ecuador is now  
15 suing Chevron for fraud on the remediation. We  
16 have been pushing this for over a year, we finally  
17 did it. This is huge, huge. Chevron has totally  
18 lost the State of Ecuador as an ally. This has  
19 never happened before. Should help us hugely." Do  
20 you see that?

21 A Yes.

22 Q Do you recall receiving this e-mail?

23 A No.

24 Q What -- sitting here today, what is  
25 your understanding of what Mr. Donziger meant by,

1 quote, "Should help us hugely"?

2 MR. BEIER: Objection. Foundation.

3 You can answer.

4 A I -- I don't know. I just never

5 focused on this sort of thing.

6 Q (BY MR. CRISS) Do you recall

7 Mr. Donziger ever saying to you that a criminal

8 filing or a development in a criminal case could be

9 helpful in the Lagro Agrio litigation?

10 (Ms. Grieve reentered the deposition

11 room.)

12 A No, I don't recall --

13 Q (BY MR. CRISS) Okay.

14 A -- him saying that.

15 Q You testified earlier, I believe, that

16 you had reviewed a report by the controller general

17 of Ecuador?

18 A Yes.

19 Q Is that correct?

20 A Yes.

21 Q Who provided you with that report?

22 A I got it in the Quito office from their

23 files, I believe.

24 Q What was your purpose in reviewing that

25 report?

1       A    It had concentrations of petroleum  
2 contaminants in soil.

3       Q    Did you have any other purpose in  
4 reviewing it?

5       A    Well, the purpose was to gather more  
6 data on contaminant concentrations in pits and  
7 other areas in the concession.

8       Q    Okay. Were you aware that the criminal  
9 case pending against Mr. Dans's client and my  
10 client had been closed and then reopened?

11       A    I just learned that today. I mean, I  
12 don't -- as I said, I don't -- I don't really focus  
13 on the legal issues.

14       Q    And when you say you learned it today,  
15 are you referring to learning it through a -- the  
16 process of questions and answers in the deposition  
17 or something else?

18           MR. BEIER: I'm just going to caution  
19 the witness not to disclose our consultation. But  
20 you can certainly discuss what your understanding  
21 is from today.

22       A    Sorry. Could you ask that again, or --

23       Q    (BY MR. CRISS) Sure.

24       A    -- rephrase it?

25       Q    When you say you learned it today, the

1 fact that the criminal case had been closed and  
2 then reopened, are you referring to learning it  
3 through the process of questions and answers in the  
4 deposition or something else?

5 A Both.

6 Q Okay. And is the other element -- I'm  
7 not asking you for substance. Is it communication  
8 with Counsel?

9 MR. BEIER: You can answer yes or no.

10 A Yes.

11 Q (BY MR. CRISS) Okay. That is fine,  
12 Dr. Maest.

13 Could I ask you to look at Exhibit 527.

14 A Oh. Okay.

15 Q Dr. Maest, I'm going to represent to  
16 you that this is -- that this is a document filed  
17 in the Ministerio Fiscal General. Do you see that  
18 at the top of the page there?

19 A Yes.

20 Q And then there's a certified English  
21 translation of the document. And what this  
22 document is -- you can see it's dated March 31st,  
23 2008, top right-hand corner. See that?

24 A Yes.

25 Q But actually, the document has a sort



1 of a date line, like you might see in a newspaper  
2 article, in the long paragraph, "25 de  
3 Marzo...2008," March 25th, 2008. Do you see that?  
4 Quito --

5 A Oh, okay.

6 Q -- March 25th, 2008. Or "Quito, 25 de  
7 Marzo...2008"?

8 A Okay. Yes.

9 Q Okay. As I said, this is a document  
10 pursuant to which the criminal case against our  
11 clients was reopened.

12 A Okay.

13 Q And if you -- do you see my client's  
14 name, Ricardo Reis Veiga, and Mr. Dans's client's  
15 name, Rodrigo Perez Pallares?

16 A Yes.

17 Q Okay. Do you see in the Spanish  
18 version where it says "Tercero" in bold where in  
19 the English version it says "3," the Number 3 in  
20 bold?

21 A Yes.

22 Q And if look at the English version, do  
23 you see that right before that it says that the  
24 case has, quote -- has, quote, "changed in light of  
25 new elements," closed quote, and then, quote, "I

1 therefore reopen the investigation," closed quote?

2 Do you see that in English?

3 A Yes.

4 Q There's a reference to new elements?

5 A Yes. Mm-hmm.

6 Q Or in of Spanish, there's a reference  
7 to "nuevos elementos." Do you see that? It's the  
8 line right above Tercero?

9 A Yes.

10 Q Do you know what nuevos elementos or  
11 new elements might have existed to justify the  
12 reopening of the criminal case in late March 2008?

13 MR. BEIER: Objection. Foundation.

14 You can answer.

15 A I don't know.

16 Q (BY MR. CRISS) Okay. Do you recall  
17 what the deadline was for the submission of the  
18 Cabrera report to the Lagro Agrio court?

19 A I think the deadline was the 24th of  
20 March, 2008. But then it got moved to the 1st of  
21 April.

22 Q Yeah. So is it fair to say that for a  
23 period of time, Stratus was operating under the  
24 assumption that there was a March 24th deadline,  
25 ultimate submission of April 1st, 2008?

1 A Yes.

2 MR. BEIER: Object to the form.

3 A Yeah.

4 Q (BY MR. CRISS) Do you believe that it  
5 is possible that Mr. Cabrera's report was the  
6 nuevos elementos or new elements cited in Exhibit  
7 527?

8 MR. BEIER: Objection. Form,  
9 foundation. Calls for speculation.

10 You can answer.

11 A I don't know. It doesn't mention that  
12 here at all.

13 Q (BY MR. CRISS) In fact, it doesn't  
14 identify what the nuevos elementos are at all --

15 A Right.

16 Q -- right?

17 Are you aware of any other significant  
18 development relating to TexPet's remediation in the  
19 concession area in Ecuador in late March 2008,  
20 other than the submission of the Cabrera report to  
21 the Lagro Agrio court?

22 (Ms. Grieve left the deposition room.)

23 MR. BEIER: Object to the form.

24 A No. But I probably wouldn't be aware  
25 of that.

1 Q (BY MR. CRISS) Were you down in  
2 Ecuador in late March 2008?

3 A I was there in mid-March of 2008.

4 Q To the best of your recollection, once  
5 again, remembering that the deadline for Stratus's  
6 work was for a while March -- or the deadline was  
7 March 24th, ended up being April 1st, do you recall  
8 how -- you know, when you returned to the United  
9 States?

10 MR. BEIER: Object to the form.

11 A Did you say the deadline for submission  
12 of --

13 Q (BY MR. CRISS) Yeah.

14 A -- Stratus's --

15 Q You know what, I'll object myself.  
16 I'll withdraw the question.

17 A Okay.

18 Q Did you ever discuss with Luis Yanza or  
19 Pablo Fajardo the possibility that a criminal  
20 investigation or criminal case could be helpful in  
21 the Lagro Agrio litigation?

22 A Not that I recall.

23 Q And let me expand the question which  
24 referred to a discussion with, any sort of  
25 communication with them on that subject?

1       A    I don't recall any.

2       Q    Did you discuss with any lawyer for the  
3   Lagro Agrio plaintiffs or any representative of the  
4   Lagro Agrio plaintiffs any issue relating to the  
5   criminal investigation or criminal case?

6       A    I don't recall doing that, no.

7       Q    Did you ever -- have you ever discussed  
8   with Steven Donziger any issue relating to Ricardo  
9   Reis Veiga?

10      A    Well, as I mentioned, he was involved  
11   in the settlement, so -- I don't know. I don't  
12   really focus on that -- this sort of a thing, so I  
13   don't recall any discussions with Mr. Donziger  
14   specifically about Mr. Reis Veiga.

15      Q    How about more generally about  
16   individuals who might have signed the documents  
17   governing the -- TexPet's remediation in the  
18   concession area?

19      A    Yes.

20      Q    What did those discussions consist of?

21      A    I just remember that we talked about  
22   the fact that there was a signature -- that, you  
23   know, the remediation had been signed off on by  
24   different parties.

25      Q    Did Mr. Donziger say anything about

1 that fact?

2 A I don't recall.

3 Q Same question for Rodrigo Perez

4 Pallares. Any discussion with Mr. Donziger about  
5 him?

6 A Not that I recall.

7 Q Do you recall any such discussions  
8 about Mr. Veiga with Pablo Fajardo or Luis Yanza?

9 A I don't recall any, no.

10 Q Have you -- are you aware that various  
11 United States government offices have contacted  
12 Stratus regarding allegations made against Stratus  
13 in connection with its work on the Ecuador project?

14 A Various what?

15 Q United States government offices.

16 A I'm sorry. Could you say that again or  
17 re- --

18 Q Sure. Are you aware that various  
19 United States government offices have contacted  
20 Stratus regarding allegations made against  
21 Stratus --

22 A Oh.

23 Q -- in connection with its work on the  
24 Ecuador project.

25 (Ms. Grieve reentered the deposition

1 room.)

2 A I know that there's been some contact  
3 from outsiders to Stratus about this, but I don't  
4 know who. I don't know what offices or anything.

5 Q (BY MR. CRISS) How did you obtain that  
6 understanding?

7 A Mr. Beltman told -- told me about that.

8 Q Okay. What did Mr. Beltman say about  
9 those allegations?

10 A About the allegations?

11 Q Yes.

12 A That they weren't true.

13 Q Okay. Did you have those discussions  
14 with -- you know, discussions on that topic with  
15 any other individual, outside of Counsel?

16 A And Mr. Beltman?

17 Q And Mr. Beltman, yes.

18 A You know, I might have talked to some  
19 people in -- at Stratus about it generally, but  
20 nothing substantive.

21 Q What was said in that -- what was said  
22 in that discussion?

23 A You know, we talked about how to -- you  
24 know, if clients asked about this, you know,  
25 what -- what are we to say to them, so . . . .

1 Q Okay.

2 MR. CRISS: You know, I think we  
3 have -- pursuant to the agreement that Mr. Beier  
4 and I reached before I started my questioning, I  
5 think I have about 15 minutes left. Let me -- why  
6 don't we take a break so -- and then we'll resume  
7 there. Try to make it as brief a break as  
8 possible.

9 MR. BEIER: Is that all right?

10 VIDEOGRAPHER: The time is 6:39. We  
11 are going off the record.

12 (A recess was taken.)

13 VIDEOGRAPHER: The time is 6:51. We  
14 are back on the record.

15 Q (BY MR. CRISS) Okay. Dr. Maest, you  
16 understand you're still under oath?

17 A Yes.

18 Q And did you have an opportunity to  
19 confer with counsel during the break?

20 A Yes.

21 Q Do you have any changes to any of your  
22 prior testimony from today?

23 A No.

24 Q Okay. Dr. Maest, do you recall  
25 testifying, when Mr. Dans was questioning you,



1 about graphs you had prepared for the government of  
2 Ecuador's lawyers?

3 A Yes.

4 MR. CRISS: I'm going to ask the  
5 court --

6 A Oh, well, wait a minute. I did not  
7 prepare those for the government of Ecuador's  
8 lawyers.

9 Q (BY MR. CRISS) Who did you prepare  
10 them for?

11 A They were prepared just for my work on  
12 the Ecuador case.

13 Q Okay. But is it your testimony that  
14 they were then provided to the government of  
15 Ecuador's lawyers?

16 MR. BEIER: Object to the form.

17 A I don't know if they were or not.

18 Q (BY MR. CRISS) Okay.

19 A We discussed them on a phone call.

20 MR. CRISS: Okay. Let me -- let me ask  
21 the court reporter to mark as Exhibit 567 an e-mail  
22 from you dated July 11th, 2008. StratusPV 514 is  
23 the first page of the document. And the last is  
24 526.

25 (Deposition Exhibit 567 was marked.)

1 THE DEPONENT: Thank you.

2 Q (BY MR. CRISS) Dr. Maest, are these  
3 the graphs that you referred to in your prior  
4 testimony?

5 A I don't know if they're exactly the  
6 graphs, but generally this is the type of graph,  
7 yes.

8 Q (BY MR. CRISS) Okay. Let me refer you  
9 to the -- to your e-mail on the top of the first  
10 page of the exhibit. Do you see that you state in  
11 the third sentence, quote, "I prepared these when  
12 we were in Quito a couple of years ago and talking  
13 to the DC attorneys who were working on the fraud  
14 case with the Government of Ecuador"?

15 A Yes.

16 Q To the best of your recollection, when  
17 you were talking to the DC attorneys, as described  
18 in this e-mail, were they in Quito, as well?

19 A No.

20 Q So you -- so is your recollection that  
21 you were speaking from Quito, and they were  
22 speaking by phone elsewhere?

23 A Yes.

24 Q Did you ever have any face-to-face  
25 meetings with any attorneys representing the

1 government of Ecuador?

2 A No, not that I recall.

3 Q And I apologize if Mr. Dans asked you  
4 this already, but did you ever have any  
5 communications with any official or individual  
6 employed by the government of Ecuador in the course  
7 of your work on the Ecuador project?

8 A Not that I recall.

9 Q Okay. Do you see that in the e-mail  
10 you referred to -- you say, "I prepared these when  
11 we were in Quito a couple of years ago"?

12 A Yes.

13 Q Who was included in "we," besides  
14 yourself?

15 MS. GRIEVE: I'm sorry. Excuse me.

16 A I am not sure.

17 Q (BY MR. CRISS) Do you recall why --  
18 well, according to this e-mail -- or at least this  
19 e-mail seems to suggest that you prepared these  
20 graphs in connection with your communications with  
21 the DC attorneys representing the government of  
22 Ecuador. Does this e-mail refresh your  
23 recollection as to the reason why you created these  
24 graphs?

25 MR. BEIER: Object to the form and

1 characterization.

2       You can answer.

3       A   Well, all the e-mail says is that "I  
4 prepared these when we were in Quito a couple of  
5 years ago." It doesn't say that I prepared them  
6 for, you know, anything else.

7       Q   (BY MR. CRISS) Right. But you were  
8 doing a variety of things in Quito. But what you  
9 say in this e-mail, continuing from what you read  
10 aloud is, "and talking to the DC attorneys who were  
11 working on the fraud case."

12      A   Yes.

13      Q   Does this refresh your recollection  
14 that these graphs would have been prepared for the  
15 attorneys representing the government of Ecuador?

16      A   No, I don't think they were.

17      Q   Okay. Did you prepare any documents  
18 for transmittal to attorneys representing the  
19 government of Ecuador?

20      A   Not -- not that I recall, no.

21      Q   Did you -- other than perhaps these  
22 graphs or graphs like them, did you prepare -- did  
23 you transmit or ask to have someone else transmit  
24 any documents to attorneys representing the  
25 government of Ecuador?

1 MR. BEIER: Object to the form.

2 You can answer.

3 A Well, as I said, I don't -- these  
4 weren't prepared for the DC attorneys. And I don't  
5 recall anything else that I prepared for attorneys  
6 on this case -- on the case that you mentioned.

7 Q (BY MR. CRISS) How about -- do you  
8 recall any instances where there were documents  
9 that Stratus already had in the bag already  
10 prepared that you transmitted or you understand  
11 someone else from Stratus transmitted to lawyers  
12 for the government of Ecuador?

13 A I don't know about others at Stratus,  
14 but, as I said, I don't recall doing that myself.

15 Q Okay. Who -- who do you think we  
16 should ask, if we wanted to get an answer to that  
17 question?

18 MR. BEIER: Objection. Foundation.

19 You can answer.

20 A I think Mr. Beltman would have a  
21 broader understanding of all the tasks that were  
22 done on the case, because he was managing it.

23 Q (BY MR. CRISS) Okay. Did you -- were  
24 you reporting to Mr. Beltman in the course of this  
25 project, the Ecuador project, that is?

1 A What do you mean, "reporting"?

2 Q Was he ultimately responsible for the  
3 work product created by Stratus?

4 MR. BEIER: Object to the form.

5 A Well, he was managing the project, you  
6 know, but . . . . So in that sense, yes. But, you  
7 know, we were all responsible --

8 Q (BY MR. CRISS) Sure.

9 A -- for the work that we created.

10 Q Did anyone at Stratus play any role in  
11 selecting sites to be inspected by the Perito or  
12 global expert as part of his work in the Lagro  
13 Agrio litigation?

14 A I believe I had some involvement in  
15 that.

16 MR. CRISS: I'm going to ask the court  
17 reporter to mark as Exhibit 568 a document  
18 STRATUS-NATIVE 8887 through 90.

19 (Deposition Exhibit 568 was marked.)

20 Q (BY MR. CRISS) Dr. Maest, is this your  
21 handwriting?

22 A Yes.

23 Q Okay. And is this a document  
24 relating -- related to your role in helping to  
25 select sites for inspection as part of the Peritaje

1 Global?

2 A Well, this is a document that Luis  
3 Villacreces created, but it looks like I made some  
4 comments on it.

5 Q Okay. I see that one of your  
6 handwritten comments has a check mark, and it says,  
7 "= operated solely by Texaco."

8 A Yes.

9 Q Correct? What was the purpose in  
10 checking -- in making check marks next to entries  
11 in this table that begins on Page 1 and continues  
12 on Page 2?

13 A Just that those are sites that was --  
14 there was no operation after Texaco stopped  
15 operating.

16 Q What was your purpose in making  
17 handwritten notations on this document?

18 A Well, some of them were just questions  
19 about where these sites were. And others were kind  
20 of putting them into different categories because  
21 of differences in operation or remediation.

22 Q Do you recall when you made these  
23 annotations on this document?

24 A Well, it says "January/February '08,"  
25 so . . . .

1 Q Do you understand that to be an  
2 indication of when you made these comments, or is  
3 there some other significance to the date?

4 A I don't think there's any other  
5 significance.

6 Q Is it possible that it could be when,  
7 in fact, these inspections should occur?

8 A I don't believe so.

9 Q Okay. Why not?

10 A I just don't recall ever making a  
11 recommendation about that. And just by where it  
12 is, I would -- that's usually where I date things.

13 Q Okay. You said, even before I showed  
14 you this document, that you believe that you played  
15 some role in selecting sites to be inspected as  
16 part of the Peritaje Global process.

17 A Mm-hmm.

18 Q Is that correct?

19 A Yes.

20 Q What role did you play in that process?

21 A Um --

22 Q And to be clear, by "that process," I  
23 mean the process of selecting sites to be  
24 inspected.

25 A My recollection is that people in the



1 Quito office had a list of sites, and I reviewed  
2 the list and made recommendations about including  
3 or not including or adding others.

4 Q Were those recommendations in writing?

5 A I don't recall.

6 Q Were those -- well, let me ask you  
7 this. Do you believe that you have any files or  
8 work papers located outside the United States,  
9 specifically, anywhere in Ecuador?

10 A Work files of mine?

11 Q Yes.

12 A I don't believe so.

13 Q Did you leave any materials behind on  
14 any of your visits to Ecuador on the Ecuador  
15 project?

16 A Certainly not on purpose.

17 Q Okay. Do you know if there are any  
18 materials that were Stratus property that were left  
19 in Quito or anywhere else in Ecuador?

20 A I'm sorry. Stratus -- would you say  
21 that again.

22 Q Are there any Stratus -- do you believe  
23 that there are any Stratus materials that were --  
24 you know, that are located in Ecuador today?

25 A What do you mean by that?

1 Q I mean, you know, work papers, you  
2 know. For example, you know, let's say on a  
3 original to a document like the one that's before  
4 you --

5 A Mm-hmm.

6 Q -- or any sort of notes or other  
7 materials. Are there any materials like that, that  
8 you believe, created by Stratus and left behind in  
9 Ecuador?

10 MR. BEIER: Object to the form.

11 Foundation. Calls for speculation.

12 You can answer.

13 Q (BY MR. CRISS) If you know.

14 A I can just speak for myself.

15 Q Yeah.

16 A And I answered that already, that I  
17 don't believe so.

18 Q Okay.

19 A Don't know.

20 Q Did anyone ever indicate to you that,  
21 in fact, there were Stratus files located in  
22 Ecuador?

23 A No.

24 Q Okay. When you -- you said that you  
25 provided comments or feedback on potential sites to

1 be inspected, correct?

2 A Yes.

3 Q To whom did you provide that -- you  
4 know, that input?

5 A I don't recall.

6 Q Was Luis Villacreces Carbahol one of  
7 those individuals?

8 A Could have been.

9 Q Was Steven Donziger?

10 A I think that's less likely.

11 Q Pablo Fajardo?

12 A I don't believe so.

13 Q Luis Yanza?

14 A I don't believe so.

15 Q Douglas Beltman?

16 A I don't recall doing anything like  
17 that, no.

18 Q Richard Cabrera?

19 A No.

20 Q Any members of Richard Cabrera's team?

21 A Not that I know of, no.

22 Q Do you know what role, if any,  
23 Mr. Cabrera played in the selection of sites to be  
24 inspected as part of the Peritaje Global process?

25 A I don't know.

1 Q Did you ever -- did you ever see any  
2 communication from Mr. Cabrera relating to the  
3 Peritaje Global process? Any written  
4 communication?

5 A I don't recall.

6 Q Did you understand if your  
7 recommendations regarding sites to be inspected  
8 were going to be transmitted to Mr. Cabrera?

9 A I don't recall, but I believe so.

10 Q Did you have -- were you a party to  
11 any communication with Mr. Cabrera other than the  
12 March 3rd, 2007 meeting in Quito?

13 A Was -- I'm sorry. Say that -- say that  
14 again.

15 Q Okay. You recall that Mr. Cabrera was  
16 present at the March 3rd 2007 meeting in Quito?

17 A Yes.

18 Q Correct?

19 A Mm-hmm.

20 Q Other than that meeting, were you ever  
21 party to another communication with Mr. Cabrera?  
22 And by that I would include both being on a  
23 conference call, both being on an e-mail, both  
24 being recipients of a memorandum, et cetera.

25 A Yes.

1 Q What was that?

2 A I met with Mr. Cabrera with Doug  
3 Beltman and others. And I don't recall the date  
4 right now.

5 Q Was it before or after March 3rd, 2007?

6 A '7. I believe -- it was after.

7 Q Okay. Do you recall how -- how soon  
8 after?

9 A No.

10 Q Was it before or after April 1st, 2008?

11 A Before.

12 Q Okay. Other -- do you believe that it  
13 was in the first three months of 2008?

14 A I don't recall.

15 Q Okay. Other than the March 3rd, 2007  
16 meeting --

17 A Mm-hmm.

18 Q -- and the meeting you just testified  
19 to where you can't recall the date, were you --  
20 were there any other communications in any form to  
21 which both you and Mr. Cabrera were parties?

22 A Not that I recall.

23 Q Okay. Dr. Maest, I think, you know, we  
24 are at the end of our time. Thank you for your  
25 testimony. I would just say, as Mr. Dans said at

1 the beginning of his questioning, I believe, the  
2 consequences and stakes for my client, Ricardo Reis  
3 Veiga, and for Mr. Dans's client, Rodrigo Perez  
4 Pallares, truly are grave.

5 If, upon reflection, you believe that  
6 there is other information that we should know  
7 about or that would make, you know, your answers to  
8 our questions today more complete, I urge you to  
9 contact Mr. Beier, your Counsel, so that he can  
10 then bring them to our attention.

11 A Yes.

12 MR. CRISS: Other than that -- other  
13 than that, we obviously -- you know, there would be  
14 many other questions we'd want to ask you, but, you  
15 know, we -- we thank you for your testimony today.

16 MR. BEIER: I have no further  
17 questions. We reserve the right to review and  
18 sign, please.

19 VIDEOGRAPHER: The time is 7:08. We  
20 are going off the record. This will conclude the  
21 deposition for today.

22 (The deposition concluded at 7:08 p.m.,  
23 December 8, 2010.)  
24  
25

1 I, ANN S. MAEST, do hereby certify that I have  
2 read the foregoing transcript and that the same and  
3 accompanying amendment sheets, if any, constitute a  
4 true and complete record of my testimony.  
5  
6  
7

\_\_\_\_\_  
Signature of Deponent

8  
9 ( ) No amendments  
10 ( ) Amendments attached

11 Subscribed and sworn to before me this  
12 \_\_\_\_\_ day of \_\_\_\_\_, 2010.  
13

Notary Public: \_\_\_\_\_

14 Address: \_\_\_\_\_  
15 \_\_\_\_\_  
16

17 My commission expires: \_\_\_\_\_

18 Seal:  
19  
20  
21  
22

23 KLD  
24  
25

1 STATE OF COLORADO )  
2 )ss. REPORTER'S CERTIFICATE  
3 COUNTY OF DENVER )

4 I, Kathy L. Davis, do hereby certify that I am  
5 a Certified Realtime Reporter and Notary Public  
6 within the State of Colorado; that previous to the  
7 commencement of the examination, the deponent was  
8 duly sworn to testify to the truth.

9 I further certify that this deposition was  
10 taken in shorthand by me at the time and place  
11 herein set forth, that it was thereafter reduced to  
12 typewritten form, and that the foregoing  
13 constitutes a true and correct transcript.

14 I further certify that I am not related to,  
15 employed by, nor of counsel for any of the parties  
16 or attorneys herein, nor otherwise interested in  
17 the result of the within action.

18 In witness whereof, I have affixed my  
19 signature and seal this 17th day of December, 2010.

20 My commission expires April 29, 2013.

21

22

---

Kathy L. Davis  
Certified Realtime Reporter

23

24

25



1 AGREN BLANDO COURT REPORTING & VIDEO, INC.  
216 - 16th Street, Suite 650

2 Denver, Colorado 80202  
4450 Arapahoe Avenue, Suite 100

3 Boulder, Colorado 80303

4 December 17, 2010

5

Martin D. Beier, Esq.

6 1801 York Street

Denver, Colorado 80206

7

Re: RODRIGO PEREZ PALLARES & RICARDO REIS VEIGA IN RE

8 Case No. 10-cv-02528-PAB-MEH

Videotaped Deposition of ANN S. MAEST

9 December 8, 2010

10 The aforementioned deposition is ready for reading  
and signing. Please attend to this matter by

11 following BOTH of the items indicated below:

12 \_\_\_\_\_ Call 303-296-0017 and arrange with us to  
read and sign the deposition in our office

13

\_\_\_\_XXX\_ Have the deponent read your copy and sign

14 the signature page and amendment sheets,  
if applicable; the signature page is attached

15

\_\_\_\_XXX\_ WITHIN 30 DAYS OF THE DATE OF THIS LETTER

16

\_\_\_\_\_ By \_\_\_\_\_ due to a trial date of \_\_\_\_\_

17

Please be sure the original signature page and

18 amendment sheets, if any, are SIGNED BEFORE A  
NOTARY PUBLIC and returned to Agren Blando for

19 filing with the original deposition. A copy of  
these changes should also be forwarded to counsel

20 of record.

21 Thank you.

22 AGREN BLANDO COURT REPORTING & VIDEO, INC.

23 cc: All Counsel

24

25

1 AGREN BLANDO COURT REPORTING & VIDEO, INC.  
216 - 16th Street, Suite 650  
2 Denver, Colorado 80202  
4450 Arapahoe Avenue, Suite 100  
3 Boulder, Colorado 80303  
4  
5

ANN S. MAEST

6 DECEMBER 8, 2010

RODRIGO PEREZ PALLARES & RICARDO REIS VEIGA IN RE

7 Case No. 10-cv-02528-PAB-MEH  
8

The original deposition was filed with

9 Jason P. Criss, Esq., on approximately

10 the 17th day of December, 2010.  
11

\_\_\_\_ Signature waived

12 \_\_\_\_ Unsigned; signed signature page and amendment  
13 sheets, if any, to be filed at trial

14 \_\_\_\_ Reading and signing not requested pursuant  
to C.R.C.P. Rule 30(e)

15 \_XXX\_ Unsigned; original amendment sheets and/or  
16 signature pages should be forwarded to  
Agren Blando, to be filed in the envelope  
17 attached to the sealed original  
18

19 Thank you.

20 AGREN BLANDO COURT REPORTING & VIDEO, INC.

21 cc: All Counsel  
22  
23  
24  
25

page

1 --- AMENDMENT SHEET ---  
2 ANN S. MAEST  
3 DECEMBER 8, 2010  
4 RODRIGO PEREZ PALLARES & RICARDO REIS VEIGA IN RE  
5 Case No. 10-cv-02528-PAB-MEH  
6

7 The deponent wishes to make the following changes  
8 in the testimony as originally given:

8	Page	Line	Should Read	Reason
9	_____	_____	_____	_____
10	_____	_____	_____	_____
11	_____	_____	_____	_____
12	_____	_____	_____	_____
13	_____	_____	_____	_____
14	_____	_____	_____	_____
15	_____	_____	_____	_____
16	_____	_____	_____	_____
17	_____	_____	_____	_____

18 Signature of Deponent: \_\_\_\_\_  
19 Subscribed and sworn to before me this \_\_\_\_ day of  
20 \_\_\_\_\_, 2010.

21 Notary's signature \_\_\_\_\_  
22 (SEAL) Notary's address \_\_\_\_\_  
23 \_\_\_\_\_  
24 My commission expires \_\_\_\_\_  
25

0001

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE DISTRICT OF COLORADO

3 Civil Action No. 1:10-cv-00047-MSK-MEH

4 CHEVRON CORPORATION, a Delaware corporation,  
5 Petitioner,  
6 v.

7 STRATUS CONSULTING, INC., DAVID J. CHAPMAN, an  
8 individual, DOUGLAS BELTMAN, an individual, JENNIFER  
9 M.H. PEERS, an individual, DAVID M. MILLS, an  
10 individual, PETER N. JONES, an individual, LAURA  
11 BELANGER, an individual, and ANN S. MAEST, an  
12 individual,  
13 Respondents.

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11 VIDEOTAPE DEPOSITION OF: ANN S. MAEST - Volume I  
12 January 19, 2011

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13 PURSUANT TO SUBPOENA, the videotape deposition  
14 of ANN S. MAEST was taken on behalf of the Petitioner at  
15 1801 California Street, Suite 4200, Denver, Colorado 80202,  
16 on January 19, 2011, at 9:11 a.m., before Barbara Birger,  
17 Registered Merit Reporter, Certified Realtime Reporter and  
18 Notary Public within Colorado.  
19  
20  
21  
22  
23  
24  
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0002

1           A P P E A R A N C E S

2 For the Petitioner:   T. MICHAEL CRIMMINS, ESQ.  
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10                      Irvine, California 92612

8 For the Respondent MARTIN D. BEIER, ESQ.  
 Stratus Consulting, Silver & DeBoskey, P.C.  
 Inc., and the 1801 York Street  
 9 Deponent: Denver, Colorado 80206  
 10  
 For the Ecuadorian WILLIAM H. NARWOLD, ESQ.  
 11 Plaintiffs: Motley Rice LLC  
 20 Church Street  
 12 17th Floor  
 Hartford, Connecticut 06103  
 13  
 Also Present: Sara McMillen  
 14 Jerry DeBoer, Videographer  
 15  
 16  
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1 WHEREUPON, the following proceedings were  
2 taken pursuant to the Federal Rules of Civil  
3 Procedure.

4 \* \* \* \* \*

5 THE VIDEOGRAPHER: We are on the record  
6 at 9:11 on January 19, 2011, at 1801 California  
7 Street, Suite 4200, Denver, Colorado. We are here for  
8 the videotape deposition of Ann Maest in the matter of  
9 Chevron Corporation versus Stratus Consulting, Inc.,  
10 et al., in the United States District Court for the

11 District of Colorado, Case No. 1:10-cv-00047-MSK-MEH.

12 The videographer is Jerry DeBoer, the  
13 court reporter is Barbara Birger from Hunter + Geist,  
14 Inc.

15 Will counsel please state their  
16 appearances.

17 MR. CRIMMINS: Michael Crimmins for  
18 Chevron Corporation.

19 MS. KUNDU: Megan Kundu, Chevron  
20 Corporation.

21 MR. NARWOLD: Bill Narwold for the  
22 Ecuadorian plaintiffs.

23 MR. BEIER: Martin Beier for Ann Maest  
24 and the Stratus respondents.

25 MR. CRIMMINS: Also present in the  
0007

1 deposition room is Sara McMillen from Chevron  
2 Corporation.

3 THE VIDEOGRAPHER: Will the reporter  
4 please swear in the witness.

5 ANN S. MAEST,  
6 having been first duly sworn to state the whole truth,  
7 testified as follows:

8 EXAMINATION

9 BY MR. CRIMMINS:

10 Q. Good morning, Ms. Maest.

11 A. Good morning.

12 Q. My name is Mike Crimmins, I represent  
13 Chevron Corporation. I'll be asking you questions  
14 today.

15 Are you under any medications or taking  
16 any medications that might affect your memory or  
17 ability to testify today?

18 A. No.

19 Q. Can you think of any reason why you're  
20 not able to give your best and most accurate testimony  
21 today?

22 A. No.

23 Q. I know you were deposed recently in a  
24 related matter. Do you feel comfortable with the  
25 process, or do you need me to go over any basics with

0008

1 you?

2 A. I'm fairly comfortable.

3 Q. Well, let me know if at any time you have  
4 any questions.

5 A. Okay.

6 Q. Please describe everything you did since  
7 your last deposition to prepare for this deposition  
8 today.

9 A. I reviewed my deposition transcript in  
10 the Pallares Veiga matter, and I spoke with my



11 attorney, Martin Beier.

12 Q. In reviewing your transcript in the other  
13 matter, is there any testimony you came across that  
14 you felt was inaccurate in any way or needs to be  
15 corrected?

16 A. Not that I recall. I didn't review the  
17 entire transcript.

18 Q. Okay. And when did you meet with your  
19 attorney, Martin Beier?

20 A. This morning.

21 Q. For how long?

22 A. I believe ten minutes.

23 Q. Was anybody else present?

24 A. No.

25 Q. Since your last deposition, have you

0009

1 spoken to Steven Donziger?

2 A. No.

3 Q. Have you communicated with him in any  
4 way?

5 A. No.

6 Q. Are you aware that he is in the process  
7 of being deposed in New York in a related 1782 matter?

8 A. I think I heard that.

9 Q. Have you heard anything about the  
10 testimony Mr. Donziger has given?

11 A. No.

12 Q. Have you read any part of his deposition  
13 transcript?

14 A. No.

15 Q. Have you seen any video from that  
16 deposition?

17 A. No.

18 Q. Have you read any newspaper articles or  
19 any media related to that deposition?

20 A. Not that I recall.

21 Q. Since your last deposition, have you  
22 spoken at all to Mr. Beltman about the Ecuador matter  
23 or about this proceeding?

24 A. Yes.

25 Q. When did you talk to Mr. Beltman?

0010

1 A. Yesterday.

2 Q. And what was the nature of that  
3 conversation?

4 A. We discussed that I'll be deposed today  
5 and tomorrow on the Chevron matter, and he recommended  
6 that I review my Pallares Veiga transcript. I believe  
7 that's it.

8 Q. Is that what prompted you to review your  
9 earlier transcript?

10 A. No.

11 Q. When did you read that transcript?  
12 A. This morning.  
13 Q. How long did you spend reviewing that  
14 transcript this morning?  
15 A. About 45 minutes.  
16 Q. Prior to this morning, had you reviewed  
17 that transcript at all since your deposition?  
18 A. No.  
19 Q. Have you watched any of the video from  
20 your prior deposition?  
21 A. No.  
22 Q. Since your last deposition, you know that  
23 Mr. Beltman was also deposed for another day; is that  
24 right?  
25 A. I believe so.

0011

1 Q. Did you talk to Mr. Beltman at all about  
2 that deposition?  
3 A. No.  
4 Q. Have you read any part of that deposition  
5 transcript?  
6 A. No.  
7 Q. Have you seen any part of the video from  
8 that deposition?  
9 A. No.  
10 Q. Other than your conversation yesterday  
11 with Mr. Beltman, have you spoken to Mr. Beltman at  
12 all about the Ecuador matter or about this proceeding  
13 since your last deposition?  
14 A. I don't recall. Probably after my  
15 deposition we spoke briefly, but I don't -- I don't  
16 recall.  
17 Q. Since your last deposition, have you  
18 spoken to any lawyers representing the Lago Agrio  
19 plaintiffs?  
20 A. No.  
21 Q. If I had the time line correct, since  
22 your last deposition Mr. Carney was also deposed in  
23 the Pallares Veiga matter, were you aware of that?  
24 A. I don't recall.  
25 Q. Do you know who Mike Carney is?

0012

1 A. Sure.  
2 Q. Does Mike Carney still work at Stratus?  
3 A. Yes.  
4 Q. Did you speak to anyone about  
5 Mr. Carney's deposition?  
6 A. No.  
7 Q. Have you read any part of Mr. Carney's  
8 deposition transcript?  
9 A. No.  
10 Q. Have you seen any part of Mr. Carney's --

11 the video from Mr. Carney's deposition?

12 A. No.

13 Q. Since your last deposition, have you  
14 spoken to Mr. Mills, Ms. Peers, or Mr. Chapman about  
15 the Ecuador matter?

16 A. Ms. Peers was in the room when I spoke to  
17 Mr. Beltman yesterday, but I didn't speak to her  
18 directly about the matter.

19 Q. Who else was present during the  
20 conversation with Mr. Beltman yesterday?

21 A. Let's see, it was a science group meeting  
22 at Stratus, so there were a number of people present.

23 Q. Was Mr. Mills also present?

24 A. No.

25 Q. Mr. Chapman present?

0013

1 A. No.

2 Q. Was Mr. Carney present?

3 A. Yes.

4 Q. Did Mr. Carney say anything --

5 A. No.

6 Q. -- concerning the Ecuador matter?

7 A. No.

8 Q. So during the science group meeting, was  
9 this just one of the subjects that Mr. Beltman  
10 mentioned was that you were being deposed today?

11 A. Yes.

12 Q. How long was the meeting overall?

13 A. 50 minutes.

14 Q. And how long was the portion of the  
15 discussion that related to the Ecuador matter?

16 A. 30 seconds.

17 Q. Did Mr. Beltman say anything about  
18 Mr. Cabrera's role in the litigation or Stratus' role  
19 in the litigation, anything substantive about the  
20 Ecuadorian litigation?

21 A. No.

22 Q. Did you say or ask anything in relation  
23 to the Ecuador matter during that conversation  
24 yesterday?

25 A. I just responded to Mr. Beltman and, you

0014

1 know, I think -- I asked him if he had any  
2 recommendations for preparation. That was it.

3 Q. And Mr. Beltman's only recommendation, if  
4 I understand correctly, was to read your prior  
5 deposition transcript?

6 A. Yes.

7 Q. Did anybody other than you or Mr. Beltman  
8 participate in that conversation in any way?

9 A. Well, as I said, there were a number of  
10 other people there, but they weren't speaking --

11 Q. That's what I meant --  
12 A. -- about it.  
13 Q. -- did they say anything?  
14 A. Not that I recall.  
15 Q. Since your last deposition Ms. Peers was  
16 also deposed in this matter, were you aware of that?  
17 A. I believe so.  
18 Q. Did you speak to Ms. Peers at all about  
19 her deposition?  
20 A. No.  
21 Q. Have you spoken to anybody about the  
22 testimony Ms. Peers gave?  
23 A. No.  
24 Q. Did you read any part of Ms. Peers'  
25 deposition transcript?

0015

1 A. No.  
2 Q. Have you ever seen any video from that  
3 deposition?  
4 A. No.  
5 Q. Have you spoken to Mr. Chapman about the  
6 Ecuador matter or about this proceeding since your  
7 last deposition?  
8 A. No.  
9 Q. Since your last deposition, have you  
10 spoken to any of the following people, Mr. Kamp,  
11 Mr. Powers, Mr. Quarrels, or Ms. Belanger?  
12 A. About?  
13 Q. At all.  
14 A. At all?  
15 Q. Uh-huh.  
16 A. Yes.  
17 Q. Who have you spoken to?  
18 A. Mr. Kamp.  
19 Q. So since your last deposition you have  
20 not spoken to Mr. Powers, Mr. Quarles, or  
21 Ms. Belanger?  
22 A. That's correct.  
23 Q. When did you speak to Mr. Kamp?  
24 A. Most recently yesterday.  
25 Q. Have you spoken to him several times

0016

1 since your last deposition?  
2 A. Yes.  
3 Q. When was the first time you spoke to him  
4 after your deposition?  
5 A. I don't recall.  
6 Q. Can you estimate how many times you've  
7 spoken to Mr. Kamp since your last deposition?  
8 A. Mr. Kamp and I speak regularly, so it was  
9 a number of times, and I don't know how many.  
10 Q. Do you have an ongoing work project with

11 Mr. Kamp?

12 A. Yes.

13 Q. Are you still affiliated with E-Tech?

14 A. Yes, I am.

15 Q. Do you have several ongoing projects with

16 Mr. Kamp through E-Tech?

17 A. We have a couple.

18 Q. In your conversations with Mr. Kamp since  
19 your last deposition, did any part of any of those  
20 conversations relate to the Ecuador matter?

21 A. I believe I told him that I -- I know I  
22 told him that I was being deposed today and tomorrow.

23 Q. And did Mr. Kamp have any response to  
24 that?

25 A. He said "good luck."

0017

1 Q. Any other discussion about your  
2 deposition?

3 A. No.

4 Q. Any other discussions with Mr. Kamp about  
5 the Ecuador matter?

6 A. I can't recall any right now.

7 Q. Other than discussions with Mr. Kamp,  
8 have you communicated with him by e-mail or other  
9 means since your last deposition?

10 A. At all?

11 Q. Yes.

12 A. Yes.

13 Q. Did any part of any of those  
14 communications relate to the Ecuador matter or this  
15 proceeding?

16 A. No. No, not that I recall.

17 Q. Other than what you have already  
18 testified to this morning, since your last deposition  
19 have you spoken to anyone about the Ecuador matter or  
20 this proceeding, other than your lawyer as well?

21 A. Anyone at all?

22 Q. Excluding your lawyer as well, yes.

23 A. Probably. My family. Just because of  
24 logistics and -- I don't recall other than that.

25 Q. What do you mean by "logistics"?

0018

1 A. Well, we have a 12-year-old daughter, so  
2 we had to figure out who was going to be picking her  
3 up.

4 Q. So just, you mean, logistics of you  
5 having to be here for two days?

6 A. Right. Right.

7 Q. Okay. Other than just talking about  
8 logistics, things like that, did you have any  
9 substantive conversations about the Ecuador litigation  
10 or the matter with anyone in your family since your

11 last deposition?

12 A. No.

13 Q. In Mr. Mills' deposition he testified  
14 that at staff meetings at Stratus Mr. Beltman provided  
15 updates to the team and, quote, Stated that  
16 Mr. Cabrera was an independent court expert and he  
17 provided his own report to the court, close quote.

18 Were you present at any staff meetings at  
19 which Mr. Beltman made that statement?

20 MR. BEIER: Object to the form. You can  
21 answer.

22 A. I don't recall.

23 Q. (BY MR. CRIMMINS) Do you recall having  
24 attended staff meetings at Stratus since the subpoenas  
25 in this case were issued in March of 2010 in which  
0019

1 Mr. Beltman discussed the Ecuador litigation?

2 A. Yes.

3 Q. And at those -- what do you recall about  
4 those meetings?

5 A. What I recall is that he talked about who  
6 was being deposed, when they were being deposed.  
7 Other than that, I can't recall right now.

8 Q. Do you recall Mr. Beltman making any  
9 statements at those meetings concerning what Stratus'  
10 role was in the Ecuador litigation?

11 A. No.

12 Q. Do you recall Mr. Beltman making any  
13 statements at those meetings concerning what  
14 Mr. Cabrera's role was in the Ecuador litigation?

15 A. No.

16 Q. Do you recall Mr. Beltman making any  
17 statements at those meetings concerning the  
18 relationship between Stratus and Cabrera?

19 A. No.

20 Q. Do you recall Mr. Beltman making any  
21 statements at those meetings concerning communications  
22 between Stratus and Cabrera or meetings with Cabrera?

23 A. No.

24 Q. At any time since the subpoenas were  
25 issued in this case, did you have any conversation  
0020

1 with Mr. Beltman concerning Stratus' role with regard  
2 to the Cabrera report?

3 A. In presence of counsel, yes, we did.

4 Q. Other than in the presence of counsel,  
5 did you have any such conversations?

6 A. Not that I recall.

7 Q. Since the issuance of the subpoenas in  
8 this case in March of 2010, did you have any  
9 conversations with anyone at Stratus outside the  
10 presence of your counsel concerning Stratus' role with

11 regard to the Cabrera report?

12 A. Oh, yes.

13 Q. What conversations?

14 A. I remember speaking to Mr. Beltman about  
15 the Cabrera report and, you know, the portions that we  
16 were involved in some way through Mr. Donziger, and  
17 those that we weren't.

18 Q. When did this conversation take place?

19 A. It was probably a couple months ago.

20 Q. Do you know whether it was before or  
21 after Mr. Beltman was first deposed in this matter?

22 A. I don't recall.

23 Q. And when you say, "the portions we were  
24 involved in in some way through Mr. Donziger, and  
25 those that we weren't," you're talking about portions  
0021

1 of the April 1, 2008, Cabrera report?

2 A. Yes.

3 Q. And what do you mean when you say, "the  
4 portions we were involved in in some way"?

5 A. We conducted work for Mr. Donziger that  
6 we submitted to him and that he submitted to the Lago  
7 Agrio attorneys and they submitted to the courts, and  
8 that's what I'm talking about.

9 Q. And your understanding is that those  
10 materials were submitted to the court?

11 A. No. No. Sorry. To Mr. Cabrera and for  
12 his consideration.

13 Q. And is it also your understanding that  
14 those materials were present in the Cabrera report  
15 verbatim?

16 A. No --

17 MR. BEIER: Object to the form.

18 A. -- I didn't say that.

19 Q. (BY MR. CRIMMINS) I didn't ask you  
20 whether you said that, I'm asking you whether it was  
21 your understanding today that materials drafted by  
22 Stratus that were given to Mr. Donziger appeared in  
23 the Cabrera report verbatim?

24 MR. BEIER: Object to the form. You can  
25 answer.

0022

1 A. They -- you know -- I'm not sure. I  
2 don't know.

3 Q. (BY MR. CRIMMINS) So if Mr. Donziger  
4 testified that the materials drafted by Stratus  
5 appeared in the Cabrera report verbatim, you would  
6 have no basis for contradicting that testimony; is  
7 that fair?

8 MR. BEIER: Object to the form.

9 A. No. I don't know what Mr. Donziger  
10 testified to, but I'm just saying that I'm not sure if

11 some of those materials appeared exactly as we wrote  
12 them or not.

13 Q. (BY MR. CRIMMINS) Are you aware of any  
14 materials written by Stratus -- strike that.

15 The materials that were written by  
16 Stratus took the form of a summary report and annexes,  
17 correct?

18 A. I don't -- what do you mean by take the  
19 form of?

20 Q. What I mean is what Stratus wrote said  
21 summary report and also said -- were titled annexes;  
22 isn't that right?

23 A. Yes. We wrote materials that were  
24 considered for the summary report and annexes.

25 Q. What do you mean "were considered for"?  
0023

1 A. That we wrote for Mr. Donziger and he  
2 submitted to the attorneys in the Lago Agrio case in  
3 Quito and they submitted to Mr. Cabrera for his  
4 consideration.

5 Q. And those things that you wrote, one was  
6 called a summary report, right?

7 A. I'm not sure what it was called,  
8 actually.

9 Q. You're aware that Stratus wrote materials  
10 or documents that were called annexes, right?

11 A. Yes.

12 Q. And those annexes said on their face that  
13 they were written by the technical team of Richard  
14 Cabrera, right?

15 A. I don't know.

16 Q. What is your basis for saying that the  
17 materials that Stratus wrote were submitted for  
18 Cabrera for his consideration as opposed to for him to  
19 sign and file with the court in Lago Agrio?

20 MR. BEIER: Object to the form,  
21 argumentative. You can answer.

22 A. My understanding -- you know, my  
23 involvement stopped after a certain point, but my  
24 understanding was that the materials that we submitted  
25 to Mr. Donziger went to the chain that I described  
0024

1 earlier, the attorneys in the Lago Agrio case in  
2 Quito, and then to Mr. Cabrera.

3 Q. (BY MR. CRIMMINS) And where did you get  
4 that understanding?

5 A. From Mr. Donziger.

6 Q. Other than what Mr. Donziger told you, do  
7 you have any other basis for your belief that the  
8 materials were submitted to Mr. Cabrera for his  
9 consideration as opposed to for him to simply sign and  
10 file with the Ecuadorian court?



11 A. Well, I didn't review everything that we  
12 submitted and compare it, you know, word for word to  
13 what was in the Cabrera report; but in the instances  
14 where I did, there were differences.

15 Q. But do you have any basis for knowing  
16 whether those differences are reflected by changes  
17 made by Ecuadorian counsel or Mr. Donziger as opposed  
18 to Mr. Cabrera?

19 A. No, I don't know.

20 Q. So if Mr. Donziger testified that the  
21 materials that Stratus drafted that were submitted by  
22 Ecuadorian -- plaintiffs' Ecuadorian counsel to  
23 Mr. Cabrera were adopted verbatim in the Cabrera  
24 report, then you don't have any basis or personal  
25 knowledge to refute that, correct?

0025

1 MR. BEIER: Objection, form, foundation.  
2 You can answer.

3 A. I don't know what Mr. Donziger testified  
4 to, so I'm not really sure I can answer that.

5 Q. (BY MR. CRIMMINS) Well, I'll show you  
6 Mr. Donziger's testimony in a little while, but my  
7 question now is if Mr. Donziger testified that the  
8 materials that Stratus drafted that were submitted by  
9 plaintiff's Ecuadorian counsel to Mr. Cabrera were  
10 reflected verbatim in the Cabrera report, then you  
11 personally don't have personal knowledge or any basis  
12 to refute that, correct?

13 MR. BEIER: Object to the form,  
14 foundation. You can answer.

15 A. Right. Again, I'm assuming that what you  
16 said is correct. I don't have any personal knowledge,  
17 that's correct.

18 Q. (BY MR. CRIMMINS) Okay. In that  
19 conversation that you had with Mr. Beltman a couple of  
20 months ago, did you -- did part of that conversation  
21 relate to this belief or this understanding that the  
22 materials that Stratus was drafting, with the  
23 understanding that they would be given to Mr. Cabrera,  
24 would be independently considered by Mr. Cabrera?

25 A. I'm sorry, could you -- I don't

0026

1 understand. Could you rephrase that.

2 Q. Yeah. I sort of mangled that, so I'll  
3 start over.

4 In the conversation that you had with  
5 Mr. Beltman a couple of months ago that you testified  
6 to a few minutes ago, do you recall that testimony?

7 A. Yes, I do.

8 Q. During that conversation did you -- did  
9 the two of you discuss your belief or your  
10 understanding that the materials that Stratus was

11 drafting, with the understanding that they would be  
12 submitted to Mr. Cabrera, would be independently  
13 considered by Mr. Cabrera?

14 A. We didn't discuss that from what I  
15 understand of your question.

16 Q. In the time since the Cabrera report came  
17 out on April 1, 2008, have you had any discussions  
18 with anyone in which you or anyone else expressed some  
19 doubt about whether Mr. Cabrera exercised independent  
20 judgment about whether to adopt the materials drafted  
21 by Stratus?

22 A. Not that I recall, no.

23 Q. Do you have any doubt about that today?

24 A. About his -- could you repeat that?

25 Q. Do you have any doubt today whether

0027

1 Mr. Cabrera read and analyzed and independently  
2 considered the materials that Stratus drafted before  
3 they were incorporated into the Cabrera report filed  
4 on April 1, 2008?

5 MR. BEIER: Objection, foundation.

6 A. I don't know. I don't know what he did.

7 Q. (BY MR. CRIMMINS) Do you know on which  
8 date the materials that were drafted by Stratus were  
9 given to Mr. Cabrera by plaintiffs' Ecuadorian  
10 counsel?

11 MR. BEIER: Same objection.

12 A. Were given to Cabrera by? I don't know.

13 Q. (BY MR. CRIMMINS) Since you first  
14 learned of the 1782 proceeding or the subpoena that  
15 would be -- that was ultimately issued against you --  
16 or to you, did you have conversations with  
17 Mr. Donziger about the Ecuadorian matter?

18 A. I don't believe so, but I don't recall.

19 Q. Do you recall at any time Mr. Donziger  
20 encouraging you to testify in a particular way in your  
21 deposition in this matter?

22 A. No.

23 Q. Since the -- just any time since the  
24 beginning of 2010, have you had any discussions with  
25 Mr. Donziger about what Stratus' role was with regard

0028

1 to the Cabrera report?

2 A. No, not that I recall.

3 Q. In any time since early 2010, has anybody  
4 encouraged you to forget or not remember things or  
5 that that was a good way to testify or a good answer  
6 in a deposition?

7 A. No.

8 Q. I'm going to show you an exhibit that was  
9 previously marked as Exhibit 466. Just take a moment  
10 to look at that. While you're doing that I'll note

11 for the record that Exhibit 466 is an e-mail exchange  
12 from April 23, 2010, among lawyers for the Ecuadorian  
13 plaintiffs.

14 Have you ever seen this document before?

15 A. No.

16 Q. In the e-mail on the first page, it's the  
17 second e-mail, it's from Andrew Wilson, dated  
18 April 23, 2010, 22:07:02; do you see that?

19 A. Yes.

20 Q. In the second paragraph it says, "The  
21 main issue coming out of the Chapman dep is that we  
22 need to have a clear chron of all contacts with  
23 Cabrera. Chapman did an excellent job of not  
24 remembering anything - but Chevron will be able to do  
25 side-by-side comparisons of Stratus work product and  
0029

1 his report to a judge will smell bad." Do you see  
2 that?

3 A. Yes.

4 Q. Have you had any conversations with  
5 Mr. Chapman about his deposition?

6 A. Yes.

7 Q. At any time during those conversations,  
8 did Mr. Chapman indicate that he was told not to  
9 remember things or to say "I don't remember" in his  
10 deposition?

11 A. No.

12 Q. What is the nature of the conversation  
13 you had with Mr. Chapman about his deposition?

14 A. What I recall about it is asking him how  
15 it went, and he said that it was long and that there  
16 were a lot of objections and that that took up most of  
17 the time. That's what I recall.

18 Q. Do you remember anything else?

19 A. No.

20 Q. Have you been involved in any discussions  
21 concerning -- or in which someone suggested that  
22 side-by-side comparisons of Stratus work product with  
23 the Cabrera report will smell bad, as it says in  
24 Exhibit 466, or is in some way problematic?

25 MR. BEIER: Object to the form.

0030

1 A. I don't recall anything exactly like  
2 that, no.

3 Q. (BY MR. CRIMMINS) Do you remember  
4 anything generally like that?

5 MR. BEIER: Same objection. You can  
6 answer.

7 A. Could you rephrase that, or say it again?

8 Q. (BY MR. CRIMMINS) Sure. Do you recall  
9 at any time anybody suggesting or being concerned that  
10 side-by-side comparisons of what Stratus drafted and

11 what appears in the Cabrera report will be problematic  
12 for the Ecuadorian plaintiffs or will smell bad or is  
13 of concern in some way?

14 A. No.

15 Q. You see at the bottom of that  
16 paragraph -- it's more like the middle of the  
17 paragraph, it's a sentence that says, "Neuman was a  
18 bit sloppy in her questioning but we need a way to  
19 explain how he got access to our docs." Do you see  
20 that?

21 A. Yes.

22 Q. If you look at the context from the  
23 sentence before, do you understand Mr. Wilson to be  
24 saying, we need a way to explain how Cabrera got  
25 access to our docs?

0031

1 MR. BEIER: Objection, form, foundation.

2 A. Let me read this. Hold on. Yes, it  
3 looks like the "he" refers to Mr. Cabrera.

4 Q. (BY MR. CRIMMINS) Were you involved in  
5 any discussions since the beginning of 2010 concerning  
6 how to explain how Cabrera got access to Stratus  
7 documents?

8 A. We went over that issue in preparation  
9 for deposition.

10 Q. With your attorney?

11 A. Yes.

12 Q. Other than discussions in which your  
13 attorney was present, did you have any conversations  
14 about needing a way to explain how Cabrera got access  
15 to Stratus documents?

16 A. No.

17 Q. Did anybody ever suggest to you that  
18 confirmation through side-by-side comparisons or  
19 through the production of Stratus documents or  
20 testimony that Stratus work appears in the Cabrera  
21 report would be problematic in some way?

22 MR. BEIER: Object to the form.

23 A. Could you rephrase, please?

24 Q. (BY MR. CRIMMINS) Sure. Did anybody  
25 ever suggest to you that confirmation through document

0032

1 production or Stratus testimony that Stratus' work  
2 appears in the Cabrera report would be problematic in  
3 some way?

4 A. No. No.

5 MR. BEIER: Same objection.

6 A. Okay.

7 MR. BEIER: Sorry.

8 Q. (BY MR. CRIMMINS) The last sentence in  
9 that paragraph says, "This requires a complete picture  
10 of what happened here. Chevron will press hard and we

11 need to be able to coordinate our witnesses based on  
12 our story." Do you see that?

13 A. Yes.

14 Q. Did anybody ever suggest to you that the  
15 testimony of Stratus witnesses, including yourself,  
16 needed to be coordinated with the plaintiffs' story?

17 A. No.

18 Q. Have you had any discussions with anyone  
19 about coordinating the story of the different  
20 witnesses that would be deposed in this matter?

21 A. Coord -- no.

22 Q. Did you talk to the other witnesses who  
23 were deposed in this matter about what the plaintiffs'  
24 story was or what Stratus' story was or what position  
25 should be taken with regard to the Cabrera report?

0033

1 A. I'm not sure -- well, I'm not sure what  
2 you mean by "the plaintiffs' story."

3 Q. Did you ever have any conversations with  
4 regard to getting on the same page with the other  
5 witnesses or having the same story to tell as the  
6 other witnesses?

7 A. No.

8 Q. Did you ever have any conversations with  
9 anybody about Stratus' role being what you have  
10 testified to, in which the materials -- you drafted  
11 materials that were submitted to plaintiffs' lawyers  
12 that were submitted to Cabrera for his consideration?

13 MR. BEIER: Objection, asked and  
14 answered. You can answer.

15 A. Could you restate that or rephrase that?

16 Q. (BY MR. CRIMMINS) Sure. Since the  
17 beginning of 2010 and the advent of this proceeding,  
18 have you had any conversations with anyone in which it  
19 was stated by someone that Stratus drafted materials  
20 that were submitted to plaintiffs' lawyers that were  
21 then submitted to Cabrera for his consideration?

22 MR. BEIER: Object to the form.

23 A. I'm sure there were conversations. I  
24 mean, you know, it was in deposition transcripts and,  
25 you know, we prepared in the presence of our --

0034

1 MR. BEIER: You're instructed not to  
2 testify about the content.

3 A. Okay. Right.

4 MR. BEIER: But excluding that, you can  
5 answer.

6 Q. (BY MR. CRIMMINS) Well, I want to  
7 know -- excluding the -- well, did you have  
8 conversations with -- did you have any conversation in  
9 which anyone suggested to you that Stratus' role with  
10 regard to the Cabrera report was that Stratus drafted

11 materials that were submitted to plaintiffs' counsel  
12 that were submitted to Cabrera for his consideration?  
13 MR. BEIER: You can answer with the same  
14 instructions.

15 THE DEPONENT: Right.

16 A. No.

17 Q. (BY MR. CRIMMINS) Since your last  
18 deposition, have you spoken to any US or state  
19 government officials about the Ecuadorian case?

20 A. No.

21 Q. Have you spoken to any other clients of  
22 Stratus about the Ecuadorian case or about the  
23 allegations in this matter?

24 A. Yes.

25 Q. Who?

0035

1 A. My client in Washington state. Oh, you  
2 know, I told him that I was going to be deposed on the  
3 Chevron matter today and tomorrow.

4 Q. I'm sorry, is your client the State of  
5 Washington?

6 A. No. No.

7 Q. Who is the client?

8 A. It's the Okanogan Highlands Alliance in  
9 Washington state.

10 Q. Is that a nonprofit group?

11 A. Yes.

12 Q. And who did you speak to there?

13 A. David Kliegman.

14 Q. And what did you tell him about your --  
15 other than the fact that you are going to be deposed  
16 in this matter, did you tell him anything else about  
17 this proceeding or the Ecuadorian case?

18 A. No.

19 Q. Did he ask you, what's that all about?  
20 What's the deposition about?

21 A. No.

22 Q. Had you had prior conversations with him  
23 about this proceeding?

24 A. Yes.

25 Q. And when did you have those

0036

1 conversations?

2 A. I don't recall exactly. In the past, you  
3 know, two to three months ago.

4 Q. In any of the conversations with  
5 Mr. Kliegman or others at the Okanogan Highlands  
6 Alliance, have you characterized Stratus' role in the  
7 Ecuadorian litigation in any way?

8 A. No.

9 Q. Have you provided any response to the  
10 allegations in this matter by Chevron?

11 A. Could you say that again?

12 Q. Sure. In any of your conversations with  
13 Mr. Kliegman or others at the Okanogan Highlands  
14 Alliance, have you described Stratus' position or your  
15 position with regard to Chevron's allegations in this  
16 proceeding?

17 A. I don't believe so.

18 Q. Other than Mr. Kliegman, have you spoken  
19 to any other clients since your last deposition about  
20 the Ecuador matter or about this proceeding?

21 A. I don't believe so.

22 (Deposition Exhibits 600 through 602 were  
23 marked.)

24 Q. I'm going to mark three exhibits  
25 simultaneously here because we're going to move back  
0037

1 and forth between them.

2 Exhibit 600 is the final transcript of  
3 Mr. Donziger's deposition from December 29, 2010.  
4 Exhibit 601 is the final transcript from  
5 Mr. Donziger's deposition on January 8, 2011. And  
6 Exhibit 602 is the final transcript of Mr. Donziger's  
7 deposition on January 14, 2011.

8 I'm going to direct you to particular  
9 parts of that -- these transcripts.

10 MR. CRIMMINS: I'll be sure you have one  
11 of each here, Marty.

12 MR. BEIER: Thanks.

13 A. Do you want this back?

14 Q. (BY MR. CRIMMINS) If you can just leave  
15 that over by the reporter there somewhere. Thanks.

16 A. Okay.

17 Q. I first want to direct your attention to  
18 Exhibit 600, the transcript of Mr. Donziger's  
19 December 29, 2010, deposition. I first want to go to  
20 page 2,147.

21 A. Okay.

22 Q. Line 7, the testimony reads, "During the  
23 course of the March 3rd meeting you assumed  
24 Mr. Cabrera would be appointed as the court's global  
25 expert, correct?"

0038

1 Mr. Donziger responds, "I think I did,  
2 yes." Do you see that?

3 A. Yes.

4 Q. And then line 15 the question is, "How  
5 many times had you met with Mr. Cabrera prior to the  
6 March 3rd meeting?"

7 Mr. Donziger answers, "I don't know the  
8 exact number."

9 Next question, "Can you give me an  
10 estimate, please?"

11 Mr. Donziger says, "Maybe 1 or 2. I  
12 think I base that on something I read in my notes."  
13 Do you see that?

14 A. Yes.

15 Q. Were you aware, prior to reading this  
16 testimony right now, that Mr. Donziger had met with  
17 Cabrera prior to the March 3, 2007, meeting?

18 A. No.

19 Q. You were not involved in any of those  
20 meetings with Mr. Cabrera?

21 A. The meetings prior to the March 3  
22 meeting?

23 Q. Correct.

24 A. No, I was not.

25 Q. You were present at the March 3 meeting,  
0039

1 correct?

2 A. If that's the March 2007 meeting, yes, I  
3 was.

4 Q. The March 2007 meeting in Quito, that was  
5 filmed by the Crude film crew, right?

6 A. Yes.

7 Q. So the meetings prior to that  
8 Mr. Donziger mentions here, you were not involved in  
9 any of those meetings?

10 A. No, I was not.

11 Q. Do you know -- do you have any knowledge  
12 about who participated in those meetings?

13 A. No.

14 Q. Turn to page 2163 --

15 A. Okay.

16 Q. -- line 17. The question is, "Was anyone  
17 associated with the plaintiffs involved in developing  
18 Cabrera's work plan?"

19 Mr. Donziger answers, "I believe there  
20 were people on the plaintiffs' team who were involved,  
21 yes." Do you see that?

22 A. Yes.

23 Q. Then on the next page the question is,  
24 "Could you list them, please."

25 And if you see in that answer  
0040

1 Mr. Donziger says, "I think it was some person or  
2 persons out of Stratus Consulting, as well as  
3 individuals or somebody who was working on our local  
4 technical team at the time. It might have been Luis  
5 Villacreses, but I don't remember specifically." Do  
6 you see that?

7 A. Yes.

8 Q. Were you one of the people from Stratus  
9 Consulting who worked on the -- in developing  
10 Cabrera's work plan?



11 MR. BEIER: Object to the form,  
12 foundation. You can answer.

13 A. Developing Cabrera's work plan. I  
14 don't -- I don't know.

15 Q. (BY MR. CRIMMINS) After the March 3,  
16 2007, meeting in which Mr. Cabrera was present, you  
17 were involved in developing a work plan for the  
18 peritaje global, right?

19 A. I don't recall. I know that was  
20 discussed at the meeting.

21 Q. You don't have any recollection of being  
22 involved in drafting such a work plan after that  
23 meeting?

24 A. No.

25 Q. Line 14, the question is, "Was the  
0041

1 Cabrera work plan initially drafted in English?"

2 And Mr. Donziger responds, "I don't  
3 know."

4 Do you know the answer to that question,  
5 was the Cabrera work plan initially drafted in  
6 English?

7 MR. BEIER: Object to the form.

8 A. I don't know either.

9 Q. (BY MR. CRIMMINS) If you turn to  
10 Exhibit 601, the January 8, 2011, transcript of  
11 Mr. Donziger's deposition, and turn to page 2406.

12 A. Okay.

13 Q. At line 7 the question is -- and you may  
14 need to read a little bit above that for context, but  
15 the question is, "And that work plan that Mr. Cabrera  
16 thereafter submitted was the one provided to him by  
17 the plaintiffs, correct?"

18 And Mr. Donziger says, "I believe so."  
19 Do you see that?

20 A. Yes.

21 Q. Do you have any personal knowledge or any  
22 reason to disagree with that testimony?

23 MR. BEIER: Objection, foundation.

24 A. I think I better read a little bit more  
25 here. I don't know what Mr. Cabrera submitted in  
0042

1 terms of a work plan.

2 Q. (BY MR. CRIMMINS) Did you ever review  
3 the work plan that was submitted by Mr. Cabrera?

4 A. I don't recall reviewing it.

5 Q. In your work for the Ecuadorian  
6 plaintiffs, were you involved in selecting sites for  
7 the peritaje global?

8 A. Yes.

9 Q. And were you involved in selecting  
10 sampling protocols for the peritaje global?

11 A. Not that I recall.

12 Q. Were you involved in selecting what  
13 analytes would be sampled and analyzed for during the  
14 peritaje global?

15 A. I don't recall that either.

16 Q. When I use the term "peritaje global," do  
17 you understand that to mean the work that Mr. Cabrera  
18 was charged by the court to be doing?

19 A. Yes.

20 Q. How would you describe your role in the  
21 peritaje global in 2007?

22 MR. BEIER: Object to the form.

23 A. There were several work assignments that  
24 I participated in for the -- Mr. Donziger and the  
25 Ecuadorian plaintiffs, and one of them was helping the  
0043

1 Ecuadorian team select sites and -- or at least review  
2 a list that they had created. And are you asking --  
3 what are you asking here?

4 Q. (BY MR. CRIMMINS) Let's start with that  
5 one. When you say "the Ecuadorian team," do you mean  
6 the plaintiffs' team in Ecuador?

7 A. Yes.

8 Q. When you say "select sites, or at least  
9 review a list they had created," are you talking about  
10 sites at which Mr. Cabrera would do his sampling?

11 A. I believe that was the goal.

12 Q. Other than helping the Ecuadorian team  
13 select sites or at least review a list that they had  
14 created, what other involvement did you have with the  
15 peritaje global in 2007?

16 MR. BEIER: Object to the form.

17 A. You know, again, everything was for  
18 Mr. Donziger and the plaintiff team in Quito, so there  
19 was -- I conducted a review of the data -- the  
20 analytical data by all parties. And, let's see,  
21 Stratus provided some people to go down and review  
22 Mr. Cabrera's field sampling, or be present during it,  
23 and I was involved in communicating with those people.  
24 Those are the primary areas I can remember right now.

25 Q. (BY MR. CRIMMINS) And who were the  
0044

1 people that Stratus provided to review Mr. Cabrera's  
2 field sampling?

3 A. Philip Cernera was one. Mark Quarles was  
4 another. That's all I can recall right now.

5 Q. Were you supervising the work of  
6 Mr. Quarles and Mr. Cernera in their review of  
7 Mr. Cabrera's field sampling?

8 A. They wrote and -- you know, a summary of  
9 their comments, and I reviewed that.

10 Q. Were you ever present for any of

11 Cabrera's field sampling?

12 A. No.

13 Q. You said you were involved in  
14 communicating with those people, Mr. Quarles and  
15 Mr. Cernera, about their work and their review of  
16 Mr. Cabrera's field sampling. Did that include  
17 whether Mr. Cabrera's field sampling was consistent  
18 with his work plan?

19 A. Not that I recall.

20 Q. Did you review the work plan that  
21 plaintiffs' developed and submitted to Mr. Cabrera?

22 A. I don't recall right now.

23 Q. You were aware, though, that the  
24 plaintiffs developed the work plan for Mr. Cabrera's  
25 work that was submitted to Mr. Cabrera, right?

0045

1 A. I know there was a work plan, yes.

2 Q. And you know it was submitted to  
3 Mr. Cabrera?

4 A. I don't know. I'm assuming it was.

5 Q. And just to be clear, is it your  
6 testimony that you never reviewed the filed work  
7 plan -- the work plan that was filed by Mr. Cabrera  
8 with the Lago Agrio court?

9 A. I'm not sure.

10 Q. So you don't know whether that work plan  
11 was a verbatim adoption of the work plan submitted by  
12 the plaintiffs?

13 A. I don't know.

14 Q. Do you have any reason to believe it was  
15 not a verbatim adoption of what was submitted by the  
16 plaintiffs?

17 MR. BEIER: Objection, foundation.

18 A. I don't know.

19 Q. (BY MR. CRIMMINS) Do you have any  
20 knowledge as to whether Mr. Cabrera even reviewed the  
21 work plan submitted by the plaintiffs before he filed  
22 his work plan with the Lago Agrio court?

23 MR. BEIER: Objection, foundation.

24 A. I don't know.

25 Q. (BY MR. CRIMMINS) In conducting your

0046

1 work for Stratus, including your review of the work  
2 done by Mr. Quarles and Mr. Cernera concerning  
3 Mr. Cabrera's field sampling, would it have been  
4 important for you to have understood and read  
5 Mr. Cabrera's filed work plan?

6 A. I don't know.

7 Q. Do you recall whether any part of  
8 Mr. Cernera's or Mr. Quarles' work addressed whether  
9 Mr. Cabrera's field sampling was consistent with his  
10 filed work plan?

11 A. I don't recall. I don't think that was  
12 their focus, though. It was more the methods that he  
13 was using and were they, you know, acceptable field  
14 methods.

15 Q. But not whether they were consistent with  
16 the field methods set forth in his work plan?

17 A. I don't recall that part.

18 Q. Would you turn to page 2177 of  
19 Exhibit 600.

20 A. Okay.

21 Q. Starting at line 8 the question is, "Was  
22 anyone affiliated with the plaintiffs involved in  
23 putting together Cabrera's work team?"

24 Mr. Donziger responds, "I believe so."  
25 Do you see that?

0047

1 A. Yes.

2 Q. And then the next question is, "Who on  
3 plaintiffs' team was involved in putting together  
4 Cabrera's work team?"

5 Answer: "I don't know who specifically."

6 Do you know who on plaintiffs' team was  
7 involved in putting together Cabrera's work team?

8 A. No.

9 Q. Were you involved in this task?

10 A. The task of putting together Cabrera's  
11 work team?

12 Q. Correct.

13 A. No.

14 Q. Prior to reading this testimony today,  
15 had you been told previously or did you have any  
16 understanding that plaintiffs had been involved in  
17 putting together Cabrera's work team?

18 A. Could you say that again, please?

19 Q. Sure. Prior to reading this testimony  
20 from Mr. Donziger just now, had you been told  
21 previously or did you have any understanding that  
22 plaintiffs had been involved in putting together  
23 Cabrera's work team?

24 A. No.

25 Q. Turning back to Exhibit 601, which is the  
0048

1 January 8, 2011, transcript of Mr. Donziger's  
2 deposition, at page 2422.

3 A. Okay.

4 Q. Starting at line 4 the question is --  
5 again, this is to Mr. Donziger, "You were the one that  
6 gave Stratus the instruction to produce separate  
7 annexes by topic, correct?"

8 And the answer is, "Yes."

9 Question: "And you instructed Stratus  
10 which topics to draft annexes for, correct?"

11 Answer: I think we had that discussion,  
12 yes." Do you see that?

13 A. Yes.

14 Q. Do you have any reason to disagree or  
15 contradict Mr. Donziger's testimony that he instructed  
16 Stratus to produce separate annexes by topic?

17 MR. BEIER: Objection, form, foundation.  
18 You can answer.

19 A. Do I have any -- my recollection is that  
20 Mr. Donziger asked us to prepare annexes by topics --  
21 by topic.

22 Q. (BY MR. CRIMMINS) And Mr. Donziger  
23 instructed Stratus on which topics to draft those  
24 annexes for?

25 A. Doug Beltman was managing the project, so  
0049

1 he had more direct communication with Mr. Donziger  
2 about that. So, you know, indirectly through Doug,  
3 that was my understanding.

4 Q. And you understand that the subject of  
5 this testimony are the annexes that Stratus was  
6 drafting in early 2008 to be submitted ultimately to  
7 Mr. Cabrera?

8 MR. BEIER: Objection, foundation.

9 A. Yes, these are the annexes that we  
10 submitted to Mr. Donziger.

11 Q. (BY MR. CRIMMINS) I'm going to hand you  
12 what's previously been marked as Exhibit 810. Just  
13 leave that testimony open --

14 A. Oh, okay.

15 Q. -- because that's what's discussed next.  
16 So if you turn to -- if you just turn the page of  
17 Exhibit 601, which is in front of you, on page 2423 of  
18 the testimony, can you see at line 9 Ms. Neuman says,  
19 "I'm going to mark as Exhibit 810 an outline of the  
20 peritaje global, STRATUS-NATIVE 063272"?

21 A. Yes.

22 Q. That's the Exhibit 810 that I just handed  
23 you.

24 A. Okay.

25 Q. And at line 22 of page 2423, the question  
0050

1 to Mr. Donziger is, "And Exhibit 810 was prepared a  
2 couple of weeks after you and Mr. Beltman and  
3 Ms. Maest had met with Mr. Cabrera in Quito, correct?"

4 And he says -- Mr. Donziger responds,  
5 "Yes."

6 The next question, "Is it your  
7 understanding that this outline was drafted by  
8 Mr. Beltman?"

9 And the answer is, "I believe it was."  
10 Do you see that?

11 A. Yes.

12 Q. Were you involved at all in drafting the  
13 outline for PG report that is the attachment to the  
14 e-mail in Exhibit 810?

15 A. I might have reviewed it, but I don't  
16 remember being involved in preparing it.

17 Q. And was this -- is it your understanding  
18 that this outline was an outline of the report to be  
19 submitted -- that Stratus would draft and which would  
20 ultimately be submitted to Mr. Cabrera?

21 MR. BEIER: Objection, foundation.

22 A. I don't believe so.

23 Q. (BY MR. CRIMMINS) Why not?

24 A. My understanding is that this was an  
25 outline for the whole peritaje global report.

0051

1 Q. What do you mean by "the whole peritaje  
2 global report"?

3 A. That -- you know, the whole peritaje  
4 global report, and Stratus was not involved in every  
5 piece of that.

6 Q. But is it your understanding that this  
7 outline in Exhibit 810 was a draft of the peritaje  
8 global report that plaintiffs' lawyers, consultants,  
9 plaintiffs' entire team, including Stratus, would  
10 draft for submission to Mr. Cabrera?

11 MR. BEIER: Objection, form, foundation.

12 A. No, that's not my understanding.

13 Q. (BY MR. CRIMMINS) What is your  
14 understanding of what the draft outline for PG report  
15 in Exhibit 810 is?

16 A. As I said, my understanding is that this  
17 is an outline for the entire report. And it's my  
18 understanding that, you know, there were -- Stratus  
19 was involved in pieces of it from Mr. Donziger, but  
20 there was also Cabrera's team that was doing other  
21 pieces of it that we had no involvement in.

22 Q. So your understanding of the Exhibit 810  
23 is that it is an outline of the entire Cabrera report,  
24 including sections that would not be written by  
25 Stratus; is that correct?

0052

1 A. My understanding is that this is an  
2 outline of the entire Cabrera PG report.

3 Q. PG in your understanding is peritaje  
4 global?

5 A. Peritaje global.

6 Q. So your understanding of Exhibit 810 is  
7 that it includes -- it is an outline of a report that  
8 would include sections that would be drafted by  
9 someone on Mr. Cabrera's team?

10 A. Could you repeat that?

11 Q. Sure. So your understanding of  
12 Exhibit 810 is that it is an outline of a report that  
13 would include sections to be drafted by someone on  
14 Mr. Cabrera's team?

15 A. Yes.

16 Q. Which sections of the Cabrera report, to  
17 your knowledge, were drafted by members of the team  
18 disclosed by Mr. Cabrera as his independent team?

19 MR. BEIER: Objection, form, foundation.

20 A. I'm not sure.

21 Q. (BY MR. CRIMMINS) Are you aware of any  
22 section of the Cabrera report that was drafted by a  
23 member of the team disclosed by Mr. Cabrera as his  
24 independent team?

25 A. I can only tell you what, you know, we

0053

1 didn't have involvement in. And my assumption is that  
2 Mr. Cabrera's team conducted those analyses.

3 Q. And what is that assumption based on?

4 A. I guess it's only based on the fact that  
5 we weren't involved in them. I don't know for sure.

6 Q. When you say "we," are you referring to  
7 Stratus?

8 A. Stratus.

9 Q. Do you have an understanding that other  
10 members of plaintiffs' team other than Stratus were  
11 also drafting annexes or portions of the report and  
12 annexes to be submitted to Cabrera?

13 MR. BEIER: Objection, form, foundation.

14 A. There were other members of the team in  
15 Quito who were working on parts of what ultimately  
16 became included in the peritaje global report, but I'm  
17 not sure what the relationship was to Mr. Cabrera and  
18 his team.

19 Q. (BY MR. CRIMMINS) So when you say other  
20 members of the team in Quito who were working on parts  
21 of what ultimately became included in the peritaje  
22 global report, are you referring to members of  
23 plaintiffs' team in Quito?

24 A. Yes.

25 Q. So to your knowledge, was any portion of

0054

1 the Cabrera report actually drafted by Mr. Cabrera or  
2 any person who Mr. Cabrera identified as a member of  
3 his independent team?

4 A. I don't know.

5 Q. Do you have any basis for disagreeing  
6 with Mr. Donziger's testimony that Mr. Beltman drafted  
7 this draft outline for PG report included in  
8 Exhibit 810?

9 MR. BEIER: Objection, form, foundation.

10 A. I'm not sure. I know Mr. Beltman was

11 involved in this. Whether he got input from others, I  
12 don't know.

13 Q. (BY MR. CRIMMINS) When you reviewed this  
14 outline for the PG report in Exhibit 810, did you make  
15 any specific changes or edits that you recall?

16 A. I don't recall. I'm not even sure I  
17 reviewed it, but it's likely that I reviewed it.

18 Q. So you don't have any specific  
19 recollection of reviewing it?

20 A. No.

21 Q. Why do you say it's likely that you  
22 reviewed it?

23 A. Because I'm copied on this and, you know,  
24 this is the sort of thing that Doug would give to me  
25 to just look over before he sent it.

0055

1 Q. Do you have a general recollection of  
2 being involved in creating an outline for the Cabrera  
3 report?

4 MR. BEIER: Object to form.

5 A. No.

6 Q. (BY MR. CRIMMINS) In some of your  
7 answers and in some of my questions over the last few  
8 minutes we've used the term "peritaje global report."  
9 Do you make any distinction between the term "peritaje  
10 global report" and the April 1, 2008, Cabrera report?

11 A. No. That's ultimately what was submitted  
12 and called -- I believe it was called the peritaje  
13 global report.

14 Q. On -- again, on Exhibit 601,  
15 Mr. Donziger's testimony, on page 2429.

16 A. Okay.

17 Q. Line 22, the question is, "Are you aware  
18 of any e-mail correspondence that discusses the  
19 concept that the materials that Stratus was preparing  
20 were going to be considered by Cabrera?"

21 And Mr. Donziger responds, "I don't know.  
22 No, not as I sit here." Do you see that?

23 A. Yes.

24 Q. Are you aware of any such correspondence  
25 in which the concept that the materials that Stratus

0056

1 was preparing were going to be considered by  
2 Mr. Cabrera?

3 A. No.

4 Q. Are you aware of any document whatsoever  
5 that indicates Cabrera would independently consider  
6 the report and annexes prepared by Stratus and other  
7 members of plaintiffs' team that were submitted to  
8 Mr. Cabrera?

9 MR. BEIER: Object to the form.

10 A. I don't recall. I can say for e-mails



11 that I saw, I don't recall any.

12 Q. (BY MR. CRIMMINS) Putting aside e-mails,  
13 are you aware of any other document that discusses the  
14 submission by plaintiffs of the report and annexes  
15 drafted by Stratus and others on plaintiffs' team as  
16 something that Mr. Cabrera will consider?

17 A. I don't recall seeing any.

18 Q. Did you communicate directly with local  
19 counsel for the Ecuadorian plaintiffs?

20 A. In any way, you mean?

21 Q. Yeah. Did you have a direct line of  
22 communication to the Ecuadorian plaintiffs' counsel,  
23 or did you always work through Mr. Donziger?

24 A. Sometimes I communicated directly with  
25 the counsel in Quito for the plaintiffs.

0057

1 Q. And which counsel for the plaintiffs did  
2 you have communications with?

3 A. Pablo Fajardo and Juan Pablo Saenz.

4 Q. Did you ever talk with Julio Prieto or  
5 communicate with him directly?

6 A. When I was there, yes, in Quito.

7 Q. How about Alajando Ponce Villacis, did  
8 you ever have any direct communications with him?

9 A. I met him. I don't recall any -- other  
10 than that, any direct communications.

11 Q. You said that you had communications with  
12 Mr. Prieto when you were there with -- does that mean  
13 you did not e-mail with him or have a telephone  
14 conversation with him when you were not in Quito?

15 A. I know I didn't have phone calls with  
16 him. I don't recall any e-mails that were just  
17 directly to him.

18 Q. With regard to Pablo Fajardo, did you  
19 have telephone conversations with him at times when  
20 you were not in Quito?

21 A. I'm not sure.

22 Q. And did you communicate with Mr. Fajardo  
23 by e-mail?

24 A. I know that I sent him e-mails that  
25 probably other people were copied on, too.

0058

1 Q. Did you communicate with Mr. Fajardo by  
2 other written means other than e-mail, like through  
3 regular mail or other means?

4 A. No.

5 Q. Did you ever text with him?

6 A. No.

7 Q. Did you have telephone conversations with  
8 Juan Pablo Saenz?

9 A. Not that I recall.

10 Q. Did you have e-mail communications with

11 Juan Pablo Saenz?

12 A. I believe so. Probably other people were  
13 copied on as well.

14 Q. How frequently would you say your  
15 communications with Juan Pablo Saenz was during the  
16 2007 and early 2008 time period while the peritaje  
17 global work was going on?

18 A. I would say they were infrequent.

19 Q. And what about Mr. Fajardo, what was the  
20 frequency of your e-mail communication with him?

21 A. Same.

22 Q. Did you communicate with Mr. Saenz in any  
23 written form other than e-mail?

24 A. No.

25 Q. Did you text with him?

0059

1 A. No.

2 Q. Do you text, generally speaking?

3 A. Now I do. Then I didn't. Yeah.

4 Q. In the production of documents in  
5 response to the subpoena in this proceeding were  
6 communications between you and plaintiffs' Ecuadorian  
7 counsel, including Juan Pablo Saenz, produced?

8 A. I don't recall.

9 Q. Do you recall reviewing -- when you were  
10 reviewing documents for production in response to the  
11 subpoena in this case, do you recall coming across  
12 communications between you and plaintiffs' Ecuadorian  
13 counsel, including Juan Pablo Saenz?

14 A. At this moment, I don't recall.

15 Q. Do you remember whether all of your  
16 communications -- written communications with Juan  
17 Pablo Saenz were in Spanish, or were they also in  
18 English?

19 A. It was probably a mix.

20 Q. He speaks English pretty well, right?

21 A. Very well.

22 Q. And writes English?

23 A. Yes.

24 Q. Would you say he's fluent in English?

25 A. Yes.

0060

1 Q. Would you say he writes fluently in  
2 English?

3 A. I'm not sure.

4 Q. Proficiently?

5 A. Proficiently, yes.

6 Q. Do you know whether others at Stratus  
7 communicated directly in writing with members of  
8 plaintiffs' Ecuadorian legal team?

9 A. I'm not sure.

10 Q. Do you know whether --

11 A. Probably, though. Probably.  
12 Q. Who do you believe may have communicated  
13 directly -- who at Stratus may have communicated  
14 directly with members of plaintiffs' Ecuadorian legal  
15 team?

16 A. I believe I was copied on e-mails where  
17 Doug Beltman was communicating with them.

18 Q. And would that have been in English?

19 A. Yes.

20 Q. Did Mr. Beltman ever write, to your  
21 knowledge, e-mails in Spanish?

22 A. No.

23 Q. With your knowledge of Mr. Beltman's  
24 abilities in Spanish, is it beyond his ability to  
25 write in Spanish?

0061

1 A. Yes. I think he would write some, you  
2 know, closing or openings, but . . .

3 Q. Okay. Are you aware of anyone at Stratus  
4 who had direct e-mail communication or other written  
5 communication with Julio Prieto in particular?

6 A. Not that I know of.

7 Q. Do you know whether in responding to the  
8 subpoena in this matter all communications between  
9 Stratus and plaintiffs' Ecuadorian legal team were  
10 produced, or was some determination made about which  
11 of those communications would be produced in response  
12 to the subpoena?

13 A. I don't know.

14 Q. Do you know who would know that?

15 A. Probably Mr. Beltman.

16 Q. Turning back to Exhibit 601. Turning to  
17 page 2433.

18 A. Okay.

19 Q. It discusses Exhibit 53, which I'll give  
20 to you so you have the context.

21 MR. CRIMMINS: Exhibit 53, for the  
22 record, is an e-mail from Doug Beltman to Steven  
23 Donziger, cc'ing Ann Maest and others, including Pablo  
24 Fajardo, dated Friday, February 8, 2008, with an  
25 attachment.

0062

1 Q. (BY MR. CRIMMINS) Looking at Exhibit 53,  
2 Ms. Maest, do you see that there are some red lines in  
3 the attachment titled "Draft - Outline for PG Report"?

4 A. Yes.

5 Q. And in the e-mail, Exhibit 53,  
6 Mr. Beltman is saying, "These revisions are based on  
7 what we talked about last Friday." Do you see that?

8 A. Yes.

9 Q. Do you recall whether you were involved  
10 in making any of these revisions that are reflected in

11 the attachment to Exhibit 53?

12 A. I don't recall.

13 Q. If you look at the testimony on page 2432  
14 in Exhibit 601, at line 19, in reference to Exhibit 53  
15 the question is, "If you look at the outline itself,  
16 the topics that are listed there, those are the same  
17 topics that appear in the as-filed Cabrera report,  
18 correct?"

19 And Mr. Donziger says, "I have never  
20 compared the two."

21 Next question, "Is it your testimony you  
22 have never done a comparison between the executive  
23 summary and annexes that plaintiffs provided to  
24 Cabrera and what he actually filed?"

25 The answer is, "I don't think I've ever  
0063

1 sat down and looked at -- done a comparison, no." Do  
2 you see that?

3 A. Yes.

4 Q. The next question is, "Is the reason that  
5 you didn't need to do a comparison because Cabrera  
6 signed the report that plaintiffs provided to him?"

7 Answer: "Well, I knew that he adopted  
8 pretty much verbatim what had been provided to him."  
9 Do you see that?

10 A. Yes.

11 Q. Do you have any basis for disputing  
12 Mr. Donziger's testimony that the Cabrera report  
13 contains pretty much verbatim what plaintiffs provided  
14 to him?

15 MR. BEIER: Objection, form, foundation.

16 A. I don't know.

17 Q. (BY MR. CRIMMINS) Are you aware -- are  
18 you specifically aware of anything that appears in the  
19 filed April 1, 2008, Cabrera report that was not  
20 written by plaintiffs' lawyers or plaintiffs'  
21 consultants?

22 MR. BEIER: Objection, form, foundation.

23 A. I don't know.

24 Q. (BY MR. CRIMMINS) Turning to page 2458  
25 of Exhibit 601, which relates to Exhibit 60, which I  
0064

1 will give you for context, and directing your  
2 attention to line 20 on page 2458 of Exhibit 601, the  
3 question is, "This is an annex" -- in reference to  
4 Exhibit 60 -- "that Stratus has written in English,  
5 correct?"

6 And Mr. Donziger says, "Yes."

7 A. I'm sorry, could you tell me the line  
8 again, and the page?

9 Q. Sure. It's page 2458, Exhibit 601.

10 A. Uh-huh.

11 Q. Line 20.  
12 A. Okay.  
13 Q. Question: "This is an annex that Stratus  
14 has written in English, correct?" Do you see that?  
15 A. Yes.  
16 Q. Mr. Donziger answers, "Yes." Do you see  
17 that?  
18 A. Yes.  
19 Q. Do you have any reason to dispute or  
20 disagree with Mr. Donziger's testimony that Stratus  
21 wrote the annex attached to Exhibit 60 in English?  
22 MR. BEIER: Objection, form, foundation.  
23 A. Well, there's an annex and then there are  
24 cover pages from another -- from some appendices. So  
25 your question?  
0065

1 Q. (BY MR. CRIMMINS) Sure. The annex  
2 attached to the e-mail in Exhibit 60 entitled "Annex  
3 Evaluation of Data Usability," do you recognize that  
4 as an annex drafted by Stratus in English?  
5 A. Yes.  
6 Q. Okay. And in Exhibit 60, underneath the  
7 title "Annex Evaluation of Data Usability," do you see  
8 in -- it's written in Spanish. In English it says,  
9 "By the technical team of Engineer Richard Cabrera as  
10 part of the expert examination." Do you see that?  
11 A. Yes.  
12 Q. Do you agree with my English translation  
13 of the Spanish that's written there?  
14 A. Yes.  
15 Q. And if you look back at Mr. Donziger's  
16 testimony on 2458 in reference to what's written there  
17 the question is, "Underneath the English heading  
18 appears the phrase in Spanish 'by the technical team  
19 of Engineer Richard Cabrera.'" Do you see that?"  
20 The answer is, "Yes."  
21 Question: "And it also bears the date in  
22 Spanish of March 24th, 2008. Do you see that?"  
23 Answer: "Yes."  
24 Then the question to Mr. Donziger is,  
25 "Had you given Stratus instructions to indicate on  
0066

1 these annexes that they were prepared by the technical  
2 team of Richard Cabrera?"  
3 And the answer is, "I don't know if I  
4 gave them that specific instruction." Do you see  
5 that?  
6 A. Yes.  
7 Q. Do you know whether Mr. Donziger gave  
8 Stratus the instruction to write on the annexes  
9 drafted by Stratus that they were written by the  
10 technical team of Engineer Richard Cabrera?

11 A. I don't know.  
12 Q. Do you know why Stratus put on the  
13 annexes it drafted, including the annex at -- included  
14 with Exhibit 60, that the annexes were drafted by the  
15 technical team of Engineer Richard Cabrera?

16 A. No.

17 Q. Turning to page 2466 of Exhibit 601.

18 Sorry, line 10 of page 2466. Are you there?

19 A. Uh-huh. Yes.

20 Q. The question to Mr. Donziger is, "Were  
21 you personally involved in the drafting of the  
22 executive summary of the Cabrera report?"

23 He says, "I don't believe so."

24 Question: "You didn't make edits to that  
25 document when it was in English?"

0067

1 And Mr. Donziger answers, "I think I did  
2 make some edits." Do you see that?

3 A. Yes.

4 Q. To your knowledge, was Mr. Donziger  
5 involved in drafting the summary report that Stratus  
6 drafted to be submitted to Mr. Cabrera?

7 A. I believe he was involved.

8 Q. In what way was he involved?

9 A. My recollection is that it was drafted by  
10 Stratus, and Mr. Donziger reviewed it is my  
11 recollection.

12 Q. Do you recall any edits that Mr. Donziger  
13 made?

14 A. Specific edits?

15 Q. Let's start with generally. Do you  
16 remember that Mr. Donziger made edits to that summary  
17 report drafted by Stratus?

18 A. I recall that he reviewed it. And I --  
19 yes, he did make some edits.

20 Q. Do you remember any specific edits that  
21 he made?

22 A. No.

23 Q. Turning to page 2486 of Exhibit 601.

24 Line 7 of page 2486. The question to Mr. Donziger is,  
25 "Did you go down to Quito to help finalize the

0068

1 executive summary and annexes to the Cabrera report?"

2 Mr. Donziger answers, "I know I was in  
3 Quito at some point in March to help Stratus complete  
4 its work." Do you see that?

5 A. Yes.

6 Q. You were also in Quito in March of 2008,  
7 correct?

8 A. Yes.

9 Q. Do you recall the dates that you were  
10 there?

11 A. No.  
12 Q. Do you recall whether Mr. Donziger was  
13 already in Quito when you arrived there?

14 A. I don't recall.

15 Q. Did you travel with Mr. Beltman -- strike  
16 that.

17 Do you recall that Mr. Beltman was also  
18 present in Quito at some point in March of 2008?

19 A. Yes.

20 Q. Did you travel with Mr. Beltman from  
21 Colorado to Ecuador?

22 A. I don't know. I'm not sure.

23 Q. Do you recall whether Mr. Beltman was  
24 already in Ecuador when you arrived?

25 A. I don't know. I'm not sure.

0069

1 Q. Do you recall whether you were still in  
2 Quito on April 1, 2008, the day Mr. Cabrera filed the  
3 Cabrera report with the Lago Agrio court?

4 A. No, I was not.

5 Q. You were not there?

6 A. Not that I recall, no.

7 Q. Your recollection is that you left  
8 Quito -- or left Ecuador at some point prior to  
9 April 1, 2008; is that right?

10 A. I believe so.

11 Q. Do you recall how long prior that was?

12 A. No.

13 Q. Do you recall that the deadline  
14 originally for Mr. Cabrera to file his report with the  
15 Lago Agrio court was March 24, 2008?

16 A. Yes.

17 Q. And that date was changed at some point?

18 A. Yes.

19 Q. Do you remember whether you were in  
20 Ecuador at the time that the date -- the deadline for  
21 Mr. Cabrera's filing was changed?

22 A. I think I was.

23 Q. So do you recall whether you were still  
24 in Quito as of March 24, 2008?

25 A. I don't recall.

0070

1 Q. Do you recall whether when you left Quito  
2 Mr. Donziger was still in Ecuador?

3 A. I don't recall that either.

4 Q. Do you recall whether Mr. Beltman was  
5 still in Ecuador when you left?

6 A. I don't recall.

7 Q. Do you recall whether you traveled back  
8 from Ecuador with Mr. Beltman?

9 A. I don't remember, I'm sorry.

10 Q. Do you remember whether, when you left

11 Ecuador, you came back to Colorado as opposed to some  
12 other destination?

13 A. I believe I came back to Colorado.

14 Q. Are you still in possession of the same  
15 passport you used during March 2008?

16 A. No, I have a new passport.

17 Q. Are you still in possession of the old  
18 passport?

19 A. Yes.

20 Q. I ask that you bring that passport  
21 tomorrow so that we can refresh your recollection  
22 concerning the dates you were in Quito.

23 A. Uh-huh.

24 MR. BEIER: Counsel, we're going to  
25 object. It's not responsive to the subpoena.

0071

1 MR. CRIMMINS: Well, I think it is  
2 responsive to the subpoena, but in any event --

3 MR. BEIER: The issue has been raised,  
4 and she's not here to produce documents, she's here to  
5 testify.

6 MR. CRIMMINS: Well, I'll just say that I  
7 think the passport is responsive to the subpoena, and  
8 if it's brought tomorrow we can end this line of  
9 inquiry and deal with it. If not, we may need to seek  
10 further time with the court -- from the court for  
11 Ms. Maest's deposition after she has that to refresh  
12 her recollection. So it's your decision.

13 Q. (BY MR. CRIMMINS) Do you recall whether  
14 you were in Ecuador in March 2008 when the report and  
15 annexes drafted by the plaintiffs' team were given to  
16 Mr. Cabrera?

17 A. I don't -- I don't know when they were  
18 given to Mr. Cabrera.

19 Q. Were you involved at all in compiling the  
20 summary report and annexes prepared by the plaintiffs'  
21 team, including Stratus, for delivery to Mr. Cabrera?

22 A. Compiling them. I'm not sure what you  
23 mean.

24 Q. Do you have an understanding that the  
25 report and annexes prepared by plaintiffs' team for

0072

1 Mr. Cabrera were delivered to him as a complete  
2 package?

3 A. I don't know.

4 Q. Do you know who put together the summary  
5 report and the annexes that were filed with the court  
6 by Mr. Cabrera?

7 A. I don't -- no, I don't know.

8 Q. Do you know how the materials drafted by  
9 plaintiffs' team, the summary report and annexes, were  
10 delivered to Mr. Cabrera? By that I mean, were they



11 given to him in paper, on a CD, by e-mail, do you  
12 know?

13 A. I don't know.

14 Q. Do you know who on plaintiffs' team  
15 delivered the materials from -- drafted by plaintiffs'  
16 team to Mr. Cabrera?

17 A. I don't recall. I don't know.

18 Q. Have you had any discussions since that  
19 time about how those -- how the summary report and  
20 annexes drafted by plaintiffs' team were delivered to  
21 Mr. Cabrera?

22 A. Not that I recall.

23 Q. At the time you were in Ecuador in March  
24 2008, were you working on finalizing the summary  
25 report and annexes that were to be given to  
0073

1 Mr. Cabrera?

2 A. Yes.

3 Q. And were you working with other people on  
4 the plaintiffs' team in Quito on finalizing the  
5 summary report and annexes that were given to  
6 Mr. Cabrera?

7 A. I just remember working with Mr. Beltman  
8 and Mr. Donziger.

9 Q. During the time that you were in Quito in  
10 March 2008, do you have -- do you know whether other  
11 people in the office of the plaintiffs were also  
12 working on finalizing the summary report and annexes  
13 for submission to Mr. Cabrera?

14 A. I believe they were.

15 Q. Who else was working on that in  
16 plaintiffs' offices?

17 A. I recall Tania Naranjo, Olga Lucia Gomez.  
18 I know there were others. At the moment, I don't  
19 recall exactly who else.

20 Q. Do you recall whether Luis Villacreces  
21 was involved in that?

22 A. I believe so.

23 Q. Do you remember Luis Villacreces being  
24 present in the Selva Viva office in Quito, the  
25 plaintiffs' office, during this time you were working  
0074

1 there in March 2008?

2 A. I'm not sure. I believe so, but I'm not  
3 totally sure.

4 Q. When you were in Quito, do you remember  
5 meeting a woman named Ximena Echeverria?

6 A. Yes.

7 Q. Who was she?

8 A. She was working with Tania Naranjo.

9 Q. She's a member of plaintiffs' team  
10 working in the office there?

11 A. Yes.  
12 Q. Do you remember whether she was present  
13 in the plaintiffs' office in Quito during this time in  
14 March 2008 when you were working on finalizing the  
15 summary report and annexes to be submitted to Cabrera?

16 A. I don't recall.

17 Q. Do you recall whether she was involved at  
18 all in drafting or finalizing the summary report or  
19 any annexes among those to be submitted to Cabrera?

20 A. I believe she was, but I don't recall  
21 specifically if she was there then.

22 Q. Were any of plaintiffs' lawyers --  
23 Ecuadorian lawyers also working on finalizing the  
24 summary report and annexes to be submitted to Cabrera  
25 during the time you were there in March 2008?

0075

1 A. Yes.

2 Q. Which ones?

3 A. Juan Pablo Saenz was there. I believe  
4 Julio Prieto was there as well.

5 Q. Was Pablo Fajardo there?

6 A. Yes, he was.

7 Q. Earlier you said you met Alejandro Ponce  
8 Villacis, right?

9 A. Yes.

10 Q. Do you recall whether you met him during  
11 this trip in March of 2008?

12 A. I met him before that.

13 Q. Do you recall whether he was present in  
14 the plaintiffs' office during the time you were there  
15 working on finalizing the summary report and annexes  
16 to be submitted to Cabrera?

17 A. I don't remember him being there, no.

18 Q. Do you know Laura Garr?

19 A. No.

20 Q. Do you know someone named Courtylou  
21 Kenney?

22 A. No.

23 Q. When you were in Quito in March 2008, did  
24 you meet anyone who was introduced to you or that you  
25 had an understanding was an intern -- a legal intern

0076

1 working for Selva Viva?

2 A. I can't remember any -- I can't recall  
3 any, no.

4 Q. Do you remember any law students being  
5 present in the office, American law students, during  
6 that time?

7 A. I remember American law students being  
8 present earlier than that. I don't recall seeing any  
9 at that time.

10 Q. Have you ever met Ben Goldstein?

11 A. It sounds vaguely familiar. I'm not  
12 sure. I don't know.

13 Q. Have you met Aaron Marr Page?

14 A. Yes.

15 Q. Do you remember whether Mr. Page was  
16 present in the Quito office -- plaintiffs' office  
17 during the time you were there in March 2008  
18 finalizing the summary report and annexes to be  
19 submitted to Mr. Cabrera?

20 A. I don't believe so.

21 Q. Have you met Andrew Woods?

22 A. No.

23 Q. During the time you were in Quito in  
24 March of 2008 working to finalize the summary report  
25 and annexes to be submitted to Cabrera, were any other  
0077

1 American lawyers present other than Mr. Donziger?

2 A. I don't believe so.

3 Q. And during the time you were in Quito in  
4 March of 2008 working to finalize the summary report  
5 and annexes to be submitted to Cabrera, were any other  
6 American consultants other than you and Mr. Beltman  
7 present?

8 A. I don't believe so.

9 MR. CRIMMINS: We've been going about an  
10 hour and 40 minutes, do you want to take a break?

11 MR. BEIER: Yeah.

12 THE DEPONENT: Sure.

13 THE VIDEOGRAPHER: This is the end of  
14 tape No. 1. Going off the record. The time is 10:48.  
15 (Recess taken.)

16 THE VIDEOGRAPHER: We are back on the  
17 record. The time is 11:02. This is the beginning of  
18 tape No. 2 in the deposition of Ann Maest.

19 Q. (BY MR. CRIMMINS) Ms. Maest, a few  
20 minutes ago -- actually, would you grab Exhibit 810,  
21 which is somewhere in front of you.

22 A. Okay.

23 Q. A few minutes ago when we were looking at  
24 the attachment to Exhibit 810, the draft outline for  
25 the PG report, you said you could only say which  
0078

1 portions of this outline referred to annexes or  
2 sections of the summary report that Stratus did not  
3 work on. Can you identify those sections for me?

4 A. I can tell you the ones that I don't have  
5 personal knowledge of working on.

6 Q. Okay.

7 A. "Data/information considered," 2a. 2b,  
8 "relevant standards." 2c, "Baseline/background for  
9 water soil, dot, dot, dot." 2 -- I think most of 2d,  
10 "Conceptual model of contaminant sources, transport,

11 and receptors."  
12 It's hard to know without looking in  
13 these, but 2e, "Site-by-site contamination summary."  
14 2f, "Region-wide description of contamination." 2g,  
15 "Timeline of contamination and operations."  
16 3, "Evaluation of Human Impacts." 3a,  
17 "Exposure pathways." 3b, "Human health effects." 3c,  
18 "Adverse effects on human use." 3d, "Impacts to  
19 indigenous groups."  
20 4, "Evaluation of Ecological Impacts."  
21 Really, 4a, "Oil and produced water and well additives  
22 and drilling muds toxicity to plants, animals, fish."  
23 I might have done something on 4b, but I personally  
24 was not involved in that "Comparison of oil pollution  
25 in the Oriente to toxicity levels." 4c, we were not  
0079

1 involved in "Site-specific studies on plants,  
2 animals."  
3 5c, "Potable water supply." 5d, "Health  
4 clinics." 5e, "Territory purchase." I believe those  
5 are the ones.

6 Q. So the ones you've just list --

7 A. There might be more.

8 Q. I'm sorry.

9 A. Sorry.

10 Q. Were you done?

11 A. Yes.

12 Q. And did you look through the --

13 A. Oh, the annexes.

14 Q. -- the list of annexes as well?

15 A. Okay. Annex 1, "Contamination." 1a,  
16 "Site-by-site description and presentation." 1d,  
17 "Texaco's remediation." I don't recall being involved  
18 in 1f, "Environmental background/baseline."

19 No. 2, "Ecological impacts." 2a,  
20 "Biodiversity and bioaccumulation studies." 2b,  
21 "Fauna study."

22 3, "Human impacts." 3a, "Clapp report on  
23 effects of petroleum and metals on human health." 3b,  
24 "Social study." 3c, "Indigenous report."

25 4, "Cleanup and compensation projects."

0080

1 4c, "Health clinics." Actually, 4a, "Pit and spill  
2 clean-up," I don't recall being involved in that. 4d,  
3 "Potable water study." I believe that's it.

4 Q. So the sections of the summary report and  
5 the annexes in the outline in Exhibit 810 that you  
6 just listed are those that, to your personal  
7 knowledge, Stratus was not involved in drafting; is  
8 that correct?

9 A. That's correct.

10 Q. Okay. Looking back at the first page of

11 the "Draft - Outline for PG Report," Exhibit 810, do  
12 you know who did draft the section, section 2,  
13 "Evaluation of Contamination Caused by Chevron"?

14 A. Do you mean in the summary report, or in  
15 the annexes?

16 Q. In the summary report. I'm looking at  
17 the page labeled STRATUS-NATIVE 063273, "Part 1  
18 Overview/Summary Report," number 2, "Evaluation of  
19 Contamination Caused by Chevron."

20 Do you know who drafted that section of  
21 the summary report?

22 A. I believe that Doug Beltman wrote that  
23 based on information that was provided by others. So  
24 I guess I have to recorrect my statement earlier.

25 Q. Okay. So you believe Doug Beltman  
0081

1 drafted section 2 of the summary report based on  
2 information provided by who?

3 A. I believe by the team in Quito.

4 Q. And by that you mean the plaintiffs' team  
5 in Quito, correct?

6 A. Plaintiffs' team, yes.

7 Q. And what about section 3 on the same  
8 page, "Evaluation of Human Impacts," do you know who  
9 drafted that section?

10 A. I don't know.

11 Q. And the portions of Section 4,  
12 specifically 4a and 4c, do you know who drafted those  
13 sections?

14 A. 4a, I don't know. And what was the other  
15 one?

16 Q. C. 4c.

17 A. 4c, I also am not sure.

18 Q. Okay. In Section 5, subsections c, d,  
19 and e, do you know who drafted those sections?

20 A. In the summary report, I'm not -- I don't  
21 know. I'm not sure.

22 Q. In the -- when you were in Quito in March  
23 of 2008, did you see a final version of the summary  
24 report that was to be submitted to Cabrera?

25 A. I saw it. I didn't review the entire  
0082

1 summary report.

2 Q. When you last saw that summary report to  
3 be submitted to Cabrera by the plaintiffs, were all of  
4 the sections -- were there any sections left blank  
5 that were yet to be filled in?

6 A. I don't know because I didn't review it  
7 all.

8 Q. In the list of annexes under 1,  
9 "Contamination," 1a, "Site-by-site description of  
10 presentation," do you know who wrote that annex?

11 A. I believe that was the very large annex  
12 that was prepared by the team in Quito -- plaintiff  
13 team in Quito.

14 Q. Do you know who on the plaintiffs' team  
15 was involved in drafting that annex?

16 A. I know that Tania Naranjo and Olga Lucia  
17 Ceron Gomez were involved. Other than that, I don't  
18 recall.

19 Q. Okay. And section 1d, "Texaco's  
20 remediation," do you know who drafted that section?

21 A. I don't know.

22 Q. Section 1f, "Environmental  
23 background/baseline," do you know who drafted that  
24 section of the summary report to be submitted to  
25 Cabrera?

0083

1 A. I don't know.

2 Q. Section 2a, "Biodiversity and  
3 bioaccumulation studies," do you know who drafted that  
4 section?

5 A. I see what it says here, but I don't  
6 recall beyond that. I know that there were Ecuadorian  
7 biologists.

8 Q. It says "Lorena/Ceron," right?

9 A. Yes.

10 Q. Do you know who Lorena refers to?

11 A. I believe she's an Ecuadorian biologist  
12 we met in Quito.

13 Q. Is that Lorena Gamboa?

14 A. Yes.

15 Q. Did she work with plaintiffs on the  
16 plaintiffs' team in Quito?

17 A. I'm not sure of her relationship with the  
18 plaintiffs' team.

19 Q. Where did you meet her?

20 A. I meet her in Quito at the plaintiffs'  
21 offices.

22 Q. Was that in March of 2008, or some other  
23 time?

24 A. It was before that.

25 Q. How many times have you met Lorena

0084

1 Gamboa?

2 A. I only recall one time.

3 Q. Which time was that?

4 A. I'm not sure.

5 Q. Do you recall whether she was present at  
6 the March 3, 2007, meeting in Quito at which  
7 Mr. Cabrera was present?

8 A. I don't believe she was.

9 Q. Do you recall whether she was present at  
10 all during -- in the plaintiffs' office in March of

11 2008 when you were there working?

12 A. No, she wasn't there then, that I saw  
13 her.

14 Q. Do you recall how you were introduced to  
15 her?

16 A. No.

17 Q. Do you recall who introduced you to her?

18 A. No. Just, you know, people in the Quito  
19 plaintiffs' office.

20 Q. At the time you met her at the  
21 plaintiffs' Quito office, was Ms. Gamboa working there  
22 in the Quito office of the plaintiffs?

23 A. No.

24 Q. What was she doing there?

25 A. She was there for a meeting with, I  
0085

1 believe, me and Doug.

2 Q. What was the nature of that meeting?

3 A. We talked about the biology work that she  
4 was doing. Specifically, I don't recall.

5 Q. Was the biology work that she was doing,  
6 was that connected to the peritaje global?

7 A. I believe so.

8 Q. So your understanding is that she was  
9 drafting an annex for inclusion in the summary report  
10 and annexes that the plaintiffs were to submit to  
11 Cabrera?

12 MR. BEIER: Object to the form.

13 A. Could you repeat or rephrase?

14 Q. (BY MR. CRIMMINS) Sure. Was it your  
15 understanding that Ms. Gamboa was drafting an annex  
16 for inclusion in the summary report and annexes that  
17 the plaintiffs were going to submit to Cabrera?

18 A. She -- I don't know if she was drafting  
19 an annex. She was preparing some materials.

20 Q. Materials that would be included in the  
21 summary report and annexes that the plaintiffs were  
22 going to submit to Cabrera?

23 A. I believe so.

24 Q. So when you met Ms. Gamboa, was that  
25 prior to March 2008?  
0086

1 A. Yes.

2 Q. Can you recall with any better  
3 specificity when, generally, that was that you met  
4 Ms. Gamboa?

5 A. 2007, that's . . .

6 Q. Do you recall whether it was early or  
7 late 2007?

8 A. No. No.

9 Q. Also in Exhibit 810, section 2a, it says  
10 "Ceron," do you see that? C-e-r-o-n?

11 A. Yes.  
12 Q. Do you know who that is in reference to?  
13 A. No.  
14 Q. Do you recall ever meeting anybody named  
15 Ceron? Last name Ceron?  
16 A. Not that I can recall.  
17 Q. Do you recall ever seeing a report  
18 drafted by someone named Ceron?  
19 A. Not that I recall.  
20 Q. 2b says, "Fauna study (Gallo)." Do you  
21 see that?  
22 A. Yes.  
23 Q. Do you know who that refers to?  
24 A. No.  
25 Q. Do you recall ever meeting anyone by that  
0087  
1 name?  
2 A. I might have. I don't know.  
3 Q. The person who you think you might have  
4 met, do you recall who that -- what was the  
5 circumstances of that meeting?  
6 A. I don't recall.  
7 Q. The person who you were thinking that  
8 might have been, do you recall if that was someone you  
9 met in the Quito office of the plaintiffs?  
10 A. I don't recall.  
11 Q. Do you recall ever meeting anyone on the  
12 plaintiffs' team in Quito that was an expert in  
13 wildlife biology?  
14 A. No.  
15 Q. Do you recall ever meeting anyone on the  
16 plaintiffs' team in Quito that was an expert in plant  
17 species or plant biology?  
18 A. I believe that Lorena was, is my  
19 recollection.  
20 Q. Looking at section 3, "Human impacts," 3a  
21 says, "Clapp report on effects of petroleum on metals  
22 in human health (take out sections that aren't  
23 relevant)." Do you see that?  
24 A. Yes.  
25 Q. Do you understand that to be a reference  
0088  
1 to Richard Clapp?  
2 A. Yes.  
3 Q. Richard Clapp was a subcontractor of  
4 Stratus, correct?  
5 A. Right.  
6 Q. Are you aware that a report written by --  
7 is it Dr. Clapp?  
8 A. Yes.  
9 Q. Written by Dr. Clapp was submitted as an  
10 annex to the Cabrera report?



11 A. I don't know.  
12 Q. Have you ever had any discussions with  
13 Mr. Clapp about the work he did in connection with the  
14 peritaje global?  
15 A. No.  
16 Q. Have you ever spoken to Richard Clapp?  
17 A. I don't believe so.  
18 Q. The section 3b on Exhibit 810 says,  
19 "Social study - Maldonado report." Do you see that?  
20 A. Yes.  
21 Q. Do you know who that refers to?  
22 A. Yes.  
23 Q. Who does it refer to?  
24 A. I don't remember his first name, but  
25 Mr. Maldonado.

0089

1 Q. Is it Adolfo Maldonado, does that ring a  
2 bell?  
3 A. Yes.  
4 Q. Who is Adolfo Maldonado?  
5 A. He's an Ecuadorian scientist.  
6 Q. And was Mr. Maldonado working on an annex  
7 on human impacts to be submitted as part of the  
8 summary report and annexes that plaintiffs were to  
9 submit to Mr. Cabrera?  
10 A. I was aware at the time that  
11 Mr. Maldonado was preparing some materials, but I --  
12 and that it was a study of people who were in the  
13 jungles close to the sites of contamination. Other  
14 than that, I don't really recall.  
15 Q. Do you know what kind of study that was?  
16 A. I remember he did some studies on the  
17 relationship between the distance from the  
18 contamination, and I believe it was -- I can't recall,  
19 actually. Something to do with, you know, human  
20 effects.  
21 Q. Human health effects?  
22 A. I don't recall.  
23 Q. Do you know -- have you ever met  
24 Dr. Maldonado?  
25 A. Yes.

0090

1 Q. Where did you meet him?  
2 A. I met him at a meeting outside of Quito.  
3 Q. What meeting?  
4 A. It was a meeting -- I'm not sure where it  
5 was, but it was outside of Quito, and there were a  
6 number of people there who were working on different  
7 aspects of studies related to contamination from the  
8 Texaco Chevron sites.  
9 Q. It was a meeting of people who all worked  
10 for the plaintiffs' team?

11 A. I'm not sure.  
12 Q. Is it your understanding that  
13 Mr. Maldonado -- or Dr. Maldonado worked for the  
14 plaintiffs?  
15 A. I don't really know.  
16 Q. Do you know whether the results of the  
17 study Mr. Maldonado was doing were included among the  
18 materials submitted to Mr. Cabrera by the plaintiffs?  
19 A. I believe they were.  
20 Q. The next one is section 3c on  
21 Exhibit 810, "Human impacts. Indigenous report." Do  
22 you see that?  
23 A. Yes.  
24 Q. Do you know who was working on that  
25 portion of this annex?  
0091

1 A. I don't.  
2 Q. The next one is Section 4, "Clean-up and  
3 compensation projects." Section a, "Pit and spill  
4 clean-up." Do you know who was working on that  
5 section of this annex?  
6 A. I'm not sure. I don't know.  
7 Q. And Section 4c, "Health clinics (Briehl  
8 study)." Do you see that?  
9 A. Yes.  
10 Q. Do you know who Briehl is?  
11 A. I've heard his name in association with  
12 health clinics and his write-up on that, but other  
13 than that, I don't know.  
14 Q. Is he someone who was working for the  
15 plaintiffs?  
16 A. I don't know.  
17 Q. Do you know his first name?  
18 A. No.  
19 Q. Do you know who was -- was it Mr. Briehl  
20 that was working on this portion of the annex, 4c,  
21 "Health clinics," to be included among the materials  
22 submitted to Mr. Cabrera by the plaintiffs?  
23 MR. BEIER: Objection, foundation.  
24 A. I don't know.  
25 Q. (BY MR. CRIMMINS) The report -- or the  
0092

1 material that Mr. Maldonado drafted from his study  
2 that you believe was included among the annexes  
3 submitted by the plaintiffs, do you know whether in  
4 that submission those materials were attributed to  
5 Dr. Maldonado?  
6 A. I don't know.  
7 Q. Do you know whether Dr. Maldonado's name  
8 appears at anyplace in the Cabrera report?  
9 A. I don't know.  
10 Q. Do you know whether the report drafted by

11 Mr. -- by Dr. Maldonado appeared in the Cabrera report  
12 under the name of Dr. Beristein?

13 A. I don't know.

14 Q. Are you aware of an expert report filed  
15 by Chevron in this matter in Colorado by a bilingual  
16 linguistic expert that concludes that Dr. Maldonado is  
17 at least a partial author of the annex in the Cabrera  
18 report attributed to Dr. Beristein?

19 A. No.

20 Q. Is it fair to say you don't know one way  
21 or the other whether Dr. Maldonado drafted the annex  
22 in the Cabrera report that was attributed to  
23 Dr. Beristein?

24 A. I don't know.

25 Q. So you don't know either way?

0093

1 A. I don't know either way, that's right.

2 Q. Looking at 4d on Exhibit 810, "Potable  
3 water supply (Uhl; modify to groundwater source." Do  
4 you see that?

5 A. It says, "Potable water study."

6 Q. I'm sorry, I misread it. "Potable water  
7 study (Uhl; modify to groundwater source." Do you see  
8 that?

9 A. Yes.

10 Q. Do you know who Uhl is?

11 A. I've heard his name. I don't have any  
12 personal knowledge of him.

13 Q. Is the name of the person you heard  
14 Vincent Uhl?

15 A. I don't know.

16 Q. Have you heard of the company Uhl Baron  
17 Rana & Associates from New Jersey?

18 A. No.

19 Q. Do you have an understanding as to who  
20 wrote the potable water study that's referred to here  
21 as part of an annex for cleanup and compensation  
22 projects?

23 A. I remember hearing that Mr. Uhl wrote it.  
24 That's all I know.

25 Q. Going back to the prior page. Under

0094

1 "List of Annexes, Contamination, Site-by-site  
2 description and presentation," it's 1a. Do you see  
3 where I am?

4 A. Yes.

5 Q. You said that was a very large annex  
6 prepared by plaintiffs' team including, to your  
7 recollection, Naranjo and Olga Luisa; is that right?  
8 Olga Lucia?

9 A. Olga Lucia.

10 Q. Yeah. Did you provide any input on that

11 Annex 1a?

12 A. I remember being in the Quito office and  
13 Tania Naranjo showed me some of the graphics they were  
14 preparing and she asked for my input on just the look  
15 of the graphics. And I provided some comments.

16 Q. And did Mr. Beltman also -- was  
17 Mr. Beltman also involved in reviewing those graphics  
18 that were being prepared for Annex 1a on "Site-by-site  
19 description and presentation"?

20 A. I don't remember him being involved in  
21 that.

22 Q. Were any of plaintiffs' lawyers --  
23 Ecuadorian lawyers involved in reviewing the graphics  
24 to be included in the annex concerning site-by-site  
25 description and presentation of contamination?

0095

1 A. I don't know.

2 Q. Was Mr. Donziger involved in that?

3 A. I don't know.

4 Q. Were all of the annexes drafted by  
5 Stratus included in the materials that were submitted  
6 to Mr. Cabrera?

7 MR. BEIER: Objection, foundation, form.

8 A. I don't know. I don't know.

9 Q. (BY MR. CRIMMINS) Were you involved in  
10 any discussions concerning which of the annexes  
11 drafted by Stratus should be submitted to Cabrera?

12 A. Not that I recall.

13 Q. Who asked you to go to Quito in March of  
14 2008 to help finalize the summary report and annexes  
15 that plaintiffs would submit to Cabrera?

16 A. Mr. Donziger.

17 Q. And that was the purpose of your trip in  
18 March 2008?

19 A. Yes.

20 Q. When you arrived in Quito, what was the  
21 status of the summary report and annexes that were to  
22 be submitted to Cabrera?

23 A. They were in draft form, that's all I  
24 know.

25 Q. Were they in draft form in Spanish at

0096

1 that time?

2 A. It was a mix.

3 Q. So some portions of the summary report  
4 and some annexes were in Spanish and some were in  
5 English at that time?

6 A. No. I believe all the annexes that  
7 Stratus was working on that were submitted to Cabrera  
8 were in Spanish at that point.

9 Q. And what about the annexes that others in  
10 plaintiffs' Quito office were working on?

11 A. I think they were always in Spanish.

12 Q. Well -- go ahead.

13 A. I'm mostly thinking about the large site  
14 by site, 1a. That's the only one I have personal  
15 knowledge of.

16 Q. Annex 1a, the large site-by-site  
17 description and presentation of contamination is the  
18 only one that you have personal knowledge of the  
19 status as of the time you arrived in Quito in March  
20 2008, is that what you're saying?

21 A. That's -- wait a minute. Let me look  
22 through this. Hold on. I believe there was some  
23 information on the pits that Olga Lucia was working  
24 on, and that was always in Spanish.

25 Q. At the time you arrived in Quito in March  
0097

1 2008, what was the status of the summary report?

2 MR. BEIER: Object to the form.

3 Q. (BY MR. CRIMMINS) I'm referring there  
4 to -- let me just repeat the question in light of the  
5 objection.

6 At the time you arrived in Quito in March  
7 of 2008, what was the status of the summary report to  
8 be submitted by plaintiffs to Mr. Cabrera?

9 A. It was in draft form, and I don't recall  
10 if parts of it were in Spanish or not.

11 Q. At the time you arrived in Quito in March  
12 2008, to your knowledge had any of the materials  
13 drafted by Stratus or other plaintiffs'  
14 representatives been submitted to Cabrera yet?

15 MR. BEIER: Objection, foundation.

16 A. I don't know.

17 Q. (BY MR. CRIMMINS) At the time you left  
18 Quito in March of 2008, was the summary report -- had  
19 the summary report been finalized by that time?

20 A. The summary report that Stratus was  
21 working on for submittal to --

22 Q. Yes.

23 A. I believe so.

24 Q. By the time you left Quito in March 2008,  
25 to your knowledge had any of the materials drafted by  
0098

1 plaintiffs or plaintiffs' representatives, including  
2 Stratus, been submitted to Cabrera?

3 MR. BEIER: Objection, foundation.

4 A. I don't know.

5 Q. (BY MR. CRIMMINS) Do you have any  
6 knowledge whatsoever concerning when and how the  
7 materials drafted by the plaintiffs' team were  
8 submitted to Cabrera?

9 A. No.

10 Q. In March 2008 when you were in Quito, did

11 you ever see Richard Cabrera?

12 A. No.

13 Q. Did you ever speak to Richard Cabrera --

14 A. No.

15 Q. -- during that March 2008 time period?

16 A. No.

17 Q. Do you have any knowledge of

18 communications between anyone on the plaintiffs' team

19 and Mr. Cabrera during the time you were in Quito in

20 March 2008?

21 A. I know that there was talk of submitting

22 information to Mr. Cabrera, but I personally don't

23 know when or who or which parts.

24 Q. Did anyone ever say, I talked to Richard

25 Cabrera, and he said X? Or Richard needs Y? Anything

0099

1 like that during the time that you were in the Quito

2 office in March 2008?

3 A. I don't recall anything like that.

4 Q. Prior to March -- strike that.

5 In 2007 you were also involved in

6 technical work in preparing for a mediation between

7 plaintiffs and Chevron, correct?

8 A. Yes.

9 Q. Did Mr. Donziger ever tell you that the

10 technical work you were preparing for the mediation

11 could or would also be used for the peritaje global

12 report?

13 A. I don't recall him saying anything like

14 that.

15 Q. Were any of the materials that were

16 prepared for submission to Cabrera adopted from or

17 based on the materials you prepared for the mediation?

18 A. I don't believe so.

19 Q. Turning back to Exhibit 601, which for

20 the record is the January 8, 2011, Donziger testimony.

21 On page 2490, line 12, there's a question by the

22 special master; do you see that?

23 A. Yes.

24 Q. It says, "The special master: My

25 question was, is the following a true statement:

0100

1 Quote, This report was written by expert engineer

2 Richard Stalin Cabrera Vega, close quote, yes or no,

3 please."

4 And Mr. Donziger responds, "I don't think

5 it is accurate." Do you see that?

6 A. Yes.

7 Q. What the special master is reading from

8 here is the first line of the April 1, 2008, Cabrera

9 report, and you can see that above on the bottom of

10 page 2489.

11 Do you have any basis for disagreeing  
12 with Mr. Donziger's statement that it is not accurate  
13 to say that the April 1, 2008, Cabrera report was  
14 written by Richard Stalin Cabrera Vega?

15 MR. BEIER: Objection, form, foundation.

16 A. I really don't know.

17 Q. (BY MR. CRIMMINS) So is it fair to say  
18 that you don't have any personal knowledge that would  
19 contradict that testimony of Mr. Donziger?

20 A. Do I have anything that would contradict  
21 it. I -- I don't believe I have anything that would  
22 contradict it.

23 Q. Please turn to page 2493 of Exhibit 601,  
24 line 23. Are you there?

25 A. Yes.

0101

1 Q. And this is a question to Mr. Donziger.  
2 "Did you instruct," meaning did Mr. Donziger instruct,  
3 "Mr. Beltman to write the report in the first person  
4 as though it were written by Richard Cabrera?"

5 Mr. Donziger says, "I don't know." Do  
6 you see that?

7 A. Yes.

8 Q. Do you know whether Mr. Donziger  
9 instructed Mr. Beltman to write the report -- the  
10 summary report to be submitted to Mr. Cabrera in the  
11 first person as though it were written by Richard  
12 Cabrera?

13 MR. BEIER: Object to the form. You can  
14 answer.

15 A. I don't know if he asked Mr. Beltman to  
16 do that or not.

17 Q. (BY MR. CRIMMINS) Did Mr. Donziger ever  
18 instruct you to write any of the materials to be  
19 submitted to Mr. Cabrera in the first person as though  
20 they were written by Richard Cabrera?

21 A. No.

22 Q. Do you know whether Mr. Donziger gave any  
23 such instruction to anyone at Stratus?

24 A. I don't know.

25 Q. Are you aware that the summary report

0102

1 drafted by Mr. Beltman was written in the first person  
2 and says on its face that this report was written by  
3 Richard Cabrera?

4 A. Yes.

5 Q. Do you know whether Mr. Beltman made that  
6 decision on his own, or whether he was given some  
7 instruction by somebody to write the report that way?

8 MR. BEIER: Objection, form, foundation.  
9 Also, assumes facts not in evidence.

10 A. I don't know.

11 Q. (BY MR. CRIMMINS) Please turn to page  
12 2496.

13 A. Okay.

14 Q. Line 18. The question is, "Did" --  
15 question to Mr. Donziger, "Did Mr. Beltman have the  
16 discretion to eliminate annexes from the report based  
17 on timing?" Do you see that?

18 A. Yes.

19 Q. And Mr. Donziger replies, "I think he had  
20 a fair amount of discretion." Do you see that?

21 A. Yes.

22 Q. Do you agree that Mr. Beltman had  
23 discretion -- strike that.

24 Is it fair to say, to your knowledge,  
25 that Mr. Beltman had the discretion concerning which  
0103

1 annexes being drafted by Stratus to focus on or to  
2 complete and which could be abandoned or not  
3 completed?

4 MR. BEIER: Objection, form, foundation.

5 A. I don't know.

6 Q. (BY MR. CRIMMINS) Did you have such  
7 discretion?

8 A. No.

9 Q. The next question on page 2496 to  
10 Mr. Donziger is, "Did Mr. Beltman discuss with you  
11 about this time the need to delete originally  
12 conceived annexes just because there wasn't enough  
13 time to do them?"

14 And Mr. Donziger answers, "I remembered  
15 some general discussions about the effect of time on  
16 the ability of Stratus to complete its work." Do you  
17 see that?

18 A. Yes.

19 Q. And then it says, "Did you ever give  
20 Mr. Beltman authority to delete or not prepare  
21 annexes?"

22 And Mr. Donziger responds, "I don't think  
23 we had a discussion about authority." Do you see  
24 that?

25 A. Yes.

0104

1 Q. Do you recall discussions with anyone in  
2 the early 2008 time frame about eliminating annexes  
3 that were originally planned because there wasn't  
4 enough time to complete them?

5 A. No.

6 Q. Do you recall any discussion about  
7 drafting an annex relating to groundwater  
8 contamination?

9 A. Annex. I know we talked about  
10 groundwater contamination, but I don't recall a plan



11 for an annex.

12 Q. And Stratus did not draft an annex on  
13 groundwater contamination; is that right?

14 A. I don't -- I don't believe so.

15 Q. And to your knowledge, did anyone on  
16 plaintiffs' team draft an annex to be submitted to  
17 Cabrera that related to the topic of groundwater  
18 contamination?

19 A. Not that I know of.

20 Q. Please turn to page 2506 of Exhibit 601.

21 A. Okay.

22 Q. Line 19. The question is to  
23 Mr. Donziger, "It is accurate that as of March 25th,  
24 2008 the report was not yet final and had not yet been  
25 provided to Mr. Cabrera, correct?"

0105

1 And Mr. Donziger responds, "I believe  
2 that's the case based on reading this e-mail."

3 I think you testified earlier you have no  
4 knowledge concerning when or how the report and  
5 annexes drafted by the plaintiffs were submitted to  
6 Cabrera, correct?

7 MR. BEIER: Object to the form.

8 A. I don't have any knowledge about that,  
9 that's right.

10 Q. (BY MR. CRIMMINS) So you would not have  
11 any basis to contradict or dispute Mr. Donziger's  
12 testimony that as of March 25 you believe that it had  
13 not been -- the report prepared by plaintiffs had not  
14 been provided to Cabrera; is that right?

15 MR. BEIER: Objection, form, foundation.

16 A. I just don't know.

17 Q. (BY MR. CRIMMINS) Do you recall anyone  
18 in the March 2008 time period expressing any concern  
19 that Cabrera would not have sufficient time to review  
20 the report and annexes prepared by Stratus and the FDA  
21 team in Quito?

22 A. No.

23 Q. Do you recall anyone ever expressing any  
24 concern that Cabrera might reject any annex drafted by  
25 Stratus or the plaintiffs' team in Quito?

0106

1 A. No.

2 Q. Do you recall anyone expressing any  
3 concern that Cabrera might reject any damage category  
4 contained in any of the materials drafted by  
5 plaintiffs, including Stratus?

6 A. I don't recall any conversations about  
7 that, no.

8 Q. Are you aware of any conversations in  
9 which anyone ever suggested there needed to be time  
10 for Mr. Cabrera to review and consider the materials

11 submitted by plaintiffs before his filing deadline  
12 with the Lago Agrio court?

13 A. Could you restate that?

14 Q. Sure. Are you aware of anyone expressing  
15 any concern or suggesting that Mr. Cabrera needed time  
16 to review and consider the materials submitted by  
17 plaintiffs between the time plaintiffs gave them to  
18 Mr. Cabrera and the time in which he had to file his  
19 report with the Lago Agrio court?

20 A. I mean, there were several different  
21 versions, drafts of the reports. It's not as if  
22 everything was done, you know, on March 24 or 25.  
23 There were earlier versions, so . . .

24 MR. CRIMMINS: I move to strike as  
25 nonresponsive.

0107

1 Q. (BY MR. CRIMMINS) You've testified, I  
2 think, a couple times now that you have no knowledge  
3 concerning when materials were provided to -- by the  
4 plaintiffs' team to Mr. Cabrera, right?

5 A. Right.

6 Q. So you don't know whether earlier drafts  
7 of the material Stratus drafted or the plaintiffs'  
8 team drafted were provided to Mr. Cabrera, correct?

9 MR. BEIER: Objection, argumentative.  
10 You can answer.

11 A. I don't know. All I'm saying is that  
12 there were earlier drafts.

13 Q. (BY MR. CRIMMINS) You don't know whether  
14 any of those earlier drafts were provided to  
15 Mr. Cabrera, correct?

16 A. That's correct.

17 Q. So are you aware of anyone expressing any  
18 concern that there would not be sufficient time for  
19 Mr. Cabrera to review what was submitted by plaintiffs  
20 prior to the time that he had to file his report with  
21 the Lago Agrio court?

22 A. I don't recall any, no.

23 Q. Are you aware of any edits or -- any  
24 edits made by Mr. Cabrera to the materials that were  
25 submitted by plaintiffs to him?

0108

1 MR. BEIER: Objection, foundation.

2 A. I don't know what he edited or changed.

3 Q. (BY MR. CRIMMINS) So is it fair to say  
4 that you're not aware of any edits made by Mr. Cabrera  
5 to the materials that were submitted by plaintiffs to  
6 him?

7 MR. BEIER: Objection, asked and  
8 answered.

9 A. I don't -- I'm not aware of any. I don't  
10 know of any.

11 Q. (BY MR. CRIMMINS) Are you aware of  
12 Mr. Cabrera asking plaintiffs' team any questions  
13 concerning the materials that were drafted by  
14 plaintiffs' team, including Stratus?

15 A. I personally was not aware of any.

16 Q. Do you have any knowledge concerning the  
17 number of pages comprising the summary report and  
18 annexes that were submitted by the plaintiffs' team to  
19 Mr. Cabrera?

20 A. I don't understand the question.

21 Q. The materials that were submitted by  
22 plaintiffs to Mr. Cabrera that were drafted by the  
23 plaintiffs' team, including Stratus, do you know how  
24 many pages that comprised?

25 A. Everything?

0109

1 Q. Uh-huh.

2 A. I believe it was in the thousands. Well,  
3 overall -- can I --

4 Q. Sure. Please.

5 A. Sorry. I guess I'm thinking of the whole  
6 Cabrera report was certainly in the thousands. In  
7 terms of -- your question was how many of the pages  
8 from the plaintiffs' team?

9 Q. Yeah. The summary report and annexes  
10 that were drafted by the plaintiffs' team, including  
11 Stratus, and were submitted to Mr. Cabrera, do you  
12 know how many pages that comprised?

13 MR. BEIER: Objection, foundation.

14 A. I'm not aware of all of the materials  
15 that were submitted, so I can't really say. I can  
16 tell you that the ones that I was aware of, it was  
17 probably in the hundreds.

18 Q. (BY MR. CRIMMINS) And when you say  
19 you're not aware of all the materials that were  
20 submitted, is that because you're not -- you don't  
21 have personal knowledge concerning the volume of  
22 materials that were drafted by the plaintiffs' team in  
23 Quito that were submitted to Mr. Cabrera?

24 A. Yes.

25 Q. And your understanding is that the

0110

1 materials drafted by Stratus were a part of but not  
2 the entirety of the summary report and annexes that  
3 were submitted by the plaintiffs' team to Mr. Cabrera;  
4 is that right?

5 A. Yes.

6 Q. Okay. Please turn to page 2545 of  
7 Exhibit 601, line 20.

8 A. Okay.

9 Q. This is a discussion or questioning of  
10 Mr. Donziger concerning some communications with

11 Mr. Beltman. The question is, "And the reason it  
12 could not be given to a reporter, Dr. Clapp's work, is  
13 because when submitted as an annex, it had  
14 Mr. Cabrera's name on it, correct?"

15 And Mr. Donziger answers, "I think that  
16 was one of the reasons, yes."

17 Question: "Mr. Beltman was aware that  
18 the identities of the true authors of the annexes to  
19 the Cabrera report needed to be kept secret, correct?"

20 And the answer, "I believe so, yes."

21 My question is, do you -- did you ever  
22 have any conversations with anyone concerning the need  
23 to keep the true authors of the annexes to the Cabrera  
24 report secret?

25 A. True authors. I'm sorry, could you

0111

1 repeat the last part of that again?

2 Q. Sure. Did you ever have any  
3 conversations with anyone concerning the need to keep  
4 the true authors of the annexes to the Cabrera report  
5 secret?

6 A. I know that the authors were not on  
7 there, but I don't recall any conversations saying you  
8 must keep this secret.

9 Q. Do you recall anyone ever saying that  
10 plaintiffs' role in drafting the Cabrera report needed  
11 to be kept confidential?

12 MR. BEIER: Object to the form.

13 A. The plaintiffs' role -- could you repeat  
14 that?

15 Q. (BY MR. CRIMMINS) Sure. Do you recall  
16 anyone ever saying that plaintiffs' role in drafting  
17 the Cabrera report needed to be kept confidential?

18 MR. BEIER: Object to the form.

19 A. Plaintiffs' role. Not that I recall.

20 Q. (BY MR. CRIMMINS) Do you recall anyone  
21 ever saying that plaintiffs' meetings with Mr. Cabrera  
22 had to be kept secret or confidential?

23 A. I don't recall anyone saying that, but I  
24 think that was the understanding.

25 Q. Have you seen e-mails between Mr. Beltman

0112

1 and Mr. Donziger concerning Mr. Clapp giving a report  
2 that he drafted to Congressman McGovern?

3 A. I don't recall seeing those, no.

4 Q. Have you ever been involved in any  
5 discussions in which the topic of Mr. Clapp's  
6 authorship of a Cabrera report annex was discussed?

7 A. Could you repeat that?

8 Q. Sure. Have you ever been involved in any  
9 discussions in which the topic of Mr. Clapp's  
10 authorship of a Cabrera report annex was discussed?

11 A. The authorship. No. No.

12 Q. Do you have an understanding today that a  
13 report written by Dr. Clapp was adopted verbatim as an  
14 annex to the March -- I'm sorry, the April 1, 2008,  
15 Cabrera report?

16 MR. BEIER: Objection, foundation, form.

17 A. I know that Dr. Clapp worked on  
18 materials. I don't know what was submitted or whether  
19 it was verbatim.

20 Q. (BY MR. CRIMMINS) To your knowledge, was  
21 Ms. -- do you know who Karen Hinton is?

22 A. Yes.

23 Q. Who is Karen Hinton?

24 A. She is a press person who works with the  
25 plaintiffs.

0113

1 Q. Have you had -- have you met her?

2 A. Yes.

3 Q. Have you communicated with her directly?

4 A. Yes.

5 Q. To your knowledge, was Ms. Hinton aware  
6 as of April 1, 2008, that plaintiffs were drafting  
7 materials to be submitted to Mr. Cabrera?

8 A. I don't know.

9 Q. To your knowledge, was Ms. Hinton aware  
10 as of April 1, 2008, that members of plaintiffs' team  
11 had met with Mr. Cabrera?

12 A. I don't know.

13 Q. Do you know if Ms. Hinton is aware of  
14 those things today?

15 A. I don't know.

16 Q. Have you ever had any discussions with  
17 Ms. Hinton about Stratus or plaintiffs' role in  
18 submitting materials to Cabrera?

19 A. No.

20 Q. You said a moment ago you don't remember  
21 anyone saying that plaintiffs' meetings with Cabrera  
22 were secret or confidential, but you assumed that was  
23 the case; is that what you testified to?

24 A. Yes.

25 Q. How did you come by that understanding,

0114

1 or why did you assume that?

2 A. I'm sorry, what was the first part of  
3 that again?

4 Q. I'll ask it so it's one question, not  
5 two.

6 A. Okay.

7 Q. Why did you assume that plaintiffs'  
8 meetings with Cabrera were confidential or secret?

9 MR. BEIER: Object to the form.

10 A. The plaintiffs' meetings. I can just say

11 that, you know, when I met with him it wasn't in the  
12 Quito offices, so -- although once -- I met him there  
13 once. But the other meeting was not in the offices,  
14 so that's why I say that.

15 Q. (BY MR. CRIMMINS) You've met Mr. Cabrera  
16 twice, right?

17 A. Yes.

18 Q. Once at the -- once you attended the  
19 meeting on March 3, 2007, at the plaintiffs' office in  
20 Quito, correct?

21 A. Right.

22 Q. And that meeting was filmed by the Crude  
23 film crew, right?

24 A. Yes.

25 Q. And the other meeting you attended was in  
0115

1 January 2008 at the home of Juan Aulestia in Quito,  
2 right?

3 A. Yes.

4 Q. And you have never been present in the  
5 same room with Mr. Cabrera at any other time, correct?

6 A. No. That's correct.

7 Q. And do I understand your prior testimony  
8 that you've never spoken to Mr. Cabrera at any other  
9 time?

10 A. That's correct also.

11 Q. And you never communicated to him by  
12 e-mail or any other means?

13 A. Not that I recall, no. No.

14 Q. So if I understand your answer before,  
15 your assumption that plaintiffs' meetings with  
16 Mr. Cabrera were secret or confidential was based on  
17 the fact that you met at the private home of Juan  
18 Aulestia; is that correct?

19 A. Yes.

20 Q. Why did the fact that you were meeting at  
21 Juan Aulestia's home lead you to assume that the  
22 meeting with Mr. Cabrera was secret or confidential?

23 A. Because it would have taken place in the  
24 Quito office otherwise.

25 Q. Did you ever ask anyone why you were  
0116

1 meeting with Mr. Cabrera at the home of Juan Aulestia  
2 instead of at the Quito office?

3 A. No.

4 Q. Did you ever wonder why you weren't  
5 meeting with Mr. Cabrera, a court-appointed expert, at  
6 the courthouse?

7 MR. BEIER: Object to the form.

8 A. No.

9 Q. (BY MR. CRIMMINS) Did the fact that you  
10 were meeting at the home -- the private home of Juan

11 Aulestia lead you to believe or consider that the  
12 meeting may have been improper?

13 MR. BEIER: Object to the form,  
14 argumentative. You can answer.

15 A. I -- I don't know.

16 Q. (BY MR. CRIMMINS) Did it ever lead you  
17 to consider whether the meeting was not permissible  
18 under Ecuadorian law?

19 MR. BEIER: Same objections.

20 A. I also don't know.

21 Q. (BY MR. CRIMMINS) Did you at any time in  
22 the five or so years you've been working on this  
23 project ever wonder to yourself or consider or have  
24 doubts concerning the propriety of the plaintiffs'  
25 interactions -- the plaintiffs' team interactions with  
0117

1 Mr. Cabrera?

2 A. No.

3 Q. And that's true to this very day, you've  
4 never had any doubt whatsoever?

5 A. About the plaintiffs' interactions with  
6 Mr. Cabrera?

7 Q. Correct.

8 A. I -- no, that's a part that I don't  
9 really understand very well. So -- so I don't know.

10 Q. Well, since the filing of this 1782  
11 action in which Chevron -- you understand that Chevron  
12 has alleged that the contacts between plaintiffs and  
13 Cabrera were improper, correct?

14 A. Yes.

15 Q. And Chevron alleges that the submission  
16 of a report and annexes that were then reproduced in  
17 the Cabrera report was improper, you understand that  
18 allegation, right?

19 A. Yes.

20 Q. And you understand that Chevron has also  
21 alleged that both plaintiffs and Cabrera have lied  
22 about their relationship in filings with the Lago  
23 Agrio court and in the media since that time, correct?

24 A. I don't know about the plaintiffs, but I  
25 did hear that there was an allegation against  
0118

1 Mr. Cabrera.

2 Q. Are you not aware of filings by the Lago  
3 Agrio plaintiffs in the Lago Agrio court that deny any  
4 relationship between Cabrera and the plaintiffs' team?

5 A. I'm not aware of those.

6 Q. This is the first time you've ever heard  
7 of that?

8 A. Yes.

9 Q. And knowledge of these allegations or  
10 hearing the allegations that Chevron has made in this

11 and other proceedings, has that -- has that led to any  
12 conversations that you've had with anyone at Stratus  
13 or with Mr. Donziger about whether, in fact, those  
14 allegations are true or whether the relationship  
15 between plaintiffs and Cabrera was or was not proper?

16 MR. BEIER: Objection, form,  
17 argumentative. You can answer.

18 A. We did have discussions about that at  
19 Stratus, and the main thing I remember discussing is  
20 we weren't sure why Mr. Cabrera said that he didn't  
21 have any contact or any help from the plaintiffs.

22 Q. (BY MR. CRIMMINS) And did the fact that  
23 Mr. Cabrera had denied that he didn't have any help  
24 from plaintiffs or any contact with plaintiffs, did  
25 that lead you or suggest to you -- did it lead you to  
0119

1 believe or suggest to you that the contacts were  
2 improper under Ecuadorian law?

3 MR. BEIER: Objection, form, foundation,  
4 argumentative.

5 A. I don't know. I don't know what's  
6 allowable or not allowable under Ecuadorian law.

7 Q. (BY MR. CRIMMINS) Did it suggest to  
8 you -- did Mr. Cabrera's denial of the contact suggest  
9 to you that the contacts were improper?

10 MR. BEIER: Objection, form, foundation,  
11 argumentative, vague. You can answer.

12 A. No, that did not suggest that to me.

13 Q. (BY MR. CRIMMINS) And in discussion that  
14 you had at Stratus about Mr. Cabrera's denial of his  
15 contacts with plaintiffs, who was involved in those  
16 discussions?

17 A. I remember Mr. Beltman being involved in  
18 that.

19 Q. Anyone else?

20 A. Not that I can recall.

21 Q. So did you and Mr. Beltman come to some  
22 conclusion about why Mr. Cabrera would have denied the  
23 contacts with plaintiffs that you knew had occurred?

24 MR. BEIER: Object to the form.

25 A. We discussed it, and the only thing we  
0120

1 could come up with was that it was -- you know, in  
2 Latin culture, for men it's not something that you  
3 want to admit, that you are getting help, so that's  
4 all we discussed.

5 Q. (BY MR. CRIMMINS) So the conclusion that  
6 you and Mr. Beltman came to with regard to  
7 Mr. Cabrera's denials were that due to Latin culture,  
8 Mr. Cabrera would not want to admit that he got help  
9 in writing his report; is that fair to say?

10 A. That's right.



11 Q. Did you discuss or consider any  
12 alternative explanations?

13 A. No.

14 Q. Did anyone else at Stratus ever ask you  
15 whether, in fact, the contacts that plaintiffs had,  
16 including that Stratus had, with Cabrera were proper  
17 in light of the allegations that Chevron has made?

18 MR. BEIER: Objection, form,  
19 argumentative.

20 A. No.

21 Q. (BY MR. CRIMMINS) Your assumption or  
22 understanding that plaintiffs' meetings with  
23 Mr. Cabrera needed to be kept secret, did that include  
24 that they needed to be kept secret from the Lago Agrio  
25 court?

0121

1 MR. BEIER: Objection, foundation.

2 A. I don't know.

3 MR. BEIER: Excuse me. Objection,  
4 mischaracterizes her testimony. You can answer. I'm  
5 sorry, I didn't mean to interrupt.

6 A. Could you repeat that again, please?

7 Q. (BY MR. CRIMMINS) I have your answer as  
8 "I don't know." Is that correct?

9 A. Now I'm not sure what you asked.

10 Q. In light of the objection, I'll rephrase.

11 Is it fair to say that you had an  
12 understanding after the meeting at Juan Aulestia's  
13 house that plaintiffs' meetings with Cabrera needed to  
14 be kept secret?

15 A. I don't know.

16 Q. Well, earlier you testified that you  
17 assumed that the meetings with plaintiffs and  
18 Cabrera -- between plaintiffs and Cabrera needed to be  
19 secret or confidential, right?

20 A. I guess -- you know, I don't know  
21 about -- other -- you know, the plaintiffs generally  
22 and Cabrera, I can only speak for my experience there.

23 Q. Okay. Let me try again. After the  
24 meeting at Juan Aulestia's house in January of 2008  
25 with Mr. Cabrera, did you have an understanding that

0122

1 your contacts with Mr. Cabrera might be -- I'm sorry,  
2 needed to be kept confidential or secret?

3 A. Yes.

4 Q. And after that meeting at Juan Aulestia's  
5 house in January of 2008, did you have an  
6 understanding that the contacts between Mr. Cabrera  
7 and plaintiffs' Ecuadorian counsel had to be kept  
8 secret?

9 A. I don't really know.

10 Q. And after that meeting in January 2008,

11 did you keep your meetings with Cabrera secret?

12 MR. BEIER: Object to the form.

13 A. You mean the meeting that I had in

14 January 2008?

15 Q. (BY MR. CRIMMINS) The meeting you had in  
16 January 2008 and the meeting you had in March of 2007.

17 A. I'm sorry, that was -- could you  
18 rephrase?

19 Q. Sure. Other than in your testimony in  
20 this case -- strike that.

21 Prior to January of 2010, the initiation  
22 of this proceeding that you're testifying in right  
23 now --

24 A. Yes.

25 Q. -- had you ever told anybody who was not  
0123

1 present at the March 3 meeting that you had met with  
2 Cabrera?

3 A. The March 3 meeting in Quito?

4 Q. Right.

5 A. No.

6 Q. And prior to January of 2010, have you  
7 ever told -- had you ever told anybody who was not  
8 present at the January 2008 meeting at Juan Aulestia's  
9 house that you had met with Cabrera?

10 A. I don't believe so.

11 Q. Is the reason why you did not tell anyone  
12 because of your understanding that those meetings had  
13 to remain secret?

14 MR. BEIER: Object to the form.

15 A. No. It just didn't come up.

16 Q. (BY MR. CRIMMINS) Your understanding  
17 that your meetings with Cabrera had to be kept secret,  
18 did that include an understanding that they needed to  
19 be kept secret from Chevron?

20 MR. BEIER: Object to the form.

21 A. That was never stated explicitly or  
22 implicitly, and so I just don't think I ever thought  
23 about that.

24 Q. (BY MR. CRIMMINS) Well, when you said  
25 your understanding was that your meetings with Cabrera  
0124

1 had to be kept secret, who did they need to be kept  
2 secret from?

3 MR. BEIER: Objection, mischaracterizes  
4 her testimony. You can answer.

5 A. Okay. I believe I was talking about the  
6 meeting at Juan Aulestia's house, and my understanding  
7 is that, I guess, anybody outside of the plaintiff  
8 team. So . . .

9 Q. (BY MR. CRIMMINS) So that would  
10 include -- so your understanding included that you

11 needed to keep your meeting with Mr. Cabrera a secret  
12 from the Lago Agrio court; is that fair to say?

13 MR. BEIER: Objection, argumentative.

14 A. I didn't ever consider that. I don't  
15 know.

16 Q. (BY MR. CRIMMINS) Would you please turn  
17 to page 2634 of Exhibit 601.

18 A. Okay.

19 Q. I'm sorry, line 8. The question to  
20 Mr. Donziger, "Did local counsel indicate to you they  
21 were worried about being criminally charged if they  
22 admitted that the plaintiffs' team, including counsel,  
23 had written portions of the report that Cabrera filed  
24 under his name?"

25 And Mr. Donziger answered, "I believe  
0125

1 that was a concern that was mentioned." Do you see  
2 that?

3 A. Yes.

4 Q. Has anybody ever expressed to you a  
5 concern that plaintiffs' Ecuadorian counsel would be  
6 criminally charged if plaintiffs admitted that the  
7 plaintiffs' team had written portions of the report  
8 that Cabrera filed under his name?

9 A. No.

10 Q. Have you ever been involved in any  
11 discussions whatsoever concerning the potential  
12 criminality of plaintiffs' involvement in the writing  
13 of the Cabrera report?

14 A. You mean outside of this proceeding?

15 Q. Yes.

16 A. No.

17 Q. When you qualified your answer with  
18 "outside this proceeding," you meant other than  
19 suggestions by Chevron, right?

20 A. Right. Right.

21 Q. Okay. This is an exhibit -- it's  
22 actually two exhibits that were marked earlier today  
23 in the Donziger deposition in New York. 16 -- I'm  
24 sorry, I need to try to figure this out here.

25 MS. KUNDU: They are the same, just 1680  
0126

1 has the --

2 MR. CRIMMINS: So we only need 1625A?

3 MS. KUNDU: Right.

4 Q. (BY MR. CRIMMINS) Sorry. This was  
5 marked this morning, which is why we're a little  
6 confused about it, as 1625A in the Donziger  
7 deposition. This is an e-mail.

8 The first page is a certified  
9 translation, followed by a certificate of translation,  
10 and then the original document that has been

11 translated is an e-mail from Julio Prieto to Steven  
12 Donziger, Juan Pablo Saenz, someone named Luis,  
13 someone named Yanza, and Pablo Fajardo Mendoza. Do  
14 you see that?

15 A. Yes.

16 MR. CRIMMINS: For the record, this is  
17 document DONZ00055225.

18 Q. (BY MS. KUNDU) Have you ever seen this  
19 e-mail before, whether in original format or in  
20 translation? And you can take a moment to read it. I  
21 don't think I mentioned for the record --

22 A. No.

23 Q. Sorry.

24 MR. CRIMMINS: Let me just say for the  
25 record that the e-mail is from March 30, 2010.

0127

1 Q. (BY MR. CRIMMINS) Sorry to interrupt.

2 A. I have never seen this before.

3 Q. The e-mail from Mr. Prieto in English  
4 says, "Steve, Today Pablo and Luis were kind enough to  
5 tell us what was going on in Denver, and the fact that  
6 certainly ALL will be made public, including  
7 correspondence.

8 "From what you say we must prepare  
9 ourselves to minimize the effects.

10 "Apparently this is normal in the US and  
11 there is no risk there, but the problem, my friend, is  
12 that the effects are potentially devastating in  
13 Ecuador (apart from destroying the proceeding, all of  
14 us, your attorneys, might go to jail), and we are not  
15 willing to minimize our concern and to sit to wait for  
16 whatever happens.

17 "For us it is NOT acceptable for the  
18 correspondence, the e-mails, between Stratus and  
19 Juampa and myself to be divulged." Do you see that?

20 A. Yes. ". . . and myself be divulged,"  
21 yes.

22 Q. In responding to the subpoenas issued by  
23 Chevron in this case, has anyone ever suggested that  
24 the production needs to be limited in some way to  
25 protect the Ecuadorian lawyers for the plaintiffs?

0128

1 A. No.

2 Q. To your knowledge, has any documents been  
3 culled from the production or not produced to Chevron  
4 because of concerns over the criminal prosecution or  
5 the jeopardy -- criminal jeopardy that the documents  
6 would result in if they were produced?

7 A. To my knowledge, no.

8 Q. Have you ever heard anyone express any  
9 concerns about the criminal prosecution of plaintiffs'  
10 Ecuadorian counsel based on documents to be produced

11 by Stratus in response to the subpoena in this matter?

12 A. No.

13 Q. I'm going to turn to Exhibit 600, which  
14 is one of the other transcripts in front of you. And  
15 it's the transcript of the December 29, 2010, Donziger  
16 deposition. And, I'm sorry, I'm looking at page 2275.

17 A. Okay.

18 Q. And it says on line 19, "Were any of the  
19 materials prepared by Stratus attached to plaintiffs'  
20 February 18th, 2008 filing?"

21 And Mr. Donziger's answer is, "Reading  
22 this description, it doesn't appear that that was the  
23 case." Do you see that?

24 A. Yes.

25 Q. Has anyone ever consulted with you

0129

1 concerning whether it was a true statement that the  
2 Stratus materials that were delivered to Cabrera were  
3 attached to the Lago Agrio plaintiffs' February 18,  
4 2008, filing in the court in Ecuador?

5 A. I don't know what the February 18, 2008,  
6 filing is.

7 Q. Okay. Are you aware of statements made  
8 in filings with US federal courts, including the court  
9 in Colorado, that the material Stratus drafted for  
10 Cabrera for submittal to Cabrera were submitted to him  
11 through a filing with the Lago Agrio court?

12 A. I don't recall anything like that, no.

13 Q. Did anybody ever ask you to review the  
14 materials that were filed by the Lago Agrio plaintiffs  
15 with the Lago Agrio court to determine whether any of  
16 those materials were authored by Stratus?

17 A. I don't -- I'm sorry, I don't understand  
18 the question.

19 Q. Okay. Did anybody ever ask you to review  
20 any materials that were submitted by plaintiffs to the  
21 Lago Agrio court to determine whether any of those  
22 materials were authored by Stratus?

23 A. No.

24 Q. To your knowledge, did anybody ever ask  
25 anyone at Stratus to review materials that were filed

0130

1 by the Lago Agrio plaintiffs with the Lago Agrio court  
2 to determine whether any of those materials were  
3 authored by Stratus?

4 A. Not that I'm aware of.

5 Q. Did anyone ever tell you or suggest to  
6 you that the materials that Stratus drafted for  
7 submission to Cabrera were submitted through a filing  
8 with the Lago Agrio court?

9 A. I don't really know very much, if  
10 anything, about filings with the court, so no.

11 Q. Did you ever ask anyone how the materials  
12 submitted to Cabrera were physically delivered to him?

13 A. No.

14 Q. Did you ever ask anyone whether the  
15 materials submitted to Cabrera by the plaintiffs were  
16 also provided to the Ecuadorian court?

17 A. No.

18 Q. Did anyone ever say that the materials  
19 submitted to Cabrera by the plaintiffs were provided  
20 to the Ecuadorian court?

21 A. Could you repeat that?

22 Q. Sure. Did anyone ever say to you that  
23 the materials submitted to Cabrera by the plaintiffs  
24 were provided to the Ecuadorian court?

25 A. No, not that I recall.

0131

1 Q. I'm going to hand you what's previously  
2 been marked as Exhibit 793. If you want to take a  
3 moment to look at it. Exhibit 793 is an e-mail chain  
4 among various lawyers for the Ecuadorian plaintiffs in  
5 June of 2010.

6 Ms. Maest, have you ever seen this  
7 document before?

8 A. No.

9 Q. In your preparation this morning for this  
10 deposition, did you review any documents?

11 A. Just my prior deposition transcript.

12 Q. Okay. I just direct your attention to  
13 the first page of Exhibit 793. It's an e-mail at the  
14 bottom from Andrew Wilson to Jason Rockwell cc'ing a  
15 number of other people; do you see that?

16 A. Yes.

17 Q. And Mr. Wilson writes, "Shall we talk  
18 this through on a call?"

19 "I agree with most of what Jason says  
20 here - especially the second paragraph - but I wonder  
21 whether we do better by explaining that we authored  
22 the report - rather than letting Chevron tell that  
23 story like Nancy Drew." Do you see that?

24 A. Yes.

25 Q. Do you -- first, were you aware in -- at

0132

1 any time over the past year of any discussions among  
2 plaintiffs' counsel -- Ecuadorian plaintiffs' counsel  
3 concerning how much should and should not be admitted  
4 in this proceeding in Colorado concerning Stratus'  
5 involvement with the Cabrera report?

6 A. No.

7 Q. Did anyone ever discuss with you the  
8 option that plaintiffs and Stratus should admit in  
9 this proceeding that they authored the Cabrera report?

10 MR. BEIER: Object to the form. You can

11 answer.

12 A. In this proceeding here?

13 Q. (BY MR. CRIMMINS) Yes.

14 A. Could you repeat the question, please?

15 Q. Sure. Did anyone ever discuss with you  
16 the option that plaintiffs and Stratus should admit in  
17 this proceeding in Colorado that they authored the  
18 Cabrera report?

19 MR. BEIER: Object to the form. It's  
20 also argumentative.

21 A. No. I mean, the only advice that might  
22 relate to that is tell the truth, so . . .

23 Q. (BY MR. CRIMMINS) And the truth is,  
24 isn't it, that the report and annexes that were  
25 submitted by plaintiffs were reproduced verbatim as  
0133

1 the Cabrera report?

2 MR. BEIER: Objection, foundation,  
3 argumentative, assumes facts not in evidence. You can  
4 answer.

5 A. I don't know.

6 Q. (BY MR. CRIMMINS) Is reading Exhibit 793  
7 today the first time you have ever heard anyone  
8 representing the Lago Agrio plaintiffs suggest that  
9 the plaintiffs should explain that they authored the  
10 Cabrera report?

11 A. I haven't been involved or heard of any  
12 discussions like this, so . . .

13 Q. Has anyone else at Stratus ever indicated  
14 to you or suggested that admitting that plaintiffs  
15 authored the Cabrera report was something that should  
16 be considered in connection with this proceeding in  
17 Colorado?

18 MR. BEIER: Object to the form.

19 A. I -- I find that confusing. I mean, we  
20 are saying that we authored material that was  
21 submitted and ended up in part in the Cabrera report,  
22 and so I'm not really sure what you're asking, I  
23 guess.

24 Q. (BY MR. CRIMMINS) Well, Chevron's  
25 allegation is that the materials that plaintiffs  
0134

1 drafted, including Stratus, that were submitted to  
2 Cabrera were the entirety of the filed Cabrera report.  
3 Do you understand that that's the allegation?

4 A. No, I guess I didn't understand -- the  
5 allegation is that the entire Cabrera report is based  
6 on information from the plaintiffs, is that what you  
7 are saying?

8 Q. Not that it's based on. The allegation  
9 is -- and there's testimony to this effect now -- that  
10 the report and annexes that were submitted to Cabrera

11 by the plaintiffs were, in fact, what Cabrera then  
12 filed as his report. Do you understand that?

13 A. I was not aware of that.

14 Q. Okay. Do you have any information that  
15 would indicate that Mr. Cabrera did anything with the  
16 reported annexes given to him by plaintiffs other than  
17 sign it and file it with the Lago Agrio court?

18 MR. BEIER: Objection, foundation.

19 A. I don't know.

20 Q. (BY MR. CRIMMINS) Do you have any  
21 information -- strike that.

22 Please look at page 2355 of Exhibit 600.

23 A. Okay.

24 Q. And my question is actually on page 2357,  
25 but I wanted you to see the context. Would you just  
0135

1 take a minute to read the testimony starting at line  
2 10 of page 2355, through the very top of 2357.

3 A. Okay.

4 Q. Were you aware that a firm called  
5 Constantine Cannon had represented the Lago Agrio  
6 plaintiffs for some time?

7 A. No.

8 Q. Have you ever heard the name Jeffrey  
9 Shinder?

10 A. No.

11 Q. Ms. Belanger testified that she met with  
12 Jeffrey Shinder in Boulder at some point. Did you  
13 ever meet with a lawyer in Boulder that you did not  
14 know?

15 A. No. You mean related to this case?

16 Q. Yes.

17 A. No.

18 Q. On the top of page 2357 -- the answer  
19 starts on the bottom of the prior page -- "He felt  
20 like" -- and this is Donziger's testimony -- "He felt  
21 like in light of Chevron's allegations and facts he  
22 deduced I think by talking to Mr. Beltman about  
23 Stratus' role, that he just didn't feel like it was  
24 something he wanted his firm to commit to." Do you  
25 see that?

0136

1 A. Yes.

2 Q. Were you involved in any conversation  
3 with Mr. Beltman explaining Stratus' role to any  
4 attorneys for the plaintiffs' lawyers?

5 A. No.

6 Q. Do you know anything about the substance  
7 of the conversation referred to here between  
8 Mr. Beltman and Mr. Shinder?

9 MR. BEIER: Objection, foundation.

10 A. I -- no, I don't know who Mr. Shinder is,



11 and I don't know -- I'm not aware of this.

12 Q. (BY MR. CRIMMINS) Did Mr. Beltman ever  
13 indicate that he spoke to a lawyer for the Lago Agrio  
14 plaintiffs who then withdrew from the representation  
15 of the Lago Agrio plaintiffs?

16 A. No, I didn't know about that.

17 Q. Were you aware that there were plaintiffs  
18 lawyers who represented the Lago Agrio plaintiffs that  
19 withdrew from that representation in 2010?

20 A. No.

21 Q. Have you ever spoken to anyone at  
22 Brownstein Hyatt Farber and Shreck?

23 A. No.

24 Q. Have you ever heard of John McDermott?

25 A. No.

0137

1 Q. Were you aware that there was a time  
2 early on in this proceeding when Brownstein Hyatt  
3 Farber and Shreck, including Mr. McDermott, were  
4 intending to represent Stratus in this proceeding?

5 A. No. I haven't heard that name before.

6 Q. So you're not aware that -- whether you  
7 heard of the name or not, were you aware that there  
8 was a law firm representing the Lago Agrio plaintiffs  
9 in this proceeding in Colorado that withdrew from this  
10 proceeding?

11 A. I don't remember hearing anything about  
12 that, no.

13 Q. Turn to the other transcript that we  
14 haven't looked at yet, it's Exhibit 602, which is  
15 Mr. Donziger's testimony from January 14, 2011. Do  
16 you have that in front of you?

17 A. Yes.

18 Q. Would you please -- we're going to start  
19 a little bit of a long section here. Do you want to  
20 break for lunch now? It's 12:35. It will take me  
21 another half-hour.

22 MR. BEIER: Do you want to take a break  
23 now, or do you want to keep going?

24 THE DEPONENT: I'm okay.

25 Q. (BY MR. CRIMMINS) Turn to page 2817.

0138

1 A. Okay.

2 Q. This testimony relates to Exhibit 873, so  
3 I'm going to give you that for context. If you would  
4 take a look at Exhibit 873, which is an e-mail  
5 exchange among some of plaintiffs' counsel, dated  
6 May 21, 2010.

7 Have you ever seen Exhibit 873 before?

8 A. No, I have not.

9 Q. Looking back at Exhibit 602, the Donziger  
10 testimony, let's start at page 2817, line 2. "Have

11 you had an opportunity to read Exhibit 873,  
12 Mr. Donziger?"

13 Answer: "Yes."

14 Question: "Looking at page 2 of the  
15 exhibit Mr. Maazel writes --"

16 A. Wait a minute. What page are we on? I  
17 don't see that.

18 MR. BEIER: I don't either.

19 Q. (BY MR. CRIMMINS) I'm sorry, it's 2818.  
20 Top of the page.

21 A. Okay.

22 Q. Sorry.

23 A. All right.

24 Q. Make sure we're in the same place. Do  
25 you see where the question is, "Have you had an  
0139

1 opportunity to read Exhibit 873, Mr. Donziger"?

2 A. No.

3 Q. I'm sorry, could I see that exhibit?

4 A. This must be different.

5 MR. CRIMMINS: Do we have another copy of  
6 it? Let me just have that copy.

7 MS. KUNDU: Mine is the same as her's.

8 MR. CRIMMINS: That's why I need it  
9 because mine is different.

10 Q. (BY MR. CRIMMINS) I'm sorry, so it's on  
11 page 2832 of Exhibit 602. The question is, "Have you  
12 had an opportunity to read Exhibit 873, Mr. Donziger?"

13 And the answer is, "Yes."

14 Are we in the same place now?

15 A. Yes.

16 Q. And then the next question says, "Looking  
17 at page 2 of the exhibit, Mr. Maazel writes, 'Reading  
18 through this again, are we prepared to admit that we  
19 furnished Stratus documents to Cabrera? (Paragraph 9:  
20 Quote, For that matter, Chevron likely understood that  
21 plaintiffs had furnished Cabrera with materials  
22 prepared by Stratus, close quote. I'm tempted to take  
23 this paragraph out. Thoughts?"

24 "And then Mr. Horowitz replies, starting  
25 at the top of page 2 of Exhibit 873, 'I included this  
0140

1 sentence based on the view that the fact of our  
2 submission of Stratus documents to Cabrera almost  
3 necessarily will come out, and that by this reference  
4 I was seeking to 'down-play' that fact. Given that I  
5 understand that a number of the annexes to Cabrera's  
6 report, and it is my impression that they are lengthy,  
7 are virtually verbatim reproductions of work that  
8 Stratus had authored.' Do you see that?"

9 And then the answer is, "Yes." Do you  
10 see that?

11 A. Yes.  
12 Q. Were you involved in any discussions  
13 after the filing of this 1782 proceeding concerning  
14 whether or not Stratus or plaintiffs would admit that  
15 Stratus' materials were reproduced verbatim in the  
16 Cabrera report?

17 A. No.

18 Q. Did you ever tell anyone in connection  
19 with this proceeding that Stratus did not -- that  
20 Stratus materials were not provided to Cabrera?

21 A. No.

22 Q. Did you ever tell anyone that you were  
23 surprised upon review of the filed Cabrera report to  
24 see Stratus work product reflected in that report?

25 A. No.

0141

1 Q. Did you ever tell anybody you were  
2 astonished to see that there was a resemblance between  
3 Stratus work and work that appeared in the Cabrera  
4 report?

5 A. No.

6 Q. And, in fact, you were not surprised to  
7 see that; is that correct?

8 A. That's correct.

9 Q. Because when you were drafting -- you and  
10 others at Stratus were drafting the summary report and  
11 annexes that were submitted to Cabrera, you had the  
12 expectation that they would be submitted to Cabrera  
13 and hopefully would appear in the Cabrera report,  
14 correct?

15 A. I don't know about hopefully, but my  
16 understanding is that they would be submitted to  
17 Cabrera.

18 Q. And I think you've testified that your  
19 expectation was that Mr. Cabrera would consider them  
20 for inclusion in his report, correct?

21 A. Right.

22 Q. So it would not be surprising, would it,  
23 for you or anyone else at Stratus to see Stratus work  
24 product contained within the Cabrera report, right?

25 A. Right.

0142

1 MR. BEIER: Objection, form, foundation.  
2 You can answer.

3 A. Could you repeat that again?

4 Q. (BY MR. CRIMMINS) Sure. So it would not  
5 be surprising, would it, for you to see Stratus work  
6 product contained within the Cabrera report, correct?

7 A. Correct.

8 Q. And do you have an understanding that  
9 others who were working on this project at Stratus  
10 also understood that the summary report and annexes

11 being drafted by Stratus would be submitted to Cabrera  
12 for potential inclusion in his report?

13 MR. BEIER: Objection, foundation.

14 A. I can say my understanding, and I believe  
15 that was the understanding of at least some of the  
16 others at Stratus.

17 Q. (BY MR. CRIMMINS) Was there anyone at  
18 Stratus, to your knowledge, who was not told -- I'm  
19 sorry, let me start again.

20 Was there anyone at Stratus who was  
21 working on the summary report and annexes in early  
22 2008 that was not told that those -- that the summary  
23 report and annexes would be submitted to Cabrera?

24 MR. BEIER: Objection, form, foundation.

25 A. I don't know.

0143

1 Q. (BY MR. CRIMMINS) When you -- you have  
2 read the Cabrera report, correct?

3 A. Not in its entirety.

4 Q. How much of it have you read?

5 A. I would say large parts of it. But, you  
6 know, I believe it's the first appendix is a number --  
7 you know, just page after page of graphics. I have --  
8 you know, I have looked at some of those, not every  
9 single one.

10 Q. Have you read the entire summary report,  
11 the main part of the Cabrera report?

12 A. Yes.

13 Q. And have you read the majority of the  
14 annexes?

15 A. Not in detail.

16 Q. You signed a public document, or a  
17 document that was subsequently made public endorsing  
18 the approach taken in the Cabrera report, right?

19 A. Yes.

20 Q. And endorsing the conclusions of the  
21 Cabrera report, correct?

22 A. Yes.

23 Q. In connection with signing that document  
24 and making that public endorsement, did you not  
25 carefully read the Cabrera report?

0144

1 MR. BEIER: Objection, argumentative.

2 A. I carefully reviewed all the parts that  
3 are in my area of expertise.

4 Q. (BY MR. CRIMMINS) And what areas are  
5 those?

6 A. Geochemistry, water quality,  
7 environmental effects of contaminants. But, for  
8 example, I'm not an indigenous expert, so I did not  
9 review that report.

10 Q. With regard to the portions of the report

11 that fell within the areas of your expertise as you  
12 just described them, did you recognize Stratus work  
13 product in the Cabrera report?

14 A. Yes.

15 Q. And when was it that you recognized that  
16 work product?

17 A. When? I don't recall the day or even the  
18 month.

19 Q. Was it shortly after the filing of the  
20 Cabrera report in April of 2008?

21 A. It was after we received copies of the  
22 Cabrera report and I reviewed parts of it.

23 Q. Is it fair to say that it was before you  
24 signed the public endorsement, the Stratus comments on  
25 the Cabrera report?

0145

1 A. Yes.

2 Q. And when you reviewed those sections that  
3 related to your area of expertise, did you recognize  
4 that they were -- that they reflected verbatim  
5 material that had been written by Stratus?

6 MR. BEIER: Object to the form.

7 A. I didn't compare.

8 Q. (BY MR. CRIMMINS) Did you read the  
9 Cabrera report in Spanish or in English?

10 A. Both.

11 Q. Where did you get the English version?

12 A. I believe that we received the report and  
13 portions of the report in Spanish, and then sent it  
14 for a translation.

15 Q. Who sent it for translation?

16 A. I think it was several different people,  
17 but Doug Beltman was managing that.

18 Q. And do you know whether Mr. Beltman  
19 actually sent all those parts of the filed Cabrera  
20 report for translation as opposed to using prior  
21 drafts in English as the translation?

22 A. I don't know.

23 Q. Do you know who Scott Weicksel is?

24 A. Yes.

25 Q. Who is Scott Weicksel?

0146

1 A. He is someone that used to work at  
2 Stratus.

3 Q. Do you know where he is today?

4 A. I believe he's in school in Michigan.

5 Q. When is the last time you spoke to Scott  
6 Weicksel?

7 A. It's certainly been over a year.

8 Q. Have you spoken to him since he left  
9 Stratus?

10 A. I think he might have come back once and

11 I saw him when he was at Stratus; but other than that,  
12 no.

13 Q. Do you know when he left Stratus?

14 A. No, I don't recall.

15 Q. Are you aware of Mr. Weicksel being in  
16 charge of a project to assemble an English version of  
17 the filed Cabrera report?

18 A. I don't recall that.

19 Q. Do you recall seeing a document in which  
20 Mr. Beltman explains that the annexes that were  
21 drafted by Stratus in English do not need to be  
22 translated because those prior drafts in English can  
23 be used as the translation?

24 A. I recall something about that.

25 Q. What do you recall?

0147

1 A. I think that's right, that they didn't  
2 all need to be translated because we had versions in  
3 English, so . . .

4 Q. And that would indicate that the prior  
5 versions in English drafted by Stratus were verbatim,  
6 adopted by Cabrera in the translated Spanish version,  
7 correct?

8 A. That I'm not --

9 MR. BEIER: Object to form, foundation.

10 A. That I'm not aware of. I'm not sure what  
11 the thinking was behind that.

12 Q. (BY MR. CRIMMINS) Well, would you agree  
13 that in order to use the prior English draft drafted  
14 by Stratus, it would have to be an accurate  
15 translation of what was actually filed in Spanish by  
16 Mr. Cabrera?

17 A. I don't know.

18 Q. When you reviewed your sections, the  
19 sections that related to your areas of expertise in  
20 the final Cabrera report, did you recognize those  
21 sections as being similar to what had been drafted by  
22 Stratus, or were they identical?

23 A. As I said, I didn't do a side-by-side  
24 comparison.

25 Q. Whether or not you did a side-by-side

0148

1 comparison, as you read it did you recognize it as  
2 Stratus work product?

3 MR. BEIER: Objection, asked and  
4 answered.

5 A. Some of them, yes.

6 Q. (BY MR. CRIMMINS) And with regard to --  
7 you're saying some of them. You mean some of the  
8 annexes?

9 A. Some of the annexes.

10 Q. With regard to the annexes that you

11 recognized as Stratus work product, did you recognize  
12 them as exactly what Stratus had written and had  
13 translated into Spanish, or did you recognize it as  
14 something that was only similar to what Stratus had  
15 drafted?

16 A. I don't know.

17 MR. CRIMMINS: I'm going to mark a new  
18 exhibit, 603.

19 (Deposition Exhibit 603 was marked.)

20 MR. CRIMMINS: Do we have another copy of  
21 this? I only see three copies. Is this one? No.  
22 Oh, sorry. This one can go to Bill.

23 Q. (BY MR. CRIMMINS) With regard to  
24 knowledge within Stratus that the report and annexes  
25 that Stratus was drafting, were you ever told to keep  
0149

1 the fact that they would be submitted to Cabrera from  
2 anyone else at Stratus?

3 A. No.

4 Q. Did anyone at Stratus ever tell you that  
5 they were surprised to see Stratus work product in the  
6 filed Cabrera report?

7 A. No.

8 Q. Turn to --

9 MR. CRIMMINS: For the record,  
10 Exhibit 603 is a transcription of a hearing held in  
11 this proceeding, Chevron versus Stratus, Inc., in  
12 Colorado on April 27, 2010.

13 Q. (BY MR. CRIMMINS) Can you turn to page  
14 69 -- yeah, 69 of Exhibit 603.

15 A. Okay.

16 Q. And line 8, the court says, "Well, let me  
17 ask Mr. Silver this. Mr. Silver, do you know -- does  
18 your client know what was given to Cabrera?"

19 And Mr. Silver responds, "In an anecdotal  
20 way I know that they are wise to the resemblance of --  
21 to their astonishment of work product, similarity of  
22 product. So it's anecdotal."

23 And then the court says, "Okay. So they  
24 don't have -- they don't know for a fact, item by  
25 item, what was provided by plaintiff's firm to Cabrera  
0150

1 that you provided to plaintiff's firm?"

2 And Mr. Silver responds, "That's my  
3 understanding, other than what's anecdotally popped up  
4 and resembles their product." Do you see that?

5 A. Yes.

6 Q. Mr. Silver, you recognize, is counsel for  
7 Stratus?

8 A. Yes.

9 Q. Have you ever met with Joe Silver?

10 A. Yes.

11 Q. When did you meet with Joe Silver?

12 A. I don't recall exactly. It was probably  
13 in -- early in 2010.

14 Q. Do you recall whether it was before  
15 April 27, 2010?

16 A. I don't recall.

17 Q. How many times have you met with  
18 Mr. Silver?

19 A. I remember one. All I can say is I know  
20 it was at least once.

21 Q. Okay. Looking at Mr. Silver's statement  
22 in line 11, "In an anecdotal way I know that they are  
23 wise to the resemblance of -- to their astonishment of  
24 product, similarity of product. So it's anecdotal."

25 Do you believe it's accurate to say that  
0151

1 Stratus was astonished to find similarity between what  
2 Stratus had written to give to Cabrera and what was in  
3 the Cabrera report?

4 MR. BEIER: Object to foundation. I'll  
5 object that it's argumentative. I'm going to instruct  
6 the witness not to disclose any communications with  
7 Mr. Silver in your answer. And this entire line of  
8 questioning is ridiculous and improper, but you can  
9 answer.

10 A. You'll have to repeat the question.

11 Q. (BY MR. CRIMMINS) Do you believe it's  
12 accurate to say that Stratus was astonished to find  
13 similarity between what Stratus had written to give to  
14 Cabrera and what was in the Cabrera report?

15 MR. BEIER: I'm going to include all  
16 those objections. I'm also going to object to the  
17 extent this witness is not a 30(b) witness -- 30(b)(6)  
18 witness. So you can answer as to your personal  
19 knowledge.

20 A. I cannot speak for Stratus. If you're  
21 asking my personal knowledge about whether I was  
22 astonished, is that -- if we can rephrase it so that  
23 it's for me.

24 Q. (BY MR. CRIMMINS) Well, let's start with  
25 this: I think you already testified that you were not  
0152

1 astonished to find Stratus work product in the Cabrera  
2 report, right?

3 A. Right.

4 Q. And that's because the work that Stratus  
5 was doing in drafting a summary report and annexes in  
6 early 2008 was done for the express purpose of  
7 providing those materials to plaintiffs' counsel for  
8 submission to Mr. Cabrera, right?

9 A. Say the last part again.

10 Q. Sure. I had asked -- well, let's start



11 with this: I think you already testified that you  
12 were not astonished to find Stratus work product in  
13 the Cabrera report, right? And you said right.

14 And then the question is, "And that's  
15 because the work that Stratus was doing in drafting a  
16 summary report and annexes in early 2008 was done for  
17 the express purpose of providing those materials to  
18 plaintiffs' counsel for submission to Mr. Cabrera,  
19 right?"

20 A. Yes.

21 THE VIDEOGRAPHER: Counsel, five minutes  
22 until tape change.

23 Q. (BY MR. CRIMMINS) Did you at any time  
24 mislead your counsel about Stratus' role in drafting  
25 materials for the purpose of having those materials  
0153

1 submitted to Mr. Cabrera?

2 MR. BEIER: I'm going to instruct the  
3 witness not to disclose the content of any  
4 communication you had with an attorney. The question  
5 is, did you intend to mislead your counsel in  
6 speaking. You can answer that question.

7 A. No, I did not.

8 Q. (BY MR. CRIMMINS) Did you ever tell your  
9 counsel that Stratus was -- I'm sorry, let me start  
10 over.

11 Did you ever tell your counsel that you  
12 were surprised to find Stratus work product in the  
13 Cabrera report?

14 MR. BEIER: I'll instruct the witness not  
15 to answer based on the attorney-client privilege.

16 Q. (BY MR. CRIMMINS) Well, I'm asking -- it  
17 would not be true, would it, to say that Stratus work  
18 product is not contained in the Cabrera report; is  
19 that right?

20 MR. BEIER: Object to the form,  
21 argumentative.

22 A. It would not be true -- could you  
23 rephrase that in a positive -- without the --

24 Q. (BY MR. CRIMMINS) Sure. Stratus work  
25 product appears in the Cabrera report, correct?  
0154

1 MR. BEIER: Objection, asked and answered  
2 many times.

3 A. Yes. Yes.

4 Q. (BY MR. CRIMMINS) So it would be a false  
5 statement to say that Stratus work product does not  
6 appear in the Cabrera report, correct?

7 MR. BEIER: Objection, argumentative,  
8 vague. You can answer.

9 A. I think I already answered that. There  
10 is Stratus work product that is in the Cabrera report.

11 Q. (BY MR. CRIMMINS) And the Stratus work  
12 product that appears in the Cabrera report was drafted  
13 by Stratus with the intention that it be supplied to  
14 Mr. Cabrera for inclusion in the report, correct?

15 MR. BEIER: Objection, asked and  
16 answered. You can answer again.

17 A. Yes.

18 Q. (BY MR. CRIMMINS) So it would be a false  
19 statement to say that you were surprised or astonished  
20 to find Stratus work product in the Cabrera report,  
21 correct?

22 MR. CRIMMINS: Objection, argumentative.

23 A. I personally was not surprised.

24 Q. (BY MR. CRIMMINS) And is it true that  
25 you never made that false statement to your counsel?

0155

1 MR. BEIER: I'm going to instruct the  
2 witness not to disclose the content of communications  
3 with counsel. This statement in the record does not  
4 state that Mr. Silver is talking about anything that  
5 came from this witness.

6 MR. CRIMMINS: You made your objection.

7 MR. BEIER: You can answer.

8 MR. CRIMMINS: Marty, that's an improper  
9 speaking objection.

10 MR. BEIER: No, it's not. You're  
11 completely mischaracterizing Mr. Silver's statement  
12 here as representing what she said --

13 MR. CRIMMINS: I am asking questions, is  
14 it true --

15 MR. BEIER: -- and it's trying to invade  
16 the attorney-client privilege. She is not going to  
17 testify to that.

18 Q. (BY MR. CRIMMINS) Is it true, Ms. Maest,  
19 that you never made the false statement to your  
20 counsel that you were surprised or astonished to find  
21 Stratus work product in the Cabrera report?

22 MR. BEIER: I'll instruct the witness not  
23 to answer as to what you told your attorney. If you  
24 can answer the question without telling -- without  
25 disclosing communications with counsel, you can

0156

1 answer; otherwise you need to say, I can't answer that  
2 question.

3 A. Uh-huh. Could you repeat it? Sorry.

4 Q. (BY MR. CRIMMINS) Sure. Is it true that  
5 you never made the false statement to your counsel  
6 that you were surprised or astonished to find Stratus  
7 work product in the Cabrera report?

8 MR. BEIER: I'll include the same  
9 instructions.

10 A. You know, I said that I was not surprised

11 what I -- I don't recall saying -- talking about that,  
12 so . . .

13 Q. (BY MR. CRIMMINS) To your knowledge, did  
14 anyone at Stratus make the false statement to Stratus'  
15 counsel that they were surprised or astonished to find  
16 Stratus work product in the Cabrera report?

17 MR. BEIER: I'm going to instruct the  
18 witness not to answer as it invades the  
19 attorney-client communication about her knowledge  
20 about what was discussed with counsel.

21 MR. CRIMMINS: How is making a false  
22 statement to counsel --

23 MR. BEIER: You are just characterizing  
24 this as a false statement. You are taking her words  
25 out of --

0157

1 MR. CRIMMINS: No. No. Her testimony  
2 is --

3 MR. BEIER: I'm instructing the witness  
4 not to answer. If you want to take it up with the  
5 court, take it up. Let's move on.

6 MR. CRIMMINS: I want to take it up. I  
7 want to have a clear record that you are instructing  
8 this witness not to answer the question --

9 MR. BEIER: About what other people told  
10 her.

11 MR. CRIMMINS: -- "To your knowledge, did  
12 anyone at Stratus make the false statement to Stratus'  
13 counsel that they were surprised or astonished to find  
14 Stratus work product in the Cabrera report."

15 MR. BEIER: And you are playing games.

16 MR. CRIMMINS: That is the question. I'm  
17 asking whether she has any knowledge of a false  
18 statement being made to her counsel or Stratus'  
19 counsel.

20 If you want to take the position that  
21 making a false statement to counsel is seeking  
22 advice -- legal advice from that counsel, then go  
23 right ahead and instruct her not to answer.

24 MR. BEIER: You have changed what your  
25 question was.

0158

1 MR. CRIMMINS: I read the same exact  
2 question, Marty, off the Livenote. Are you  
3 instructing her not to answer that question?

4 MR. BEIER: I'm instructing her to  
5 answer -- I'm instructing her she's not to disclose  
6 what she has heard other people tell counsel in the  
7 presence of counsel at Stratus, yes.

8 THE DEPONENT: Okay.

9 MR. BEIER: That's the instruction.

10 Q. (BY MR. CRIMMINS) Are you following your

11 advice of counsel not to answer my question?

12 A. My answer to that is, I don't know about  
13 statements.

14 I think the tape is going to run out.

15 MR. CRIMMINS: Let's take a break right  
16 now, then.

17 THE VIDEOGRAPHER: This is the end of  
18 tape No. 2. Going off the record. The time is 1:02.

19 (Recess taken.)

20 THE VIDEOGRAPHER: We are back on the  
21 record. The time is 1:51. This is the beginning of  
22 tape No. 3 in the deposition of Ann Maest.

23 Q. (BY MR. CRIMMINS) Ms. Maest, do you  
24 still have Exhibit 602 in front of you, which is  
25 Mr. Donziger's testimony from January 14, 2011?  
0159

1 A. Yes.

2 Q. Could you please turn to page -- oh, this  
3 is the one -- hold on -- that I had the wrong thing.  
4 I'm sorry, I just need a minute.

5 It's page 2858.

6 A. Okay.

7 Q. The -- well, the page starts, question to  
8 Mr. Donziger, "Did you feel that appeal of the 1782  
9 granted against Ms. Belanger would delay the exposure  
10 of the plaintiffs' database as having been in the  
11 Cabrera report?"

12 Answer: "No."

13 Question: "Ms. Belanger was working  
14 under your supervision when she created that database;  
15 is that right?"

16 Answer: I believe she was hired by  
17 Stratus." Do you see that?

18 A. Yes.

19 Q. Was Ms. Belanger hired by Stratus?

20 A. No.

21 Q. Who, to your knowledge, was Ms. Belanger  
22 hired by?

23 A. I believe it was an E-Tech connection,  
24 but I'm not sure who actually paid her.

25 Q. Going back to 2858 -- page 2858, the next  
0160

1 question is "And they supervised her work?"

2 Answer: "To the best of my recollection,  
3 she was an independent contractor who I believe signed  
4 a contract with either my firm or the Kohn firm. But  
5 she was found and recommended by Stratus and I think  
6 to a great degree supervised Stratus -- supervised by  
7 Stratus."

8 Question: "Who supervised her work on  
9 the database that was incorporated into the Cabrera  
10 report?"

11 Answer: "I believe individuals at  
12 Stratus."

13 Question: "Can you be specific as to  
14 which individuals?"

15 Answer: "I don't know, but I remember  
16 Ann Maest being involved." Do you see that?

17 A. Yes.

18 Q. Is it accurate that you supervised the  
19 work of Ms. Belanger on the database that she was  
20 working on?

21 A. To some extent, yes.

22 Q. Who else was involved in supervising  
23 Ms. Belanger?

24 A. She was not supervised by Stratus. She  
25 lived in Quito for, I think, a couple of months, and  
0161

1 worked with the plaintiff team in Quito. So to the  
2 extent that anybody was supervising her, I guess it  
3 was me.

4 Q. Okay. And you say she was not supervised  
5 by Stratus. So were you wearing your E-Tech hat at  
6 that time?

7 A. I don't believe I was yet an employee of  
8 Stratus at that time.

9 Q. Okay. So to the extent you were working  
10 in connection with the Ecuador matter, is it fair to  
11 say you were working in that capacity for E-Tech?

12 A. Yes.

13 Q. Okay. Do you remember when,  
14 approximately, this was that Ms. Belanger was doing  
15 that work?

16 A. I don't recall exactly, but it was later  
17 2006, early 2007, somewhere in there.

18 Q. I'll just represent to you that  
19 Ms. Belanger in her testimony thought it was early  
20 2007. Is that consistent with your recollection?

21 A. That sounds about right.

22 Q. And the work that Ms. Belanger was doing,  
23 she was doing in conjunction with others working in  
24 plaintiffs' office in Quito, correct?

25 A. Yes.

0162

1 Q. And were you supervising those  
2 individuals as well?

3 A. No.

4 Q. And Ms. Belanger was working on a  
5 database that contained the environmental sampling  
6 that had been performed up to that point in the case;  
7 is that right?

8 A. Yes.

9 Q. And this was ultimately the database that  
10 was incorporated into the Cabrera report as

11 Mr. Donziger testified here; is that your  
12 understanding?

13 A. It was used for some materials that ended  
14 up in the Cabrera report.

15 Q. Were you ever involved in any discussions  
16 about how to characterize the use of that database in  
17 the Cabrera report?

18 A. What do you mean?

19 Q. Were you ever involved in any discussions  
20 about how to characterize how that database came to be  
21 used in the Cabrera report in any federal US court  
22 proceeding in the United States?

23 A. No.

24 Q. Do you know whether the Cabrera report  
25 acknowledges that that database was obtained from the  
0163

1 plaintiffs' team?

2 A. I don't know.

3 Q. Were you involved in any discussion as to  
4 whether or not to represent in federal courts in the  
5 US that that -- Cabrera acknowledged in the Cabrera  
6 report that that database was obtained from  
7 plaintiffs' team?

8 A. Could you rephrase that?

9 Q. Sure. Were you involved in any  
10 discussion concerning the topic of how -- I'm sorry,  
11 strike that.

12 Were you involved in any discussion as to  
13 whether to represent to a federal court in the United  
14 States that Cabrera acknowledged explicitly in the  
15 Cabrera report that he obtained that database from the  
16 plaintiffs' team?

17 A. No.

18 Q. Please turn to page -- before you do  
19 that, to your knowledge was anyone at Stratus involved  
20 in any discussion concerning whether to represent to a  
21 federal court in the United States that Cabrera  
22 acknowledged explicitly in the Cabrera report that he  
23 obtained the database on which Ms. Belanger worked  
24 from the plaintiffs' team?

25 A. I don't know.

0164

1 Q. If you could turn to -- I'm sorry, I need  
2 to find it again. Hang on a second.

3 Actually, I'm sorry, would you turn to  
4 Exhibit 601, which is the January 8, 2011, transcript.  
5 Do you have Exhibit 601 in front of you?

6 A. Yes, I do.

7 Q. Please go to page 2477.

8 A. Okay.

9 Q. On line 12 of Mr. Donziger's testimony on  
10 page 2477, the question is, "Whose job was it to

11 analyze the credentials of the Cabrera team members to  
12 determine which annexes could be attributed to them,  
13 even if they didn't write them?"

14 Mr. Donziger answers, "I don't remember.  
15 I think it was a combination of people, including  
16 Stratus, local counsel." Do you see that?

17 A. Yes.

18 Q. Were you involved at all in making the  
19 determination of which annexes could be attributed  
20 through which people that did not write them?

21 MR. BEIER: Object to the form. You can  
22 answer.

23 A. Which annexes -- could you rephrase that?

24 Q. (BY MR. CRIMMINS) Sure. Do you recall  
25 in your testimony in the Pallares Viega matter  
0165

1 concerning a document in which there was a chart that  
2 said who would write each annex and then who it would  
3 be attributed to?

4 A. Yes.

5 Q. Were you involved in the decisions or the  
6 determination to whom each of the annexes written by  
7 Stratus would be attributed to in the Cabrera report?

8 A. No.

9 Q. Do you remember whether anyone at Stratus  
10 was involved in making that determination?

11 A. I don't know.

12 Q. On page 2478 of the deposition, which is  
13 actually on the same page of the exhibit, line 5,  
14 question to Mr. Donziger is, "To your knowledge, is  
15 there any member of Cabrera's supposedly independent  
16 team with whom plaintiffs did not work prior to the  
17 March 24th, '08 report being submitted on April 1st?"

18 The answer is, "I don't know." Do you  
19 see that?

20 A. Yes.

21 Q. Do you know whether there are any members  
22 of Cabrera's team as disclosed in Annex V of the  
23 Cabrera report that did not previously work for or  
24 with the plaintiffs' team?

25 A. I don't know.

0166

1 Q. Prior to submission of the Cabrera report  
2 to the court on April 1, 2008, had anyone ever been  
3 identified to you as a member of Cabrera's team?

4 A. I don't recall.

5 Q. To your knowledge, were the members of  
6 Cabrera's supposedly independent team ever disclosed  
7 prior to the filing of the April 1, 2008, Cabrera  
8 report?

9 A. Not that I know of.

10 Q. In the April 1 Cabrera report, Annex V

11 lists the members of Cabrera's team. Do you recall  
12 reviewing that annex at any time?

13 A. I know that I looked at it at some point.

14 Q. Were you involved in drafting it at all?

15 A. No.

16 Q. Do you know whether anyone from Stratus  
17 was involved in drafting Annex V?

18 A. To the best of my knowledge, no, they  
19 were not.

20 Q. Let me show you Exhibit -- previously  
21 marked Exhibit 886. Exhibit 886 is a photograph.

22 Do you recognize anyone in the  
23 photograph?

24 A. This is a very bad photograph. No. It's  
25 really pixilated. No. Not from this photograph, no.

0167

1 MR. CRIMMINS: I'm going to mark a  
2 smaller photograph.

3 (Deposition Exhibit 605 was marked.)

4 MR. CRIMMINS: Let's mark this  
5 Exhibit 605. And it will be a challenge for the court  
6 reporter to keep track of that one.

7 MR. BEIER: What number is that?

8 MR. CRIMMINS: 605.

9 Q. (BY MR. CRIMMINS) Exhibit 605 is a  
10 smaller reproduction of the photograph in Exhibit 886.  
11 Do you recognize anyone in those photos now?

12 A. I think the guy with the scarf is Juampa.  
13 I see what it says underneath this, but I don't really  
14 recognize anyone else.

15 Q. So underneath you are referring to where  
16 the title of the image is IMG 2743 Ximena, Luis,  
17 Juampa, Carolina; do you see that?

18 A. Right.

19 Q. Earlier you testified about a woman named  
20 Ximena Echeverria who worked with the plaintiffs' team  
21 in Quito, right?

22 A. Yes.

23 Q. Do you recognize the woman on the left in  
24 Exhibit 605 as Ximena Echeverria?

25 A. No.

0168

1 Q. And the person standing behind that  
2 woman, do you not recognize him as Luis Villacreces?

3 A. It doesn't really look like Luis. And if  
4 someone just showed me a picture of that and said who  
5 is that? I would not know. It doesn't really look  
6 like my recollection of Luis Villacreces.

7 Q. The man sitting, in the scarf, you said  
8 you thought could be Juampa?

9 A. Uh-huh.

10 Q. And that's Juan Pablo Saenz?



11 A. Yes.  
12 Q. The woman to the right -- well, first,  
13 have you ever met a woman named Carolina Valladares?

14 A. I did meet someone named Carolina.

15 Q. Does that look like Carolina Valladares  
16 in Exhibit 605 on the right?

17 A. It might be.

18 Q. Who is Carolina Valladares?

19 A. She was someone who was working in the  
20 Quito office with the plaintiffs' team.

21 Q. Do you know whether Ms. Valladares was a  
22 member of the FDA?

23 A. I don't know.

24 Q. Are you aware of what Ms. Valladares'  
25 role was, if any, with regard to the peritaje global?  
0169

1 A. I think she was at a relatively low level  
2 helping other people out. I don't really know  
3 specifically what she was doing.

4 Q. Do you know who she was helping out?

5 A. I think she was helping Tania Naranjo.

6 Q. Do you know what Ms. Valladares' area of  
7 expertise is?

8 A. No, I don't.

9 Q. To your knowledge, what was  
10 Ms. Valladares helping Tania Naranjo with?

11 A. I don't recall specifically.

12 Q. Let's look at Exhibit 887, which is  
13 another photograph. Are you able to recognize anyone  
14 in Exhibit 887?

15 A. That's definitely Tania Naranjo on the  
16 left and Jen Peers in the back sort of standing,  
17 leaning over. And other than that, I mean, from  
18 looking at these other pictures, I would -- I remember  
19 Ximena. Carolina I didn't meet more than a couple of  
20 times.

21 Q. So is that Ximena Echeverria in sort of  
22 the middle of the picture in 887?

23 A. I believe so. In between Tania and Jen.

24 Q. All right. I give you another  
25 Exhibit 604, which is a little bit better picture, I  
0170

1 think.

2 (Deposition Exhibit 604 was marked.)

3 Q. Is that a little clearer?

4 A. Yes.

5 Q. Do you recognize people in Exhibit 604?

6 A. Yes.

7 Q. Who are they?

8 A. The lower left person is Tania Naranjo.

9 Behind her is Jen Peers. To her right is Ximena. And  
10 I wouldn't know it without the, you know, title down

11 here, but I guess that's Sophi.

12 Q. And who is Sophi?

13 A. I -- all I know is that she was another  
14 person in the office. I'm not really sure what her  
15 role was.

16 Q. She was another person who worked in the  
17 plaintiffs' office in Quito?

18 A. Yes.

19 Q. So is it fair to say that everyone in the  
20 picture on 604, to your understanding, were people  
21 working for the plaintiffs in connection with the  
22 peritaje global work?

23 MR. BEIER: Object to the form.

24 A. I'm not -- I know that Tania worked on  
25 materials that ultimately were submitted to Cabrera,  
0171

1 and Ximena was helping as well. I'm not really sure  
2 what Sophi was doing.

3 Q. (BY MR. CRIMMINS) Is it fair to say that  
4 all the people pictured in Exhibit 604 were people who  
5 worked for the plaintiffs?

6 A. I believe so, yes.

7 Q. Ms. Peers works for Stratus, correct?

8 A. Right.

9 Q. And the other three were people who  
10 worked for the plaintiffs in the Quito office of Selva  
11 Viva?

12 A. I believe so.

13 Q. Look at Exhibit 888. Exhibit 888 is an  
14 e-mail exchange, the top e-mail on the first page is  
15 from Doug Beltman, dated February 3, 2008, to you,  
16 Ms. Maest, and others at Stratus; is that right?

17 A. Yes.

18 Q. Take a moment to review that.

19 A. Okay.

20 Q. Do you see on the bottom of the first  
21 page there is an e-mail from you to Doug Beltman, Tom  
22 Hodgson, and Jennifer Peers on February 2, 2008?

23 A. Yes.

24 Q. It says, "Doug," and then there is a  
25 paragraph, and then it says "Ann." Do you see that?  
0172

1 A. Yes.

2 Q. Do you have an understanding as to who  
3 wrote what's below that? Is that something you wrote?

4 A. No.

5 Q. Does it appear that's something you  
6 pasted into this e-mail?

7 A. It appears that way.

8 Q. So in that -- do you know who wrote the  
9 language that starts, "So the status of the template  
10 figure is now roughly the same as before"?

11 A. It looks like it was Doug.  
12 Q. Okay. The sentence -- the second  
13 sentence in that e-mail says, "I really feel for  
14 Tania - yesterday afternoon we had a meeting scheduled  
15 with Tania, both Luises, Pablo, Steven, and the other  
16 GIS woman whose name I can't remember. The purpose  
17 was to agree on a template." Do you see that?

18 A. Yes.

19 Q. Do you have an understanding of what  
20 template is being referred to there?

21 A. I believe they are referring to the  
22 template for all the figures showing the contamination  
23 at all the different sites.

24 Q. And are these the templates that you  
25 referred to earlier that were going into the large  
0173

1 annex -- first annex in the report and annexes being  
2 submitted to Cabrera?

3 A. Yes.

4 Q. Did you ever review any comments on  
5 those -- on those templates?

6 A. Yes. I said earlier I reviewed the  
7 approach and made comments on that.

8 Q. Do you know who the two Luises are  
9 referred to there?

10 A. Probably Luis Villacreces and Luis Yanza.

11 Q. And Pablo, is that Pablo Fajardo?

12 A. Yes.

13 Q. Do you know who the other GIS woman is  
14 that's referred to there?

15 A. Ximena.

16 Q. That's Ximena Echeverria?

17 A. Is that her last name? I'm not sure of  
18 her last name, actually.

19 Q. Okay. So in the e-mail above that, in  
20 your response you say, "Doug - This is one of the  
21 funniest e-mails I have ever read! It really captures  
22 the scene down there. Who is doing the site-by-site  
23 maps? Tania or us? It sounds like Tania and  
24 Ximena." Do you see that?

25 A. Yes.

0174

1 Q. And are these site-by-site maps also part  
2 of the figures that are going into the large annex to  
3 be submitted to Cabrera?

4 A. Yes.

5 Q. And did you -- if you look at the e-mail  
6 above, see if this refreshes your recollection. Did  
7 you then come to an understanding that it was Tania  
8 Naranjo and Ximena who were working those site-by-site  
9 maps for inclusion in the annex that plaintiffs would  
10 submit to Cabrera?

11 A. Yes.  
12 Q. Let's look at Exhibit 936. Exhibit 936  
13 is an e-mail from Doug Beltman -- it's an e-mail  
14 exchange, but the top one is from Doug Beltman to  
15 Andrea Ximena Echeverria Echeverria, and you, cc'd to  
16 Jennifer Peers, from February 14, 2008; do you see  
17 that?

18 A. Yes.  
19 Q. Does that refresh your recollection that  
20 Ximena's last name is Echeverria?

21 A. Yes.  
22 Q. If you look at the first e-mail, which is  
23 at the bottom of page 1, it's from Ximena Echeverria  
24 to Doug Beltman and you, dated earlier that same day,  
25 February 14, 2008; do you see that?

0175

1 A. Yes.  
2 Q. And it says, "Hi, Douglas and Ann. My  
3 name is Ximena, now I am working with Tania in  
4 Ecuador.

5 "This is the last prototype for review,  
6 please tell me if there is any observation.  
7 "Att, Ximena E. Echeverria." Do you see  
8 that?

9 A. Yes.  
10 Q. Based on this e-mail or your own  
11 recollection, is this the first time you communicated  
12 with Ximena Echeverria?

13 A. You mean in any way?

14 Q. Yes.

15 A. I don't recall.

16 Q. And then Doug responds -- Doug Beltman  
17 responses, "Hola Ximena: The mapa is looking very  
18 good - great work.

19 "I have a few observations." Do you see  
20 that?

21 A. Yes.

22 Q. And then he makes some observations,  
23 correct?

24 A. Yes.

25 Q. Were you involved at all in reviewing the  
0176

1 prototype for review that Ximena Echeverria sent and  
2 then commenting on that prototype?

3 A. I did comment on versions of their  
4 graphics. Whether I commented on this particular one,  
5 I don't recall.

6 Q. Did there ever come a time where you --  
7 strike that.

8 Are you aware that Andrea Ximena  
9 Echeverria was subsequently named in the April 1  
10 Cabrera report as a member of Cabrera's independent

11 team?

12 A. I don't recall that.

13 Q. I show you another exhibit, it's

14 Exhibit 890.

15 Before we leave Ximena Echeverria, at any  
16 time did anyone introduce or characterize Ximena  
17 Echeverria as a member of Cabrera's independent team?

18 A. I don't recall that.

19 Q. On Exhibit 890, which is a printout from  
20 the Web page from F.G.P. Inspection and Certification  
21 Limited, there is a picture at the bottom of a man  
22 named Dr. Ranil Senanayake; do you see that?

23 A. Yes.

24 Q. Is that name familiar to you at all?

25 A. I don't recall it, no.

0177

1 Q. Is the man who is pictured there as  
2 Dr. Ranil Senanayake someone that's familiar to you in  
3 any way?

4 A. That's a very bad picture. I don't --  
5 just from looking at it, I don't recall meeting  
6 anybody like that.

7 Q. Have you ever heard of this company  
8 Forest Garden Products Inspection & Certification,  
9 Limited?

10 A. Well, I've met Lorena Gamboa.

11 Q. And Lorena Gamboa, you're referring to  
12 her picture and name at the top of Exhibit 890?

13 A. Yes.

14 Q. At the time you knew Ms. Gamboa, were you  
15 aware that Ms. Gamboa worked for a company called  
16 Forest Garden Products Inspection & Certification?

17 A. I might have been. She might have given  
18 me a card. I can't recall.

19 Q. And I think you earlier described --  
20 well, strike that.

21 Was it your understanding that Ms. Gamboa  
22 was someone who was working with the plaintiffs on the  
23 materials that were going to be submitted to Cabrera  
24 by the plaintiffs?

25 A. As far as I knew, yes.

0178

1 Q. Do you recall Ms. Gamboa ever mentioning  
2 her colleague, Mr. Senanayake, and any role he may  
3 have had in the Ecuador litigation?

4 A. She did mention someone else from the  
5 company, but I don't recall right now who it was. A  
6 man. It was a man.

7 Q. To your knowledge, did anyone at Stratus  
8 ever have any dealings with Mr. Senanayake,  
9 communications, meetings, or otherwise?

10 A. Not that I know of.

11 Q. Looking at the description of Ms. Gamboa  
12 in Exhibit 890 it says, "Director & International FGP  
13 Inspector Latin America." Do you see that?

14 A. Yes.

15 Q. And it says, "An environmental activist  
16 and Analog Forestry trainer. Has worked with diverse  
17 ethnic groups and local communities in Latin America  
18 and Asia, promoting the restoration of Degraded Lands  
19 and the establishment of Forest Gardens." Do you see  
20 that?

21 A. Yes.

22 Q. Does that refresh your recollection at  
23 all concerning Ms. Gamboa's substantive role in  
24 drafting the materials for plaintiffs to submit to  
25 Mr. Cabrera?

0179

1 A. I'm not sure what you mean by that. What  
2 do you mean?

3 Q. Earlier you testified that you and  
4 Mr. Beltman met with Ms. Gamboa, right?

5 A. Right.

6 Q. And you recalled, if I remember your  
7 testimony correctly, that she was -- that the purpose  
8 of that meeting was to discuss Ms. Gamboa's work in  
9 connection with drafting of the materials that were to  
10 be submitted by plaintiffs to Mr. Cabrera; is that  
11 right?

12 A. Yes, as far as I understood.

13 Q. You at that time could not recall which  
14 annex she was working at or what material she was  
15 working on. So my question is, in reading this little  
16 blurb about Ms. Gamboa, does that refresh your  
17 recollection about that at all?

18 A. Not really. I think what I said before  
19 was that I knew it had something to do with plants.

20 Q. Look at Exhibit 891. Exhibit 891 is an  
21 e-mail from Doug Beltman to jdtorresg@yahoo.com, dated  
22 March 20, 2008, cc to Lorena Gamboa; do you see that?

23 A. Yes.

24 Q. The e-mail says David, "Did you get the  
25 file I sent last night? In case you didn't, it is

0180

1 attached again. Please confirm that you have received  
2 it OK. Thanks. Doug." Do you see that?

3 A. Yes.

4 Q. Do you know a person named David Torres?

5 A. There was another man with Lorena we met.  
6 It might have been him, I'm not sure.

7 Q. And this is another man you and  
8 Mr. Beltman met with at the same time you met with  
9 Lorena Gamboa?

10 A. Yes.

11 Q. That meeting took place at the  
12 plaintiffs' office in Quito; is that right?

13 A. Yes.

14 Q. The other man that was with Ms. Gamboa,  
15 do you understand what his role was in the Ecuador  
16 litigation?

17 A. My understanding at the time was that he  
18 was assisting her.

19 Q. That he was assisting Ms. Gamboa?

20 A. Yes.

21 Q. And was it your understanding that  
22 Mr. Torres was assisting Ms. Gamboa in the work that  
23 she was doing for the plaintiffs with regard to the  
24 materials that plaintiffs would submit to Mr. Cabrera?

25 A. I'm sorry, could you say that again?

0181

1 Q. Sure. Was it your understanding that  
2 Mr. Torres was assisting Ms. Gamboa in the work that  
3 she was doing for the plaintiffs with regard to the  
4 materials that plaintiffs would submit to Mr. Cabrera?

5 A. Well, I said that there was a man with  
6 Ms. Gamboa. I am not totally sure that it was him.  
7 So . . .

8 Q. Was it your understanding that the man  
9 that you met with at the time you met Ms. Gamboa was  
10 assisting Ms. Gamboa in the work that she was doing  
11 for plaintiffs with regard to the materials that  
12 plaintiffs would submit to Mr. Cabrera?

13 A. I believe so, to the best of my  
14 recollection.

15 Q. I'm going to hand you Exhibit 894.  
16 Exhibit 894 is a document that was produced by Stratus  
17 in Spanish, STRATUS-NATIVE 082949 through  
18 STRATUS-NATIVE 083007 entitled "Botanical Study at 10  
19 wells operated by Texaco in 1964 and 1990 in the  
20 Ecuadorian Amazon with a view to their restoration."  
21 And under that it says, "Dr. Carlos Eduardo Ceron  
22 Martinez." Do you see that?

23 A. Yes.

24 Q. Earlier do you remember in the exhibit we  
25 were looking at that had an outline of the PG report

0182

1 there was a reference to Ceron --

2 A. Yes.

3 Q. -- do you recall that?

4 Do you have any recollection of meeting  
5 or communicating with Dr. Carlos Eduardo Ceron  
6 Martinez?

7 A. I don't recall meeting him or  
8 communicating with him, but I recall this report that  
9 Stratus produces for discovery, but it's not a Stratus  
10 report.

11 Q. Do you understand where this report  
12 originated?

13 A. I am not sure. We believe we got it  
14 either from Lorena Gamboa or someone in the Quito  
15 office.

16 Q. Someone in the plaintiffs' Quito office?

17 A. Yes.

18 Q. And do you have a recollection of when  
19 you received this report?

20 A. No.

21 Q. Did you -- do you have a recollection of  
22 why this report was being sent to you?

23 MR. BEIER: Object to the form.

24 A. I don't think it was sent to us. I  
25 believe that we got it when we were in the plaintiffs'  
0183

1 Quito office, or from Lorena. And it's because it  
2 addresses restoration at some of the Texaco sites in  
3 the Napo Concession.

4 Q. (BY MR. CRIMMINS) When this report was  
5 provided to you -- are you saying you received a copy,  
6 like a hard copy when you were physically present in  
7 Quito?

8 A. I don't recall if it was a hard copy or  
9 electronic.

10 Q. When you received this report, did the  
11 person who gave it to you ask you to review it or do  
12 anything in particular with it?

13 A. Not that I recall.

14 Q. Do you recall reading this report at the  
15 time you received it?

16 A. I do recall looking through it. I don't  
17 know if it was then or afterwards.

18 Q. Do you know whether this report was  
19 written as a possible annex to the materials to be  
20 submitted by plaintiffs to Cabrera?

21 A. I don't think so. I mean, this is a  
22 published report.

23 Q. Where was it published?

24 A. I'm sorry, maybe it's not. I don't know,  
25 actually. It looked like a published report. Could  
0184

1 you repeat your question again?

2 Q. Well, my question was where was it  
3 published?

4 A. Oh, okay. No. No. Before that, I mean.

5 Q. My question was, do you know whether this  
6 report was written as a possible annex to the  
7 materials to be submitted by plaintiffs to Cabrera?

8 A. Yeah, I don't know.

9 Q. Do you know, whether or not it was  
10 written for that purpose, was this report considered



11 as a possible part of the plaintiffs' submission to  
12 Cabrera?

13 A. I don't know.

14 MR. BEIER: Object to the form. Sorry.

15 THE DEPONENT: Sorry.

16 A. I don't know.

17 Q. (BY MR. CRIMMINS) Could you look at page  
18 3, "Introduction" it says at the top; do you see that?

19 A. Yes.

20 Q. The last paragraph it says, "At the  
21 request of Engineer Richard Cabrera Vega, and under a  
22 service-provision agreement, botanical sampling  
23 activities were conducted at ten of the wells operated  
24 by Texaco in the territories currently belonging to  
25 the provinces of Sucombios and Orellana using the  
0185

1 transect methodology." Do you see that?

2 A. Yes.

3 Q. Does that reflect -- refresh your  
4 recollection at all concerning whether this report was  
5 written as a potential submission to Cabrera?

6 A. Not really, no.

7 Q. Do you have any knowledge concerning this  
8 service provision agreement that's referred to here?

9 A. No.

10 Q. Do you know how plaintiffs obtained a  
11 copy of this report?

12 A. No.

13 Q. Were you aware that Dr. Ceron was  
14 identified in Annex V of the Cabrera report as a  
15 member of Cabrera's independent team?

16 A. No, I don't recall that.

17 Q. I'm going to show you on page 26 of the  
18 report, Exhibit 894 -- sorry, you'll have to go back  
19 to page 25. It says, "Project 1 Implementation of  
20 Three Botanical Gardens with Educational Pathways."  
21 Do you see that?

22 A. Yes.

23 Q. And then there's a number of activities  
24 and a budget for that; do you see that?

25 A. Yes.

0186

1 Q. And flipping over to page 26, the total  
2 for project 1 in this report is 330,000 US dollars; do  
3 you see that?

4 A. Yes.

5 Q. And then there's, "Project 2,  
6 Strengthening of Ancestral Farms," and the total for  
7 that is \$335,000 on page 27; do you see that?

8 A. Yes.

9 Q. Then, "Project 3, Reforestation of  
10 Pasturelands, Stubble and Second-Growth Forests." And

11 the total for that project on page 28 is 2,856,000 US  
12 dollars; do you see that?

13 A. Wait just one minute.

14 Q. Sure.

15 A. Okay. Yes.

16 Q. And the total of those three projects is  
17 approximately \$3.5 million as laid out in this report,  
18 correct?

19 A. It's about that, maybe a little more.

20 (Deposition Exhibit 606 was marked.)

21 Q. I'll hand you Exhibit 606. Which is an  
22 English translation of Annex O to the Cabrera report  
23 the value of ecosystem losses in tropical forests.  
24 Are you familiar with Annex O?

25 A. Not very much.

0187

1 Q. Do you know who wrote Annex O?

2 A. No.

3 Q. Do you know whether Mr. Mills was working  
4 on an annex concerning the value of ecosystem losses  
5 in tropical forests?

6 A. He was working on valuation, I remember  
7 that.

8 Q. Do you know -- among the materials that  
9 Stratus drafted and gave to plaintiffs' lawyers to  
10 give to Mr. Cabrera, that included an annex on  
11 ecosystem losses, correct?

12 A. I believe so.

13 Q. Do you know who made the decision to use  
14 the annex drafted by Stratus in the Cabrera report on  
15 ecosystem losses as opposed to the report written by  
16 Dr. Ceron, the person who is identified in the Cabrera  
17 report as a member of Mr. Cabrera's team?

18 MR. BEIER: Objection, form, foundation.

19 A. I don't know that that's what happened,  
20 what you just represented. I am not sure who wrote  
21 this or anything about that decision.

22 Q. (BY MR. CRIMMINS) If you look on page 8  
23 of 16 of Exhibit 606, Annex O.

24 A. Okay.

25 Q. There is a table, "Table 3. Restoration

0188

1 costs required to compensate for losses to the  
2 tropical forest." Do you see that?

3 A. Yes.

4 Q. And the total is \$874,553,780, correct?

5 A. Yes.

6 Q. Were you involved in any discussions  
7 concerning the submission of Stratus' annex on  
8 ecosystem losses to Mr. Cabrera as opposed to  
9 submitting the report drafted by Dr. Ceron Martinez?

10 MR. BEIER: Object to the form.

11 A. I don't know that that's what happened,  
12 but -- I wasn't involved in anything, that I can  
13 recall, having to do with this annex or this report,  
14 aside from seeing it.

15 Q. (BY MR. CRIMMINS) Okay. So are you  
16 saying you were not involved in any discussions  
17 concerning the submission to Cabrera of an annex on  
18 the topic of ecosystem losses?

19 A. I was not involved.

20 Q. Okay. Do you know whether this report,  
21 Exhibit 894 by Dr. Ceron Martinez, was among the  
22 material submitted by plaintiffs to Cabrera?

23 A. I don't know.

24 MR. NARWOLD: What number is Appendix O?  
25 606?

0189

1 MR. CRIMMINS: 606.

2 Q. (BY MR. CRIMMINS) I'm going to hand you  
3 what's previously been marked as Exhibit 835. In the  
4 Joe Berlinger deposition, I believe.

5 Exhibit 835 is a binder that was compiled  
6 by Gibson, Dunn containing a list of individuals  
7 identified in Annex V to the Cabrera report as the  
8 members of Mr. Cabrera's individual -- or independent  
9 team.

10 Looking at the list on the second page of  
11 the exhibit, let me go through the list with you.  
12 We've already talked about Mr. Cabrera.

13 Are you familiar at all with the name  
14 Luis Miguel Garcia Aragon?

15 A. No.

16 Q. Do you recall ever meeting anyone by that  
17 name?

18 A. No.

19 Q. Do you recall ever hearing of anyone by  
20 that name on plaintiffs' team in Ecuador?

21 A. Not that I recall.

22 Q. No. 3 is Luis Antonio Gomez Avila. Do  
23 you recognize that name at all?

24 A. There was a Mr. Gomez who was -- I  
25 believe was doing groundwater sampling.

0190

1 Q. And in your prior testimony in the  
2 Pallares Viega matter, I think you discussed that that  
3 was -- it was your understanding that that was the man  
4 who provided the data called the Gomez data?

5 A. I believe so. I don't recall his whole  
6 name, but I know there was a Gomez.

7 Q. The next name on the list is Carlos  
8 Martin Beristain; do you see that?

9 A. Yes.

10 Q. Do you know who that is?

11 A. No.  
12 Q. You never met Mr. Beristain?  
13 A. No, not that I recall.  
14 Q. Mr. Beristain is a Spanish doctor from  
15 Spain. Do you recall ever meeting anyone that fits  
16 that description in your time in Ecuador?  
17 A. No.  
18 Q. The next person on the list is Jose  
19 Javier Cadena. Do you see that?  
20 A. Yes.  
21 Q. Do you recognize that name?  
22 A. No.  
23 Q. The next one is Maria De Lourdes Larrea  
24 Castelo; do you see that?  
25 A. Yes.

0191

1 Q. Do you recognize that name at all?  
2 A. No.  
3 Q. The next one is the list is Andrea Ximena  
4 Echeverria Echeverria. We've discussed her already  
5 this morning, correct?  
6 A. Right. Yes.  
7 Q. The next person is Jose David Torres  
8 Gallardo. Do you see that?  
9 A. Yes.  
10 Q. We've already discussed him. Seeing his  
11 second last name Gallardo, does that refresh your  
12 recollection at all whether he was the other person  
13 you met with when you met with Lorena Gamboa and  
14 Mr. Beltman?  
15 A. No. I mean, people in Latin countries  
16 don't use the very last name, so that wouldn't help,  
17 really.  
18 Q. The next person on the list is Tatiana  
19 Eguez Larrea; do you see that?  
20 A. Yes.  
21 Q. Do you recognize that name at all?  
22 A. No.  
23 Q. Do you recall anyone working on the  
24 plaintiffs' team in Ecuador name Tatiana?  
25 A. No.

0192

1 Q. The next one is Carlos Eduardo Ceron  
2 Martinez. We discussed him already this morning. It  
3 is your testimony that you do not believe you've met  
4 him, correct?  
5 A. I don't believe I have, no.  
6 Q. You don't believe you've spoken to him  
7 either?  
8 A. No.  
9 Q. The next one is Claudia Patricia Navarro  
10 Perez; do you see that?

11 A. Yes.  
12 Q. Do you recognize that name?  
13 A. No.  
14 Q. Do you recall anyone in the plaintiffs'  
15 office in Quito who went by the name Claudia?  
16 A. Not that I recall.  
17 Q. Anyone named Patricia?  
18 A. Not that I recall.  
19 Q. The next one is Luis Fernando Tonato  
20 Quinga; do you see that?  
21 A. Yes.  
22 Q. Do you recognize that name?  
23 A. No.  
24 Q. The next one is Dario Paez Rovira; do you  
25 see that?  
0193

1 A. Yes.  
2 Q. Do you recognize that name?  
3 A. No.  
4 Q. Do you remember anyone -- ever meeting  
5 anyone in Ecuador named Dario?  
6 A. No.  
7 Q. The next one is Mr. Senanayake, and we  
8 discussed him already this morning?  
9 A. Right.  
10 Q. The next one is Jose Nelson Gallo  
11 Velasco; do you see that?  
12 A. Yes.  
13 Q. Do you recognize that name at all?  
14 A. I think we spoke about him, Mr. Gallo.  
15 I'm not sure, though.  
16 Q. There was a reference to a Mr. Gallo in  
17 the -- in one of the earlier exhibits we saw on the  
18 outline of the PG report; do you remember that?  
19 A. Yes.  
20 Q. Do you recall ever meeting anyone named  
21 Gallo or Gallo while in Ecuador?  
22 A. Not that I recall, no.  
23 Q. Do you recall ever seeing a report that  
24 addressed impacts of TexPet operations or oil  
25 production operations on wildlife in the concession  
0194

1 area?  
2 A. No.  
3 Q. The next one is Juan Cristobal Villao  
4 Yepez; do you see that?  
5 A. Yes.  
6 Q. Did you ever meet Mr. Yepez and  
7 Mr. Villao?  
8 A. Not that I recall, no.  
9 Q. Do you recognize that name at all?  
10 A. No.

11 Q. I just want to go through -- there's also  
12 photos of at least the people that we have photos of  
13 on this list. Tab No. 2 is Luis Miguel Garcia Aragon.  
14 Do you recognize him at all?

15 A. No.

16 Q. Tab 4 is a picture of Carlos Martin  
17 Beristain. Do you recognize that name at all?

18 A. No.

19 Q. The next photo is at tab 6, a picture of  
20 Maria De Lourdes Larrea Castelo.

21 A. Hold on a second. Tab what?

22 Q. Tab 6. Do you recognize the woman in tab  
23 6?

24 A. No.

25 Q. Tab 9 is a picture of Tatiana Eguez

0195

1 Larrea. Do you recognize her at all?

2 A. No.

3 Q. The next one with a photo is tab 13 Dario  
4 Paez Rovira. Do you recognize that man?

5 A. No.

6 Q. The next one is tab 14. It's the same  
7 bad picture of Falika Ranil Senanayake. You don't  
8 recognize him?

9 A. No.

10 Q. If you look on the very last page of  
11 Exhibit 835, there is a list of people who signed  
12 chain of custody reports for Mr. Cabrera's sampling.

13 If you would, please, look at those names  
14 and let me know if you recognize any of them.

15 A. And these are people, again, who what?

16 Q. These are people who signed chain of  
17 custody forms for Mr. Cabrera's field sampling.

18 A. Okay. So they are from different labs.

19 No. Wait, let me just read through all this.

20 No, I don't recognize any of the names.

21 Q. Directing your attention specifically to  
22 the third name on the list, Rocio Santillan. Do you  
23 see that?

24 A. Yes.

25 Q. Is that name familiar to you at all?

0196

1 A. There was a Rocio, but I don't know if  
2 that was her last name or not.

3 Q. The Rocio that you are familiar with, who  
4 was she?

5 A. I don't -- I don't recall. I just  
6 remember meeting someone in the Quito plaintiffs'  
7 office named Rocio.

8 Q. Do you recall whether the person named  
9 Rocio that you met was present at the March 3, 2007,  
10 meeting in which Mr. Cabrera was present in the

11 plaintiffs' offices in Quito?

12 A. I don't recall.

13 Q. Let's look at Exhibit 778. Exhibit 778  
14 is handwritten notes that were produced by Stratus.  
15 Do you recognize the handwriting?

16 A. Yes.

17 Q. Are these your handwritten notes?

18 A. Yes, they are.

19 Q. And looking at these notes, can you tell,  
20 are these notes from a November 29, 2005, telephone  
21 conversation with Steven Donziger?

22 A. That's what it says.

23 Q. Do you have a general practice of taking  
24 handwritten notes during meetings or phone calls?

25 A. Generally I do, yes.

0197

1 Q. When taking notes, do you try to  
2 faithfully record what happens during the meeting or  
3 phone call or what you hear?

4 MR. BEIER: Object to the form. You can  
5 answer.

6 A. I -- you know, I record things that I  
7 feel are important.

8 Q. (BY MR. CRIMMINS) And as for those  
9 things you deem important enough to write down, is it  
10 fair to say that you try to write those things down  
11 accurately?

12 A. As best as I can, yes.

13 Q. Do you recall -- putting aside the notes  
14 for a second, do you recall this conversation with  
15 Mr. Donziger independently of the notes?

16 A. I know that we had a call with  
17 Mr. Donziger before we -- "we" being E-Tech -- did any  
18 work on the case. I don't recall this particular  
19 phone call.

20 Q. In reviewing these notes, Exhibit 778,  
21 does it appear to you that this was your first contact  
22 with Mr. Donziger on the case?

23 A. The timing is about right for that. I  
24 believe so.

25 Q. Do you recall whether anyone other than

0198

1 you and Mr. Donziger participated in this  
2 conversation?

3 A. I don't recall.

4 Q. On the bottom of page 1 of the notes it  
5 says, "Company to come to Ecuador to help set up  
6 program to take water and soil at each site." Do you  
7 see that?

8 A. Yes.

9 Q. And then I believe it says, "Proof of  
10 contam, period, to Ecuadorians would sample," I think

11 is what that says. Did I read that correctly?

12 A. That's what it looks like, yes.

13 Q. And then after that it says, "Dollar  
14 sign, comes from ministry of environment in Ecuador."

15 And then there is a mark, I'm not sure what it is.

16 Then it says, "\$3.5 million for study. Design of  
17 study has already been done." Do you see that?

18 A. Yes.

19 Q. Do you recall this conversation with  
20 Mr. Donziger about \$3.5 million coming from the  
21 ministry of environment in Ecuador for a study?

22 A. No.

23 Q. In your notes where it says, "Company to  
24 come to Ecuador," did you understand that company to  
25 be -- or Mr. Donziger was proposing that that company  
0199

1 would be E-Tech?

2 A. I don't -- I don't know. I don't think  
3 that it was necessarily E-Tech. I think it was a more  
4 general statement.

5 Q. In this conversation in November of 2005  
6 with Mr. Donziger reflected in these notes, was  
7 Mr. Donziger proposing that E-Tech become involved in  
8 the case? Was this the first time you've had that  
9 discussion?

10 A. As I said, I think this was probably the  
11 first contact I had with Mr. Donziger, but I'm not  
12 sure. And it was just, you know, a preliminary  
13 conversation. I'm not sure if he was proposing  
14 anything.

15 Q. What was the first role that Mr. Donziger  
16 proposed E-Tech have in the Ecuadorian case?

17 A. Well, the first step was that E-Tech  
18 travel to Quito and met with Mr. Donziger in the  
19 plaintiffs' office. And we talked about -- I believe  
20 he called it the peritaje global at that point and our  
21 possible involvement at that stage, but it wasn't  
22 assured that we were going to be involved still.

23 Q. Did Mr. Donziger ever discuss with you  
24 the possibility of you individually, Ann Maest,  
25 serving as the court-appointed peritaje global expert?

0200

1 A. Not that I recall.

2 Q. Do you know a woman named Kelly McBride?

3 A. It sounds familiar.

4 Q. Do you recall ever meeting her in  
5 connection or talking to her in connection with the  
6 Ecuador case?

7 A. I don't think in connection with the  
8 Ecuador case.

9 Q. She is currently at Experior Advisors in  
10 Washington, D.C. Are you familiar with that company?



11 A. No.  
12 Q. Do you have any recollection as to where  
13 you might have heard of Kelly McBride?  
14 A. No.  
15 Q. Are you aware of anyone working on the  
16 Ecuador case or who was proposed to be working on the  
17 Ecuador case who worked at the University of South  
18 Florida?  
19 A. No.  
20 Q. Looking back at Exhibit 778 on page 2.  
21 It says -- the first full paragraph, I guess, on that  
22 page, "Do work over wide area where Tex and others  
23 operated (including, "INCL, "Ecuador state  
24 companies)." Do you see that?  
25 A. Yes.

0201

1 Q. Then it says, "Results used in court case  
2 as proof, but come from study overseen by government  
3 and executed by a company," something, "partnership,"  
4 something, "US and local company." Do you see that?  
5 A. Yes.  
6 Q. Do you know what the word is before  
7 "partnership"?  
8 A. "Want."  
9 Q. "Want partnership," okay. Is your  
10 understanding of what you wrote here in these notes  
11 related to the discussion you were having with  
12 Mr. Donziger about participation in the peritaje  
13 global?  
14 A. I'm not really sure. And I'm pretty sure  
15 I wasn't sure at this point what he was talking about.  
16 Q. Is it fair to say that early on in  
17 E-Tech's involvement in the case, Mr. Donziger had an  
18 expectation that the peritaje global would happen much  
19 sooner than it actually did?  
20 A. I believe so.  
21 Q. If you look at the next page, page 3 of  
22 the notes, Exhibit 778. Towards the top it says,  
23 "small list of carcinogens." Do you see that?  
24 A. Yes.  
25 Q. After that it says, "TPH in metals,"

0202

1 right?  
2 A. Right.  
3 Q. Then it says, "Basic stuff." Do you see  
4 that?  
5 A. Right.  
6 Q. TPH is not in and of itself a carcinogen;  
7 is that right?  
8 A. That's correct.  
9 Q. Is it fair to say that certain components  
10 of TPH -- well, strike that.

11 What is your understanding of what makes  
12 up TPH?

13 A. It's a long list of petroleum  
14 hydrocarbons that go all the way, you know, on the low  
15 end from benzene and on the high end to a much higher  
16 molecular weight compounds.

17 Q. And to your knowledge, which of the  
18 components of TPH or the components that could be --  
19 I'm sorry, let me strike that.

20 Which of the substances that can be  
21 included within TPH are carcinogens?

22 A. Benzene is probably the best known one.  
23 And that might be the only one that is actually listed  
24 as a known carcinogen.

25 Q. And why did you write basic stuff? Do  
0203

1 you have any understanding of that?

2 A. Let's see. I don't know. I believe that  
3 it was, you know, three different -- there's a small  
4 list of carcinogens was one thing, then a separate  
5 thing was total petroleum hydrocarbons, and yet a  
6 third thing was metals, and I -- basic stuff I believe  
7 referred to, you know, that the analyses would be the  
8 usual type that one would do at a site that was  
9 contaminated with petroleum hydrocarbons.

10 Q. Prior to your involvement in the Ecuador  
11 case, had you had any prior experience in the  
12 remediation of crude oil sites?

13 A. Not remediation, but evaluation.

14 Q. I'm sorry, go ahead.

15 A. Environmental evaluation and  
16 environmental effects of the Guadalupe site in  
17 California is a site that had groundwater  
18 contamination from petroleum hydrocarbons. And my  
19 involvement there was managing hydrogeological  
20 studies, looking at the extent of contamination and  
21 that kind of fate and transport of contaminants in  
22 groundwater.

23 Then when I started at the geological  
24 survey in Menlo Park in the early, mid -- well, the  
25 mid-'80s, I worked at a number of sites in Mississippi  
0204

1 that were contaminated with produced waters from  
2 petroleum extraction. And there I was involved in  
3 studies of looking at the way that metals were complex  
4 or held by organic compounds in the produced water and  
5 how they moved in groundwater.

6 Q. Any other sites where you have experience  
7 with hydrocarbon contamination?

8 A. I would have to review my resume, but  
9 those are the two that I can think of right now.

10 Q. The Guadalupe site, what type of facility

11 was that?

12 A. It's been a while. I would have to  
13 review it, but we worked for the state of California.  
14 This is when I was at Stratus, before it was Stratus.  
15 And all I remember is that diesel fuel leaked from the  
16 facility to groundwater, and it was floating on the  
17 water table.

18 Q. So was that a -- did that -- did the work  
19 you did on the Guadalupe site have anything to do with  
20 crude oil contamination?

21 A. Well, diesel fuel, you know, that range  
22 of hydrocarbons is a part of petroleum hydrocarbon, so  
23 in that sense, yes.

24 Q. Is it crude oil, or is it something  
25 different?

0205

1 A. No, it was already refined.

2 Q. So the contamination at the Guadalupe  
3 site was of a refined hydrocarbon product?

4 A. Right.

5 Q. And approximately when was your  
6 experience at the Guadalupe site?

7 A. That was in, let's see, 1997 and '8.

8 Q. And when was, approximately, your  
9 experience -- I think you said the mid-'80s; is that  
10 right, at the Mississippi site?

11 A. Right. It was 1984, in the beginning.

12 Q. How long were you involved at that site?

13 A. It was a couple of years.

14 Q. And what type of facility was that?

15 A. That was a petroleum extraction crude oil  
16 facility.

17 Q. And what was the name of that facility?

18 A. There were a number of them, but it was  
19 the oil fields that were by Loren, Mississippi --  
20 Laurel, Mississippi.

21 Q. And was there one operator of those  
22 fields, or were there multiple?

23 A. I believe there were multiple.

24 Q. Do you remember any of them?

25 A. I don't. That wasn't really our focus.

0206

1 Q. And in your work in the Mississippi  
2 sites, did your work involve the valuation of  
3 potential contamination from crude oil pits?

4 A. No.

5 Q. Was your work limited to potential  
6 contamination fate and transport of constituents in  
7 produced water?

8 A. Yes.

9 Q. Do you recall whether the pits at the  
10 Mississippi facilities were lined or unlined?

11 A. We didn't look at pits there.  
12 Q. So does that mean you don't remember?  
13 A. No, that means we did not -- that wasn't  
14 part of what I was -- the work I was doing at that  
15 facility.

16 Q. Well, whether it was your focus or not,  
17 in the time you were working at the -- in connection  
18 with the Mississippi sites, did you come to learn  
19 whether the Mississippi sites had unlined pits?

20 A. No, I didn't.

21 Q. Okay. Looking back at Exhibit 778  
22 towards the bottom of page 3 it says, "Leaders of  
23 lawsuits threatened by Army." Do you see that?

24 A. I see it, yes. Hold on a minute, let  
25 me --

0207

1 Q. Sorry.

2 A. I see it, yes.

3 Q. Is that something Mr. Donziger told you?

4 A. Apparently.

5 Q. Do you recall whether he told you any  
6 specifics about who was threatened?

7 A. No, I don't --

8 Q. What types of threats were made?

9 A. I don't recall any, no.

10 Q. The next line says, "FARC - oil workers  
11 kidnapped." Do you see that?

12 A. Yes.

13 Q. So Mr. Donziger -- is that something  
14 Mr. Donziger said?

15 A. Yes.

16 Q. Did Mr. -- so Mr. Donziger said that  
17 people working for oil companies had been kidnapped by  
18 the FARC; is that right?

19 A. That's what it looks like.

20 Q. Do you remember that conversation at all?

21 A. I remember him talking about the FARC.

22 Q. Do you recall what he said about the FARC  
23 specifically?

24 A. Just that, you know, it was a danger in  
25 the area because it was close to the Colombian border.

0208

1 Q. Did Mr. Donziger ever say that the FARC  
2 was a threat to people working on the plaintiffs'  
3 team?

4 A. Not that I recall.

5 Q. Mr. Donziger, whether in this  
6 conversation or ever, ever characterize the FARC as a  
7 friend or allies -- ally of the plaintiffs' team or  
8 plaintiffs' case?

9 A. Not that I recall.

10 Q. Do you recall anyone ever saying that

11 about the FARC?

12 A. That they were friends of the plaintiffs?

13 Q. Yeah. Or allies of the case, anything  
14 like that?

15 A. Not that I recall, no.

16 Q. Do you remember anyone other than  
17 Mr. Donziger saying that the FARC was a dangerous  
18 place and that oil workers had been kidnapped,  
19 saying -- do you remember anyone on the plaintiffs'  
20 team ever characterizing the FARC in any way or the  
21 FARC's relationship to the plaintiffs' team in any  
22 way?

23 A. Well, I mean, the only thing I remember  
24 is that it was a concern. I was concerned about it  
25 when I was visiting there, and -- but other than that,  
0209

1 you know, I don't recall. I know that it was a danger  
2 because it was close to the border. That's all that I  
3 know.

4 Q. Have you watched any of the video of the  
5 March 3 meeting?

6 A. Yes.

7 Q. Do you recall watching any part of the  
8 video in which the FARC was discussed?

9 A. No.

10 Q. I'm going to hand you what was previously  
11 marked as Exhibit 824. This is a still shot from  
12 Crude footage of the March 3 meeting. The woman who  
13 was sitting between -- in the picture is behind but  
14 between the images of you and Mr. Donziger in the pink  
15 shirt. Do you see that woman?

16 A. Yes.

17 Q. Do you recognize her at all?

18 A. Again, it's not a very good quality  
19 picture. I -- looks a little bit like Ximena, I'm not  
20 sure.

21 Q. I'll represent to you that other  
22 witnesses have identified the woman in the pink shirt  
23 at this meeting as Rocio Sention.

24 Does that refresh your memory at all as  
25 to whether this was the woman named Rocio that you had  
0210

1 met previously?

2 A. No.

3 MR. CRIMMINS: This is a new exhibit that  
4 I'll mark.

5 (Deposition Exhibit 607 was marked.)

6 Q. (BY MR. CRIMMINS) It's Exhibit 607.

7 MR. CRIMMINS: Let's go off the record  
8 for a second.

9 THE VIDEOGRAPHER: Going off the record.  
10 The time is 3:16.

11 (Recess taken.)

12 THE VIDEOGRAPHER: We are back on the  
13 record. The time is 3:32.

14 Q. (BY MR. CRIMMINS) Ms. Maest, I just  
15 handed you Exhibit 607 before the break, which are  
16 some more handwritten notes. Are these your notes?

17 A. Yes.

18 Q. And it indicates that this is from a  
19 December 5, '05, meeting; do you see that?

20 A. Yes.

21 Q. If you look back at the prior exhibit,  
22 the notes we were just looking at, which I think were  
23 previously marked, do you see at the bottom of the  
24 last page it says, "Next" -- it indicates that your  
25 next call with Mr. Donziger is on December 5, 2005?

0211

1 A. Yes.

2 Q. Are these notes in Exhibit 607 the notes  
3 from that 12/5/05 call with Mr. Donziger?

4 A. Yes, they appear to be.

5 Q. Do you recall whether anyone else  
6 participated in that call besides you and  
7 Mr. Donziger?

8 A. Probably Mr. Kamp.

9 Q. Do you remember that specifically, or are  
10 you just assuming based on the roles you were taking  
11 at that time?

12 A. That and his phone number is right there.

13 Q. That's his phone number to the right?

14 A. Yes.

15 Q. Okay. On the second page of Exhibit 607  
16 you wrote on the very top, "Elements of proof for  
17 legal case." Do you see that?

18 A. Yes.

19 Q. And a couple lines below there it says,  
20 "Don't have to prove people have been harmed." Do you  
21 see that?

22 A. Yes.

23 Q. Is that something Mr. Donziger told you?

24 A. Yes.

25 Q. What else did he say about not having to

0212

1 prove that people have been harmed?

2 A. What I recall him saying is that the case  
3 was about the fact that there was contamination from  
4 the Texaco, you know, Chevron sites, and that it was  
5 released into the environment, not that it had caused  
6 harm to people.

7 Q. Did he say that the case was limited to a  
8 remediation of that alleged contamination?

9 A. I don't remember him saying that. I  
10 mean, it wasn't only about that.

11 Q. What else did he say it was about?

12 A. Well, it was, you know, how much  
13 contamination was in the jungle from Texaco's  
14 operations, and the extent and the characteristics of  
15 the contamination, and then, you know, also what could  
16 be done to clean it up.

17 Q. About halfway down the page it says --  
18 you see someone named Manuel?

19 A. Manuel Paiares.

20 Q. Paiares, is that what that says?

21 A. Yes.

22 Q. "Manuel Paiares," Environmental  
23 Ministries, or "EMV Ministries." Do you see that?

24 A. Yes.

25 Q. Is that environmental ministries?

0213

1 A. Yes.

2 Q. Who was Manuel Paiares?

3 A. Manuel Paiares, I don't believe he worked  
4 directly as an employee for the Environmental  
5 Ministries, but he I think might have been a  
6 consultant, and he had done a lot of sampling and  
7 recording of information at Texaco sites.

8 Q. And do you have an understanding in what  
9 capacity Mr. Paiares did that sampling?

10 A. I'm not sure. I think I originally  
11 thought it was for the government, but I'm not sure  
12 that it was.

13 Q. Do you have any understanding of whether  
14 it was done at the behest of the plaintiffs in the  
15 Lago Agrio case?

16 A. I'm not sure.

17 Q. When -- in your understanding, when did  
18 Mr. Paiares do this sampling?

19 A. There were two sampling events, and by  
20 that I mean visits where he took samples -- mostly  
21 took pictures, I believe, and spoke to people and  
22 wrote down all his findings. I can't recall right now  
23 if there were also samples that were analyzed. And  
24 the dates, that was probably maybe around ten years  
25 ago.

0214

1 Q. So around 2000, 2001?

2 A. 2000 -- I'm not sure exactly.

3 Q. Is it your understanding that both of  
4 these events, as you described them, these different  
5 visits by Manuel Paiares, occurred close in time, or  
6 were they separate?

7 A. No, they were -- they were -- there were  
8 a number of different visits. It wasn't just one  
9 field visit. There was one series of visits, and then  
10 there was another series of visits, and I believe they

11 were separated by a couple or few years.

12 Q. You first described it as sampling  
13 events. But do I understand your testimony correctly  
14 that you are not sure whether Manuel Paiares took  
15 actual samples of environmental media like soil or  
16 water?

17 A. That's right, I'm not sure.

18 Q. Have you ever seen any sampling results  
19 or analyses that were attributed to Manuel Paiares?

20 A. No, not that I can recall right now.

21 Q. Underneath there it says, "He has a  
22 company in mind that Steven isn't familiar with." Do  
23 you see that?

24 A. Yes.

25 Q. Is the "he" there Manuel Paiares?

0215

1 A. Yes.

2 Q. And do you have an understanding as to  
3 what you wrote there "a company in mind," what that  
4 company would do or be for?

5 A. No, I don't recall.

6 Q. On the left-hand column it says, "Does he  
7 know what all the government concerns are?" Do you  
8 see that?

9 A. Yes.

10 Q. Then it says, "Is he the representative  
11 of the government?" And it looks like you underlined  
12 "the"; do you see that?

13 A. Yes.

14 Q. Is that a question that you had for  
15 Mr. Donziger?

16 A. I think it was just a general question.

17 Q. Did you ever get an answer to the  
18 question of what Manuel Paiares' role was vis-a-vis  
19 the government of Ecuador?

20 A. I think over time I did, but it wasn't  
21 clear for a while.

22 Q. What was that understanding that you came  
23 to over time?

24 A. What I recall now is that I think it  
25 would be more accurate to say that he was like a

0216

1 consultant to the government rather than an employee  
2 to a government agency.

3 Q. Are you aware of Manuel Paiares ever  
4 holding a position of minister of environment in the  
5 government of Ecuador?

6 A. No.

7 Q. A little -- a couple inches down on the  
8 page it says, "This is a toxic tort case." Then you  
9 wrote "Ben Harding." Do you see that?

10 A. Yes.



11 Q. Ben Harding -- who is Ben Harding?  
12 A. Ben Harding is a hydrologist who works  
13 for what was Hydrosphere and is now amec in Boulder.  
14 Q. Is that the same Ben Harding who worked  
15 as a professor at the University of Colorado?  
16 A. No.  
17 Q. Do you know where Ben Harding is today?  
18 A. He's at amec in Boulder.  
19 Q. Was Ben Harding ever involved working for  
20 plaintiffs in the Ecuador case, to your knowledge?  
21 A. No.  
22 Q. Why did you write Ben Harding's name down  
23 here?  
24 A. Because he's been involved in a number of  
25 toxic tort cases as a scientist.  
0217

1 Q. What kind of work does he do?  
2 A. He's a hydrologist.  
3 Q. Does he do computer modeling of  
4 groundwater systems?  
5 A. He's done computer modeling, yes.  
6 Q. Was Ben Harding ever approached to work  
7 on the Ecuador case for the plaintiffs?  
8 A. I don't believe so.  
9 Q. Have you met Manuel Paires?  
10 A. Yes.  
11 Q. How many times?  
12 A. Two or three.  
13 Q. Where did you meet him?  
14 A. I met him in Quito. I think maybe a  
15 couple of times in the Quito plaintiff office. And  
16 then I believe we had dinner together in Quito  
17 somewhere with a number of other people.  
18 Q. Who else was present at the dinner you  
19 had in Quito with Manuel Paires?  
20 A. Steven Donziger. I don't recall, it was  
21 a long time ago, and there were a lot of people, and I  
22 didn't really know hardly any of them at that point.  
23 Q. Can you estimate when that dinner took  
24 place?  
25 A. It was probably in 2006.  
0218

1 Q. Do you recall whether any other -- strike  
2 that.  
3 Whether any representatives of the  
4 government of Ecuador were present at that dinner?  
5 A. I don't recall any being present. I  
6 don't think so.  
7 Q. The first time you met Manuel Paires,  
8 was that in the plaintiffs' Quito office?  
9 A. Yes.  
10 Q. Did -- who introduced you?

11 A. Well, I believe Steven Donziger asked him  
12 to come over.

13 Q. And how did Steven Donziger characterize  
14 Mr. Paiares' relationship to the plaintiffs' team when  
15 he introduced you?

16 A. I don't think he did characterize it.

17 Q. Did he just say, this is Manuel Paiares?

18 A. Yes. And that he had -- he was -- he  
19 said that he was very familiar with a number of the  
20 sites in the jungle and that he would be a good person  
21 to talk to.

22 Q. Did Mr. Donziger say that Mr. Paiares was  
23 working with the plaintiffs or the plaintiffs' team?

24 A. I don't recall him saying that.

25 Q. Did he say that Mr. Paiares was a

0219

1 representative of the government of Ecuador?

2 A. No, he didn't say he was a  
3 representative. I believe what he said at that point  
4 was that he was doing some work for the government of  
5 Ecuador.

6 Q. Have you ever heard of the CEREP fund,  
7 C-E-R-E-P, in Ecuador?

8 A. No.

9 Q. Are you aware of a government fund in  
10 Ecuador that's funded by oil royalties and used by the  
11 government for social programs and other programs in  
12 the oil-producing area?

13 A. I think I heard somebody mention that  
14 once, but I don't know anything about it.

15 Q. Have you ever heard that mentioned in  
16 connection with Manuel Paiares?

17 A. No.

18 Q. Have you ever heard of the FDA or Selva  
19 Viva getting any money from that fund for any purpose?

20 A. No.

21 Q. Have you ever heard of the FDA or Selva  
22 Viva getting a grant of \$160,000 from any source?

23 A. No.

24 Q. That number ring a bell in any way?

25 A. No.

0220

1 Q. Have you heard of a grant to the FDA from  
2 the government of Ecuador to build houses for people,  
3 to relocate people that are affected by oil  
4 operations?

5 A. Yes.

6 Q. What have you heard about that?

7 A. I just remember that one time when we  
8 were in the jungle we went past a house, and somebody  
9 said that that was -- the house had been built as part  
10 of that program.

11 Q. Did they say who built the house?  
12 A. No, not that I recall.  
13 Q. Did they say who received the house?  
14 A. No.  
15 Q. Are you aware of any officers of the FDA  
16 receiving one of those houses?  
17 A. No.  
18 Q. Are you aware of anybody on the  
19 plaintiffs' legal team receiving one of those houses?  
20 A. No.  
21 Q. Are you aware of anyone on the  
22 plaintiffs' consulting team receiving one of those  
23 houses?  
24 A. No.  
25 Q. Do you know anything about how much money  
0221

1 was provided to the FDA to build those houses?  
2 A. I don't know that the FDA built those  
3 houses, and I don't know how much money was involved  
4 in building of the houses.  
5 Q. I may have misunderstood your earlier  
6 testimony, but did you have an understanding that the  
7 government of Ecuador provided a grant to the FDA to  
8 build those houses?  
9 A. No, I didn't -- I didn't hear that.  
10 Q. Let's look at Exhibit -- this is a new  
11 exhibit I'll have to mark, 608.  
12 (Deposition Exhibit 608 was marked.)  
13 Q. Exhibit 608 is a memo, it's labeled  
14 "Draft" in the upper left-hand corner, dated 27 June  
15 2006. It says "Ann Maest" in the upper right-hand  
16 corner. It's titled "Approach for Conducting the  
17 Peritaje Global, Chevron-Texaco Case, Ecuador," and  
18 bears Bates stamps STRATUS-NATIVE 008830 through 8833.  
19 Ms. Maest, have you seen Exhibit 608  
20 before?  
21 A. Yes.  
22 Q. Did you write it?  
23 A. Yes. I don't -- I believe I wrote it in  
24 collaboration with Dick Kamp and Bill Powers at  
25 E-Tech.

0222  
1 Q. And did you and Mr. Kamp and Mr. Powers  
2 collaborate on writing Exhibit 608 approximately in  
3 June of 2006?  
4 A. That's what it appears. I know it was  
5 early on in the process.  
6 Q. Can you explain the purpose of  
7 Exhibit 608?  
8 A. I'm not sure what this page is. I don't  
9 believe that's part of this.  
10 Q. I can just represent to you that this is

11 how it was produced to us.

12 A. Okay.

13 Q. And you are referring to the third page,  
14 STRATUS-NATIVE 8832 that contains some handwritten  
15 notes, correct?

16 A. Right. I don't believe that was part of  
17 this.

18 But the purpose of the draft was to think  
19 about options for conducting the peritaje global.

20 Q. Was this in response to a request from  
21 Mr. Donziger?

22 A. Yes.

23 Q. Turn to the last page -- well, let's  
24 start with page 8832, the handwritten notes. Are  
25 these your notes?

0223

1 A. That's my writing, yes.

2 Q. Did these notes -- in looking at these  
3 notes, did they have anything to do with this memo  
4 that's drafted in June of 2006?

5 A. No, I don't believe they do.

6 Q. Okay. So looking at the last page of  
7 Exhibit 608 in the paragraph starting, "Therefore," it  
8 says, "Therefore, Option B is the most technically  
9 sound and cost-effective approach for supplying the  
10 information needed for the Peritaje Global. The  
11 Planning phase will include a full evaluation of  
12 existing data and documents to determine the most  
13 important criteria for selecting sites for the  
14 Peritaje Global. The actual number of sites will be  
15 determined during the planning phase, but the total  
16 number will most likely closer to 40 than 100." Do  
17 you see that?

18 A. Yes.

19 Q. Is that something that you wrote?

20 A. I believe so, yes.

21 Q. At this time in 2006, was your  
22 understanding that Mr. Donziger was hiring E-Tech to  
23 conduct the peritaje global?

24 A. No.

25 Q. What was your understanding of E-Tech's

0224

1 role in the Ecuador matter as of June 2006?

2 A. To the best of my recollection, my  
3 understanding at that point was that we would be  
4 working with the plaintiff team in Quito on the  
5 peritaje global.

6 Q. And was it your understanding that as of  
7 June 2006 E-Tech would be working with the plaintiff  
8 team in Quito to conduct the peritaje global?

9 A. I don't think it was clear at that point.

10 Q. Did Mr. Donziger ask you -- or ask E-Tech

11 to set forth different options for conducting the  
12 peritaje global?

13 A. Yes.

14 Q. And those options are set out A, B, C, D,  
15 and E in this memo, Exhibit 608?

16 A. Yes.

17 Q. Ultimately -- did there come a time when  
18 the decision was made to -- that E-Tech would not do  
19 the work with plaintiffs' team in Quito on the  
20 peritaje global?

21 A. Yes.

22 Q. When was that?

23 A. I don't recall exactly. I think it was  
24 probably in early 2007.

25 Q. And who made that decision?

0225

1 A. It was a joint decision with Steven  
2 Donziger. And, you know, I was involved in that  
3 decision, and then Dick Kamp and Bill Powers, I think,  
4 were also involved in it.

5 Q. And why -- what was the reason for the  
6 decision for E-Tech to no longer be involved in the  
7 peritaje global?

8 A. E-Tech is a very small nonprofit  
9 organization. We don't really have the capacity to,  
10 you know, do a large-scale project, so . . .

11 Q. And was that the only reason?

12 A. That was the main reason, yes.

13 Q. Well, was it the only reason?

14 A. As I recall right now, yes.

15 Q. And that decision was made after the  
16 March 3, 2007, meeting in Quito at which Mr. Kamp was  
17 present, along with Mr. Cabrera, right?

18 A. Yes. Yes.

19 Q. Do you remember how long after that  
20 meeting that decision was made?

21 A. No.

22 Q. Did Mr. Kamp ever express any unease or  
23 concern about plaintiffs working directly with  
24 Mr. Cabrera?

25 A. I don't know that he had a sense of

0226

1 whether plaintiffs were working with Mr. Cabrera  
2 directly.

3 Q. Did he ever express any unease or concern  
4 that Mr. Cabrera was present at the meeting with  
5 plaintiffs on March 3, 2007?

6 A. I think he said that it was weird at one  
7 point, but I'm not sure what else or why.

8 Q. Did you have any discussions with  
9 Mr. Kamp about why he thought it was weird that  
10 Mr. Cabrera was at the March 3 meeting with

11 plaintiffs' team?

12 A. Not that I recall. I just remember him  
13 saying -- that might not have been exactly what he  
14 said, but it was something like that.

15 Q. E-Tech at that time in early 2007 was  
16 essentially made up of you, Mr. Powers, and Mr. Kamp,  
17 correct?

18 A. Right.

19 Q. Were there any other people who were  
20 employees or contractors of E-Tech at that time?

21 A. Not at that time, no.

22 Q. So of those three, you and Mr. Powers  
23 remained actively involved in the work for the  
24 plaintiffs on the peritaje global, correct?

25 A. Yes. Over time, yes.

0227

1 Q. And Mr. Kamp -- so of the three people  
2 that made up E-Tech in early 2007, Mr. Kamp was the  
3 only one who did not stay involved in the peritaje  
4 global work for the plaintiffs, correct?

5 A. That's correct.

6 Q. Now, Mr. Powers has testified, and others  
7 have testified, that he was a subcontractor of  
8 Stratus. Do you agree with that?

9 A. Who?

10 Q. Mr. Powers was a subcontractor of  
11 Stratus?

12 A. Yes.

13 Q. But you became an employee of Stratus,  
14 correct?

15 A. That's correct.

16 Q. And when did that happen?

17 A. That was September -- let me see, I think  
18 it was September 2006.

19 Q. At the time that you were attending --  
20 you attended the March 3 meeting in 2007, you were  
21 both an employee of Stratus and you were also  
22 affiliated with E-Tech, right?

23 A. Right.

24 Q. What was the nature of your affiliation  
25 with E-Tech at that time?

0228

1 A. It's the same as it is now. I'm -- you  
2 know, it's a very small nonprofit. I'm the principal  
3 scientist, and we all have other jobs that we do.

4 Q. Are you an employee of E-Tech?

5 A. No.

6 Q. Do you get a salary from E-Tech?

7 A. No.

8 Q. Do you get paid from E-Tech in any way?

9 A. Yes, through grants that come into

10 E-Tech. And then if I do work associated with those

11 grants, then I get paid from E-Tech.

12 Q. Are you an independent contractor at  
13 E-Tech?

14 A. Sort of. I'm not really sure what the --

15 Q. Do you know whether for tax purposes you  
16 receive a 1099 from E-Tech?

17 A. Yes, I think I do.

18 Q. But you're an employee of Stratus and  
19 receive a W-2 form from Stratus?

20 A. Yes.

21 Q. At the time you were working for the Lago  
22 Agrio plaintiffs in early 2007, including on March 3,  
23 2007, you were there in your capacity as a contractor  
24 to E-Tech, correct?

25 A. Yes.

0229

1 Q. Do you know when Stratus was retained  
2 to -- by the lawyers for the Lago Agrio plaintiffs?

3 A. Let's see, I don't recall exactly, but I  
4 believe it was late 2007.

5 Q. Is it fair to say that whenever that date  
6 was that Stratus was retained by Lago Agrio  
7 plaintiffs' lawyers to work on the Ecuador case, that  
8 as of and after that date the work that you performed  
9 with regard to Lago Agrio case was for Stratus, not  
10 for E-Tech?

11 A. Yes.

12 Q. Is it fair to say that prior to that date  
13 that Stratus was retained by the Lago Agrio  
14 plaintiffs' lawyers, the work that you did on the  
15 Ecuador case was for E-Tech, not for Stratus?

16 A. Yes.

17 Q. Looking at the -- back at Exhibit 608,  
18 the page that has your notes sort of stuck in the  
19 middle there, it says, "Conceptual model flawed -  
20 clearly has been migration of contam into  
21 groundwater." Do you see that?

22 A. Yes.

23 Q. Contam means contamination there?

24 A. Yes.

25 Q. And GW means groundwater?

0230

1 A. Yes.

2 Q. Is that something that you were told at  
3 this -- well, strike that.

4 Do you have any recollection or can you  
5 tell from these notes when you made these notes?

6 A. I think it was probably around the same  
7 time period, mid to late 2006.

8 Q. Okay. The statement, "conceptual model  
9 flawed," is that something you were told, or is that  
10 something you concluded?

11 A. I believe that's something that I  
12 concluded based on what I was told.

13 Q. And what conceptual model were you  
14 referring to?

15 A. The conceptual model that there is, you  
16 know, a clay layer that protects groundwater and  
17 deeper soils from contamination in the Napo  
18 Concession.

19 Q. When you refer to a conceptual model, are  
20 you actually referring to some sort of computer model  
21 or other actual modeling exercise that was done by  
22 someone?

23 A. No.

24 Q. You're just referring to the concept, is  
25 that what you are saying?

0231

1 A. Right.

2 Q. Okay. And when you say it was a  
3 conclusion you came to based on what you were told,  
4 what is the information that you were told on which  
5 you based that conclusion?

6 A. And also what I read. At that point  
7 there were a number of perito reports from both sides,  
8 from Chevron and the plaintiffs, and so in reading a  
9 number of Chevron's perito reports, I put together in  
10 my mind a conceptual model of what Chevron's view of,  
11 you know, the sources and transported contamination in  
12 the Napo Concession was.

13 Q. And what was that conceptual model of  
14 Chevron's view that you are referring to?

15 A. Well, there were appendices in some of  
16 the Chevron perito reports, and some of them were  
17 submitted in a number of the perito reports that -- I  
18 think one of them was like Appendix J that talked  
19 about the lack of mobility of petroleum hydrocarbons  
20 in the environment and the presence of clay and -- so  
21 that was my main source of information for the  
22 conceptual model.

23 Q. And for what reason did you come to the  
24 conclusion that the conceptual model was flawed?

25 A. Because samples of groundwater from --  
0232

1 you know, immediately around pits had high  
2 concentrations of petroleum hydrocarbons.

3 Q. And these are Chevron samples you're  
4 referring to?

5 A. No, these were plaintiff samples.

6 Q. Okay. How many samples, approximately,  
7 of groundwater did plaintiffs take in the JI reports  
8 that you reviewed?

9 A. I don't know. I would have to go back  
10 and look.



11 Q. When you say "groundwater samples," are  
12 you referring to samples taken from the groundwater  
13 aquifer, or some other source?

14 A. They drilled small, you know, openings in  
15 the ground and took soil samples out, and then also  
16 took groundwater samples out. So I'm just talking  
17 about the groundwater table and samples from -- that  
18 were collected from below the groundwater table in the  
19 area of the pits.

20 Q. How far was the farthest sample -- how  
21 far from a pit was the farthest sample the plaintiffs  
22 took of water from a borehole where they took a soil  
23 sample?

24 A. I don't know. I don't recall right now.  
25 It wasn't very far, but I would have to look at the  
0233

1 maps to remember.

2 Q. In your opinion, is a sample from a --  
3 from water in a borehole taken in the vicinity of pit  
4 descriptive in any way of the quality of the  
5 groundwater in the groundwater aquifer?

6 MR. BEIER: Object to the form. You can  
7 answer.

8 A. Could you restate that?

9 Q. (BY MR. CRIMMINS) Sure. Let me start  
10 with this: How deep were the water samples from  
11 boreholes taken in the vicinity of pits that  
12 plaintiffs took during the JI inspections?

13 A. It varied quite a bit.

14 Q. What was the deepest one, do you recall?

15 A. I don't recall. I do recall plotting --  
16 making a plot of the depth and the concentrations, but  
17 I don't right now recall how deep it was.

18 Q. Do you know how deep the groundwater  
19 aquifer is in the former concession area in Ecuador?

20 A. When you say "the groundwater aquifer,"  
21 what do you mean?

22 Q. Are you aware of drinking water sources  
23 for people in the concession area in Ecuador?

24 A. That's a very different question. Is  
25 this related to the aquifer or . . .  
0234

1 Q. That's my question. Let's start with the  
2 municipal water system in San Carlos. Are you aware  
3 there is a municipal water system in San Carlos?

4 A. I'm aware there is one that doesn't work  
5 very well.

6 Q. And what is that conclusion based on?

7 A. Talking to people in San Carlos and  
8 hearing from a number of people that, you know, they  
9 turn on their tap and often nothing comes out.

10 Q. Other than what you have heard from

11 people -- from other people, do you have any basis for  
12 saying that the municipal water system in San Carlos  
13 does not work very well?

14 A. We didn't investigate it ourselves, so  
15 no.

16 Q. Are you aware of any testing of the  
17 drinking water available in the municipal water system  
18 in San Carlos?

19 A. I know that Chevron did -- collected  
20 samples from what they said were, you know, drinking  
21 water sources.

22 Q. Including the municipal water system in  
23 San Carlos?

24 A. I don't recall.

25 Q. Are you aware of any samples taken by  
0235

1 anyone in the former concession area that showed  
2 hydrocarbon contamination in drinking water?

3 A. In water that was expressly used for  
4 drinking, or water that could be used for drinking?

5 Q. That was expressly used for drinking.

6 A. I don't know. You know, as I mentioned,  
7 Chevron said that they collected samples from a number  
8 of drinking water sources, but I didn't personally  
9 investigate that.

10 Q. And plaintiffs never took any samples  
11 from drinking water in the JI inspections; is that  
12 correct?

13 A. I am not sure.

14 Q. Are you aware of any sampling that  
15 plaintiffs have ever done of drinking water sources?

16 A. Well, when you say "drinking water  
17 sources," I mean, I think of a, you know, groundwater  
18 aquifer as a potential drinking water source, but --  
19 so I'm not sure what you mean there.

20 Q. Are you aware of plaintiffs ever taking  
21 any samples from a groundwater aquifer?

22 A. They took samples from groundwater that  
23 was in, you know, sandy units, and so yes.

24 Q. Are you referring to the samples that you  
25 referred to earlier in the vicinity of pits?

0236

1 A. Yes.

2 Q. And in your understanding, is that --  
3 were those samples taken from the groundwater aquifer?

4 A. I guess I'm not really sure. We might  
5 have a different idea of what an aquifer is in this  
6 area; but all I can tell you is that they were samples  
7 of groundwater from under and near, very close to  
8 pits.

9 Q. In these same notes you write, "TCLP test  
10 is a ruse to get around meeting the 5,000 ppm TPH

11 STD." Do you see that?

12 A. Yes.

13 Q. Is STD standard there?

14 A. Yes.

15 Q. And ppm is parts per million?

16 A. Yes.

17 Q. Is this something that someone told you

18 or is this a conclusion that you came to?

19 A. It's my own conclusion.

20 Q. And what was that conclusion based on?

21 A. Well, first of all, in the United States  
22 there are no TCLP standards for total petroleum  
23 hydrocarbons, and there are problems with the analysis  
24 of total petroleum hydrocarbons in a TCLP test.

25 Q. And this comment that you wrote here

0237

1 about the TCLP test, is this in reference to the

2 TexPet remediation that was conducted in the 1990s?

3 A. Yes.

4 Q. And your understanding is that the TCLP  
5 test was used in connection with that remediation to  
6 determine TPH; is that right?

7 A. Yes. It was a modification of the TCLP  
8 test.

9 Q. And do you know whether that test was  
10 used at all sites or some sites in the remediation?

11 A. I don't recall right now. I know it was  
12 used in a number of sites.

13 THE VIDEOGRAPHER: Five minutes until  
14 tape change.

15 MR. CRIMMINS: Okay.

16 Q. (BY MR. CRIMMINS) Do you know why the  
17 TCLP test was used in connection with the TexPet  
18 remediation in the 1990s?

19 A. Do you mean -- what do you mean by that?

20 Q. Do you know who chose to use the TCLP  
21 test?

22 A. I'm not sure who originally came up with  
23 it, but I believe it was in the contract for  
24 remediation.

25 Q. TexPet contract with?

0238

1 A. The government of Ecuador.

2 Q. Do you know whether the TCLP test was  
3 suggested by TexPet, or whether it was suggested by  
4 the Republic of Ecuador?

5 A. I don't know.

6 Q. Did anybody ever tell you which party  
7 chose the TCLP test?

8 A. I don't recall right now.

9 Q. Have you heard allegations by the -- are  
10 you familiar with allegations by people associated

11 with the Lago Agrio plaintiffs that the TexPet  
12 remediation was a fraud?

13 A. Yes.

14 Q. Do you have an opinion on that issue?

15 MR. BEIER: Object to the form, calls for  
16 a legal conclusion.

17 A. I don't have an opinion about whether it  
18 was a fraud.

19 MR. CRIMMINS: Okay. Let's take a break  
20 to change the tape.

21 THE VIDEOGRAPHER: This is the end of  
22 tape No. 3. Going off the record. The time is 4:11.

23 (Recess taken.)

24 THE VIDEOGRAPHER: We are back on the  
25 record. The time is 4:16. This is the beginning of  
0239

1 tape No. 4 in the deposition of Ann Maest.

2 Q. (BY MR. CRIMMINS) Ms. Maest, I handed  
3 you Exhibit 555 that was marked in your prior  
4 deposition and that you testified about. I just had  
5 one question that wasn't covered earlier.

6 First, do you recognize these as your  
7 notes?

8 A. Yes.

9 Q. Towards the bottom of the page it says,  
10 "Next steps," and then there's some items, 1, 2, 3, 4,  
11 5; do you see that?

12 A. Yes.

13 Q. And No. 5 is "Write report." Do you see  
14 that?

15 A. Yes.

16 Q. Was it your understanding in November of  
17 2006 that part of the work that E-Tech would be doing  
18 in connection with the peritaje global was writing a  
19 report to be submitted to the Lago Agrio court?

20 A. I don't think we had a clear  
21 understanding at that point what it was that the  
22 report was, and so . . .

23 Q. Did you have an understanding in November  
24 of 2006 that the peritaje global pertained to the  
25 appointment by the Lago Agrio court of one or more  
0240

1 independent experts?

2 A. No, I don't think I had that  
3 understanding at that point.

4 Q. At some point during your work on the  
5 Ecuador case you came to an understanding that the  
6 peritaje global involved the appointment of an  
7 independent court expert; is that right?

8 A. Yes.

9 Q. Do you remember when you gained that  
10 understanding?

11 A. I know it was after the March 2007  
12 meeting. I'm sorry, could you state your question  
13 again?

14 Q. Yeah. I asked, "At some point during  
15 your work on the Ecuador case you came to the  
16 understanding that the peritaje global involved the  
17 appointment of an independent court expert; is that  
18 right?"

19 You said, "yes." Is that correct?

20 A. Yes.

21 Q. And then my question was, "Do you  
22 remember when you gained that understanding?"

23 A. Oh. I knew about that before the March  
24 2007 meeting, but we didn't know who was going to be  
25 appointed.

0241

1 Q. How long before the March 2007 meeting  
2 did you understand that the peritaje global involved  
3 the appointment of an independent court expert?

4 A. I don't recall. I think not very long  
5 before.

6 Q. Do you think it was in early 2008 that  
7 you came to that understanding?

8 A. No. It was before the March 2007  
9 meeting.

10 Q. I'm sorry, I misspoke. I'm sorry. What  
11 I meant to say was, do you think it was in early 2007  
12 that you came to that understanding?

13 A. Probably.

14 Q. Who explained that to you?

15 A. I believe Mr. Donziger did.

16 Q. And what did he say in that regard?

17 A. I don't recall exactly, but he said that  
18 there were a number of candidates that were being  
19 considered and, you know, that a judge would pick one.

20 Q. Did he describe the role of that  
21 independent court expert to you?

22 A. No, not that I recall.

23 Q. Did he ever explain that the expert  
24 appointed by the court was to be impartial and  
25 independent of the parties, meaning either plaintiffs

0242

1 or Chevron?

2 A. I remember having an understanding at  
3 some point that it was an independent expert, but I  
4 don't recall if Mr. Donziger said that.

5 Q. Have you ever read any court orders that  
6 described the required impartiality or independence of  
7 the global peritaje independent court expert?

8 A. Not that I recall.

9 Q. Did anybody ever explain what those  
10 orders said?

11 A. Not that I recall, no.  
12 Q. When was the first time you visited Lago  
13 Agrio?

14 A. I don't recall. I don't think it was the  
15 first time that we went to Quito. I think it was  
16 after that.

17 Q. How many times have you been to Lago  
18 Agrio?

19 A. Maybe three times. Three or four.

20 Q. And so the first time you went to Lago  
21 Agrio was, at the earliest, 2005, correct?

22 A. No, I don't think we went in 2005. I  
23 don't recall.

24 Q. What I'm getting at is, is it fair to say  
25 you had never been to Lago Agrio before becoming  
0243

1 involved in this case for the Ecuador plaintiffs?

2 A. Yes.

3 Q. And your first involvement in the case  
4 with the Ecuador plaintiffs was in 2005, right?

5 A. Yes.

6 Q. So regardless of whether you remember  
7 when precisely you went, it could not have been before  
8 2005, is that correct?

9 A. That's right.

10 Q. Looking back at Exhibit 555, towards the  
11 bottom it says, "Hope Fausto Penafiel could oversee PG  
12 in Ecuador." Do you see that?

13 A. Yes.

14 Q. Who is Fausto Penafiel?

15 A. He was -- is an engineer, I think, who  
16 works for the plaintiff team -- or used to work for  
17 the plaintiff team.

18 Q. Do you know whether -- did Mr. Cabrera  
19 ever say that Fausto Penafiel was under consideration  
20 to be the court-appointed expert for the peritaje  
21 global?

22 MR. BEIER: Object to the form.

23 A. Could you repeat that?

24 Q. (BY MR. CRIMMINS) I'm sorry, I misspoke.  
25 It's getting late in the day. I'm sorry.  
0244

1 Did Mr. Donziger ever say that Fausto  
2 Penafiel was under consideration to be the  
3 court-appointed expert for the peritaje global?

4 A. I don't recall him saying that.

5 Q. The statement in your notes, it says,  
6 "Hope Fausto Penafiel could oversee PG in Ecuador."

7 Is that something you were thinking, or  
8 did you write down what someone else said?

9 A. I believe I was writing what someone else  
10 said.

11 Q. Is that something Mr. Donziger said?

12 A. I don't recall.

13 Q. Did Fausto Penafiel end up overseeing the  
14 peritaje global for the plaintiffs?

15 A. Not for the whole time. And I don't know  
16 if he was at one point. I'm not sure.

17 Q. Was there some other person working for  
18 the plaintiffs who was charged with overseeing the  
19 peritaje global?

20 A. I don't know that there was somebody who  
21 actually had that kind of description as their title,  
22 no.

23 Q. Was part of your responsibilities in  
24 working for the Lago Agrio plaintiffs to oversee the  
25 peritaje global?

0245

1 A. You mean the work that was conducted by  
2 the plaintiffs?

3 Q. Well, what is your understanding of what  
4 the peritaje global entailed?

5 A. At this point, or now?

6 Q. Now.

7 A. Okay. The peritaje global is, you know,  
8 what -- God, I'm getting tired, too -- the  
9 court-appointed expert was assembled and submitted to  
10 the court.

11 Q. I'm not sure what you mean by the  
12 court-appointed expert was assembled. You mean the  
13 court appointed expert's report?

14 A. Right.

15 Q. Okay.

16 A. Mr. Cabrera's report.

17 Q. Okay. Well, the effort that Stratus was  
18 involved in, along with others in the plaintiffs'  
19 office in Quito, that you have testified about in  
20 drafting the summary report and annexes to be  
21 submitted to Cabrera, who was in charge on the  
22 plaintiffs' team of that effort?

23 A. Mr. Donziger, I guess. You know, I --  
24 I'm not sure if there was someone in the Quito office  
25 who was overseeing it, but our contact was always

0246

1 through Mr. Donziger, so . . .

2 Q. Did you have any understanding from your  
3 time working with the Quito office or working in the  
4 Quito office who was in charge of that office?

5 A. I believe it was Pablo Fajardo.

6 Q. With regard to the work that Stratus was  
7 doing in drafting annexes and the summary report to be  
8 submitted to Cabrera, is it fair to say that Stratus  
9 took their direction from Mr. Donziger?

10 A. Yes.

11 Q. Okay. Do you know someone named Fausto  
12 Mareano, or Mareana?

13 A. I don't think so.

14 Q. Other than Fausto Penafiel, did you work  
15 with anyone else on plaintiffs' team named Fausto?

16 A. I don't believe so.

17 MR. CRIMMINS: Let's mark this  
18 Exhibit 609.

19 (Deposition Exhibit 609 was marked.)

20 Q. (BY MR. CRIMMINS) Let me hand you what  
21 I'm marking Exhibit 609. Exhibit 609 is -- was  
22 produced by Mr. Donziger. It's Bates stamped  
23 DOZ00083352. It's a memo entitled, "Confidential  
24 Memorandum" from Ann Maest Stratus Consulting, Inc.,  
25 to Steven Donziger, dated 8/27/2007. Do you see that?  
0247

1 A. Yes.

2 Q. And the subject line is "Review of  
3 Groundwater Evaluation Plan Prepared by Dr. Luis  
4 Cumbal Flores." Do you see that?

5 A. Yes.

6 Q. Did you write this document?

7 A. Yes.

8 Q. I just want to point out to you in the  
9 back, the last page is a printout of the metadata that  
10 was associated with this document as it was produced,  
11 and it lists the author as D. Beltman; do you see  
12 that?

13 A. Yes.

14 Q. Did Mr. Beltman -- and you are listed on  
15 the first page as the author of the document; do you  
16 see that?

17 A. Yes.

18 Q. Did Mr. Beltman help you in drafting this  
19 document?

20 A. Not that I recall, no.

21 Q. There is also a -- in the metadata it  
22 says, "Last saved by," and it says "Stephen," with a  
23 PH; do you see that?

24 A. Yes.

25 Q. Do you know who that is?  
0248

1 A. I don't know. It's probably  
2 Mr. Donziger, but I don't know for sure.

3 Q. In collecting documents for production  
4 of -- in response to the subpoena in this matter in  
5 Colorado, do you remember seeing this memo at all?

6 A. I believe so.

7 Q. Is it your understanding that this  
8 document was produced by Stratus?

9 A. I am not sure.

10 Q. In collecting documents for production in



11 response to the Stratus subpoena, do you recall  
12 whether the determination was made that this document  
13 was not responsive to the subpoena and, therefore, not  
14 produced?

15 A. I am not aware of anything like that.

16 Q. Do you recall whether you provided this  
17 document to whoever at Stratus was collecting  
18 documents for potential production in response to the  
19 subpoena in this matter?

20 A. To the best of my recollection, I believe  
21 I did --

22 Q. Okay.

23 A. -- but I'm not sure.

24 Q. Who is Dr. Luis Cumbal Flores?

25 A. He is an Ecuadorian engineer, I believe,  
0249

1 who was proposing to sample groundwater, I believe  
2 related to the peritaje global.

3 Q. Do you know, was Mr. -- or Dr. Cumbal  
4 Flores, was he someone who worked for the plaintiffs?

5 A. No.

6 Q. Do you know who he worked for?

7 A. I think my understanding at the time was  
8 that he was related to Cabrera's team.

9 Q. The plan that you -- is it fair to say  
10 that this memo is your analysis of a groundwater  
11 evaluation plan prepared by Dr. Flores?

12 A. Yes.

13 Q. Or Dr. Cumbal Flores?

14 A. Yes.

15 Q. Where did you obtain that plan for  
16 review?

17 A. I don't recall exactly, but I believe it  
18 was from the Quito office.

19 Q. The plaintiffs' Quito office?

20 A. The plaintiffs' Quito office.

21 Q. And when it was provided to you, was it  
22 handed to you in hard-copy form while you were in  
23 Quito, or was it delivered by some other method?

24 A. No. I believe it was sent by e-mail, but  
25 I'm not sure.

0250

1 Q. Do you know if you still have a copy of  
2 that plan?

3 A. Probably, but I'm not sure.

4 Q. And did Mr. Donziger ask you to review  
5 that plan?

6 A. Yes.

7 Q. Did he explain to you why he wanted you  
8 to review that plan?

9 A. What I remember is that Dr. Flores was  
10 proposing to do some sampling for Mr. Cabrera, and

11 Mr. Donziger asked me to review it and see if it was  
12 technically sound.

13 Q. And what was your conclusion regarding  
14 that question?

15 A. What I recall is that there were parts of  
16 it that were good. Just hold on a second here.

17 What I recall about it was that it seemed  
18 the main objective was modeling, you know, the  
19 possible extent of contamination, and that was not  
20 very well defined in the plan. And -- but some of the  
21 sampling approaches were sound, and it was a mixed --

22 Q. Was it your understanding that this plan  
23 prepared by Dr. Luis Cumbal Flores was for  
24 Mr. Cabrera's evaluation to determine whether or not  
25 he would use this plan or implement this plan in his  
0251

1 sampling?

2 A. I believe that's -- that was my  
3 understanding at the time.

4 Q. Did Mr. Donziger indicate that he wanted  
5 you to review the plan to make some recommendation to  
6 Mr. Cabrera?

7 A. It wasn't for Mr. Cabrera, it was for  
8 Dr. Flores.

9 Q. Do you know whether Dr. Flores ever  
10 conducted any sampling for Mr. Cabrera?

11 A. I don't recall seeing any data from  
12 Flores, so I'm not sure.

13 Q. Did Mr. Cabrera's sampling -- his field  
14 sampling comport with the sampling plan proposed by  
15 Dr. Flores?

16 A. I'm not sure what Mr. Cabrera's -- could  
17 you say that again, please?

18 Q. Sure. Did Mr. Cabrera's field sampling  
19 comport with or was it consistent with the sampling  
20 plan proposed by Dr. Flores?

21 MR. BEIER: Object to form, foundation.

22 A. I don't know.

23 Q. (BY MR. CRIMMINS) Do you know whether  
24 your comments or analysis of Mr. -- Dr. Flores's plan  
25 were communicated to Dr. Flores?  
0252

1 A. I don't know for sure.

2 Q. You never communicated with Dr. Flores  
3 directly concerning that issue?

4 A. I don't recall.

5 Q. Did you ever communicate with Dr. Flores  
6 at all?

7 A. I don't recall. I don't believe so.

8 Q. How did you come to the understanding  
9 that Dr. Flores was working on Mr. Cabrera's team?

10 A. That's just my recollection now, and --

11 but I'm not 100 percent sure that that's really the  
12 case.

13 Q. Did anybody ever tell you that Dr. Flores  
14 was working on Mr. Cabrera's team?

15 A. I don't recall for sure.

16 Q. Do you know if Mr. -- or Dr. Flores was  
17 paid for drafting this groundwater evaluation plan?

18 A. I don't know.

19 Q. Turning back to Exhibit 600, which is Mr.  
20 Donziger's testimony from December 29, 2010. Would  
21 you turn to page 2244, please.

22 A. Okay.

23 Q. Line 20 there's a question that starts,  
24 "Do you recall a meeting." Do you see that?

25 A. Where are you? The very top?

0253

1 Q. 2244, line 20.

2 A. Oh, line 20. Yes.

3 Q. The question to Mr. Donziger is, "Do you  
4 recall a meeting between yourself, Ms. Maest,  
5 Mr. Beltman and others that took place in January of  
6 '08 in Quito."

7 And the answer is, "yes."

8 "Where was that meeting held?"

9 Answer: "I believe it was at the private  
10 residence of Juan Aulestia."

11 Question: "Who all attended that  
12 meeting?"

13 Answer: "To the best of my recollection,  
14 it was Ms. Maest, Mr. Beltman, Mr. Fajardo, Mr. Yanza,  
15 Mr. Cabrera, and I believe one or two individuals from  
16 our technical team, like possibly Mr. Villacreces."  
17 Do you see that?

18 A. Yes.

19 Q. Is it your recollection that Mr. Fajardo,  
20 Mr. Yanza, Mr. Cabrera, Mr. Donziger, and Mr. Beltman  
21 were all present at that meeting at Juan Aulestia's  
22 house in January of 2008?

23 A. I don't recall Mr. Fajardo and Mr. Yanza  
24 being there. They might have been, but I don't  
25 remember them being there.

0254

1 Q. Do you remember whether Mr. Villacreces  
2 was there?

3 A. He was there.

4 Q. Do you remember whether any other members  
5 from plaintiffs' technical team were there?

6 A. I believe that Lupita de Heredia was  
7 there.

8 Q. Anyone else?

9 A. No.

10 Q. Was Mr. Aulestia there?

11 A. I don't recall. I'm not sure.  
12 Q. Have you ever met Juan Aulestia?  
13 A. Yes.  
14 Q. Where did you meet him?  
15 A. I don't remember exactly where. It was  
16 in Quito.  
17 Q. How many times have you met him?  
18 A. Probably two or three times.  
19 Q. Do you have an understanding that he was  
20 someone who was working with the plaintiffs' team?  
21 A. I don't know that he was working with the  
22 plaintiffs' team. I'm not really sure what his role  
23 was.  
24 Q. Do you know what his job is?  
25 A. I think he's a professor. Yeah, he's a  
0255  
1 professor, and he has an appointment that's like a  
2 joint appointment between Duke, I believe, and then  
3 the university in Quito.  
4 Q. Do you know what his area of expertise  
5 is?  
6 A. I believe it's in the social sciences. I  
7 can't remember exactly.  
8 Q. On any of the occasions you met Juan  
9 Aulestia, were you at the plaintiffs' Quito office?  
10 A. I don't think I ever saw him there.  
11 Q. Where else -- did you meet him -- or did  
12 you see him at any time at this visit to this house in  
13 January 2008?  
14 A. I don't remember him being there, so --  
15 he might have been, but I don't know.  
16 Q. Do you remember any other occasions on  
17 which you met Mr. Aulestia?  
18 A. I know I met him at his house once. Not  
19 at this meeting.  
20 Q. How many times have you been to  
21 Mr. Aulestia's house?  
22 A. I think just twice.  
23 Q. Other than this January 2008 meeting,  
24 what was the other occasion where you were at  
25 Mr. Aulestia's house?  
0256  
1 A. It was, you know, a social meeting. It  
2 wasn't related to the case.  
3 Q. Who was present at that meeting?  
4 A. Let's see, I believe Lupita de Heredla,  
5 and a friend of mine that I brought to Quito.  
6 Q. Anyone else?  
7 A. Not that I can recall right now, no.  
8 Q. The friend that you brought to Quito, was  
9 that someone who was involved in the Ecuador case, or  
10 just a friend?

11 A. No, she wasn't involved, just a friend.  
12 Q. And how did it come about that you and  
13 your friend and Lupita de Heredla went to Juan  
14 Aulestia's house?

15 A. Lupita and Juan are good friends, and I  
16 became friends with Lupita, and I don't recall  
17 exactly, she just suggested, let's go over and say hi  
18 to Juan.

19 Q. During that visit to Juan Aulestia's  
20 house, did you discuss the Ecuador case at all?

21 A. Not that I recall.

22 Q. It was simply a social visit?

23 A. Right. Yes.

24 Q. Looking again back at Exhibit 600, page  
25 2245, at line 15 Mr. Donziger is asked, "Now,  
0257

1 Mr. Beltman and Ms. Maest attended the meeting at your  
2 request, correct?"

3 And he says, "I believe so, yes."

4 Did you attend the January '08 meeting at  
5 Juan Aulestia's house at the request of Mr. Donziger?

6 A. Yes.

7 Q. If you flip forward to page 2247 of  
8 Exhibit 600.

9 A. Okay.

10 Q. It says at the top, the question is, "At  
11 this meeting in January '08, was it discussed that  
12 plaintiffs' consultants would draft the Cabrera global  
13 expert report?"

14 Answer by Mr. Donziger, "I think there  
15 was a discussion that the Stratus individuals would  
16 draft materials that would be given to Mr. Cabrera for  
17 his hoped-for adoption in his report." Do you see  
18 that?

19 A. Yes.

20 Q. Do you recall discussing at the January  
21 2008 meeting at Juan Aulestia's house that Stratus  
22 would draft materials to be given to Mr. Cabrera?

23 A. I don't recall talking about that.

24 Q. When is the first time you recall having  
25 an understanding that Stratus would draft materials to  
0258

1 be submitted to Mr. Cabrera?

2 A. I don't recall.

3 Q. Do you recall whether it was before or  
4 after this meeting in January 2008?

5 MR. BEIER: Object to the form.

6 A. And the question was whether I recall --  
7 could you say that again?

8 Q. (BY MR. CRIMMINS) At some point you came  
9 to an understanding that Stratus would draft materials  
10 to be submitted to Mr. Cabrera, right?

11 A. Yes.

12 Q. And I'm trying to understand when you  
13 first came to that understanding. You said you're not  
14 sure, but I'm asking you whether you came to that  
15 understanding before this January 2008 meeting, or  
16 after?

17 MR. BEIER: Object to the form.

18 A. I don't -- sorry. I don't recall.

19 Q. (BY MR. CRIMMINS) On line 16 on page  
20 2247 of Exhibit 600, the question to Mr. Donziger is,  
21 "Did Mr. Cabrera agree at the January '08 meeting to  
22 accept a draft report from Mr. Beltman and Ms. Maest?"  
23 Do you see that?

24 A. Yes.

25 Q. And Mr. Donziger answered, "To the best  
0259

1 of my recollection, he seemed open to it." Do you see  
2 that?

3 A. Yes.

4 Q. Do you recall discussion at the January  
5 '08 meeting in which Mr. Cabrera indicated that he was  
6 open to accepting a report drafted by you and  
7 Mr. Beltman?

8 A. No.

9 Q. You don't recall either way that that  
10 occurred?

11 A. I don't recall. I don't recall that  
12 being said or him saying that, no.

13 Q. Do you have any reason to contradict or  
14 doubt the accuracy of Mr. Donziger's testimony on that  
15 point?

16 MR. BEIER: Object to the form,  
17 foundation.

18 A. I don't know because that's not my  
19 recollection.

20 Q. (BY MR. CRIMMINS) Turning to page 2248  
21 of Exhibit 600, line 4, question to Mr. Donziger is,  
22 "Was the substance of how the plaintiffs would draft  
23 the global expert report discussed at this meeting?"

24 And Mr. Donziger responds, "I believe so,  
25 yes." Do you see that?

0260

1 A. Yes.

2 Q. Do you recall the discussion at the  
3 January '08 meeting at Juan Aulestia's house  
4 concerning how the plaintiffs would draft the global  
5 expert report?

6 A. I don't remember that, no.

7 Q. Do you recall anything about the  
8 discussion at the January '08 meeting at Juan  
9 Aulestia's house?

10 A. Yes.

11 Q. What do you recall?

12 A. What I recall is that we talked about  
13 possible groundwater sampling or surface water and/or  
14 sediment sampling. And we talked about, you know, the  
15 specifics of what I recall as a discussion about what  
16 would be the best approach, what environmental media  
17 would be the most effective one to sample to show  
18 whether or not contamination had -- you know, the  
19 extent of contamination, and that was discussion  
20 between -- or among Mr. Cabrera, Mr. Villacreces, and  
21 myself.

22 Q. So as of January 2008 you were discussing  
23 with Mr. Cabrera and Mr. Villacreces the idea of  
24 conducting additional sampling?

25 A. That's what I recall.

0261

1 Q. To your knowledge, was any additional  
2 sampling conducted after January of 2008 and prior to  
3 the filing of Mr. Cabrera's report on April 1, 2008?

4 A. I don't know.

5 Q. In this conversation between you,  
6 Mr. Villacreces, and Mr. Cabrera, was Mr. Cabrera an  
7 active participant in that conversation, or did he  
8 just listen?

9 A. No, he was an active participant.

10 Q. What do you recall him saying about those  
11 topics you just discussed, doing additional sampling,  
12 what environmental media to sample, et cetera?

13 A. I don't recall details, but I do recall  
14 that he was an active participant and that he had some  
15 good ideas about sampling.

16 Q. Did you and Mr. Cabrera and  
17 Mr. Villacreces in this conversation come to some  
18 conclusion or agreement about what additional sampling  
19 should be done?

20 A. I don't think we came to a conclusion.  
21 My recollection of the conversation was that we talked  
22 about different options, and my understanding at the  
23 time was that this was something that his team could  
24 possibly do.

25 Q. Did Mr. Cabrera indicate to you at that

0262

1 time that he had a team?

2 A. Yes, he did.

3 Q. Did he describe who was on that team?

4 A. No.

5 Q. Among the options that you and  
6 Mr. Cabrera and Mr. Villacreces discussed at the  
7 meeting in January 2008, was one of those options  
8 doing no more sampling and relying solely on the  
9 sampling that had been conducted to date?

10 A. I don't recall.

11 Q. During this conversation in January 2008,  
12 did Mr. Cabrera, you, or Mr. Villacreces express any  
13 concern that the sampling that had been done to date  
14 was inadequate?

15 A. No. No.

16 Q. Did any of you during this conversation  
17 express a concern that the data that had been  
18 collected to date was incomplete?

19 A. Incomplete. I guess that would be the  
20 same answer. I'm not sure what the difference is  
21 there.

22 Q. The difference I was getting at was --  
23 well, let me ask you this way: Did -- during this  
24 conversation at Juan Aulestia's house in January 2008  
25 among you, Mr. Cabrera, and Mr. Villacreces, did  
0263

1 anyone express concern that the sampling that had been  
2 done to date was insufficient to draw conclusions  
3 about required remediation of any particular  
4 environmental media?

5 A. I don't recall that being said. Just  
6 that we talked about sampling more in areas that had  
7 not been sampled as much.

8 Q. That included groundwater sampling,  
9 surface water sampling, and sediment sampling, right?

10 A. There had been more sampling of  
11 groundwater, less of sediment and surface water.

12 Q. Did plaintiffs do any sampling of  
13 sediments?

14 A. Yes.

15 Q. And when was that?

16 A. When did they conduct the sampling? I  
17 don't recall.

18 Q. Did Cabrera do any sampling with  
19 sediments?

20 A. I believe he -- yes, he did.

21 Q. Did plaintiffs do any sampling of surface  
22 water?

23 A. I don't recall right now.

24 Q. Did Cabrera do any sampling of surface  
25 water?  
0264

1 A. I don't recall that either right now.

2 Q. This conversation with you,  
3 Mr. Villacreces, and Mr. Cabrera at the January 8  
4 meeting at Juan Aulestia's house -- the January 2008  
5 meeting at Juan Aulestia's house, did anyone else  
6 other than the three of you participate at any time in  
7 that conversation?

8 A. I think there were several conversations,  
9 and that's the one that I remember. I know that  
10 Mr. Donziger talked. I don't recall -- I don't think



11 Mr. Beltman said very much.

12 Q. This conversation among you,  
13 Mr. Villacreces, and Mr. Cabrera, did that take place  
14 in a room where others were present but other  
15 conversations were going on at the same time?

16 A. No -- it was in the room where other  
17 people were, there weren't other conversations going  
18 on at the same time.

19 Q. Were other people there listening to the  
20 conversation among you, Mr. Villacreces, and  
21 Mr. Cabrera?

22 A. Yes.

23 Q. And from time to time others said  
24 something in connection with that conversation?

25 A. I know that Mr. Donziger did.

0265

1 Q. What did Mr. Donziger say?

2 A. I don't recall.

3 Q. Do you recall whether Mr. Donziger said  
4 anything concerning the lack of time to do any  
5 additional sampling as you were discussing?

6 A. I don't recall.

7 Q. Do you recall Mr. Donziger expressing any  
8 concern about the financial ability to fund additional  
9 sampling at that time?

10 A. No.

11 Q. Do you remember Mr. Donziger saying  
12 anything about the need to get the peritaje global  
13 finished and the report filed with the court?

14 A. He might have. I don't recall him saying  
15 that.

16 Q. How long did this particular conversation  
17 that you have described last?

18 A. It was probably maybe 15 to 20 minutes.

19 Q. Mr. Donziger testified that the meeting  
20 at Juan Aulestia's house lasted perhaps two hours. Is  
21 that consistent with your recollection?

22 A. That sounds about right.

23 Q. Other than the conversation you've just  
24 described, what other conversations do you remember  
25 from the January '08 meeting at Juan Aulestia's house?

0266

1 A. I thought about it, and I don't remember  
2 any other. That's the part that I remember.

3 Q. Whether you remember any substance of  
4 what was said, do you remember Mr. Cabrera speaking at  
5 other times during that meeting?

6 A. Yes.

7 Q. Do you remember any substance of what  
8 Mr. Cabrera said?

9 A. No.

10 Q. Do you recall whether at that meeting the

11 topics to be covered in the annexes to be prepared by  
12 the plaintiffs' team was discussed in any way?

13 A. I don't -- I don't recall.

14 Q. Was there any discussion at that meeting  
15 in January 2008 concerning the deadline -- the then  
16 pending deadline for Mr. Cabrera to file his report  
17 with the Ecuadorian court?

18 A. I don't recall any mention of that,  
19 but . . .

20 Q. Do you recall any mention or discussion  
21 about seeking an extension to that deadline?

22 A. I don't recall that either.

23 Q. Did Mr. Cabrera ask you any questions  
24 about the work that you would be doing in connection  
25 with the peritaje global?

0267

1 A. I don't recall any.

2 Q. Did Mr. Cabrera provide you with any  
3 technical guidance or advice before you started doing  
4 that work?

5 MR. BEIER: Object to the form.

6 A. Before I started doing -- which work are  
7 you referring to?

8 Q. (BY MR. CRIMMINS) Let me rephrase.  
9 That's a good point.

10 As of the January 2008 meeting, had  
11 Stratus started drafting any of the annexes or the  
12 summary report that would ultimately be submitted to  
13 Cabrera?

14 A. I think so, but I'm -- I think so.

15 Q. At the January 2008 meeting, did  
16 Mr. Cabrera provide you with any technical guidance or  
17 advice concerning the drafting of those annexes or  
18 summary report?

19 A. Not that I recall.

20 Q. Is there any discussion at that meeting  
21 as to why Mr. Cabrera needed the plaintiffs to draft  
22 the summary report and annexes that were ultimately  
23 submitted to him?

24 A. Not that I recall, no.

25 Q. Do you have any knowledge as to whether  
0268

1 Mr. Cabrera had written any report or any annex or  
2 anything at all to be submitted to the court?

3 A. At that point in time?

4 Q. Yes.

5 A. I wasn't aware of any.

6 Q. During your two meetings with Mr. Cabrera  
7 in March 2007 and January 2008, did you form any  
8 impression of his technical competence or expertise?

9 MR. BEIER: Objection to form. You can  
10 answer.

11 A. Well, the first meeting I wouldn't really  
12 say that I met with him. I shook his hand, and that  
13 was it. So I, of course, didn't form any opinion  
14 then.

15 But the meeting in January of '08, I was  
16 impressed, and I thought that he had a good grasp of,  
17 you know, environmental contamination issues and  
18 sampling issues and, you know, fate and transport in  
19 the environment.

20 Q. (BY MR. CRIMMINS) And was that  
21 impression formed based on the 15-minute conversation  
22 you had with Mr. Villacreces and Mr. Cabrera, or was  
23 it -- or was there -- been formed through that plus  
24 the rest of your interaction with Mr. Cabrera at the  
25 meeting?

0269

1 A. Mostly I'm thinking about the  
2 conversation that Mr. Villacreces and Mr. Cabrera and  
3 I had, yes.

4 Q. Other than that conversation about  
5 sampling other media or additional sampling that could  
6 be done, did Mr. Cabrera speak about any other  
7 technical -- any other topics that were included in  
8 the Cabrera report?

9 A. Not that I recall.

10 Q. Was there any discussion concerning the  
11 epidemiological connection between petroleum  
12 hydrocarbons and cancer, for example?

13 A. Not that I recall, no.

14 Q. Any discussions concerning ecological  
15 impacts or reforestation from petroleum hydrocarbon  
16 production?

17 A. No, not that I recall.

18 Q. Did you discuss at the January 2008  
19 meeting the impacts from PetroEcuador operations in  
20 the concession area?

21 A. Not that I recall.

22 Q. Was there any discussion at that meeting  
23 concerning methods for delineating the impacts from  
24 PetroEcuador or other operator operations as opposed  
25 to the historic operations of TexPet prior to 1990?

0270

1 A. Not that I recall, no.

2 Q. Was there any discussion concerning  
3 impacts on indigenous populations of oil production  
4 activities in the concession area?

5 A. Not that I recall.

6 Q. Is it fair to say that you did not form  
7 any impression of Mr. Cabrera's expertise with regard  
8 to any issue other than the issues you mentioned,  
9 sampling and fate and transport of hydrocarbons?

10 A. That's fair. That's a pretty big topic,

11 though. Those are big topics.

12 Q. Do you understand -- or do you have an  
13 understanding of what Mr. Cabrera's educational  
14 background is?

15 A. I believe he's a geologist.

16 Q. Do you know what degrees he's received?

17 A. I don't recall right now.

18 Q. Do you know what jobs he's held in the  
19 past?

20 A. I remember viewing his resume, but I  
21 don't recall right now.

22 Q. Was there any discussion at the January  
23 2008 meeting of who would conduct an ultimate  
24 remediation if the plaintiffs were to win the case?

25 A. Not that I recall.

0271

1 Q. Have you ever been involved in any  
2 discussions about who would conduct the remediation if  
3 the plaintiffs were to win the case?

4 A. Yes.

5 Q. When was that discussion?

6 A. I don't -- there were at least a couple  
7 of conversations about that. I don't recall when.

8 Q. And the first conversation that you have  
9 in your mind about who would conduct the remediation  
10 if the plaintiffs were to win the case, who was  
11 involved in that discussion?

12 A. I remember Mr. Donziger talking about it.

13 Q. What did Mr. Donziger say in that regard?

14 A. What I recall him saying is that he  
15 wanted -- and I believe this was with Mr. Fajardo  
16 also -- that they wanted the remediation to be kind of  
17 a jobs generation mechanism for local people in the  
18 Napo Concession area.

19 Q. And did Mr. Donziger and Mr. Fajardo ever  
20 indicate that they would have some influence or  
21 control over who would conduct that remediation?

22 A. Not that I recall. I think it was more a  
23 hope.

24 Q. Was it your understanding that  
25 Mr. Donziger and Mr. Fajardo hoped that the ultimate

0272

1 remediation would be conducted by Ecuadorian  
2 companies?

3 A. That I don't recall him talking about  
4 that. But, yeah, Ecuadorians definitely.

5 Q. Did you -- what was the second  
6 conversation that -- you said there were a couple  
7 conversations. Do you have the second one in mind?

8 A. I mean, they aren't clear, you know,  
9 distinct memories, but I -- it was just the same  
10 thing. And we talked about that, you know, a couple

11 of times.

12 Q. Talked about that with Mr. Donziger and  
13 Mr. Fajardo?

14 A. Yes.

15 Q. Here is Exhibit 785, previously marked.  
16 Do you recognize Exhibit 785 as notes that you took?

17 A. Yes.

18 Q. It says, "12/10/07 call with Steven and  
19 Doug." Do you see that?

20 A. Yes.

21 Q. Do you recall this call?

22 A. Can I read this? Not specifically, no.

23 Q. The top of the note says, "Call with  
24 Steven and Doug. Damages assessment." Do you see  
25 that?

0273

1 A. Yes.

2 Q. There's also an indication in the upper  
3 right-hand corner, I think it says, "January 2-5." Do  
4 you see that?

5 A. Yes.

6 Q. Do you know what that relates to?

7 A. No.

8 Q. On Exhibit -- well, first let me ask you.  
9 Steven and Doug, does that refer to Mr. Donziger and  
10 Mr. Beltman?

11 A. Yes.

12 Q. The first bullet point on Exhibit 785  
13 says, "Take over info for trial (pull together)." Do  
14 you see that?

15 A. Yes.

16 Q. Then under that there is sort of a  
17 subbullet that says, "Meet with court-appointed expert  
18 in Quito (Richard Cabrera)." Do you see that?

19 A. Yes.

20 Q. Did you have an understanding as of  
21 12/10/07 that Richard Cabrera would be appointed the  
22 court-appointed expert?

23 A. I guess so. I don't recall exactly when  
24 I knew that.

25 Q. The next line says, "Meet with Cabrera  
0274

1 December 20 to 21." Do you see that?

2 A. Yes.

3 Q. Do you recall discussing with  
4 Mr. Donziger and Mr. Beltman meeting with Richard  
5 Cabrera on December 20 to 21 of 2006 -- I'm sorry, '7?

6 A. Vaguely. I just, you know, from what's  
7 here.

8 Q. I think I misspoke earlier and may have  
9 confused you in the process, so let me correct that.

10 These notes were taken on December 10,

11 2007, right?

12 A. Right.

13 Q. Mr. Cabrera had already been appointed  
14 the expert in Lago Agrio, right?

15 A. I believe so. I don't recall when I knew  
16 that first.

17 Q. The meeting --

18 A. He must have been.

19 Q. The meeting suggested here with Cabrera  
20 on December 20 to 21 of 2007, that meeting did not  
21 occur, correct?

22 A. That's correct.

23 Q. The next line says, "Chevron shareholders  
24 meeting - late April." Do you see that?

25 A. Yes.

0275

1 Q. Do you recall the discussion about the  
2 Chevron shareholders meeting?

3 A. What I recall was that Mr. Donziger  
4 wanted someone from Stratus to attend. And I can't  
5 recall right now. I know I didn't go. I'm not sure  
6 if anybody else did.

7 Q. Looking at that first bullet point, "Take  
8 over info for trial (pull together)." Do you recall  
9 what that was in reference to?

10 A. I think that that refers to, you know,  
11 just the information from the perito reports and other  
12 information that would be pulled together for the  
13 trial.

14 Q. Was that a reference to taking over the  
15 writing of the report that Mr. Cabrera would submit?

16 A. I don't know. I'm not sure.

17 Q. At this time in December of 2007, what  
18 projects was Stratus involved in in connection with  
19 the Ecuador litigation?

20 A. I don't -- I'm not sure. I don't recall.

21 Q. Can you think of anything other than the  
22 peritaje global project that you were involved in at  
23 this time in 2007 in connection with the Ecuador  
24 matter?

25 MR. BEIER: Object to the form.

0276

1 A. Could you repeat that, please.

2 Q. (BY MR. CRIMMINS) Sure. As of December  
3 of 2007, you were working for the Ecuador plaintiffs  
4 in connection with the peritaje global, right?

5 A. I believe so, yes.

6 Q. Do you recall whether you were working on  
7 any other projects that were not related to the  
8 peritaje global in December 2007?

9 A. I don't believe so.

10 Q. Did Mr. Donziger explain to you what the

11 proposed meeting with Cabrera on December 20 through  
12 21 would be about? What the purpose of that meeting  
13 would be?

14 A. I don't -- I don't recall what he said  
15 about it.

16 Q. Do you have an understanding that that  
17 meeting, which did not occur on December 20 through  
18 21, was the meeting that actually did occur at Juan  
19 Aulestia's house in January 2008?

20 A. I don't think so. I don't think there  
21 was any relationship between this and the other  
22 meeting.

23 Q. So is it your understanding that  
24 Mr. Donziger had proposed a meeting with Mr. Cabrera  
25 in December of 2007 that was different and separate  
0277

1 and apart from the meeting that ultimately did happen  
2 in January 2008?

3 A. I believe so.

4 Q. It also says in the upper right-hand  
5 corner of Exhibit 785, "\$10 billion." Do you see  
6 that?

7 A. Yes.

8 Q. Do you know why you wrote that?

9 A. I believe it related to the damages for  
10 the case.

11 Q. Was that the target figure that  
12 Mr. Donziger gave you for the summary report and  
13 annexes that you and others at Stratus were to write?

14 MR. BEIER: Object to the form.

15 A. I don't recall him giving us a target  
16 ever.

17 Q. (BY MR. CRIMMINS) Do you remember why  
18 you wrote down \$10 billion?

19 A. I don't.

20 Q. Do you recall whether that was a number  
21 that Mr. Donziger mentioned?

22 A. I recall that there was someone else who  
23 did a -- kind of a rough damage assessment, and I  
24 believe he came up with \$10 billion, so . . .

25 Q. Who did that damage assessment?  
0278

1 A. I don't remember his name.

2 Q. Was that damage assessment done by Dave  
3 Russell?

4 A. Yes.

5 Q. Have you ever met Dave Russell?

6 A. No.

7 Q. Are you aware that Dave Russell sent a  
8 cease and desist letter to Steven Donziger asking him  
9 to stop using his \$6 billion damage estimate and  
10 repudiating that estimate?

11 A. Yes.  
12 Q. When did you learn about that?  
13 A. I don't recall.  
14 Q. I give you what's previously marked as  
15 Exhibit 788. Do you recognize Exhibit 788 as notes  
16 that you took?

17 A. Yes.  
18 Q. Were these the notes that you took during  
19 the meeting at Juan Aulestia's house?

20 A. No.  
21 Q. What were -- what meeting were these  
22 notes taken at?  
23 A. Well, the first part on the 15th of  
24 January, those notes were taken at a -- I mentioned  
25 this earlier -- location outside of Quito where we had  
0279

1 a meeting.  
2 Q. Can you tell which part of Exhibit 788  
3 are notes from the January 15, '08, meeting outside of  
4 Quito?

5 A. I believe it's up through the last page,  
6 right before the 1/18/08.

7 Q. I'm sorry, can you go by the Bates number  
8 on the bottom of the page that says STRATUS-NATIVE?

9 A. STRATUS-NATIVE 008861. So about  
10 halfway --

11 Q. I see.

12 A. -- down that page.

13 Q. So the -- from the first page of  
14 Exhibit 788 through the last page, to right above  
15 where it says "1/18/08" are your notes from the  
16 January 15 meeting outside of Quito, right?

17 A. I believe so. I know for sure that some  
18 of them are.

19 Q. And where did that meeting take place?

20 A. As I said, I'm not really sure where it  
21 was. I believe it was east of Quito somewhere.

22 Q. You see in the upper right-hand corner  
23 you say, "Get list of what perito (Richard) is  
24 supposed to do"?

25 A. Yes.

0280  
1 Q. After this meeting, did you get a list of  
2 what Richard Cabrera was supposed to do?

3 A. Either afterwards or during it.

4 Q. Who was present at this meeting?

5 A. There were probably 20 -- at least 20  
6 people there.

7 Q. And were those all people that were  
8 working for the plaintiffs?

9 A. I'm not really sure. I didn't have a  
10 good understanding of every person's relationship to



11 the work, so . . .

12 Q. It says, "El Convento" in the upper  
13 right-hand corner. Is that a reference to where this  
14 was held?

15 A. It was a place where there were nuns.

16 Q. So the meeting took place at a convent,  
17 is that --

18 A. Sort of. I think -- I'm not really sure  
19 what it was.

20 Q. Okay. And you said -- you keep saying,  
21 "As I mentioned earlier." I actually don't remember  
22 talking to you about this or asking you about this  
23 meeting. Are you referring to your other deposition?

24 A. No. No. Earlier today I mentioned that  
25 we had a meeting outside of Quito --

0281

1 Q. Okay.

2 A. -- and that's what I was referring to.

3 Q. Can you please name as many people as  
4 possible that you remember attending this meeting on  
5 January 15, 2008.

6 A. Mr. Donziger, Mr. Fajardo, Mr. Maldonado,  
7 Lorena Gamboa, Tania Naranjo. I believe Luis  
8 Villacreces was there. Did I say Mr. Beltman?

9 Q. No.

10 A. Yes, he was there. And a number of the  
11 people I didn't know their names. And I -- that's all  
12 I can recall right now.

13 Q. Were -- other than you, Mr. Beltman, and  
14 Mr. Donziger, were there any non-Ecuadorians there  
15 that you recall?

16 A. I don't know if some of the other people  
17 might have been from other countries. They were all  
18 native Spanish speakers, though.

19 Q. So you, Mr. Beltman, and Mr. Donziger are  
20 the only participants that you recall who are native  
21 English speakers?

22 A. Yes.

23 Q. Was the whole meeting conducted in  
24 Spanish?

25 A. Not when Doug was talking.

0282

1 Q. Did Mr. Beltman have a translator at the  
2 meeting?

3 A. Yes. Somebody translated for him.

4 Q. Do you know who that translator was?

5 A. Yeah, it was Lorena Gamboa. And then  
6 other people pitched in, too.

7 Q. Are you able to participate in a meeting  
8 like that without a translator?

9 A. Yes.

10 Q. And did you participate in this

11 particular meeting without a translator?

12 A. Yes.

13 Q. This meeting in January -- on January 15,  
14 2008, was this meeting -- was the purpose of this  
15 meeting to lay out the different topics that -- on  
16 which annexes would be drafted to be submitted to  
17 Cabrera?

18 A. I believe so, yes. And for everyone to  
19 give an update on where they were in their work.

20 Q. Update on where they were on the work  
21 they were conducting in terms of drafting materials to  
22 be submitted to Cabrera?

23 A. Yes, I believe so.

24 Q. So your recollection is that work had  
25 been under way prior to January 15, 2008?

0283

1 A. I believe so.

2 Q. If you look on page -- it's the Bates  
3 labeled page STRATUS-NATIVE 008858, bottom half of the  
4 page it says, "Need list of what perito Richard is  
5 supposed to present to the court." Do you see that?

6 A. Yes.

7 Q. Is that a reference to the same thing  
8 that's on the first page, it says, "Get list of what  
9 perito is supposed to do"?

10 A. Yes.

11 Q. And was the reason why you needed a list  
12 of what the perito Richard was supposed to present to  
13 the court is because that would dictate what  
14 plaintiffs would present to Cabrera?

15 A. In part.

16 MR. BEIER: Object to the form.

17 A. I mean, that . . .

18 Q. (BY MR. CRIMMINS) What do you mean in  
19 part?

20 A. Could you repeat the question, please?

21 Q. Sure. Was the reason why you needed a  
22 list of what the perito Richard was supposed to  
23 present to the court is because that would dictate  
24 what the plaintiffs would draft and then present to  
25 Cabrera?

0284

1 A. I think the idea was to see if everything  
2 was covered.

3 Q. Towards the bottom of that same page it  
4 says, "I think the report needs to tell a story." Do  
5 you see that?

6 A. Yes.

7 Q. Is that something someone else said that  
8 you wrote down, or is that something that was your  
9 opinion?

10 A. I believe that was my opinion.

11 Q. And the report you're referring to there,  
12 is that the Cabrera report?

13 A. Yes.

14 Q. Do you recall Adolfo Maldonado speaking  
15 at this meeting?

16 A. Yes.

17 Q. What did he say?

18 A. Let me look at this. Yeah, we were  
19 talking about this before. He did a study where he  
20 looked at the distance from sources of contamination  
21 from Texaco wells and pits and the effects on  
22 indigenous groups.

23 Q. So this is the meeting at which you  
24 learned about that report from Dr. Maldonado?

25 A. Yes, I believe so.

0285

1 Q. If you turn to the page that's  
2 STRATUS-NATIVE 008857 at the bottom. It's the page  
3 that's labeled at the top, "Parts of peritaje global."  
4 Do you see that?

5 A. Yes.

6 Q. Is that a reference to the parts of the  
7 report -- the peritaje global report that Stratus and  
8 others working for plaintiffs would write -- or were  
9 writing?

10 MR. BEIER: Object to the form.

11 A. That's -- it refers to the materials that  
12 mostly others were working on for submittal to  
13 Cabrera.

14 Q. (BY MR. CRIMMINS) When you say "others  
15 were working on," who are you referring to?

16 A. All the other people who were at the  
17 meeting who spoke and presented their work.

18 Q. Under No. 1 it says, "Indigenous (Damages  
19 and Projects," I think is what it says; is that right?

20 A. Yes.

21 Q. Under that it says, "Cultural Jose Egas."  
22 Do you see that?

23 A. Yes.

24 Q. Was Mr. Egas at the meeting on  
25 January 15, 2008?

0286

1 A. I don't recall.

2 Q. Underneath that it says, "Territory Luis  
3 C." Do you see that?

4 A. Yes.

5 Q. Do you know who that's in reference to?

6 A. No, I don't.

7 Q. Do you recall anybody else named Luis who  
8 you encountered or worked with in Ecuador?

9 A. I think we mentioned a Luis C before, but  
10 I didn't work with him.

11 Q. Next to that it says "Not here." Do you  
12 see that?

13 A. Yes.

14 Q. Does that indicate to you that Luis C was  
15 not present at this January 15 meeting?

16 A. Yes.

17 Q. The next line says, "Food Nachos  
18 Bonetas." Do you see that?

19 A. I think that's what that says.

20 Q. There is ditto marks next to that. Do  
21 you recall what those ditto marks were meant to  
22 indicate?

23 A. I think Nachos Bonetas was a person who  
24 was addressing food issues related to indigenous  
25 groups, and he also wasn't at the meeting.

0287

1 Q. Okay. Have you ever met Nachos Bonetas?

2 A. I don't believe so.

3 Q. Since you indicated here that Luis C and  
4 Nachos Bonetas were not at the meeting, does that lead  
5 you to believe that Jose Egas was at the meeting?

6 A. I suppose so, but I don't recall exactly.

7 Q. Under No. 2, "Health," there is a  
8 reference to Jaime Briehl; do you see that?

9 A. Yes.

10 Q. Do you know what that's in reference to?

11 A. I believe his name came up earlier, and  
12 he's someone who wrote a report about health.

13 Q. Do you know whether he was present at  
14 this meeting?

15 A. I don't think he was.

16 Q. Do you know what the reference to  
17 \$30 million is?

18 A. I believe that was a potential cost for  
19 the clinics -- health clinics.

20 Q. And under "Biology," No. 4, it says,  
21 "Flora and fauna." Do you see that?

22 A. Yes.

23 Q. And it looks to me like under flora there  
24 is a little line drawn to Ceron. Do you see that?

25 A. Yes.

0288

1 Q. Under fauna there is a little line drawn  
2 to Gallo. Do you see that?

3 A. Yes.

4 Q. Do you recall whether Mr. Ceron or  
5 Mr. Gallo were present at this meeting on January 15,  
6 2008, in Quito?

7 A. I don't recall. Let me look here and see  
8 if there are any hints. I don't believe that they  
9 were, but I'm not sure.

10 Q. There's a reference next to that that

11 says, "Reports by them." Do you see that?

12 A. Yes.

13 Q. Does that refresh your recollection at  
14 all as to whether you ever saw a report by Gallo  
15 concerning impacts on fauna?

16 A. No, it doesn't.

17 Q. The next page, item No. 5, it says,  
18 "Groundwater. No study now." Do you see that?

19 A. Yes.

20 Q. Does that indicate -- is that indication  
21 that as of this time on January 15, 2008, there had  
22 been no study on groundwater impacts from the  
23 petroleum operations in the concession area?

24 A. I don't think there yet had been a study  
25 on groundwater, or a plan for one.

0289

1 Q. Are you aware of any study of groundwater  
2 impacts that had been conducted after January 15,  
3 2008?

4 A. The study by Mr. Gomez was a study on  
5 groundwater.

6 Q. When you refer to a study by Mr. Gomez,  
7 what exactly are you referring to?

8 A. He sampled groundwater in the concession,  
9 I believe as a part of Mr. Cabrera's team.

10 Q. And did he produce a report, or just raw  
11 data from that?

12 A. I know for sure that there was raw data.  
13 I don't recall right now if there was a report.

14 Q. Turning to the last page -- I'm sorry,  
15 actually, referring to page STRATUS-NATIVE 8859.

16 A. Okay.

17 Q. And towards the top of the page but a  
18 little ways down it says "Pablo," and then  
19 "Discussion." Do you see that?

20 A. Yes.

21 Q. Is that a reference to Pablo Fajardo?

22 A. Yes.

23 Q. Under that it says, "Parameters and  
24 norms. Which standard to use for TPH." Do you see  
25 that?

0290

1 A. Yes.

2 Q. Then it says "100" -- can you tell me  
3 what it says next to that?

4 A. "US."

5 Q. Then it says, "Background." Do you see  
6 that?

7 A. Yes.

8 Q. Do you know what that reference to  
9 background is?

10 A. There's certain states in the US that

11 have a TPH standard of 100 -- sorry, I believe it's  
12 100 micrograms per liter in water.

13 Q. That's ppm?

14 A. No, ppb. I believe it's ppm, but I'm not  
15 sure. I'm not sure. It seems high.

16 Q. That's in water, is your understanding?

17 A. That's in water.

18 Q. And why does it say, "Background"?

19 A. Because that -- if you analyze water  
20 samples for TPH that don't have any petroleum  
21 influence, you know, that's essentially a detection  
22 limit of the method.

23 Q. Just to make sure I understand, is  
24 that -- is what you're saying that 100 --

25 A. I believe it's micrograms.

0291

1 Q. Micrograms per liter of TPH in water is a  
2 typical background level for areas that are not  
3 impacted by any petroleum operations?

4 A. Right.

5 Q. And then under that it says, "1,000 DE  
6 1215 sensitive ecosystems." Do you see that?

7 A. Yes.

8 Q. Do you know what that refers to?

9 A. That's an Ecuadorian standard for  
10 sensitive ecosystem -- for water in sensitive  
11 ecosystems.

12 Q. So -- and is that from decreto 1215?

13 A. Yes.

14 Q. That's an Ecuadorian law?

15 A. I guess. It's a decree. Yeah.

16 Q. And that -- the reference here is to  
17 1,000 micrograms per liter in water in areas that are  
18 considered sensitive ecosystems, correct?

19 A. Right.

20 Q. Do you have an understanding as to what  
21 types of sensitive ecosystems that standard is  
22 applicable to under Ecuadorian law?

23 A. I don't know specifically if they are  
24 enumerated or not. I don't recall right now if they  
25 were.

0292

1 Q. Do you recall being involved in any  
2 discussions concerning whether or not the concession  
3 area near Lago Agrio would qualify as a sensitive  
4 ecosystem under Ecuadorian law?

5 A. Yes.

6 Q. What do you remember about that  
7 discussion?

8 A. That the belief was that it would qualify  
9 because it's an area of high biodiversity.

10 Q. Who expressed that opinion?

11 A. I don't recall right now.  
12 Q. And then underneath that it says, "2500  
13 REMED, period, question mark." Do you see that?  
14 A. Yes.  
15 Q. Then I think there is an arrow, and it  
16 says, "Agricultural areas." Is that right?  
17 A. Yes.  
18 Q. And what is your understanding of why you  
19 wrote that?  
20 A. I -- I'm not sure. I would just be  
21 guessing.  
22 Q. On the bottom of that page it says, in  
23 the second to last line where there's writing, "Need  
24 all reports by February 1." Do you see that?  
25 A. Yes.  
0293

1 Q. Do you know what that's in reference to?  
2 A. I believe that's -- refers to the reports  
3 that would be submitted to Cabrera.  
4 Q. And was that a deadline that Mr. Fajardo  
5 indicated?  
6 A. I don't recall.  
7 Q. And do you -- I mean, that deadline was  
8 not met; is that right?  
9 A. I don't know if it might have been met  
10 for some of the reports. I don't really know.  
11 Q. Turning to the very last page of  
12 Exhibit 788, at the top it says, "Lawsuit in  
13 Esmeraldas - may be info of value of loss." Do you  
14 see that?  
15 A. Yes.  
16 Q. Do you know what that refers to?  
17 A. I just recall that there was talk about  
18 it because it was an Ecuadorian lawsuit and there was  
19 a value for lost resources; but other than that, I  
20 don't recall.  
21 Q. And does that lawsuit relate to the  
22 Esmeraldas refinery?  
23 A. I don't know.  
24 Q. Do you know whether that lawsuit relates  
25 to operations by PetroEcuador?  
0294

1 A. I don't know that either.  
2 Q. Underneath that it says, "Nicaragua  
3 lawsuit." Do you see that?  
4 A. Yes.  
5 Q. Do you know what that refers to?  
6 A. No. I think somebody mentioned it, so I  
7 wrote it down.  
8 Q. So then at the bottom half of the page, I  
9 think you indicated earlier that that's the end of the  
10 notes from the January 15 meeting, and then you begin

11 just a half page of notes from the January 18, '08,  
12 meeting; do you see that?

13 A. Yes.

14 Q. What was the meeting that you had in  
15 January -- on January 18 of '08?

16 A. I don't recall. I'm not sure.

17 Q. There is a mention of Bill Powers there;  
18 do you see that?

19 A. Yes.

20 Q. It says, "Call Bill Powers," right?

21 A. Yes.

22 Q. Does that indicate to you whether or not  
23 Mr. Powers was at the meeting or on the call that  
24 these notes relate to?

25 A. I know that he wasn't at the meeting, and  
0295

1 I'm not sure because I'm not -- I don't remember this  
2 meeting or why I took these notes.

3 Q. This was -- do you know that this was not  
4 the meeting that you attended with Mr. Cabrera at Juan  
5 Aulestia's house?

6 A. This is not the meeting, no.

7 Q. Did you take notes at that meeting?

8 A. No.

9 Q. I show you Exhibit 786.

10 The reference here -- I'm sorry -- in  
11 Exhibit 788 to the Nicaragua lawsuit. Do you know  
12 whether that relates to the lawsuit concerning the  
13 pesticide DBCP in Nicaragua?

14 A. I don't know.

15 Q. Do you remember any discussion of that  
16 case in connection with your work on the Ecuador case?

17 A. I don't recall what the lawsuit was about  
18 in Nicaragua.

19 Q. In Exhibit 786, my first question is do  
20 you recognize this document?

21 A. I recognize my writing.

22 Q. The handwritten notes on here are yours?

23 A. Yes. Yes. I don't recall this list  
24 here, but I don't believe I wrote this.

25 Q. Do you know who did write it?  
0296

1 A. Probably Doug Beltman.

2 Q. The document says, "1/16/08," and then,  
3 "Potential tasks for Stratus Consulting." Do you see  
4 that?

5 A. Yes.

6 Q. And the first one is, "Write draft  
7 outline or structure for Peritaje Global report for  
8 submittal to FDA legal team." Do you see that?

9 A. Yes.

10 Q. And that is something that Stratus did,



11 correct?

12 A. At this point, I think it's something  
13 that Stratus could do.

14 Q. And ultimately, though, Stratus did do  
15 that, right?

16 A. Yes.

17 Q. January 16, '08, is the day after the  
18 meeting we just discussed with regard to Exhibit 788,  
19 right?

20 A. Yes.

21 Q. Were you and Mr. Beltman still in Ecuador  
22 at that time?

23 A. I believe so.

24 Q. Towards the bottom of the page, No. 7, it  
25 says, "Beef up unjust enrichment analysis." And then  
0297

1 a, "3TM: Add gas flaring, new pit numbers, pipeline  
2 maintenance and spill response, properly paving roads;  
3 fences/exclusion around wells." Do you see that?

4 A. Yes.

5 Q. And the reference to 3TM -- 3TM was a  
6 consultant network subcontractor to Stratus on this  
7 matter, right?

8 A. Yes.

9 Q. You testified about that in your earlier  
10 deposition?

11 A. I believe so.

12 Q. Was 3TM involved in drafting part of the  
13 unjust enrichment analysis that became the annex that  
14 was submitted to Mr. Cabrera by the plaintiffs' team?

15 MR. BEIER: Objection, foundation.

16 A. I don't know. I wasn't really that  
17 involved in the unjust enrichment.

18 Q. (BY MR. CRIMMINS) To your knowledge,  
19 what aspects of the materials that were submitted to  
20 Mr. Cabrera by the plaintiffs was 3TM involved in  
21 drafting or contributing to?

22 MR. BEIER: Same objection.

23 A. I believe that their main work was  
24 estimating costs for remediation of the pits.

25 Q. (BY MR. CRIMMINS) And was that work in  
0298

1 estimating costs for remediation of pits included in  
2 any of the materials that were submitted by plaintiffs  
3 to Cabrera?

4 MR. BEIER: Objection, foundation.

5 A. That I'm not sure of, actually.

6 Q. (BY MR. CRIMMINS) Are you aware of any  
7 3TM work that was included or relied upon in any of  
8 the materials drafted by Stratus for submission to  
9 Cabrera?

10 A. I believe there was work by 3TM that was

11 used.

12 Q. Work by 3TM that was used in the  
13 materials drafted by Stratus for submission to  
14 Cabrera?

15 A. For submission to the Ecuadorian  
16 plaintiffs, yes.

17 Q. Submitted to the Ecuadorian plaintiffs  
18 with the expectation that it would be submitted to  
19 Cabrera, right?

20 A. Right.

21 Q. In your review of the Cabrera report, do  
22 you recognize 3TM work in there?

23 A. I don't recall right now.

24 Q. Looking back at Exhibit 788 for a moment,  
25 which was the notes from the January 15 meeting, on  
0299

1 page STRATUS-NATIVE 8858 where it said, "Need list of  
2 what perito Richard is supposed to present to the  
3 court," was someone assigned to obtain that list?

4 A. Not that I recall.

5 Q. Do you recall ever receiving a list that  
6 was represented to you to be --

7 A. Yes.

8 Q. -- a list of what Richard was supposed to  
9 submit to the court?

10 A. Yes.

11 Q. Who did you receive that from?

12 A. I don't recall. I know it was someone in  
13 the Quito plaintiff office.

14 Q. And was that represented to you to be  
15 something that was obtained from Mr. Cabrera?

16 A. No.

17 Q. How was it explained to you or described  
18 to you?

19 A. It was, you know, part of a document from  
20 the courts.

21 Q. So it was a -- your understanding is it  
22 was a court filing?

23 A. I don't know if it was a filing. It was  
24 basically the charge to the perito.

25 MR. CRIMMINS: Let's take a break, and  
0300

1 then we'll sort of see what we want to do.

2 THE VIDEOGRAPHER: Going off the record.  
3 The time is 5:42.

4 (Recess taken.)

5 THE VIDEOGRAPHER: We are back on the  
6 record. The time is 5:55.

7 Q. (BY MR. CRIMMINS) At the January 2008  
8 meeting at which Cabrera was present at Juan  
9 Aulestia's house, did anyone take notes that you  
10 remember?

11 A. No.

12 Q. Why didn't you take notes at that  
13 meeting?

14 A. I didn't feel a need to take notes. We  
15 were just discussing options, so . . .

16 Q. Did anybody ask you or tell you not to  
17 take notes at that meeting?

18 A. No.

19 Q. The meeting in January 2008 at Juan  
20 Aulestia's house, did that happen before or after the  
21 January 15 meeting at the convent outside Quito?

22 A. I don't know.

23 Q. Can you place the timing of that meeting  
24 at Juan Aulestia's house in any way more precisely  
25 than January 2008?

0301

1 A. I don't remember whether it was before or  
2 after the meeting.

3 Q. Did you make only a single trip to  
4 Ecuador during January 2008?

5 A. Yes.

6 Q. Do you remember when you went -- what  
7 date you went to Ecuador in January 2008?

8 A. No.

9 Q. Do you remember when you returned from  
10 Ecuador in January 2008?

11 A. No.

12 Q. In January 2008, were you using the same  
13 passport that you were using in March of 2007?

14 A. I believe so.

15 Q. The meeting at Juan Aulestia's house, do  
16 you remember whether that occurred on a weekend or a  
17 weekday?

18 A. No.

19 Q. During your time working with the  
20 technical team in the Quito office -- the plaintiffs'  
21 Quito office, did you form an opinion concerning the  
22 technical abilities of that team?

23 A. Well, each person was different. Luis  
24 Villacreces, I would say, had a high level of  
25 technical ability for what he was working on. And the

0302

1 same with Olga Lucia in terms of she was the one who  
2 was mostly working on the database.

3 And the others were -- oh, and Fausto  
4 Penafiel, I would say, had a high level of technical  
5 expertise in the area that he was working in.

6 The others were, I would say, at a lower  
7 level of technical expertise -- I guess that's not  
8 fair. Like Tania Naranjo was very good at GIS, but  
9 she was not a person who, you know, studied or knew a  
10 lot about contaminants in the environment. So -- I'm

11 trying to think if there's anyone else. Those are the  
12 opinions I remember forming right now.

13 Q. You said Luis Villacreces had a high  
14 level of technical ability for what he was working on.  
15 What was he working on, or what area of expertise did  
16 you consider him to have a high level of technical  
17 ability in?

18 A. He was a perito, and his sampling and  
19 understanding of chemical analysis and those areas of  
20 kind of geology and environmental science, he had a  
21 firm grasp on those.

22 Q. And you said the same thing about Fausto  
23 Penafiel, that he had a high level of expertise in the  
24 area that he was working on. What area was that?

25 A. Similar areas. He also was a perito and  
0303

1 did sampling -- soil and groundwater sampling and  
2 wrote reports, so . . .

3 Q. When you say he was a perito, what are  
4 you referring to?

5 A. I believe that's right. Actually, I'm  
6 not sure right now. I have to take that back. I'm  
7 not sure. I don't recall.

8 Q. Understanding that you don't -- you're  
9 not sure, you don't recall, were you referring to the  
10 possibility that Fausto Penafiel was a perito for the  
11 plaintiffs during the JI inspections?

12 A. Yes.

13 Q. What was Fausto Penafiel's role with  
14 regard to the work that plaintiffs' team was doing  
15 with regard to the peritaje global?

16 A. At a certain point Fausto wasn't around  
17 the office anymore, and I can't recall exactly when  
18 that -- the timing of that relative to the work that  
19 the plaintiffs were doing on the peritaje global. But  
20 when he was there, he seemed to be kind of the  
21 technical lead in the office.

22 Q. Is there any way for you to try to narrow  
23 down the time period after which Fausto Penafiel was  
24 no longer working with the plaintiffs' team?

25 A. I don't believe that he was at this  
0304

1 meeting, at the January 15, 2008 meeting; but other  
2 than that, I'm not sure.

3 Q. Did you have any understanding -- or do  
4 you have any understanding as to why Fausto Penafiel  
5 stopped working with the plaintiffs' team?

6 A. I don't, really. I just remember that he  
7 was around all the time, and then after a certain  
8 point he wasn't around, so . . .

9 Q. Whether or not he was a named perito, do  
10 you -- during the JI inspections, do you have any

11 knowledge concerning Fausto Penafiel's role with  
12 regard to those inspections?

13 A. My understanding is that he was certainly  
14 in the Quito plaintiff office. He was the head of the  
15 technical team, and I believe that he was helping to  
16 organize other perito reports as well, and making sure  
17 that they got done. So . . .

18 Q. Do you know whether he had a role in  
19 writing any of the plaintiffs' reports from the JI  
20 inspections?

21 A. I don't know.

22 Q. Do you know whether he had any role in  
23 editing the perito reports from the JI inspections?

24 A. I don't know.

25 Q. Did you ever meet Charles Calmbacher?

0305

1 A. That name doesn't sound familiar.

2 Q. Charles Calmbacher served as a  
3 plaintiffs' JI expert at a few of the early JI  
4 inspections. He's a balding man from Georgia. Do you  
5 have any recollection of meeting a man by that  
6 description?

7 A. No.

8 Q. Have you ever met Edison Camino Castro?

9 A. I don't think so.

10 MR. CRIMMINS: I'm going to mark a new  
11 exhibit, it's Exhibit 610.

12 (Deposition Exhibit 610 was marked.)

13 Q. (BY MR. CRIMMINS) Do you recognize  
14 Exhibit 610 to be notes that you took?

15 A. Yes.

16 Q. And they say, "3/2/07" at the top left;  
17 do you see that?

18 A. Yes.

19 Q. Were these notes you took at a meeting in  
20 Ecuador on March 2, 2007?

21 A. I don't recall if I was in Ecuador when I  
22 took these notes. I don't remember.

23 Q. Recalling that the March 3, 2007, meeting  
24 that was filmed by the Crude firm crew took place in  
25 Ecuador, does that refresh your recollection as

0306

1 whether you were in Ecuador on the day before on  
2 March 2, 2007?

3 A. Then I was in Ecuador.

4 Q. Do you recall how long you were in  
5 Ecuador during that trip?

6 A. I think it was about a week, maybe a  
7 little less.

8 Q. The notes that are Exhibit 610 are  
9 titled, "Peritaje Global & Summary for Judge." Was  
10 the subject of this meeting at which you took the

11 notes that are contained in Exhibit 610 to discuss the  
12 peritaje global?

13 A. I believe so.

14 Q. And what did you intend when you wrote  
15 "Summary for Judge"?

16 A. I'm not sure. I don't know. I don't  
17 remember.

18 Q. The second sort of bullet point under  
19 that says, "Use this info to determine which sites are  
20 highest priority for monitoring and to summarize." Do  
21 you see that?

22 A. Yes.

23 Q. Did I read that correctly?

24 A. Yes.

25 Q. And when you said -- when you wrote, "Use  
0307

1 this info," you were referring to the list of existing  
2 information that is written above that?

3 A. Yes.

4 Q. Whose job was it to use that existing  
5 information to determine which sites were the highest  
6 priority for monitoring and to summarize?

7 A. The technical team in Quito put together  
8 a list of sites, I believe it was 60 sites, and part  
9 of what I did was to review that list and help  
10 evaluate if those were the best additional sites to  
11 sample.

12 Q. And these were sites to be sampled in  
13 connection with the peritaje global, correct?

14 A. Yes.

15 Q. And about halfway down on this same page,  
16 toward the right-hand side it says -- it's a little  
17 hard to read. It's under, "Make outline of opinions  
18 in the case." Do you see that?

19 A. Yes.

20 Q. Then it says -- I think it says, "Most  
21 stringent STDS apply." Do you see that?

22 A. Yes.

23 Q. Does that mean most stringent standards  
24 apply?

25 A. Yes.

0308

1 Q. I think it says, "Explain why." Is that  
2 what it says?

3 A. Yes.

4 Q. Can you read what it says that you  
5 understand in the parenthetical?

6 A. "People are living on top of pits and  
7 drinking contaminated water."

8 Q. And was that something that someone said  
9 at this meeting, or is that something that you wrote  
10 of your own opinion?

11 A. I remember we discussed that, and I  
12 recall believing that. So it might have been a  
13 combination.

14 Q. Was that in reference to the plaintiffs  
15 determining what standards would apply in terms of a  
16 cleanup goal or standard for the peritaje global?

17 A. I believe so.

18 Q. So is it fair to say that the plaintiffs'  
19 team was involved in selecting the sites at which the  
20 peritaje global would sample, and also in determining  
21 what standards would apply to a cleanup?

22 MR. BEIER: Object to the form.

23 A. For their submittal to Cabrera, yes.

24 Q. (BY MR. CRIMMINS) At the bottom of this  
25 page you wrote -- I'm sorry, hold on.

0309

1 At the bottom of page -- it's three  
2 pages. It's the last page, STRATUS-NATIVE 128154, you  
3 wrote under "Remediation," the last point says,  
4 "Discussed SW and GW - not in report now." Do you see  
5 that?

6 A. Yes.

7 Q. Is that a reference to surface water and  
8 groundwater?

9 A. Yes.

10 Q. What report are you referring to at this  
11 point in March 2, 2007, when you say "not in report  
12 now"?

13 A. I believe it was the peritaje global.

14 Q. As of March 2, 2007, was there in  
15 existence some form of the peritaje global report?

16 A. I don't know.

17 Q. Considering that this is -- these notes  
18 are from a meeting on March 2, 2007, which is more  
19 than a year before Mr. Cabrera submitted his report to  
20 the court, right?

21 A. Yes.

22 Q. Does that inform your view on what was  
23 being referred to when you say "not in report now"?

24 A. I -- not really, no.

25 Q. The next day at the meeting on March 3 of

0310

1 which Mr. Cabrera was present, do you recall whether  
2 there was any form of a report that was either  
3 discussed or passed out or in existence at that  
4 meeting?

5 A. No.

6 Q. Turning back to page 1 of Exhibit 610.  
7 It says -- where the heading is, "Peritaje Global &  
8 Summary for Judge." Are you aware of any summary of  
9 issues relating to the peritaje global or proposal  
10 concerning the peritaje global that was submitted to

11 the judge in early 2007?

12 A. I'm sorry, could you repeat that?

13 Q. Sure. I'm just trying to get an  
14 understanding of what "summary for judge" could refer  
15 to in March of 2007. So are you aware of any of the  
16 preparation of any summary document concerning the  
17 peritaje global to be submitted to the judge in the  
18 Lago Agrio case as of March of 2007?

19 A. No.

20 Q. Who was present at this meeting on  
21 March 2, 2007?

22 A. I believe Mr. Kamp was there, but these  
23 notes, I believe, were just notes that I made. I  
24 don't know that this was related to a meeting that we  
25 had with other people, aside from Mr. Kamp.

0311

1 Q. Okay. Do you have any recollection of  
2 making these notes on March 2, 2007?

3 A. A vague recollection, yeah.

4 Q. Where were you when you made them?

5 A. I believe I was in the Quito plaintiff  
6 office.

7 Q. So the next day after March 2, 2007, you  
8 attended the meeting at the plaintiffs' Quito office  
9 at which Mr. Cabrera was present, correct?

10 A. Yes.

11 Q. And did Mr. Donziger invite you to attend  
12 that meeting?

13 A. Basically, yes.

14 Q. What do you mean by "basically"?

15 A. Well, it wasn't like a formal invitation.

16 Q. Was Mr. Donziger the one who made you  
17 aware of a meeting on March 3?

18 A. Yes.

19 Q. Was the March 3 meeting the reason for  
20 your trip to Ecuador in March of 2007?

21 A. I think that was the most important  
22 reason.

23 Q. At that meeting there was a man named  
24 Fernando Reyes, right?

25 A. Yes, he was there.

0312

1 Q. Is that the first time you met Fernando  
2 Reyes?

3 A. I believe so.

4 Q. Had you heard of Fernando Reyes before  
5 that time?

6 A. I don't remember.

7 Q. Were you aware of any role that Fernando  
8 Reyes had in the case before March of 2007?

9 A. I don't remember. I don't recall.

10 Q. Have you ever heard of Gustavo Pinto?



11 A. No.

12 Q. Have you ever heard of an Ecuadorian  
13 organization called CYGNIP, it's an acronym  
14 C-Y-G-N-I-P?

15 A. No.

16 Q. CYGNIP is an association of petroleum  
17 engineers, professional association. Are you aware of  
18 any such organization in Ecuador?

19 A. No.

20 Q. Have you ever heard of Julio Gonzales?

21 A. No.

22 Q. Are you familiar with a plan by  
23 Mr. Donziger to have certain people act as monitors of  
24 the settling experts in the Lago Agrio case?

25 A. No.

0313

1 Q. You don't recall that ever being  
2 discussed?

3 A. No.

4 Q. It's sometimes referred to as independent  
5 monitorship. Have you ever heard that term with  
6 regard to the Ecuador case?

7 A. No.

8 Q. Or the Spanish term veerduria, have you  
9 ever heard that term?

10 A. Veedore?

11 Q. Veerduria.

12 A. Veerduria. I've heard that term, but not  
13 in this context.

14 Q. What is your understanding of that term?

15 A. They are witnesses basically.

16 Q. What was the term that you said that you  
17 thought I said in my bad pronunciation?

18 A. Veedore is a witness.

19 Q. Are you aware of anyone being retained by  
20 the Lago Agrio plaintiffs or Lago Agrio plaintiffs'  
21 lawyers to monitor or oversee the settling experts in  
22 the case?

23 A. No. I remember one judicial inspection  
24 that had settling experts, but I don't remember  
25 anything about a monitoring team or anything for the

0314

1 plaintiffs' side, no.

2 Q. I'm going to show you what was previously  
3 marked as 564 in your deposition in the Pallares Viega  
4 matter. I just have a couple questions since this was  
5 covered for the most part in your other deposition.

6 At the meeting in Ecuador on March 3,  
7 2007, do you recall Mr. Cabrera ever getting up and  
8 speaking and addressing the participants at the  
9 meeting?

10 A. I don't remember.

11 Q. Do you remember at any point the film  
12 crew being asked or directed to turn the cameras off  
13 during that meeting?

14 A. No.

15 Q. Are you aware of instruction by anyone to  
16 the film crew not to film Mr. Cabrera?

17 A. No.

18 Q. Were you about to say something else?

19 A. Well, in thinking about the outtakes, I  
20 think there might have been -- no, that wasn't -- I  
21 certainly don't remember anything -- anybody saying  
22 don't film Mr. Cabrera.

23 Q. What were you just thinking of in the  
24 outtakes that gave you pause?

25 A. There might have been a time when

0315

1 somebody said don't -- turn off the cameras. But I'm  
2 not really sure, actually.

3 Q. In your recollection were -- was the  
4 entirety of that meeting filmed, or was there a point  
5 at which the camera crew left and the meeting  
6 continued?

7 A. I think they were there the whole time.

8 Q. Do you remember who left first,  
9 Mr. Cabrera or the film crew?

10 A. No.

11 Q. Where did you go after that meeting?

12 A. I don't recall. I don't remember.

13 Q. Do you remember whether when you left the  
14 plaintiffs' Quito office that day, whether Mr. Cabrera  
15 was still there?

16 A. I don't remember.

17 Q. Did you ever socialize with the Crude  
18 film crew at all?

19 A. Well, they came to Boulder. And when  
20 they came to Boulder we all went out to dinner, so  
21 yeah.

22 Q. And who from the Crude film crew did you  
23 go out to dinner with in Boulder?

24 A. Joe Berlinger, Michael -- it begins with  
25 a Z. I think it begins with a Z. And there were a

0316

1 couple of other people. I don't remember their names.

2 Q. I'm not sure it begins with a Z, but was  
3 Michael Banfiglio there?

4 A. That's it, yeah.

5 Q. During that dinner that you went out  
6 with, who else was present besides the folks from the  
7 film crew?

8 A. Doug Beltman, Josh Lipton, and then there  
9 were wives and friends.

10 Q. Did you -- at that dinner, did you

11 discuss the Ecuadorian case?

12 A. I don't remember discussing that.

13 Q. Did you discuss the making of the movie?

14 A. You know, everybody was -- there were  
15 kind of many different conversation groups. I know  
16 that Mr. Berlinger talked to a friend of mine about --  
17 I think it was just, you know, making documentary  
18 films generally.

19 Q. Were there any discussions at that dinner  
20 that you would characterize as substantively about the  
21 Ecuador case or about the movie Crude?

22 A. No.

23 Q. Other than that instance, are there other  
24 times when you socialized with anyone working on the  
25 movie?

0317

1 A. Well, we were in the concession at the  
2 same time also. They filmed the judicial inspection  
3 in -- I think it was San Carlos. And we probably went  
4 out to dinner then. I don't really recall, though.

5 THE VIDEOGRAPHER: Counsel, five minutes  
6 until tape change.

7 MR. CRIMMINS: Okay.

8 Q. (BY MR. CRIMMINS) Did you sign a release  
9 for your image in -- for your -- the filming of you to  
10 be used in the movie Crude?

11 A. I don't remember.

12 Q. Do you remember being asked to sign a  
13 release?

14 A. No.

15 Q. We'll do one more thing real quick, and  
16 then we'll call it a day.

17 (Deposition Exhibit 611 was marked.)

18 Q. This is a new exhibit, Exhibit 611. They  
19 are handwritten notes in the upper left it says,  
20 "3/5/07." Do you see that?

21 A. Yes.

22 Q. Are these your notes?

23 A. It looks like it's part of my notes, yes.  
24 It starts on page 7, though, so . . .

25 Q. Okay. And were these part of notes --

0318

1 well, looking at this, does it indicate to you that  
2 these were part of notes -- that there are notes from  
3 this March 5 meeting that are missing?

4 A. I don't know that this was a meeting.  
5 Well, here is a meeting on this page 8. I believe  
6 that this is 1 through 6 on an earlier day, and then I  
7 just kept sequentially numbering. So I don't believe  
8 anything --

9 MR. NARWOLD: Just for the record, why  
10 don't you identify what you mentioned as 1 through 6.

11 THE DEPONENT: Oh, I'm sorry. These are  
12 my handwritten notes from the Quito meeting. It's  
13 Exhibit 564.

14 MR. NARWOLD: Do you believe that's the  
15 first six pages of what's just been marked as 611?

16 THE DEPONENT: Yes.

17 Q. (BY MR. CRIMMINS) Okay. Great. Thank  
18 you for that. The first part of the notes that are  
19 Exhibit 611, I think you said you are not sure that  
20 those are from a meeting necessarily; is that what you  
21 said?

22 A. The first part, I believe, were just  
23 writing down my thoughts about methods that were used  
24 and probably taking notes from the Texaco sampling and  
25 analysis plan. So . . .

0319

1 Q. And then on the second page, which is  
2 actually Bates labeled page 8 at the top, about  
3 halfway down it says, "Meeting with Hector and Luis  
4 CorpLabs." Do you see that?

5 A. Yes.

6 Q. There is a name next to Hector, and I  
7 can't read that. Do you know what it says?

8 A. Ituoite, I-t-u-o-i-t-e, maybe.

9 Q. Was Hector Ituoite someone that worked  
10 for CorpLabs?

11 A. Yes.

12 Q. And was Luis someone that also worked for  
13 CorpLabs?

14 A. No.

15 Q. Was that Luis Villacreces?

16 A. Yes.

17 Q. Did you and Mr. Villacreces meet with  
18 Hector from CorpLabs?

19 A. Yes.

20 Q. Where did that meeting take place?

21 A. In the Quito office.

22 Q. In the plaintiffs' Quito office?

23 A. The plaintiffs' Quito office.

24 Q. What was the purpose of that meeting with  
25 Hector from CorpLabs?

0320

1 A. The purpose was to see if they would be a  
2 good company to submit additional samples to from  
3 judicial inspections, I believe.

4 Q. When you say "judicial inspections," are  
5 you referring to inspections that were to take place  
6 in connection with the peritaje global?

7 A. I am not sure if it was that, or just  
8 ongoing inspections from the JIs.

9 Q. Do you have any understanding as to  
10 whether CorpLabs was used to analyze samples taken by

11 Mr. Cabrera during the peritaje global?

12 A. I don't recall.

13 Q. Were you and Mr. Villacreces involved in  
14 selecting the lab to be used by Mr. Cabrera during the  
15 peritaje global?

16 A. I don't believe so.

17 MR. CRIMMINS: We're out of tape, so  
18 let's go off the record.

19 THE VIDEOGRAPHER: This is the end of  
20 tape 4 of 4. Going off the record. The time is 6:28.

21 WHEREUPON, the within proceedings were  
22 adjourned at the approximate hour of 6:28 p.m. on the  
23 19th day of January, 2011.

24

25

0321

1 REPORTER'S CERTIFICATE

2 STATE OF COLORADO )

) ss.

3 CITY AND COUNTY OF DENVER )

4 I, BARBARA BIRGER, Registered Merit  
Reporter, Certified Realtime Reporter, and Notary  
5 Public, State of Colorado, do hereby certify that  
previous to the commencement of the examination, the  
6 said ANN S. MAEST was duly sworn by me to testify to  
the truth in relation to the matters in controversy  
7 between the parties hereto; that the said deposition  
was taken in machine shorthand by me at the time and  
8 place aforesaid and was thereafter reduced to  
typewritten form herein; that the foregoing is a true  
9 transcript of the questions asked, testimony given,  
and proceedings had.

10

I further certify that I am not employed  
11 by, related to, nor counsel for any of the parties  
herein, nor otherwise interested in the outcome of  
12 this litigation.

13 IN WITNESS WHEREOF, I have affixed my  
signature this 25th day of January,  
14 2011.

15 My commission expires November 26, 2014.

16

17   X   Reading and Signing was requested.

18        Reading and Signing was waived.

19        Reading and Signing is not required.

20

21

22

23

24

25

0001

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE DISTRICT OF COLORADO

2

Civil Action No. 1:10-cv-00047-MSK-MEH

3

CHEVRON CORPORATION, a Delaware corporation,

4

Petitioner,

5

v.

6

STRATUS CONSULTING, INC., DAVID J. CHAPMAN, an  
7 individual, DOUGLAS BELTMAN, an individual, JENNIFER  
M.H. PEERS, an individual, DAVID M. MILLS, an  
8 individual, PETER N. JONES, an individual, LAURA  
BELANGER, an individual, and ANN S. MAEST, an  
9 individual,  
10 Respondents.

11

VIDEOTAPE DEPOSITION OF: ANN S. MAEST - Volume II  
12                               January 20, 2011

13

PURSUANT TO SUBPOENA, the videotape deposition  
14 of ANN S. MAEST was taken on behalf of the Petitioner at  
1801 California Street, Suite 4200, Denver, Colorado 80202,  
15 on January 20, 2011, at 9:24 a.m., before Barbara Birger,  
Registered Merit Reporter, Certified Realtime Reporter and  
16 Notary Public within Colorado.

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0002

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    Inc., and the     1801 York Street  
 9 Deponent:     Denver, Colorado 80206  
 10 For the Ecuadorian     WILLIAM H NARWOLD, ESQ.  
    Plaintiffs:     Motley Rice LLC  
 11     20 Church Street  
    17th Floor  
 12     Hartford, Connecticut 06103  
 13 Also Present:     Sara McMillen  
 14     Jerry DeBoer, Videographer  
 15  
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	Plan de Trabajo - Texpet cleanup	
25		
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1	Exhibit 609 Memorandum to Donziger from	14
	Maest, 8/27/07, Subject: Review	
2	of Groundwater Evaluation Plan	
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5	Scientific Evidence in the	
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6	Case, 4/7/10	
7	Exhibit 938 Document entitled, "Things	154
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9	from Beltman, 10/27/08,	
	Subject: RE: Ecuador Doug -	
10	you should read this, with	
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11		
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12	Mendoza, 6/22/07, Subject:	
	Account, with attachment	
13		
	Exhibit 1606 E-mail to Donziger from Zaman,	16
14	3/11/08, Subject: Fwd: PARA	
	Steven, with attached e-mails	

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0010

1 WHEREUPON, the following proceedings were  
2 taken pursuant to the Federal Rules of Civil

3 Procedure.

4 \* \* \* \* \*

5 THE VIDEOGRAPHER: We are on the record  
6 at 9:24 on January 20, 2011. We are here for the  
7 videotape continuation deposition of Ann Maest.  
8 Please begin.

9 ANN S. MAEST,  
10 having been previously duly sworn to state the whole  
11 truth, testified as follows:

12 EXAMINATION

13 BY MR. CRIMMINS:

14 Q. Good morning, Ms. Maest.

15 A. Good morning.

16 Q. You understand you're still under oath?

17 A. Yes.

18 Q. I'm going to hand you what I marked as  
19 Exhibit 672.

20 (Deposition Exhibit 672 was marked.)

21 Q. Exhibit 672, I'll represent to you, was  
22 just produced in the last day or two by Mr. Donziger.  
23 It's an e-mail from Aaron Marr Page to Steven  
24 Donziger, dated January 15 -- actually, I'm sorry,  
25 dated March 9, 2010. Do you see that?

0011

1 A. Yes.

2 Q. On the second page of the exhibit, which  
3 appears to be a draft of an e-mail or memo, in the  
4 third paragraph it starts "On privilege." Do you see  
5 that paragraph?

6 A. Yes.

7 Q. It says, "On privilege, I think we agree  
8 that two arguments stand out. First, Stratus  
9 professionals are retained by plaintiffs as  
10 out-of-court nontestifying experts and all their work  
11 product is privileged and confidential attorney-client  
12 work product. They have never formally appeared as  
13 testifying experts on behalf of plaintiffs, before any  
14 court. (The question with Ann Maest may be slightly  
15 different and we can address that in turn, as she did  
16 submit a report to the court on behalf of E-tech but  
17 this was before she was employed by Stratus." Do you  
18 see that?

19 A. Yes.

20 Q. Do you know what's being referred to  
21 there about a report that you submitted to the court  
22 on behalf of E-Tech?

23 A. I am not sure, but it could be referring  
24 to a report on -- well, there are two that come to  
25 mind. Sampling approaches by Chevron, and then there

0012

1 was another report about the TCLP test.

2 Q. And are those both reports that you wrote

3 and were submitted to the Lago Agrio court?

4 A. I wrote them. I believe they were  
5 submitted, but I'm not really sure where.

6 Q. Do you know whether these reports were  
7 submitted to the Lago Agrio court in your name?

8 A. I believe so, but I'm not sure.

9 Q. Did Steven Donziger ever tell you, with  
10 regard to reports submitted by E-Tech to the Lago  
11 Agrio court, not to disclose that E-Tech was being  
12 paid by the plaintiffs?

13 A. No.

14 Q. Are you aware whether the reports  
15 submitted in the name of E-Tech to the Lago Agrio  
16 court were submitted as purported Amicus briefs?

17 A. I don't recall.

18 Q. Do you know what that term means, Amicus?

19 A. Yes.

20 Q. What is your understanding of that term?

21 A. It's kind of like a friend of the case,  
22 basically.

23 Q. Has there been any time that E-Tech was  
24 involved in the Ecuador case when E-Tech was not  
25 working for the plaintiffs?

0013

1 A. No.

2 MR. CRIMMINS: I'm going to mark  
3 Exhibit 673.

4 (Deposition Exhibit 673 was marked.)

5 MR. CRIMMINS: I think we're short on  
6 copies on this one, Bill. We'll get a copy made at  
7 the break.

8 Q. (BY MR. CRIMMINS) Exhibit 673 is also a  
9 document that's been produced in the last day or two  
10 by Mr. Donziger. The reason, by the way, that these  
11 last two exhibits are in the format that they are is  
12 because we don't have the TIFF images yet, we only  
13 have the native production, which is why they don't  
14 look like a normal e-mail.

15 A. Okay.

16 Q. Exhibit 673 is an e-mail from  
17 Mr. Donziger to Doug Beltman, with a copy to Joe Kohn,  
18 dated August 6, 2007. Do you see that?

19 A. Yes.

20 Q. Take a look at this for a moment and let  
21 me know if you've ever seen this e-mail before.

22 A. I'm not sure I saw this exact e-mail.

23 Q. Is there something familiar to you about  
24 it?

25 A. Well, just the delineation of the tasks

0014

1 and that sort of thing.

2 Q. Okay. So you recall -- I'm specifically

3 going to focus on Task II. It says, "Task II -  
4 groundwater contamination." Do you see that?

5 A. Yes.

6 Q. It says, "We are contracting with" --  
7 Mr. Donziger writes, "We are contracting with an  
8 Ecuadorian expert. We would like one person from  
9 Stratus to collaborate with this individual on a very  
10 limited basis. This would involve reviewing plan and  
11 having one phone conversation, and then reviewing his  
12 final report assuming all was on track." Do you see  
13 that?

14 A. Yes.

15 Q. Do you have an understanding of who that  
16 Ecuadorian expert is who's being referred to there?

17 A. Well, no.

18 Q. Would you locate in the stack from the  
19 exhibits we marked yesterday Exhibit 609.

20 A. Okay.

21 Q. Which is a memo from you to Mr. Donziger  
22 regarding your review of groundwater evaluation plan  
23 prepared by Dr. Luis Cumbal Flores; do you see that?

24 A. Yes.

25 Q. And the date on that is August 27, 2007.

0015

1 Referring back to Exhibit 673, the date of that e-mail  
2 is August 6 of 2007. Does that indicate to you or  
3 refresh your recollection that the person being  
4 discussed in Exhibit 673 to be contracted concerning  
5 groundwater contamination is Dr. Flores?

6 A. Well, I remember that I reviewed the  
7 groundwater plan. I guess I did not understand that  
8 Steven Donziger was contracting with Dr. Flores.

9 Q. But do you understand the person to be  
10 referred to in task 2 to be Dr. Flores?

11 MR. BEIER: Objection, foundation.

12 A. I don't, really.

13 Q. (BY MR. CRIMMINS) Okay. In this period  
14 in August of 2007, or thereabouts, are you aware of  
15 any other Ecuadorian individual contracted by  
16 plaintiffs' counsel to do any sort of groundwater  
17 sampling plan or investigation plan?

18 A. No.

19 Q. And you didn't review any other plans of  
20 any Ecuadorian concerning groundwater sampling other  
21 than Dr. Flores?

22 A. I reviewed some information from --  
23 what's his name? I'm forgetting his name right now, I  
24 believe it was Gomez, and there was also groundwater  
25 sampling involved in that. But I believe it was later

0016

1 than this.

2 Q. And do you have any understanding as to

3 whether Mr. Gomez was contracted by the plaintiffs'  
4 lawyers or the plaintiffs' team?

5 A. No.

6 Q. Other than Mr. Gomez and Mr. -- or  
7 Dr. Flores, do you have any recollection of reviewing  
8 any groundwater sampling plan or groundwater  
9 investigation plan?

10 A. No.

11 Q. Okay.

12 MR. CRIMMINS: I'm going to mark as  
13 Exhibit 674 Mr. Donziger's deposition testimony -- or  
14 his transcript from two days ago, January 18, 2011.

15 (Deposition Exhibit 674 was marked.)

16 Q. (BY MR. CRIMMINS) I'm going to direct  
17 your attention to page 3084, Exhibit 1606 is referred  
18 to there, so I'll give you that for context.

19 MR. CRIMMINS: The sticker on 1606 is  
20 much clearer on the second page, just for the record.

21 Q. (BY MR. CRIMMINS) Have you ever seen  
22 Exhibit 1606 before?

23 A. Is that this?

24 Q. Yes.

25 A. Okay.

0017

1 Q. It's the second page of the exhibit tag.

2 A. Oh. Okay. No.

3 Q. Looking at the Donziger testimony,  
4 Exhibit 674, on page 3084, on line 12, the question to  
5 Mr. Donziger is, "Do you recall whether any special  
6 e-mail accounts were used for you to communicate with  
7 Mr. Fajardo about the draft of the final Cabrera  
8 report that plaintiffs' team had prepared for Mr.  
9 Cabrera to submit to the court?"

10 Mr. Donziger answers, "I recall special  
11 e-mail accounts that we used for that purpose, but I  
12 do not recall the e-mail accounts."

13 Do you see that?

14 A. Yes.

15 Q. In your work on the Ecuadorian case, were  
16 you ever asked to use a special e-mail account or  
17 secret e-mail account to communicate with anyone on  
18 the plaintiffs' team?

19 A. No.

20 Q. How many e-mail accounts did you use to  
21 communicate with Mr. Donziger? Meaning, how many  
22 e-mail accounts did Mr. Donziger have that you used to  
23 communicate with him?

24 A. I believe just one.

25 Q. If you look at page 3085 of

0018

1 Mr. Donziger's testimony in Exhibit 674, line 19.

2 This is in reference to Exhibit 1606. "Is this an



3 e-mail that was sent to you from Estenio Mendoza at  
4 muerteenlaselva@hotmail.com on March 11, 2008?"

5 Answer: "Yes."

6 Then the special master asks, "And it was  
7 signed by Fajardo, correct?"

8 Answer: "Yes."

9 Are you familiar at all with the name  
10 Estenio Mendoza?

11 A. No.

12 Q. Have you ever heard Mr. Fajardo go by any  
13 name other than his own name?

14 A. No.

15 Q. Do you recall anybody on the Lago Agrio  
16 plaintiffs' team ever using aliases or code names?

17 A. No.

18 Q. Have you ever heard anybody referred to  
19 as lagarto uno or lagarto dos, lizard 1 or lizard 2?

20 A. No.

21 Q. Have you ever seen that e-mail address  
22 before, muerteenlaselva@hotmail.com?

23 A. No.

24 Q. If you look at page 3088 of Exhibit 674,  
25 Mr. Donziger's testimony from January 18, line 20.

0019

1 A. I'm sorry, which page?

2 Q. 3088.

3 A. Okay.

4 Q. The question is, "And you were under  
5 specific instructions" -- I'm sorry, the question to  
6 Mr. Donziger was, "And you were under specific  
7 instructions from Mr. Fajardo to only respond to that  
8 special e-mail address muerte en la selva, correct,  
9 and to only respond through Farihah Zaman's e-mail  
10 account, correct?"

11 Answer: "Yes."

12 Question: "And not to respond from your  
13 own e-mail account, correct?"

14 Answer: "With regard to this particular  
15 document, yes."

16 Question: "And that was done, again,  
17 because these communications you all considered to be  
18 highly confidential on the plaintiffs' team?"

19 Answer: "Yes."

20 Question: "And you didn't want others to  
21 know that Stratus had drafted the final report for  
22 Cabrera to submit to the court, correct?"

23 Answer: "That's correct."

24 Do you see that?

25 A. Yes.

0020

1 Q. Are you familiar with the name Farihah  
2 Zaman?

3 A. No.  
4 Q. Have you ever heard that name before?  
5 A. No.  
6 Q. Have you ever heard of an e-mail account  
7 with the name Farihah Zaman in it?  
8 A. No.  
9 Q. Let me show you Exhibit 1605.  
10 Exhibit 1605 is an e-mail from Pablo Fajardo to Steven  
11 Donziger, dated June 22, 2007; do you see that?  
12 A. Yes.  
13 Q. And can you see that the address -- the  
14 e-mail is addressed, "Hello Lagarto tres" -- or  
15 "Lagarto 3." Do you see that?  
16 A. Yes.  
17 Q. You never heard Mr. Donziger referred to  
18 as lagarto 3 or lagarto tres?  
19 A. No.  
20 Q. The e-mail, it refers to another e-mail  
21 account, the address is examenpericial -- underscore,  
22 pericial@hotmail.com; do you see that?  
23 A. Yes.  
24 Q. Have you ever seen that e-mail account  
25 before?

0021

1 A. No.  
2 Q. Have you ever used that e-mail account?  
3 A. No.  
4 Q. To your knowledge, has anybody at Stratus  
5 ever used that e-mail account?  
6 A. To my knowledge, no.  
7 Q. The password for the account as indicated  
8 in Exhibit 1605 is Cvx.666; do you see that?  
9 A. Yes.  
10 Q. Do you recall ever using a password of  
11 Cvx.666?  
12 A. No.  
13 Q. The e-mail goes on to say, "Please do not  
14 insert any names in the document, just identify  
15 yourself as Lagarto 3. If you make a copy of the  
16 plan, don't E-mail it to anyone." Do you see that?  
17 A. Yes.  
18 Q. Mr. Donziger testified that the plan  
19 referred to here was the work plan drafted by  
20 plaintiffs' team to be given to Mr. Cabrera.  
21 Were you -- with regard to that plan,  
22 were you ever instructed to keep that plan secret?  
23 A. Could I see in the deposition where he  
24 refers to this is the plan?

25 Q. Well, look at page 3072 of what's in  
0022

1 front of you, Exhibit 674.  
2 A. Okay.

3 Q. I'm trying to see which document is being  
4 referred to here. Starting on line 16 of page 3072  
5 the question to Mr. Donziger is, "The litigation  
6 strategy in this instance, the subject matter of the  
7 document being that the plaintiffs' team had prepared  
8 this work plan for Cabrera in mid-June 2007, correct?"

9 Answer: "Had prepared to give it to  
10 him."

11 Question: "That was highly confidential?"

12 Answer: "Yes."

13 "And that was highly confidential because  
14 the plaintiffs' team didn't want others to know that  
15 it was drafting the global damages assessment expert's  
16 work plan, correct?"

17 "That's correct."

18 Do you see that?

19 A. Yes.

20 Q. You were aware that plaintiffs' team  
21 drafted the work plan to be given to Mr. Cabrera,  
22 right?

23 MR. BEIER: Object to the form.

24 A. I knew that we were drafting a plan. I  
25 wasn't really sure what happened to it after that. I  
0023

1 did not know that it went to Mr. Cabrera.

2 Q. (BY MR. CRIMMINS) Did you have an  
3 understanding that plaintiffs' team was drafting that  
4 plan for the purpose of giving it to Mr. Cabrera?

5 A. No, I didn't understand that. No.

6 Q. For what purpose did you think  
7 plaintiffs' were drafting that plan?

8 A. My understanding was that there were  
9 elements of the plan that Stratus and others at the  
10 plaintiffs' Quito office would be doing, and then  
11 giving to Mr. Cabrera, I guess. At that point I  
12 didn't know.

13 Q. (BY MR. CRIMMINS) Giving what to  
14 Mr. Cabrera?

15 A. Well, I wasn't sure at that point at all  
16 that it was going to Mr. Cabrera. All I knew was the  
17 first part of what I said, that there were elements  
18 that we and the team in Quito were going to be working  
19 on.

20 Q. In the spring of 2007, was it your  
21 understanding that the plaintiffs' team would actually  
22 conduct field sampling or field investigation in  
23 connection with the peritaje global?

24 A. I don't recall.

25 Q. Regardless of what your understanding may  
0024

1 have been at that time, do you understand today that  
2 plaintiffs drafted a work plan that was used -- that

3 Mr. Cabrera used as his work plan with regard to his  
4 field investigation in connection with the peritaje  
5 global?

6 A. I don't understand that.

7 Q. You didn't understand the question?

8 A. No. No. I understand the question. I  
9 guess I just don't know, and still don't know, if that  
10 work plan went to Mr. Cabrera.

11 Q. So you have no basis to dispute  
12 Mr. Donziger's testimony that the work plan drafted by  
13 the plaintiffs was indeed given to Mr. Cabrera?

14 MR. BEIER: Objection, form, foundation.

15 A. As I said, I just -- I don't know.

16 Q. (BY MR. CRIMMINS) I'm going to show you  
17 what was previously marked as Quarles 13 in the  
18 deposition of Mark Quarles, which is a document that  
19 contains a list of the annexes from the Cabrera -- the  
20 April 1, 2008, Cabrera report.

21 And I want to go through each of the  
22 annexes and ask you, to your knowledge, who drafted  
23 the annex on this topic that, to your understanding,  
24 was submitted to Mr. Cabrera by the plaintiffs' team.

25 So Annex A, "Summary of physico

0025

1 chem characteriza" -- it looks like it's cut off. But  
2 do you understand the reference to Annex A?

3 A. Yes.

4 Q. Do you know who drafted Annex A?

5 A. To the best of my knowledge, that was the  
6 plaintiff team in Quito.

7 Q. And we actually discussed that yesterday,  
8 right?

9 A. Yes.

10 Q. And Annex B, "Data usability," do you  
11 know who drafted that?

12 A. I drafted that.

13 Q. Annex C, "Summary of studies other than  
14 JIs." Do you see that?

15 A. Yes.

16 Q. Do you know who drafted that?

17 A. I'm not sure.

18 Q. Do you have any idea?

19 A. It was either Stratus or the Quito  
20 plaintiff team.

21 Q. Annex D, "Environmental standards," do  
22 you know who drafted that?

23 A. I can't recall right now, but again it  
24 was either Stratus or the plaintiff Quito team.

25 Q. Annex E, "Site-by-site figures," do you

0026

1 know who drafted that?

2 A. I guess that's what I thought was

3 Annex A. You know, I'm not sure that this is -- these  
4 are the annexes as they appeared in the Cabrera  
5 report. Could I see a list of the actual annexes in  
6 the Cabrera report?

7 Q. I'm going to give you a copy of the  
8 Cabrera report, but the list of annexes is a little  
9 hard to see, but it might help to see that.

10 A. Okay.

11 Q. So at the very end of what was previously  
12 marked -- I'm sorry, I should do this for the record.  
13 For the record, I've handed you Exhibit 9, which was  
14 marked in the David Chapman deposition, which is a  
15 copy of the filed Cabrera report in Spanish in the  
16 back, and a certified translation toward the front.

17 If you go to the very back of Exhibit 9,  
18 I think it's the last page, there is a list of  
19 annexes, which admittedly is not a very good copy.  
20 Can you see that?

21 A. Yes.

22 Q. Are you able to read that at all?

23 A. Not very well. Some words I can make  
24 out, but . . .

25 Q. If you can do a -- just review that and

0027

1 compare it to Exhibit 13, and let me know if you think  
2 we're -- Exhibit 13 represents an accurate list of the  
3 annexes from the Cabrera report.

4 A. It's very hard to read, but I don't see  
5 Annex B here, do you, on the Cabrera report,  
6 Exhibit 9?

7 Q. I believe it's there under listados de  
8 anexos, the second part. The second draft on the page  
9 in Exhibit 9 says listados de anexos; do you see that?

10 A. Yes.

11 Q. Then it's all the parts of Annex A; do  
12 you see that?

13 A. Yes.

14 Q. Below that it test says listados de  
15 anexos informe sumario del examen pericial. The first  
16 one there is Anexo B, evaluacion de la informacion; do  
17 you see that?

18 A. Okay. That looks like a D. Okay. All  
19 right. Okay. From what I can tell from this --  
20 reading of this, Annex A, "Summary of physico chemical  
21 caracteriza,' or whatever, I do not know who prepared  
22 that.

23 Q. Earlier when you said you thought the  
24 plaintiff team in Quito prepared Annex A, you were  
25 thinking of Annex E; is that right?

0028

1 A. Annex E, yes.

2 Q. So picking up, then, at Annex E, you

3 believe the plaintiffs' team in Quito drafted Annex E;  
4 is that right?

5 A. Actually, what I recall right now is that  
6 Annex A was prepared by Mr. Cabrera and his team.

7 Q. And on what do you base that?

8 A. I just remember somebody telling me that.

9 Q. Who told you that?

10 A. I can't recall exactly, but I remember it  
11 was someone in the Quito office or Steven Donziger.  
12 And the only thing I recall that they said it was very  
13 large.

14 Q. Do you recall whoever told you that  
15 Annex A was prepared by Cabrera's team, who on  
16 Cabrera's team prepared it?

17 A. No.

18 Q. Annex F is, "History of Texaco operations  
19 in the Oriente." Do you know who drafted that?

20 A. No. I'm not sure.

21 Q. Do you have any idea who drafted that?

22 A. I remember seeing it and reviewing it.  
23 Again, it was either Stratus or the team -- the  
24 plaintiff team in Quito.

25 Q. Annex G concerns extrapolation?

0029

1 A. That was Stratus Consulting.

2 Q. Do you know who at Stratus drafted that?

3 A. I believe it was mostly Doug Beltman.

4 Q. Annex H, "Pit summary." Do you know who  
5 drafted that?

6 A. I believe that was the plaintiff team in  
7 Quito.

8 Q. Do you know who in particular?

9 A. I believe it was Olga Lucia Ceron.

10 Q. I'm sorry, what was the last name?

11 A. It might be Ceron, I'm not sure.

12 Q. Annex I concerning spills, do you know  
13 who drafted that?

14 A. No. It was either -- actually, I'm not  
15 sure. I'm not sure about that one.

16 Q. Do you have any idea who drafted Annex I?

17 A. If I saw it, if I, you know, was looking  
18 at some of these, that would help.

19 Q. Annex J concerning ecorisk, do you know  
20 who drafted that?

21 A. I believe that was Stratus Consulting,  
22 but again I would like to see a copy of it.

23 Q. Do you know who at Stratus drafted an  
24 annex concerning ecorisk?

25 A. No.

0030

1 Q. Okay. Annex K, "Human toxicity of  
2 chemicals." Do you know who drafted that?

3 A. I'm not sure. It might have been based  
4 on some work that Dr. Clapp did.

5 Q. Do you know whether it was based on work  
6 that Dr. Clapp did, or was actually work that  
7 Dr. Clapp did?

8 A. I don't know.

9 Q. Annex L is a human impact survey. Do you  
10 know who drafted that?

11 A. No. I would need to see that one, too.

12 Q. Annex M, annex on indigenous issues, do  
13 you know who drafted that?

14 A. No. We talked about some of these  
15 yesterday, but I wasn't involved in those.

16 Q. Annex N under "Remediation cost." Do you  
17 know who drafted that annex?

18 A. I believe that was 3TM.

19 Q. Annex O, "Value of ecosystem losses." Do  
20 you know who drafted that annex?

21 A. I believe that was Stratus Consulting.

22 Q. Do you know who was involved at Stratus  
23 in drafting that annex?

24 A. I know that Dave Mills was involved, but  
25 I'm not really sure who wrote it.

0031

1 Q. Annex P, "Health plan." Do you know who  
2 drafted that annex?

3 A. We talked about it yesterday, but I don't  
4 recall.

5 Q. Is that the report that you believe  
6 Dr. Maldonado drafted?

7 A. No.

8 Q. I ask you about Annex L. Is that -- is  
9 Annex L the human impact survey, is that the report  
10 Dr. Maldonado drafted?

11 A. I believe so, but I'm not sure.

12 Q. Annex Q, "VSL from cancer." First of  
13 all, do you know what VSL means?

14 A. I think it's value of life or something  
15 like that.

16 Q. Do you understand it to be value of  
17 statistical life?

18 A. Yes.

19 Q. Do you know who drafted that annex?

20 A. No.

21 Q. Do you know whether anyone at Stratus was  
22 involved in that, in drafting that annex?

23 A. I believe so.

24 Q. Do you know, were there others on the  
25 plaintiffs' team who were involved in drafting that

0032

1 annex?

2 A. I don't know.

3 Q. Annex R, "Cost of potable water." Do you  
4 know who drafted that annex?

5 A. I'm not sure.

6 Q. Yesterday we discussed Vince Uhl, U-h-l,  
7 do you remember that?

8 A. I remember discussing it.

9 Q. Do you know whether Vince Uhl or anyone  
10 in his company drafted Annex R, "Cost of potable  
11 water"?

12 A. I'm not sure.

13 Q. Annex S, "Cost of infrastructure  
14 improvements." Do you know who drafted that annex?

15 A. Again, I'm not sure.

16 Q. Do you know whether Bill Powers drafted  
17 that annex?

18 A. I know that he was working on the cost of  
19 infrastructure improvements, but I'm not sure if he  
20 drafted S.

21 Q. Do you know whether S was drafted by  
22 someone on plaintiffs' team?

23 A. I believe so.

24 Q. If not Mr. Powers, do you know who may  
25 have drafted Annex S on plaintiffs' team?

0033

1 A. No, I don't.

2 Q. Annex U, I believe, is just copies of  
3 historical documents. Do you have any understanding  
4 of who compiled Annex U?

5 A. No.

6 Q. I skipped T, "Unjust enrichment." Do you  
7 know who drafted that annex?

8 A. I believe that was Stratus Consulting.

9 Q. Do you know who at Stratus was involved  
10 in drafting that annex?

11 A. Doug Beltman was involved.

12 Q. Anyone else?

13 A. I believe Dave Mills.

14 Q. Annex V was the identification of  
15 Cabrera's supposed team. Do you know of anyone who  
16 was involved in compiling that annex?

17 A. No.

18 Q. And Annex X is photos. Do you have any  
19 knowledge as to who compiled that annex?

20 A. No.

21 Q. Let me show you a copy of -- I'll mark  
22 this Exhibit 675.

23 (Deposition Exhibit 675 was marked.)

24 Q. Exhibit 675 is a copy of Anexo H-1 from  
25 the filed April 1, 2008, Cabrera report. This is the

0034

1 original Spanish version that was filed with the  
2 court.



3 Ms. Maest, just for the record, on the  
4 first page of Exhibit 675 it says, "Inventario de  
5 Piscinas." Do you see that?

6 A. Yes.

7 Q. What is the translation of that?

8 A. "Inventory of Pits."

9 Q. Do you know who compiled this "Inventory  
10 of Pits" contained in Anexo H-1?

11 A. I believe it was Olga Lucia in the Quito  
12 office.

13 Q. The Quito office of the plaintiffs?

14 A. Yes.

15 Q. I'm sorry, Olga Lucia, those are her two  
16 first names, right?

17 A. Sort of.

18 Q. Is Lucia --

19 A. It's like a middle name, but she uses it  
20 together.

21 Q. Okay. But it's not a family name, right?

22 A. No.

23 Q. You thought her last name might be Ceron,  
24 is that what you said?

25 A. It might be.

0035

1 Q. But you weren't sure about that?

2 A. I'm not sure.

3 Q. Were you involved in reviewing drafts of  
4 Anexo H-1 as it was being prepared in the plaintiffs'  
5 office in Quito?

6 A. No.

7 Q. Was anyone at Stratus, to your knowledge,  
8 involved in drafting or reviewing drafts of Anexo H-1  
9 as it was being prepared in plaintiffs' office in  
10 Quito?

11 A. We were sent copies of it, but I don't  
12 believe that we were asked to review it.

13 Q. Do you know whether anyone at Stratus in  
14 fact did review it, whether they were asked to or not?

15 A. I don't know.

16 Q. Do you know whether Anexo H-1 "Inventory  
17 of Pits" was created from a GIS database?

18 A. I believe in part, yes.

19 Q. What do you mean "in part"?

20 A. Well, I remember that there were aerial  
21 photographs from different years. As it says here,  
22 1976, 1986, and 1990.

23 Q. Where are you referring to?

24 A. "Analysis de fotografias aereas." And  
25 then "Año 76."

0036

1 Q. I'm sorry, what page are you on?

2 A. 14.

3 Q. Okay. Thank you.

4 A. It's an example. It's all the pages  
5 before that as well.

6 Q. Just referring to the column heading --

7 A. Yes.

8 Q. -- that says, "Analyses de fotografias  
9 aereas," right?

10 A. Yes.

11 Q. And that's "Analysis of aerial  
12 photographs" in English?

13 A. Yes.

14 Q. And below that there are three columns,  
15 Ano 76, Ano 86, and Ano 90, which are references to  
16 years, right?

17 A. Right. And those were aerial  
18 photographs. I don't believe that they were in a GIS  
19 database. And also on that same page -- you know,  
20 those pages to the right, "Informacion del RAP," I  
21 don't believe that was from a GIS database either.

22 Q. And that's, "Information from the RAP,"  
23 is the translation, right?

24 A. Yes.

25 Q. Do you understand RAP to be a reference  
0037

1 to the remedial action plan associated with the TexPet  
2 remediation in the 1990s?

3 A. Yes.

4 Q. So the name of the sites and the name of  
5 the pits, the first two columns on the left side of  
6 Exhibit -- I'm sorry, which exhibit is this? 675?

7 A. 675.

8 Q. Is it your understanding that those were  
9 obtained from a GIS database?

10 A. The two left columns?

11 Q. Yes.

12 MR. BEIER: Objection, foundation.

13 A. I don't believe so.

14 Q. (BY MR. CRIMMINS) Which part of -- you  
15 said in part Anexo H-1 was created from a GIS  
16 database. What information contained in H-1 was  
17 obtained from a GIS database?

18 A. I'm not sure.

19 Q. Did Stratus have access to the GIS  
20 database?

21 A. We had some information that we received  
22 from Quito that was in GIS format, but right now I  
23 can't really recall what it was.

24 Q. Did the GIS database ever reside on a  
25 Stratus server or Stratus computer, to your knowledge?

0038

1 A. I'm not sure.

2 Q. In responding to the subpoena in this

3 matter, do you recall coming across the GIS database  
4 or a copy of the GIS database?

5 A. No.

6 MR. CRIMMINS: If Stratus is in  
7 possession of the GIS database, I call for its  
8 production in response to the subpoena.

9 MR. BEIER: You've gotten everything  
10 that's responsive.

11 MR. CRIMMINS: I think the GIS database,  
12 if it's in the possession of Stratus, is responsive.

13 MR. BEIER: Well, if it's in the  
14 possession, it's been produced.

15 MR. CRIMMINS: I would ask you to check  
16 that, Marty, that's all.

17 Q. (BY MR. CRIMMINS) Did Ms. Belanger, to  
18 your knowledge, work on the GIS database?

19 A. No.

20 Q. The database that Ms. Belanger was  
21 working on, was that an access database?

22 A. Yes.

23 Q. I'm going to mark another new exhibit,  
24 676.

25 (Deposition Exhibit 676 was marked.)

0039

1 Q. Exhibit 676 is an April 30, 2007, memo  
2 from Ann Maest to Steven Donziger, "Subject: Summary  
3 of Peritaje Global Tasks and Other Tasks Related to  
4 Chevron-Texaco case." Do you see that?

5 A. Yes.

6 Q. It's Bates labeled DONZ00036868 through  
7 36871. Did you draft Exhibit 676?

8 A. It appears that I did.

9 Q. Okay. And is it your understanding that  
10 Exhibit 676 was, as of April 30, 2007, a summary of  
11 the items that E-Tech would undertake in connection  
12 with the peritaje global?

13 A. I believe this was a proposal, and it did  
14 not -- it was not only E-Tech, there were others  
15 involved as well.

16 Q. Was Stratus involved at this point?

17 A. I'm not sure. Stratus is mentioned in  
18 here, but I don't know if they were officially  
19 involved yet.

20 Q. The memo -- the first part of the body of  
21 the memo says, "Ongoing or completed tasks in Quito  
22 office." First bullet point is, "Preinspection for  
23 sampling of 60 sites." Do you see that?

24 A. Yes.

25 Q. Do you know what that's in reference to?

0040

1 A. The plaintiff team in Quito had compiled  
2 a list of 60 potential sites for additional sampling

3 that would take place as part of the peritaje global,  
4 and that's what that refers to.

5 Q. And how were those sites selected?

6 A. The Quito office plaintiff team, my  
7 recollection right now is that they wanted to get a  
8 diversity of sites and make sure that all the  
9 different regions of the concession had been sampled.  
10 That was the number-one concern. And beyond that, I'm  
11 not really sure right now.

12 Q. So the sites that -- when it says,  
13 "Preinspection for sampling 60 sites," when they  
14 preinspected the sites, did the plaintiffs' Quito team  
15 take any samples?

16 A. I don't know.

17 Q. Did they identify specific locations at  
18 particular sites where sampling should be undertaken  
19 during the peritaje global?

20 A. My recollection right now is that they  
21 wanted to see if they could get access to the sites.  
22 If there was any reason that the site could not be  
23 sampled.

24 Q. And the sites that the plaintiffs' Quito  
25 team preinspected for sampling during the peritaje  
0041

1 global, were those included in the work plan drafted  
2 by the plaintiffs' team for the peritaje global?

3 A. I don't know.

4 Q. The third bullet point in the same  
5 section says, "Preparation for Correa tour." Do you  
6 see that?

7 A. Yes.

8 Q. Do you know what that refers to?

9 A. Well, Correa is the president of Ecuador,  
10 and I know that he visited the concession at one  
11 point. So . . .

12 Q. Do you know what preparations were being  
13 made by the plaintiffs' Quito team?

14 A. No.

15 Q. Do you know if plaintiffs' Quito team  
16 selected the sites that President Correa would visit  
17 in the former concession area?

18 A. I don't know.

19 Q. Were you in Ecuador at the time that  
20 President Correa toured the former concession area?

21 A. No.

22 Q. Did you have any involvement in any  
23 preparations for his tour of the area?

24 A. No.

25 Q. A couple -- towards the bottom half of  
0042

1 the first page of Exhibit 676 it says, "What still  
2 needs to be done." Do you see that?

3 A. Yes.  
4 Q. And at the bottom -- or the second main  
5 bullet point it says, "Final sampling (Luis and  
6 others/Quito office; Mark, Dick/E-Tech,  
7 Ann/Preston/Stratus." Do you see that?

8 A. Yes.

9 Q. Do you know what that refers to?

10 A. All I know is that it was a proposed  
11 piece of the peritaje global.

12 Q. And does it refer to actual field  
13 sampling going on and collecting samples of  
14 environmental media?

15 A. Yes.

16 Q. Did E-Tech ever take samples of  
17 environmental media in Ecuador?

18 A. Yes.

19 Q. When?

20 A. I don't remember exactly. I believe it  
21 was 2006, maybe spring of 2006.

22 Q. And who took those samples? Who actually  
23 went out and collected them?

24 A. Mark Quarles, myself, and Bill Powers.

25 Q. What was the purpose of E-Tech collecting  
0043

1 samples at that time?

2 A. We collected them downstream of a  
3 separation station, I believe it was Shushufindi, I  
4 don't remember the number. And the purpose was to see  
5 if we could see presence of contaminants downstream  
6 from the site.

7 Q. So it was downstream of a separation  
8 station being operated at that time by PetroEcuador;  
9 is that correct?

10 A. Yes.

11 Q. And were you looking to find -- it was --  
12 were you looking to find the impact of -- potential  
13 impacts of the operation of that station?

14 A. Yes.

15 Q. What types of impacts were you looking  
16 for?

17 A. We sampled water and sediment in kind of  
18 a lagoon area, and we had the samples analyzed for  
19 total petroleum hydrocarbons and polycyclic aromatic  
20 hydrocarbons, PAHs. There might have been some other  
21 analyses, I can't recall at this time. And it was  
22 just to see if we could see the presence of those  
23 constituents in the environmental media or not.

24 Q. When you said you sampled water, was that  
25 surface water?

0044

1 A. Yes.

2 Q. Did you do any groundwater sampling?

3 A. No.

4 Q. Other than the sampling of sediments and  
5 surface water downstream from the Shushufindi  
6 separation station in 2006, did you do any other  
7 sampling at any other location at that time?

8 A. I believe it was 2006, I'm not sure. No,  
9 we did not.

10 Q. And what were the results of that  
11 sampling?

12 A. There were detectable concentrations of  
13 PAHs, and that's all I recall at this time.

14 Q. Were there detectable concentrations of  
15 TPH?

16 A. I'll have to look. I'm not sure.

17 Q. How many samples of surface water did you  
18 take?

19 A. It wasn't very many. I think it was  
20 maybe two to five, in that range.

21 Q. And how many samples of sediments did you  
22 take?

23 A. It was fewer. I think just a couple.

24 Q. The detectable concentrations of PAHs,  
25 was that detected in the water samples or in the  
0045

1 sediment samples?

2 A. I believe it was in the sediment.

3 Q. Was it detected in each of the sediment  
4 samples that were taken, or in fewer than all of them?

5 A. I can't recall right now.

6 Q. Are there applicable limits for PAHs  
7 under Ecuadorian law in sediments?

8 A. I'm not sure.

9 Q. When you say that you found detectable  
10 concentrations of PAHs in the sediments, does that  
11 mean that you identified PAHs that were above the  
12 detection limit for the method that was being used to  
13 analyze those samples?

14 A. Yes.

15 Q. Do you know how far above the detection  
16 limits those PAHs were?

17 A. I can't recall right now.

18 Q. Do you recall whether they were above any  
19 applicable regulatory standard?

20 A. I can't recall that either.

21 Q. Other than this sampling you just  
22 described, has E-Tech done any other collection of  
23 samples of environmental media in Ecuador?

24 A. No, I don't believe so.

25 Q. Has Stratus ever done any collection of  
0046

1 samples of environmental media in Ecuador?

2 A. No.

3 Q. Were the results of -- the samples that  
4 were taken near the Shushufindi separation station by  
5 you and Mark Quarles and Mr. Powers, what lab analyzed  
6 those samples?

7 A. I believe it was HAVOC in Quito.

8 Q. And what method did they use to analyze  
9 the water samples for PAHs?

10 A. I can't recall right now.

11 Q. Do you recall the method they used to  
12 analyze for PAHs in the sediment samples?

13 A. No.

14 Q. In those samples that were collected by  
15 you and Mr. Quarles and Mr. Powers near the  
16 Shushufindi separation station, did you determine --  
17 did you find TPH above detection limits in any of  
18 those samples?

19 A. I can't recall.

20 Q. Why did you choose this location to do  
21 the sole sampling that E-Tech has undertaken in  
22 Ecuador?

23 A. We wanted to see if it was possible to  
24 see a signal from the separation stations downstream  
25 from the stations.

0047

1 Q. And if you -- was there a plan or an  
2 intent to use that data for some purpose?

3 A. Not really. It was, more than anything,  
4 just kind of an initial sampling. We weren't really  
5 sure what the data were going to be used for at that  
6 point.

7 Q. Was there any particular discharge from  
8 this separation station that caused you to select this  
9 site?

10 A. There had been in the past, certainly.

11 Q. What type of discharge?

12 A. Produced waters were discharged directly  
13 to streams from the separation station.

14 Q. And from this particular separation  
15 station -- I know you can't remember exactly which one  
16 it is -- in the Shushufindi field, how long before  
17 your sampling event, to your knowledge, was the last  
18 produced water discharge to surface water?

19 A. I don't recall.

20 Q. Was the most recent discharge of produced  
21 water to surface water from that station made by  
22 PetroEcuador?

23 A. I don't -- I don't know.

24 Q. Is there produced water reinjection  
25 equipment at that station today?

0048

1 A. I am not sure.

2 Q. And was there produced water injection --

3 reinjection equipment at that station in use at the  
4 time you were sampling there?

5 A. I said I don't know. I know that  
6 there -- at the time we were sampling, there was  
7 reinjection of produced water in the Napo Concession,  
8 but I don't recall exactly where.

9 Q. To your knowledge, had there been any  
10 recent spills of hydrocarbons or other by-products of  
11 the crude oil production process at the Shushufindi  
12 station at or around the time that you were taking  
13 these samples?

14 A. I don't know.

15 Q. On page 2 of Exhibit 676, the last bullet  
16 says, "Remediation plan."

17 A. Yes.

18 Q. And the first sub bullet says, "Separate  
19 out and retain sections relating to plan for  
20 remediation." Do you see that?

21 A. Yes.

22 Q. Do you know what that refers to?

23 A. No. No, I don't.

24 Q. There is a reference here a couple times  
25 to Champ; do you see that?

0049

1 A. Yes.

2 Q. Is that a reference to Charlie Champ?

3 A. Yes.

4 Q. When was the first time you met Charlie  
5 Champ?

6 A. It was in Quito in March of 2007.

7 Q. Was the meeting at the plaintiffs' Quito  
8 office on March 3, is that the first time you met him?

9 A. Yes.

10 Q. What was your understanding of  
11 Mr. Champ's role in the Ecuador litigation at that  
12 time?

13 A. My understanding is that he was someone  
14 who had a lot of experience with remediation of  
15 petroleum sites, and that his role could possibly be  
16 involved in coming up with a remediation plan for the  
17 Napo Concession.

18 Q. And how many times did you meet  
19 Mr. Champ?

20 A. Just that one visit.

21 Q. Did you have conversations with him after  
22 that period that you met him in Ecuador?

23 A. I can't recall.

24 Q. Other than the meeting in the Quito  
25 office of the plaintiffs' on March 3 that was captured

0050

1 by the Crude film crew and the brunch meeting on

2 March 4 that was also captured by the film crew, did



3 you have any other meetings with Mr. Champ during that  
4 trip to Ecuador?

5 A. We had, you know, meals together; but  
6 other than that, I don't recall any meetings with him.

7 Q. During your interactions with Mr. Champ,  
8 did you develop an opinion of his technical abilities?

9 MR. BEIER: Object to the form.

10 A. During the meetings in Quito?

11 Q. (BY MR. CRIMMINS) Well, at any time.

12 A. Any time. He wrote a report, and my  
13 opinion, I guess, is that he seemed to have a good  
14 working knowledge of the logistics and, you know,  
15 approaches for remediation of petroleum-contaminated  
16 sites. That's it.

17 Q. The report that he wrote, was that a  
18 remediation cost estimate?

19 A. I believe so.

20 Q. What was your opinion of the validity of  
21 the remediation cost estimate that Mr. Champ wrote?

22 A. That's not my area of expertise, so I  
23 don't really know.

24 Q. You're saying that oil field remediation  
25 is not an area of expertise for you?

0051

1 A. That's correct. And also costing.

2 Q. You are saying you don't have any opinion  
3 one way or the other concerning Mr. Champ's  
4 remediation cost estimate report?

5 MR. BEIER: Object to the form, asked and  
6 answered.

7 A. Just the ones that I said, that -- well,  
8 no, I don't. Not of the report, no.

9 THE VIDEOGRAPHER: Going off the record,  
10 the time is 10:28.

11 (Recess taken.)

12 THE VIDEOGRAPHER: We are back on the  
13 record. The time is 10:38.

14 (Deposition Exhibits 677 and 678 were  
15 marked.)

16 Q. (BY MR. CRIMMINS) Ms. Maest, I'm handing  
17 you two exhibits marked Exhibit 677 and 678. 677 is a  
18 memo to Steven Donziger and Joe Kohn from Dick Kamp  
19 and Ann Maest, dated March 7, 2007, subject line is,  
20 "E-Tech Peritaje Global Technical Support and  
21 Associated Budget," Bates labeled STRATUS-NATIVE 8821  
22 through 8823.

23 And Exhibit 678 was produced by  
24 Mr. Donziger, it's Bates labeled DONZ24403, page 1 of  
25 3 through 3 of 3, and it is also a memo to Steven

0052

1 Donziger and Joe Kohn from Dick Kamp and Ann Maest,  
2 dated 21 March 2007. Do you see those two exhibits?

3 A. Yes.  
4 Q. In looking at these two exhibits, does  
5 the March 21 memo, Exhibit 678, appear to you to be a  
6 later draft of the March 7, 2007 memo, Exhibit 677?

7 A. Let me look here.

8 Q. Sure.

9 MR. BEIER: Just object based on  
10 foundation.

11 A. They are certainly related.

12 Q. (BY MR. CRIMMINS) Let's look at  
13 Exhibit 677. Did you draft this memo?

14 A. In part.

15 Q. And who else was involved in drafting it?

16 A. Dick Kamp.

17 Q. Do you know which parts of this memo were  
18 drafted by Dick Kamp and which parts were drafted by  
19 you, or was it more of a collaborative effort?

20 A. I don't recall right now.

21 Q. Exhibit 677, the March 7 memo, is that a  
22 summary of the work that E-Tech would do in support of  
23 the peritaje global as envisioned as of the time of  
24 the memo?

25 A. This is a summary of work that we would  
0053

1 do for Mr. Donziger related to the peritaje global,  
2 yes.

3 Q. And this is -- this was drafted for -- or  
4 at least it's dated four days after the meeting in  
5 Quito with Mr. Cabrera, right?

6 A. Yes.

7 Q. Do you recall whether you were still in  
8 Quito at the time you drafted this memo?

9 A. No.

10 Q. You don't recall?

11 A. I don't recall.

12 Q. Okay. At the bottom of the first page of  
13 Exhibit 677 it says, "Field Sampling Effort." Do you  
14 see that?

15 A. Yes.

16 Q. And then there's a number of tasks, 1  
17 through 7. The first is, "Assess CorpLabs and decide  
18 on best lab or labs to use for sampling." Do you see  
19 that?

20 A. Yes.

21 Q. Was that task what resulted in you and  
22 Mr. Villacreces visiting -- or meeting with Hector  
23 from CorpLabs that we discussed yesterday?

24 A. I believe so.

25 Q. And then the next task is, "Develop  
0054

1 criteria for selecting sites and analytes," et cetera;  
2 do you see that?

3 A. Yes.

4 Q. Did E-Tech -- was E-Tech involved in  
5 executing that task?

6 A. E-Tech was involved in developing  
7 criteria for selecting sites.

8 Q. And then No. 3 says, "Select sites and  
9 analytes based on developed criteria and existing  
10 information and data."

11 Was E-Tech also involved in selecting the  
12 analytes to be analyzed for in the peritaje global?

13 A. I don't recall right now.

14 Q. Do you recall whether others on  
15 plaintiffs' team were involved in selecting the  
16 analytes to be analyzed for in the peritaje global?

17 A. I don't recall.

18 Q. No. 4 is, "Prepare sampling and analysis  
19 plan for both types of sampling." Do you see that?

20 A. Yes.

21 Q. There's also a reference in No. 2 to two  
22 types of sampling. "Fill-in sampling and in-depth  
23 sampling." Do you see that?

24 A. Yes.

25 Q. What are -- what's your understanding of  
0055

1 the distinction between those two?

2 A. The first, fill-in, would be those that  
3 would either expand or fill in, you know, the sampling  
4 that was done under the judicial inspections. And the  
5 in-depth would -- just what it says here, be used to  
6 determine the extent of contamination at a given site.

7 Q. So was one of the criteria that the  
8 plaintiffs' team used to select sites to be sampled  
9 during the peritaje global sites that were not sampled  
10 during the judicial inspection phase?

11 A. That was one of -- yes, I think I  
12 mentioned that that was one of their main criteria for  
13 additional sampling that could take place.

14 Q. At the time of this memo in March 7,  
15 2007, was it your understanding that E-Tech personnel  
16 would actually go out to the field and collect these  
17 samples?

18 A. No.

19 Q. Was it your understanding that  
20 plaintiffs' personnel would go out in the field and  
21 collect these samples?

22 A. I wasn't sure who would be collecting the  
23 samples.

24 Q. Did you have an understanding that the  
25 plan that was being developed as laid out here was to  
0056

1 assist Cabrera in collecting and doing his field  
2 sampling work?

3 A. No.  
4 Q. Was it your understanding that the field  
5 sampling that's being contemplated here would be done  
6 by and on behalf of the plaintiffs?

7 A. I'm not sure.

8 Q. No. 5 on that list says, "Help organize  
9 field effort." Do you see that?

10 A. Yes.

11 Q. What field effort is being referred to  
12 there?

13 A. This is the additional sampling that is  
14 discussed above.

15 Q. The fill-in sampling and the in-depth  
16 sampling?

17 A. Yes.

18 Q. I'm just trying to get an understanding,  
19 as you and Mr. Kamp wrote this memo on or around  
20 March 7 of 2007, what field sampling or what field  
21 effort was being contemplated?

22 A. It was an effort related to the peritaje  
23 global.

24 Q. A moment ago I asked if you -- was it  
25 your understanding that the sampling that's being  
0057

1 discussed here or the field effort that's being  
2 discussed here would be the field effort undertaken by  
3 Mr. Cabrera, and you said no. But if this sampling  
4 was in connection with the peritaje global, wouldn't  
5 that sampling be undertaken by Mr. Cabrera?

6 MR. BEIER: Objection, argumentative,  
7 also form. You can answer.

8 A. Okay. At this time I'm not really sure  
9 who was going to be conducting the sampling. I wasn't  
10 sure.

11 Q. (BY MR. CRIMMINS) Did you have an  
12 understanding that it would be conducted by whoever  
13 the court appointed as the independent court expert?

14 A. I didn't, no.

15 Q. Then the second memo that you have in  
16 front of you is Exhibit 678, and you can see under  
17 tasks it now says -- well, 678 says, "Work closely  
18 with court-appointed expert and in-house Quito staff."  
19 Do you see that?

20 A. Yes.

21 Q. Did you draft this document, Exhibit 678?

22 A. I don't recall drafting it, but my name  
23 is on here, so I believe that I was -- you know, Dick  
24 Kamp and I drafted it.

25 Q. Do you know why it says, "Work closely  
0058

1 with court-appointed expert and in-house Quito staff"?  
2 Is that something that you were told that E-Tech would

3 be doing?

4 A. I don't recall.

5 Q. The court-appointed expert that's  
6 referred to there is Mr. Cabrera, right?

7 A. I don't think we knew at this time.

8 Q. Well, Mr. Cabrera was appointed -- do you  
9 understand that Mr. Cabrera was appointed officially  
10 by the Ecuador court on March 19, 2007?

11 A. I didn't know the date.

12 Q. I'll represent to you that was the date  
13 the court issued the providencia appointing  
14 Mr. Cabrera.

15 A. Okay.

16 Q. So as of March 21, 2007, the date of this  
17 memo, did -- well, let me strike that.

18 Do you recall when you learned or how you  
19 learned that Mr. Cabrera had been appointed by the  
20 Lago Agrio court as the independent court expert?

21 A. I don't remember when I learned, but I  
22 believe I learned from Mr. Donziger.

23 Q. Do you recall whether you were in Quito  
24 at the time you learned that?

25 A. I don't recall.

0059

1 Q. Now, at the March 3 meeting you, I think,  
2 testified that you knew that Mr. Cabrera could be  
3 appointed the expert, right?

4 A. Yes.

5 Q. And at the March 4 meeting that's  
6 captured in Crude, the brunch meeting, he's referred  
7 to as the perito, right?

8 A. I don't recall.

9 Q. As of the March 3 meeting, were you aware  
10 of anyone else that could be appointed as the  
11 court-appointed expert?

12 MR. BEIER: Object to the form.

13 A. I knew that there was, you know, a list  
14 of sorts, that others were being considered. I don't  
15 recall now whether I knew who they were ever, or not.

16 Q. (BY MR. CRIMMINS) And how did you come  
17 by the understanding that there was this list?

18 A. Mr. Donziger.

19 Q. So other than what Mr. Donziger told you,  
20 you have no knowledge as to whether that list ever  
21 even existed, right?

22 A. No personal knowledge, no.

23 Q. You don't have any personal knowledge as  
24 to whether there were even any other candidates,  
25 right?

0060

1 A. No. Just what I said, that that's what  
2 Mr. Donziger told me.

3 Q. So as of March 21, 2007, the date of this  
4 memo, Exhibit 678, did you have an understanding that  
5 one of E-Tech's tasks would be to work closely with  
6 the court-appointed expert, whether you knew that was  
7 Cabrera at the time or not?

8 A. That's what it says here, but I don't  
9 recall that.

10 Q. Do you remember seeing a copy of this  
11 memo, Exhibit 678, in connection with the review of  
12 documents for production in response to the subpoena  
13 in this proceeding in Colorado?

14 A. I don't recall seeing it, no.

15 Q. Do you recall any discussion about this  
16 particular document in connection with the response to  
17 the subpoena?

18 A. No.

19 Q. On page 3 of Exhibit 678, Section IV,  
20 Roman 4, it says "Peritaje Global report." Do you see  
21 where I am?

22 A. Yes.

23 Q. And then it says, "Review all technical  
24 and scientific basis of the legal arguments in the  
25 report and assist Quito staff in organizing and  
0061

1 writing and/or reviewing sections of the Peritaje  
2 Global." Do you see that?

3 A. Yes.

4 Q. Was it your understanding as of March 21,  
5 2007, that E-Tech would be tasked with writing and/or  
6 reviewing sections of the peritaje global report?

7 A. Yes.

8 Q. And did you come by that understanding  
9 from Mr. Donziger?

10 A. Yes. That was the proposal, it wasn't  
11 assured, but . . .

12 Q. The tasks that are set forth in this  
13 memo, Exhibit 678, are those tasks that came from the  
14 Lago Agrio plaintiffs' legal team?

15 A. The ones enumerated under Section 4?

16 Q. Throughout the entire memo, starting with  
17 tasks.

18 A. They weren't directly from the legal  
19 team. Was that your question?

20 Q. Yes.

21 A. No, they were based on meetings that we  
22 had with the legal team and Steven Donziger and others  
23 in the office in Quito.

24 Q. Okay. How long after this memo,  
25 March 21, 2007, did -- was a decision made that E-Tech  
0062

1 would not move forward with this work but rather that  
2 Stratus would?

3 MR. BEIER: Objection, asked and answered  
4 yesterday. You may answer.

5 A. Right. I don't recall.

6 Q. (BY MR. CRIMMINS) Do you recall the  
7 meeting in Boulder at Stratus that was filmed by the  
8 film crew of Crude?

9 A. I remember them being there. I don't  
10 think they filmed very much of anything.

11 Q. That meeting -- was that the first  
12 meeting that Stratus had with the Lago Agrio  
13 plaintiffs' team?

14 MR. BEIER: Objection, foundation.

15 A. I don't think it was the -- it was just  
16 Steven Donziger, as I recall.

17 Q. (BY MR. CRIMMINS) The meeting with  
18 Steven Donziger at Stratus that was captured in part  
19 by the Crude film crew, was that the first meeting  
20 that Stratus had with Mr. Donziger?

21 MR. BEIER: Same objection.

22 A. When you say "Stratus," do you mean  
23 Stratus as a company, or . . .

24 Q. (BY MR. CRIMMINS) Well, it's hard  
25 because you sort of wore two hats. What I'm trying to  
0063

1 understand is -- and let me just ask this question --  
2 at the time of that meeting in Boulder with  
3 Mr. Donziger, had a decision already been made that  
4 E-Tech was out and Stratus would be in?

5 A. No.

6 Q. Was a decision already made that E-Tech  
7 would no longer work for the Lago Agrio plaintiffs?

8 A. I don't recall.

9 Q. Okay. I'm sorry, I have one more  
10 question on that. That's okay, you can put that  
11 aside.

12 A. Okay.

13 Q. Were you involved in the drafting of  
14 plaintiffs' comments on the April 1, 2008, Cabrera  
15 report that were filed with the Lago Agrio court?

16 A. Yes.

17 Q. And would it be fair to characterize  
18 those comments as suggestions or critiques of the  
19 April 1, 2008, Lago Agrio -- Cabrera report filed in  
20 Lago Agrio?

21 A. Yes.

22 Q. And is it fair to say that those comments  
23 filed by plaintiffs included criticisms or critiques  
24 of work that Stratus had done that was incorporated  
25 into the Cabrera report?  
0064

1 MR. BEIER: Object to the form.

2 A. That Stratus had done for the plaintiffs,

3 yes.

4 Q. (BY MR. CRIMMINS) So, in other words,  
5 the plaintiffs' comments on the April 1, 2008, Cabrera  
6 report that were filed with the Lago Agrio court  
7 contained criticisms of work that the plaintiffs had  
8 submitted to Cabrera, correct?

9 MR. BEIER: Objection, argumentative.

10 You can answer.

11 A. Yes.

12 Q. (BY MR. CRIMMINS) Did it ever seem  
13 strange to you that you were working on a criticism of  
14 your own work?

15 MR. BEIER: Object to the form, also  
16 argumentative.

17 A. No.

18 Q. (BY MR. CRIMMINS) Have you ever done  
19 that in any other case in your career?

20 MR. BEIER: Same objections.

21 A. I believe so.

22 Q. (BY MR. CRIMMINS) Can you describe that  
23 instance, or those instances?

24 A. We do work for -- I'll just speak of  
25 myself here. I do work for state and federal agencies

0065

1 that get submitted under the state or federal agency  
2 name, and sometimes we make additional comments after  
3 they are submitted.

4 Q. And when you say that it's submitted --  
5 that your work is submitted under the state or federal  
6 agency name, does that mean that it doesn't have  
7 Stratus' name on it?

8 A. Doesn't have -- yes, that's right.

9 Q. Or any indication that you, or whoever  
10 you were working for, had written that?

11 A. That I or, let's say, Stratus had -- yes,  
12 that's definitely correct.

13 Q. And then when you say that there are  
14 instances where there are subsequent -- you make  
15 subsequent comments on that work, are the comments  
16 submitted in the name of the state or federal agency,  
17 or are they submitted under somebody else's name?

18 A. The state or federal agency.

19 Q. Can you give me an example of one of  
20 these instances that you're thinking of?

21 A. I'm probably not going to be able to come  
22 up with a specific example, but I can tell you that I  
23 routinely do work for the Environmental Protection  
24 Agency where my name doesn't appear at all, and I've  
25 recently done work for the State of New Mexico -- an

0066

1 agency in the state of New Mexico where my name and  
2 Stratus' name did not appear at all.



3 Q. And in these instances -- can you think  
4 of a single instance in which the subsequent comments  
5 that were submitted actually criticized the work in  
6 the initial filing as opposed to updating it or  
7 supplementing it?

8 MR. BEIER: Object to the form,  
9 argumentative.

10 A. I can't recall right now.

11 Q. (BY MR. CRIMMINS) After the plaintiffs  
12 filed their comments with the Lago Agrio court, do you  
13 recall that Mr. Cabrera filed in his name responses to  
14 those comments?

15 A. I don't recall that right now.

16 Q. Do you recall Mr. Cabrera filing a  
17 supplemental report?

18 A. No.

19 Q. Let me show you Exhibit 44. This is  
20 previously marked. Exhibit 44 is the -- what someone  
21 has referred to as the supplemental report of Cabrera,  
22 or the response to plaintiffs' comments that was filed  
23 with the Lago Agrio court, and an English translation  
24 of that filing.

25 If you want to look at the original, it's  
0067

1 the back half of the report, and those pages of that  
2 report are labeled 1 of 51 through 51 of 51.

3 A. Okay.

4 Q. Have you seen this document before?

5 A. I don't recall seeing it.

6 Q. Do you recall in the original April 1,  
7 2008, Cabrera report the damage assessment was  
8 approximately \$16 billion?

9 A. Yes.

10 Q. And then later a subsequent report was  
11 filed that raised that damage assessment to  
12 \$27 billion, approximately?

13 A. Yes.

14 Q. Exhibit 44 is the report that contains  
15 the \$27 billion estimate, and you can see that on page  
16 50 of 51 of the original report.

17 Whether or not you recognize this  
18 document now, do you recall reviewing the report filed  
19 by Mr. Cabrera in which the damage assessment was  
20 raised to \$27 billion?

21 A. I recall reviewing parts of it.

22 Q. Were you involved in drafting the  
23 responses to plaintiffs' comments that were filed by  
24 Mr. Cabrera in the Lago Agrio court?

25 A. This document here?

0068

1 Q. Yes. Exhibit 44.

2 A. I don't recall.

3 Q. Was Stratus involved in drafting this  
4 document, Exhibit 44, Mr. Cabrera's responses to the  
5 comments of the plaintiffs on the original Cabrera  
6 report?

7 A. Could you say that again, please?

8 Q. Sure. Was Stratus involved in drafting  
9 Exhibit 44, Mr. Cabrera's responses to the comments  
10 submitted by the plaintiffs on the original Cabrera  
11 report?

12 MR. BEIER: Object to the form.

13 A. I believe Stratus was involved in  
14 preparing materials that were then submitted to the  
15 plaintiffs related to this.

16 Q. (BY MR. CRIMMINS) So was it your  
17 understanding that the process in the -- with regard  
18 to the response by Cabrera to plaintiffs' comments,  
19 Exhibit 44, was the same process as you understood it  
20 with regard to the original Cabrera report?

21 A. And could you describe the process?

22 Q. Well, the process as you described it is  
23 that Stratus drafted materials to be submitted to  
24 Cabrera for his consideration to be included in the  
25 report, right?

0069

1 A. That Stratus drafted materials that were  
2 submitted to the plaintiffs and Steven Donziger and  
3 then, my understanding is, to Cabrera, yes.

4 Q. And that those were drafted with the  
5 expectation that they would be given to Cabrera,  
6 right?

7 A. Yes.

8 Q. Was it your understanding with regard to  
9 Exhibit 44, the response to plaintiffs' comments, that  
10 Stratus and other members of the plaintiffs' team were  
11 drafting materials to be given to the plaintiffs'  
12 lawyers to then be given to Cabrera?

13 A. Yes.

14 Q. And I understand that that was your  
15 understanding at the time. Is that still your  
16 understanding today?

17 A. Yes.

18 Q. It's not your understanding today that  
19 the materials to be drafted by Stratus were to be  
20 given to Cabrera to file as his report?

21 A. You mean directly to Cabrera as -- could  
22 you explain that?

23 Q. Sure. I'll ask a different question.  
24 Given everything that you have seen in the context of  
25 this deposition and in this proceeding, the testimony

0070

1 you've seen from Mr. Donziger, is it still your belief  
2 that the materials drafted by Stratus were given to

3 Mr. Cabrera for his independent consideration as  
4 opposed to for him to sign and file as his report?

5 MR. BEIER: Objection, argumentative.  
6 Also object to the form.

7 A. There's a step in there that you left  
8 out, that -- yes, it's still my -- well, it's my  
9 understanding that still, to this day, that Stratus  
10 produced materials that went to the plaintiffs'  
11 counsel, and those were submitted to Mr. Cabrera for  
12 his consideration, yes.

13 Q. (BY MR. CRIMMINS) And is it still your  
14 belief today that Mr. Cabrera acted independently of  
15 the Lago Agrio plaintiffs' team?

16 MR. BEIER: Objection, foundation, also  
17 argumentative.

18 A. I'm not sure what that means, exactly.

19 Q. (BY MR. CRIMMINS) Well, what do you  
20 think it means for Mr. Cabrera to act independently of  
21 the plaintiffs' team?

22 MR. BEIER: Objection, calls for  
23 speculation, argumentative, foundation.

24 A. I don't know.

25 Q. (BY MR. CRIMMINS) Well, when you say  
0071

1 that your understanding to this day is that the  
2 materials drafted by Stratus that were given by the  
3 Lago Agrio plaintiffs' team to Mr. Cabrera for his  
4 consideration, what do you mean when you say "for his  
5 consideration"?

6 A. What I mean is that my understanding is  
7 that they were given to him, and he had an opportunity  
8 to review them and decide what he wanted to do with  
9 them.

10 Q. And what is the basis of that  
11 understanding?

12 A. Just from what I was told from  
13 Mr. Donziger.

14 Q. Let me show you Exhibit 9 -- well, before  
15 I do that, is that still your understanding today that  
16 with regard to the supplemental report, or the  
17 response to plaintiffs' comments, Exhibit 44, that  
18 Stratus and other members of the plaintiffs' team  
19 drafted materials that were given to Cabrera for his  
20 consideration?

21 A. Yes.

22 Q. It's not your understanding that what  
23 plaintiffs, including Stratus, drafted was given to  
24 Mr. Cabrera for him to sign and file with the Lago  
25 Agrio court; is that correct?

0072

1 MR. BEIER: Objection, argumentative.  
2 Object to the form.

3 A. That's my understanding.  
4 Q. (BY MR. CRIMMINS) And that understanding  
5 is based upon what you were told by Mr. Donziger; is  
6 that right?

7 A. Yes.

8 Q. Do you have any other basis for that  
9 understanding other than what Mr. Donziger told you?

10 A. Let me take a look at this. I guess I  
11 would have to say no to that.

12 Q. Okay. I'm going to hand you Exhibit 949.  
13 Exhibit 949, which was previously marked in the Peers  
14 deposition, is a memo from Doug Beltman -- I'm sorry,  
15 an e-mail from Doug Beltman to Jennifer Peers and Ann  
16 Maest, dated October 27, 2008. Do you see that?

17 A. Yes.

18 Q. And there's a couple of e-mails in the  
19 chain. Directing your attention to the bottom e-mail  
20 on the first page, which carries over to the second  
21 page, it says, "Hi Ann & Doug" -- this is from  
22 Jennifer Peers to Ann Maest and Doug Beltman. It  
23 says, "Hi Ann & Doug - Doug - there are a few  
24 questions for you in this e-mail. It has been a busy  
25 day. I received a request from Tania for an update on  
0073

1 where we are in responding to a set of the questions  
2 to the perito assigned to us." Do you see that?

3 A. Yes.

4 Q. Did you have an understanding that there  
5 were certain questions that were posed to Mr. Cabrera  
6 that were then assigned to Stratus to respond to?

7 A. Yes.

8 Q. And those questions were questions that  
9 were posed by the plaintiffs in their filing in Lago  
10 Agrio concerning their comments and questions on the  
11 April 1, 2008, Cabrera report, right?

12 A. Could you repeat that?

13 Q. Sure. The questions that were  
14 assigned -- I'm sorry, let me start over.

15 The questions that were posed to  
16 Mr. Cabrera that were assigned to Stratus to respond  
17 to were questions that were posed by the Lago Agrio  
18 plaintiffs, right?

19 A. I'm not sure if all of those --

20 Q. What -- I'm sorry.

21 A. I'm not sure if all of them were.

22 Q. Some of them were?

23 A. I believe so.

24 Q. And --

25 A. Actually, I'm not sure. I'm not sure.

0074

1 Q. What is your understanding of the other  
2 source of questions to Mr. Cabrera that Stratus was

3 assigned to respond to?

4 A. Right now, I don't recall.

5 Q. Do you recall that some of the  
6 questions -- at least some of the questions that were  
7 posed to Cabrera that Stratus was assigned to draft  
8 responses to were questions that were posed by the  
9 plaintiffs in their questions and comments on the  
10 initial Cabrera report?

11 A. Yes. Yes.

12 Q. And Ms. Peers goes on to say, "Although  
13 she forwarded me a copy of the e-mail that she sent on  
14 October 9, I had not received it. The list of  
15 questions was new to me. Ann and I went through the  
16 questions that were assigned to 'Team Douglas' and are  
17 preparing a response to Tania." Do you see that?

18 A. Yes.

19 Q. Team Douglas, do you understand -- was  
20 that a term used to refer to Stratus?

21 A. I don't know. I'm not sure I ever heard  
22 that term before.

23 Q. Do you have an understanding as to who  
24 assigned to Stratus the responsibility for drafting  
25 responses to questions that were posed to Cabrera?

0075

1 A. I believe it was the plaintiff team in  
2 Quito.

3 Q. Do you have any understanding that that  
4 assignment came ultimately from Mr. Cabrera?

5 A. That I don't know.

6 Q. Do you have any knowledge concerning any  
7 work done by Mr. Cabrera to respond to the questions  
8 that were posed by plaintiffs?

9 A. No.

10 Q. Do you have any knowledge concerning any  
11 work done by any member of Mr. Cabrera's supposedly  
12 independent team identified in Annex V to the April 1,  
13 2008, Cabrera report with regard to any responses to  
14 any of the questions posed by the plaintiffs?

15 MR. BEIER: Object to the form.

16 A. I don't have any knowledge of that, no.

17 Q. (BY MR. CRIMMINS) If you look on page 2  
18 of Exhibit 949, it's item C on that page in the e-mail  
19 from Ms. Peers; do you see that?

20 A. Yes.

21 Q. Towards the end of that paragraph it  
22 says, "I will ask Brian to clean up the language so it  
23 sounds more like the Perito and less like a comment."  
24 Do you see that?

25 A. Yes.

0076

1 Q. Do you understand what's being referred  
2 to there?

3 MR. BEIER: Objection, foundation.

4 A. I don't.

5 Q. (BY MR. CRIMMINS) Do you recall an  
6 effort being made by Stratus with regard to the  
7 drafting of responses to questions posed by the  
8 plaintiffs on the original Cabrera report to write  
9 them in a way that made them sound like Cabrera had  
10 written them?

11 A. No.

12 Q. Do you recall efforts being made to make  
13 it sound like an Ecuadorian had written them?

14 A. No.

15 Q. Do you remember communications, e-mails,  
16 other written communications discussing an effort to  
17 make the responses that plaintiffs were drafting to  
18 sound more like they were drafted by Cabrera or by an  
19 Ecuadorian?

20 A. No. I mean, I see that I'm copied on  
21 this, but I don't recall that at all.

22 Q. Were you personally involved in drafting  
23 responses to questions posed by plaintiffs to Cabrera  
24 concerning the original Cabrera report?

25 A. Is that this stage, or earlier?

0077

1 Q. What do you mean?

2 A. Well, there was the Cabrera report, and  
3 then questions on that, and then there was -- I'm just  
4 not sure which stage you're referring to.

5 Q. Okay. I'll try to clarify. The original  
6 Cabrera report was filed on April 1, 2008, correct?

7 A. Yes.

8 Q. And then in September of 2008 the  
9 plaintiffs filed comments and questions concerning the  
10 April 1, 2008, Cabrera report, correct?

11 A. Okay. I'm not aware of the date, but  
12 yes.

13 Q. But you're aware that was filed by the  
14 plaintiffs?

15 A. Yes. Yes.

16 Q. And you and others at Stratus, among  
17 others, were involved in drafting those plaintiff  
18 comments on the April 1, 2008, Cabrera report,  
19 correct?

20 A. Yes.

21 Q. And subsequently Mr. Cabrera filed  
22 Exhibit 44 as his responses to the comments and  
23 questions posed by plaintiffs in their filing  
24 commenting on the original Cabrera report; do you  
25 understand that?

0078

1 A. This Exhibit --

2 Q. Yes.

3 A. -- 9, yes.

4 Q. And you testified that -- in connection  
5 with this e-mail that your understanding was that  
6 certain -- the drafting of certain responses to  
7 certain of the questions posed by the plaintiffs on  
8 the original Cabrera report to Mr. Cabrera were  
9 assigned to Stratus, correct?

10 A. Yes.

11 Q. Were you personally involved in drafting  
12 any of the responses to those questions?

13 A. I believe I was.

14 Q. Do you recall which ones?

15 A. No.

16 Q. Do you recall any of them?

17 A. No.

18 Q. Who else at Stratus was involved in  
19 drafting the responses to questions posed by  
20 plaintiffs to Mr. Cabrera concerning the original  
21 Cabrera report?

22 A. Doug Beltman, Eric English, Jen Peers,  
23 and myself. There might have been others. I don't  
24 recall any others right now.

25 Q. And while you didn't recall -- or do not  
0079

1 recall which questions you were personally involved in  
2 drafting responses to, do you recall any of the  
3 questions that Stratus drafted responses to?

4 A. I recall there was an effort to look at  
5 the extent of contamination if you used a standard of  
6 100 parts per million for remediation. And I recall  
7 that there was Stratus involvement in the update of  
8 the cost estimate.

9 Q. Which cost estimate?

10 A. The 27 billion. Right now, that's all I  
11 can recall.

12 Q. The -- in the annex drafted by Stratus in  
13 early 2008 that was concerning remediation of pits,  
14 that annex used a cleanup standard of 1,000 parts  
15 per million TPH, right?

16 A. I'm not sure which annex you're referring  
17 to.

18 Q. Well, in your nomenclature, in the  
19 materials that Stratus drafted for submission to  
20 plaintiffs' lawyers for submission to Cabrera, prior  
21 to the filing of the original Cabrera report on  
22 April 1 of 2008, there was a recommended cleanup level  
23 of 1,000 ppm in soil, correct?

24 A. I remember that, yes.

25 Q. In the comments that plaintiffs submitted  
0080

1 to the Lago Agrio court concerning the original  
2 April 1, 2008, Cabrera report, the plaintiffs

3 criticized the adoption of the 1,000 ppm standard,  
4 correct?

5 A. Yes.

6 Q. And instead advocated for the adoption of  
7 a 100 ppm standard, correct?

8 A. Yes.

9 Q. So in that instance, that is an instance  
10 in which the plaintiffs were criticizing work or a  
11 conclusion that the plaintiffs had themselves  
12 submitted to Mr. Cabrera, right?

13 MR. BEIER: Objection, form, foundation,  
14 argumentative. You can answer.

15 A. I think we already went over this. Could  
16 you repeat that?

17 Q. (BY MR. CRIMMINS) Sure. In the  
18 plaintiffs' comments filed with the Lago Agrio court  
19 concerning the original Cabrera report, in the comment  
20 that criticized the adoption of the 1,000 ppm TPH  
21 cleanup standard, plaintiffs were criticizing  
22 something that they had actually recommended in the  
23 materials they submitted to Cabrera, right?

24 A. They had recommended that to Cabrera, and  
25 he adopted it, yes.

0081

1 Q. And then plaintiffs subsequently  
2 criticized --

3 A. Yes.

4 Q. -- the adoption of that standard, right?

5 A. Correct.

6 Q. Or the use of that standard?

7 A. I don't think they criticized it, but  
8 they suggested that a lower standard could be used,  
9 and this would be the extent of contamination and the  
10 cleanup costs if you did do that.

11 Q. And that had the effect of substantially  
12 raising the cost of remediation, right?

13 A. Yes.

14 Q. And Stratus drafted both the annex in  
15 early 2008 that adopted 1,000 ppm standard and the  
16 comment followed by the Lago Agrio plaintiffs in  
17 September of 2008 that objected to the use of that  
18 standard, correct?

19 MR. BEIER: Object to the form.

20 A. I think we already went over that, didn't  
21 we? Isn't that the same question you asked before?

22 Q. (BY MR. CRIMMINS) I'm going to ask it  
23 again because I want to have a clean record.

24 A. Okay.

25 Q. Stratus drafted both the annex in early

0082

1 2008 that adopted the 1,000 ppm TPH cleanup standard,  
2 and Stratus also drafted the comment filed by the Lago



3 Agrio plaintiffs in September of 2008 that objected to  
4 the use of that standard in the Cabrera report,  
5 correct?

6 MR. BEIER: Object to the form, asked and  
7 answered. You can answer it again.

8 A. The second half is correct. The first  
9 half I would state differently. That we submitted  
10 materials to Cabrera, he adopted that, and then the  
11 rest I agree with.

12 THE VIDEOGRAPHER: Four minutes until  
13 tape change.

14 Q. (BY MR. CRIMMINS) And the materials that  
15 you're referring to took the form of an annex that  
16 adopted the 1,000 ppm cleanup standard, right?

17 A. It was used in an annex that ended up in  
18 the Cabrera report, yes.

19 Q. Used by Stratus, right?

20 MR. BEIER: Object to the form.

21 A. No. The material was used by Cabrera.

22 Q. (BY MR. CRIMMINS) And, again, using your  
23 nomenclature, in the material drafted by Stratus for  
24 submission to the Lago Agrio plaintiffs' lawyers with  
25 the expectation that it would be submitted to  
0083

1 Cabrera --

2 A. Yes.

3 Q. -- used a TPH soil cleanup standard of  
4 1,000 ppm, correct?

5 A. Correct.

6 Q. And Stratus also drafted the plaintiffs'  
7 comment that was filed with the Lago Agrio court  
8 objecting to the use of the 1,000 ppm TPH soil cleanup  
9 standard and recommended instead a cleanup standard of  
10 100 TPH, correct -- 100 ppm TPH?

11 MR. BEIER: Object to the form.

12 A. I don't know if -- I don't recall right  
13 now if Stratus -- I can't remember your word --  
14 disagreed with the 1,000, but I do know that Stratus  
15 suggested a 100 ppm TPH standard and then took  
16 everything else from there in terms of extent of  
17 contamination and costs.

18 Q. (BY MR. CRIMMINS) And Stratus  
19 recommended that after previously recommending the use  
20 of a 1,000 ppm standard in the material submitted to  
21 Mr. Cabrera, correct?

22 A. I'm just not sure that they recommended  
23 it. I know that they used it, and I'm not sure it was  
24 a recommendation.

25 Q. You're not sure that Stratus recommended  
0084

1 the use of the 100 ppm standard?

2 A. Right. I'm not sure that it was a

3 recommendation. As I said, I know that they use it.  
4 They said, if you use a standard of 100, then this  
5 will be the extent and these will be the costs for  
6 clean up.

7 Q. Well, plaintiffs in their comments on the  
8 original Cabrera report advocated for the adoption of  
9 the 100 ppm standard, correct?

10 A. I just don't recall right now if they  
11 were advocating for it, recommending it, or -- I just  
12 don't recall.

13 Q. Were you part of discussions in the  
14 summer of 2007 concerning the plaintiffs filing  
15 comments on the original Cabrera report on this issue  
16 of the TPH standard to be used for cleanup?

17 MR. BEIER: Object to the form.

18 A. Was I part of conversations? Yes.

19 Q. (BY MR. CRIMMINS) What do you remember  
20 about that?

21 A. What I remember is that there were a  
22 number of states in the United States that had 100 ppm  
23 TPH as a cleanup standard, and that that was in part  
24 why we thought it was a reasonable number.

25 Q. Which states had a cleanup standard of  
0085

1 100 TPH in 2007 -- I'm sorry, 2008?

2 A. I don't recall right now.

3 MR. CRIMMINS: We need to change the  
4 tape. Do you want to take a break?

5 THE VIDEOGRAPHER: This is the end of  
6 tape number 1. Going off the record. The time is  
7 11:32.

8 (Recess taken.)

9 THE VIDEOGRAPHER: We are back on the  
10 record. The time is 11:43. This is the beginning of  
11 tape number 2 in the deposition of Ann Maest,  
12 Volume 2.

13 Q. (BY MR. CRIMMINS) Ms. Maest, I'm going  
14 to hand you what's been previously marked as  
15 Exhibit 904. Exhibit 904 is a PowerPoint file titled,  
16 "Scientific Evidence in the Aguinda, et al. v. Chevron  
17 Case. Doug Beltman, Stratus Consulting, Boulder,  
18 Colorado, April 7, 2010." Do you see that?

19 A. Yes.

20 Q. Have you seen this PowerPoint before?

21 A. I'm not sure that I have seen this exact  
22 PowerPoint.

23 Q. Have you seen a PowerPoint that was  
24 similar to this one?

25 A. Well, I've seen material that's in it,  
0086

1 certainly, before.

2 Q. Did you help to write any part of this

3 PowerPoint?

4 A. I don't recall.

5 Q. Which parts of Exhibit 904 do you  
6 recognize as having seen before?

7 A. The map -- there are no page numbers  
8 here, but the map that shows the approximate area of  
9 the concession. The graph showing the number of wells  
10 in the year. The map showing the stations and well  
11 locations, that's on the following page. That I don't  
12 recall seeing.

13 The aerial photograph that's shown that  
14 has two oil pits and a mud pit and a wellhead  
15 identified. The photograph on the bottom of the slide  
16 called, "Pits. Used for disposal of well drilling,"  
17 et cetera.

18 Q. Do you know what pit that's a photo of?

19 A. No. The photograph on the following  
20 slide that's titled "Texaco Pits," the one on the  
21 left.

22 Q. Do you know what pit that is?

23 A. No. I've been there, but I don't  
24 remember the name of the pit. The slide called "1962  
25 Guide from American Petroleum Institute," that diagram  
0087

1 there I've seen. And the following slide "Produced  
2 Water" with the photograph of three pipes, two of  
3 which are discharging water to a body of water. The  
4 pictures on the slide called "Other Sources of  
5 Contamination," there are three photographs.

6 The table that's titled "Investigations  
7 conducted in the Napo Concession prior to the trial."  
8 And the table on the following page that's called  
9 "Sites Sampled During the Trial." The table that's on  
10 the slide called "TPH in Soil." And the following  
11 graphic that shows maximum TPH sampled at each site  
12 relative to Ecuadorian law.

13 And the following table, "Percent samples  
14 greater than 1,000 ppm TPH." That I don't recall.  
15 "TPH in Groundwater," the table on that slide. "TPH  
16 in Soil," a couple of pages later, that table I've  
17 seen before. "TPH in Soil," a couple of slides after  
18 that, "Well site 'remediated' by Texaco, question  
19 mark," that one. I've seen a version of "Table 1" on  
20 the following slide, "TexPet cleanup pits with TPH  
21 concentrations greater than 5,000 ppm." I believe  
22 that's it.

23 Q. Okay. Were you present at any time --  
24 well, the slides that you recognized that you just  
25 went through, did you prepare any of those slides?

0088

1 A. I don't know if I prepared the slides,  
2 but I helped prepare the materials.

3 Q. Did you prepare the materials for the  
4 purpose of compiling this PowerPoint, or for some  
5 other purpose?

6 A. I don't recall right now.

7 Q. Were you present at any time when this  
8 presentation -- or this PowerPoint was used in a  
9 presentation?

10 A. This might be from the settlement meeting  
11 in Boulder.

12 Q. What settlement meeting are you referring  
13 to?

14 A. We had settlement meetings with Chevron,  
15 and there was a technical meeting that was held in  
16 Boulder where Sara McMillen and, I believe, John  
17 Connor attended.

18 Q. And you were present at that meeting?

19 A. Yes.

20 Q. And were you present at any other time  
21 when this PowerPoint, Exhibit 904, was used in a  
22 presentation?

23 A. That I don't recall.

24 Q. Would you find Exhibit 788 in your pile  
25 as a prior exhibit that was used yesterday. It's  
0089

1 handwritten notes from the January 15, 2008, meeting  
2 outside of Quito. It says 1/15/08 in the upper left.

3 A. Okay.

4 Q. Look at the page labeled  
5 STRATUS-NATIVE 008859.

6 A. Okay.

7 Q. Do you see where under "Pablo discussion.  
8 Parameters and norms," and then, "Which standard to  
9 use for TPH"?

10 A. Yes.

11 Q. Yesterday when we discussed this exhibit  
12 you testified that these standards, 100, 1,000, 2,500  
13 referred to concentrations of TPH in groundwater; do  
14 you remember that?

15 A. I remember saying that they were in  
16 water. But it might be soil.

17 Q. In reflecting on that testimony now in  
18 this document, is it your understanding that those are  
19 references on STRATUS-NATIVE 008859 to soil  
20 standards --

21 A. Yes.

22 Q. -- for TPH?

23 A. Yes.

24 Q. Thank you. On slide 26 of Exhibit 904,  
25 the PowerPoint presentation -- I'm sorry, it's the one  
0090

1 that says "TPH in soil"?

2 A. This one?

3 Q. Yes.

4 A. Okay.

5 Q. Underneath that it says, "Ecuador  
6 standard: 1,000 mg/kg TPH." Do you see that?

7 A. Yes.

8 Q. We're on the same page. Did you prepare  
9 this slide?

10 A. No.

11 Q. The Ecuador standard that's referred to  
12 there, 1,000 milligrams per kilogram TPH, that's the  
13 standard for sensitive ecosystems in Ecuador, correct?

14 A. I believe that's correct.

15 Q. And is that standard taken from decreto  
16 1215, do you know offhand?

17 A. I believe so.

18 Q. In your work in Ecuador, have you come to  
19 an understanding that TPH cleanup standards in Ecuador  
20 vary based on land use?

21 A. Yes.

22 Q. So there's a different standard depending  
23 on whether the area in question is a sensitive  
24 ecosystem or agricultural use or industrial use; is  
25 that right?

0091

1 A. I know that's true for agriculture and  
2 sensitive ecosystems, I'm not sure about industrial  
3 areas.

4 Q. In your -- to your knowledge, has any  
5 part of the former concession area been designated a  
6 sensitive ecosystem for the purposes of decreto 1215  
7 cleanup standards?

8 A. I don't know.

9 Q. Are you aware that Mr. Villacreces has  
10 worked for Garner Environmental?

11 A. No.

12 Q. Are you aware that Mr. Villacreces has  
13 worked for companies doing remediation in the former  
14 concession area for PetroEcuador?

15 A. I know he was working for PetroEcuador.  
16 I don't know what he was doing.

17 Q. Do you know what DINAPA is, D-I-N-A-P-A,  
18 the acronym?

19 A. D-I-N-A?

20 Q. D-I-N-A-P-A.

21 A. DINAPA. I've heard that acronym. I  
22 don't recall what it means.

23 Q. Is it -- are you familiar with the agency  
24 in Ecuador that is sort of the equivalent of the US  
25 EPA?

0092

1 A. There's a Departamento del Ambiente, and  
2 I believe that's as close to our EPA as they get.

3 Q. I'm sorry, could you repeat the name?  
4 A. The Department of the Environment.  
5 Q. The agency that's referred to by the  
6 acronym DINAPA of the Ecuadorian government, are you  
7 aware that that agency is charged with the  
8 responsibility of approving remediation of petroleum  
9 production facilities?

10 A. No. I don't know what that stands for,  
11 DINAPA.

12 Q. Are you aware that the Ecuador government  
13 has approved PetroEcuador's remediation if TPH is less  
14 than 2,500 ppm in soil?

15 A. No.

16 Q. Are you aware of ongoing remediation  
17 activities in the former concession area by  
18 PetroEcuador?

19 A. Yes.

20 Q. Are you aware of what the standard for  
21 remediation of soils are in that ongoing remediation?

22 A. No.

23 Q. In drafting the materials that Stratus  
24 drafted that included a cleanup standard for TPH in  
25 soils, did anyone at Stratus do any research or review  
0093

1 of the standards being used in the then ongoing  
2 remediation in the former concession area by  
3 PetroEcuador?

4 MR. BEIER: Objection, foundation. You  
5 can answer.

6 A. I know that some of us at Stratus  
7 reviewed work that was being done by PetroEcuador for  
8 remediation of the concession. I know that we had  
9 some information on background levels from that. I  
10 don't recall right now standards for cleanup.

11 Q. (BY MR. CRIMMINS) And do you recall what  
12 determination you made concerning what the background  
13 level of TPH is in the former concession area?

14 A. What I recall right now is that they had  
15 an approach where, you know, it was what percent of  
16 the site had been cleaned up, and those were  
17 associated with different TPH concentrations. And to  
18 have 100 percent cleanup of the site, I believe,  
19 resulted in a TPH concentration of 100 parts per  
20 million.

21 Q. When you say "they had an approach," who  
22 are you referring to as "they"?

23 A. PetroEcuador. PetroEcuador.

24 Q. Are you aware of any requirement that  
25 PetroEcuador clean up any site to a TPH concentration  
0094

1 of 100 parts per million at anyplace in Ecuador?

2 A. I am just aware of what I told you. I

3 don't know if they were required to or not.

4 Q. When you say 100 percent clean up, is  
5 that -- are you referring to a clean up to background  
6 levels?

7 A. That's what it appeared to be.

8 Q. Are you aware of any clean up or  
9 remediation effort in Ecuador by anyone at any time at  
10 which the requirement was to clean up or remediate to  
11 background levels of TPH?

12 A. No. But I'm not very aware of all the  
13 efforts that are going on in Ecuador for remediation.

14 Q. Mr. Villacreces -- Luis Villacreces was a  
15 JI perito for the plaintiffs at certain sites; is that  
16 correct?

17 A. Yes.

18 Q. Are you aware that in Mr. Villacreces'  
19 judicial inspection perito report for Conanaco 6, he  
20 stated that the 1,000 ppm TPH standard from decreto  
21 1215 would apply only to a site within the buffer zone  
22 of Yasuni National Park?

23 A. No --

24 MR. BEIER: Objection, foundation.

25 A. -- I'm not aware of that.

0095

1 Q. (BY MR. CRIMMINS) In your -- you  
2 testified earlier that you were aware that  
3 Mr. Villacreces has worked for PetroEcuador, correct?

4 A. I believe so, yes.

5 Q. Did he work for PetroEcuador while he was  
6 working on the plaintiffs' team for the peritaje  
7 global report -- peritaje global work in 2007?

8 A. I don't believe so. I believe it was  
9 after that.

10 Q. You believe he worked for PetroEcuador  
11 after that time?

12 A. I believe so, but I'm not sure.

13 Q. Look at Stratus -- sorry. This is a new  
14 exhibit.

15 (Deposition Exhibit 679 was marked.)

16 Q. I'm handing you what's been marked as  
17 Exhibit 679. Exhibit 6791 a one-page document bearing  
18 Bates stamp STRATUS-NATIVE 066073. It's an e-mail  
19 from Doug Beltman to Juan Pablo Saenz, dated March 4,  
20 2008, "Re: Ecuador Decreto 1215," and at the bottom  
21 of that document is a prior e-mail from Mr. Saenz to  
22 Doug Beltman. Do you see that?

23 A. Yes.

24 Q. In the e-mail at the bottom of the first  
25 page -- first, have you ever seen this document

0096

1 before?

2 A. It looks like the one on the bottom is

3 after -- although, I guess with the time change,  
4 maybe.

5 Q. Are you referring to the e-mail at the  
6 top indicates it was sent at 9:25 a.m., and the e-mail  
7 at the bottom indicates it was sent at 9:31 a.m.?

8 A. Yes. It's probably because of the time  
9 difference.

10 Q. I think that's right.

11 A. Okay.

12 Q. Have you seen this document before?

13 A. No.

14 Q. In the e-mail at the bottom Mr. Saenz  
15 says, "Regarding your question about a definition of  
16 'ecosistemas sensibles,' the only definition or  
17 explanation available can be found at the footnotes of  
18 the table." Do you see that?

19 A. Yes.

20 Q. And then he cites a definition of  
21 ecosistemas sensibles; do you see that?

22 A. Yes.

23 Q. Do you understand ecosistemas sensibles  
24 to mean sensitive ecosystems?

25 A. Yes.

0097

1 Q. We'll look at decreto 1215 in a minute,  
2 but can you translate for us at this moment here on  
3 the record the definition of ecosistemas sensibles  
4 cited by Mr. Saenz in Exhibit 679?

5 A. "Sensitive ecosystems: Values of  
6 permissible limits for the protection of sensitive  
7 ecosystems such as the Patrimonio -- National  
8 Patrimonio Natural Areas and others identified in the  
9 corresponding environmental study."

10 Q. And then Mr. -- thank you. And then  
11 Mr. Saenz goes on to say, "What this means is that  
12 'ecosistemas sensibles' can be applied to areas that  
13 could be considered 'national parks' in the US (we  
14 have a list of such areas in Ecuador, and we call them  
15 'Patrimonio Nacional de Areas Naturales.' The Yasuni  
16 Natural Park would be one of these)." Do you see  
17 that?

18 A. Yes.

19 Q. Do you agree with Mr. Saenz' description  
20 of ecosistemas sensibles in Exhibit 679?

21 MR. BEIER: Objection, form, foundation.

22 A. I don't know about this, so I don't -- I  
23 can't say.

24 Q. (BY MR. CRIMMINS) Have you ever seen the  
25 list of ecosistemas sensibles referred to by Mr. Saenz

0098

1 in Exhibit 679?

2 A. No.



3 Q. Then Mr. Beltman responds in Exhibit 679.  
4 After some personal comments, he says, "Thanks for the  
5 info on the 'ecosistemas sensibles.' Somewhere along  
6 the line someone decided that the 1,000 milligrams per  
7 kilogram TPH standard for 'ecosistemas sensibles' is  
8 the one to use for our case, and I'm trying to write  
9 up a justification for it. Since the area isn't  
10 officially a Patrimonio Nacional de Areas Naturales,  
11 we need to find a way to still justify the  
12 1,000 milligrams per kilogram. Would you be able to  
13 ask Pablo or Luis about their thoughts as to how we  
14 can justify using the 1,000 milligrams per kilogram?  
15 Maybe there is some room in the Estudio Ambiental???"  
16 Do you see that?

17 A. Yes.

18 Q. Did you have any discussions with  
19 Mr. Beltman concerning coming up with a justification  
20 for using the 1,000 milligram per kilogram TPH  
21 standard in the material you were drafting -- "you"  
22 meaning Stratus -- were drafting in connection with  
23 the peritaje global?

24 A. I don't recall any right now.

25 Q. Do you recall any discussions with  
0099

1 anybody on the plaintiffs' team concerning justifying  
2 using 1,000 milligram per kilogram cleanup -- TPH  
3 cleanup standard in soil in connection with the  
4 peritaje global?

5 A. I remember that we considered it and  
6 discussed it, but I don't remember exactly what the  
7 discussion was and what the justifications were at  
8 this point.

9 Q. Who decided to use the 1,000 milligram  
10 per kilogram TPH soil cleanup standard in the  
11 materials Stratus drafted to ultimately be given to  
12 Mr. Cabrera?

13 A. I don't know.

14 Q. Do you recall anyone raising any concern  
15 that -- or objection that the 1,000 milligram per  
16 kilogram standard was inconsistent with Ecuadorian law  
17 for the area covered by the former concession area?

18 A. No.

19 Q. Can you think of any reason why the  
20 remediation sought by the plaintiffs from TexPet of  
21 pits in the concession area should be subject to a  
22 more stringent standard than the ongoing clean up  
23 being performed by PetroEcuador of pits in the same  
24 area?

25 MR. BEIER: Objection, form, foundation,  
0100

1 assumes facts not in evidence. You can answer.

2 A. I do not know very much about the

3 PetroEcuador cleanup, and I'm not sure at all that  
4 2,500 milligrams per liter is the standard. I just  
5 don't know. So I guess I can't answer that.

6 Q. (BY MR. CRIMMINS) Well, my question  
7 didn't have any reference to the standards. I'm going  
8 to try again.

9 A. Okay.

10 Q. Can you think of any reason why the  
11 remediation sought by the plaintiffs from TexPet of  
12 pits in the concession area should be subject to a  
13 more stringent standard, whatever that standard may  
14 be, used in the ongoing cleanup being performed by  
15 PetroEcuador of pits in the same area?

16 MR. BEIER: Same objections.

17 A. And the same answer. I think it does --  
18 it's important to know what that standard would be for  
19 me to answer that question, and I don't know what it  
20 is.

21 Q. (BY MR. CRIMMINS) Why would it be  
22 important to know that, the answer to that question?

23 A. Because if the standard is, you know,  
24 lower, then I, you know, would have a different answer  
25 than if it was higher.

0101

1 Q. Well, can you think of any reason why  
2 Chevron should be subject to a cleanup standard for  
3 pits in the former concession area that is different  
4 than the cleanup standard that PetroEcuador is subject  
5 to?

6 MR. BEIER: Same objections, also  
7 argumentative.

8 A. I don't know.

9 Q. (BY MR. CRIMMINS) In other words, you  
10 cannot think of any reason why that should be the  
11 case?

12 MR. BEIER: Same objections, also asked  
13 and answered.

14 A. It's not really that, I just don't feel I  
15 can answer that question the way it's asked.

16 Q. (BY MR. CRIMMINS) Can you think of any  
17 scientific reason why any two operators operating in  
18 the same area anywhere should be required to remediate  
19 to different standards?

20 MR. BEIER: Object to the form.

21 A. There could be reasons, you know. If an  
22 area was -- you know, had people living closer to it  
23 or endangered or threatened species or high  
24 biodiversity, there could be lots of reasons why you  
25 would have different cleanup standards.

0102

1 Q. Well, my question supposed that the two  
2 operators were operating in the same area. So can you

3 think of any scientific reason why two operators  
4 operating in the same area should be required to  
5 remediate to different standards?

6 MR. BEIER: Object to the form.

7 A. I don't think it's so much a question of  
8 one operator versus another, it's different locations  
9 and their different sensitivities. If it was exactly  
10 the same well site, then no. I suppose it should be  
11 the same. But if it was in a different area, then  
12 other considerations would apply.

13 Q. (BY MR. CRIMMINS) Do you have any  
14 indication or understanding that the standards --  
15 strike that.

16 To your knowledge, have plaintiffs ever  
17 suggested that different well sites or different pits  
18 throughout the concession area should be subjected to  
19 different standards?

20 A. Not that I know of.

21 Q. Do you have any understanding that  
22 remediation activities by PetroEcuador in the former  
23 concession area have been subjected to different  
24 standards?

25 A. That I don't know. You know, it also

0103

1 says that you can do a site-specific environmental  
2 study. That's another way that you could have a  
3 different standard. I think that's what Doug was  
4 referring to, you know, in the last question here.  
5 Maybe there is some room in the Estudio Ambiental.

6 Q. To your knowledge, has there ever been a  
7 site-specific environmental study done in the former  
8 concession area?

9 A. To my knowledge, no.

10 Q. Yesterday we had a brief discussion of  
11 background concentrations, and I think you clarified  
12 that in the US background is considered -- for TPH is  
13 considered 100 ppm; is that correct?

14 A. No, I don't think I said that. I think  
15 what we talked about was 100 ppm could be a background  
16 concentration, and that the detection limit is awful  
17 close to that.

18 THE VIDEOGRAPHER: Would you repeat that  
19 last part, I didn't get it.

20 A. Oh, I'm sorry. I believe what I said is  
21 yesterday we had a conversation about 100 ppm -- I  
22 don't believe I said that 100 ppm was a background in  
23 the United States, rather that 100 ppm could be a  
24 background concentration, that it was close to the  
25 detection limit for the method.

0104

1 Q. (BY MR. CRIMMINS) Okay. If you could  
2 look back to Exhibit 788, which were the notes that we

3 just referred to from -- your notes from the  
4 January 15, 2008, meeting on page  
5 STRATUS-NATIVE 008859.

6 A. Okay. 8859, hold on. Okay.

7 Q. Where it says, "100 US background." Do  
8 you see that?

9 A. Yes.

10 Q. What does that refer to?

11 A. I believe what that means is US standard  
12 in some states/background. Or background.

13 Q. To your knowledge, what is the -- what is  
14 the detection limit for TPH in soils using the best  
15 analytical methods available?

16 A. I believe it's, you know -- the best  
17 method available. I believe it's in the 50 to 100 ppm  
18 range. And part of that is because if you have plant  
19 materials and other materials like that, you can get  
20 some contribution toward TPH from that. So that's my  
21 understanding.

22 Q. So plant materials -- is it the case that  
23 plant materials contain petroleum hydrocarbons that  
24 contribute to a TPH reading, or is it that plant  
25 materials have natural plant oils that are incorrectly  
0105

1 identified as TPH using standard TPH analytical  
2 methods?

3 A. I don't know. But I know that that's --  
4 it's difficult to distinguish concentrations below  
5 that using, you know, usual methods for TPH.

6 Q. Are you aware of what the TPH is for  
7 shredded coconut?

8 A. No.

9 Q. No?

10 A. No.

11 Q. Have you seen palm plantations on your  
12 field visits to the former concession area?

13 A. Yeah. You usually fly over some on the  
14 way into Lago Agrio.

15 Q. And palm oil contains TPH, right?

16 A. That I don't know.

17 Q. Are you aware of the TPH level of  
18 petroleum jelly?

19 A. No.

20 Q. Do you have an estimate? A range?

21 A. No.

22 Q. Would it surprise you to learn that the  
23 TPH of petroleum jelly is approximately 750,000 ppm?

24 MR. BEIER: Object to the form,  
25 foundation, assumes facts not in evidence.  
0106

1 A. I don't know that.

2 Q. (BY MR. CRIMMINS) Does that sound

3 plausible to you?

4 MR. BEIER: Same objections.

5 A. I don't know if petroleum jelly is made  
6 out of petroleum products, sure.

7 Q. (BY MR. CRIMMINS) And the asphalt on the  
8 streets of Denver, do those contain concentrations of  
9 TPH?

10 A. I don't know.

11 Q. Asphalt is a petroleum product, right?

12 A. Yes. But it's very high molecular  
13 weight, and it depends on what range of, you know, TPH  
14 you're measuring in the analysis.

15 Q. But it does contain TPH, right?

16 A. Yes.

17 Q. In concentrations in the hundreds of  
18 thousands, regardless of how you measure it, right?

19 A. I don't know. I said I don't know.

20 Q. Does the TPH of a substance by itself  
21 tell you whether a substance is toxic?

22 A. No.

23 MR. CRIMMINS: I'll mark a new exhibit.  
24 This is Exhibit 680.

25 (Deposition Exhibit 680 was marked.)

0107

1 Q. (BY MR. CRIMMINS) Exhibit 680 bears  
2 Bates number STRATUS-NATIVE 043293. It's an August 12  
3 e-mail from Doug Beltman to Ann Maest, Jennifer Peers,  
4 and Josh Lipton. Subject line is "Crude Degradation."  
5 Do you see that?

6 A. Yes.

7 Q. Do you see the last line of this  
8 e-mail -- do you recall seeing this e-mail before?

9 A. No.

10 Q. The last line says, "Chevron will point  
11 to the Air Force study as proof that TPH-based  
12 standards are overprotective (87 percent of the sites  
13 that need cleanup based on TPH don't need it when you  
14 look at the chemistry in more detail)." Do you see  
15 that?

16 A. Yes.

17 Q. Do you recall having discussions  
18 internally at Stratus concerning TPH-based standards  
19 being overprotective?

20 A. Not specifically. I do recall reading  
21 the Air Force study.

22 Q. What did the Air Force study say?

23 A. Well, aside from what it says here, I  
24 can't remember right now, but -- I believe it looked  
25 at a breakdown of the specific components of TPH.

0108

1 That's all I recall right now.

2 Q. And that's because -- that's what --

3 looking at the components of TPH is the same as  
4 looking at the chemistry in more detail, as  
5 Mr. Beltman noted here, right?

6 A. Yes.

7 Q. The reason for that -- I think we talked  
8 about this yesterday -- is that some components of TPH  
9 are toxic or carcinogenic such as benzyne, while  
10 others are not, correct?

11 A. Right.

12 Q. So TPH by itself, would you agree, is not  
13 a meaningful standard for determining whether any  
14 remediation is necessary to protect human health or  
15 the environment?

16 MR. BEIER: Objection, form,  
17 argumentative.

18 A. TPH by itself does not give a good  
19 indication of the degree of toxicity, but it is  
20 something that's easy to measure and is often related  
21 to toxicity in the presence of petroleum hydrocarbons,  
22 so . . .

23 Q. (BY MR. CRIMMINS) Because it's easy to  
24 measure, isn't it true that it's often used as a  
25 screening tool?

0109

1 A. Yes.

2 Q. And what is a screening tool, as you  
3 understand it?

4 A. A screening tool is something that you  
5 would do when you first are evaluating a site. For  
6 example, for remediation, if you don't have a lot of  
7 information, and then you would use that information  
8 to design more in-depth studies.

9 Q. So are you aware of remediations in which  
10 the TPH is used for -- to determine whether or not any  
11 further studies are necessary?

12 A. Could you repeat that?

13 Q. Sure. I'll ask a different question  
14 because that wasn't a very good one.

15 So are you aware of sites at which TPH  
16 readings are used as a screening tool to determine  
17 whether a more in-depth study is required before  
18 making a remediation determination?

19 A. I know that that's done routinely. I  
20 can't think of specific sites right now, yes.

21 Q. In the presentation -- the PowerPoint  
22 presentation, Exhibit 904, it's the same slide we were  
23 looking at previously. Again, it's not numbered, but  
24 it says, "TPH in Soil," and is sort of two-thirds of  
25 the way back?

0110

1 A. Here is one.

2 Q. "TPH in Soil." Then it says, "Ecuador

3 standard: 1,000 milligrams per kilogram TPH."

4 A. I turned right to it before; but now, of  
5 course . . .

6 Q. I think it's a little earlier than that.

7 A. Okay. Okay.

8 Q. The third bullet point -- the second  
9 bullet point under "US standard" says, "Recent shift  
10 toward regulation of BTEX and away from TPH." Do you  
11 see that?

12 A. Yes.

13 Q. Do you agree there has been a regulatory  
14 shift in the US away from using TPH as a remediation  
15 standard in favor of BTEX?

16 A. Yes.

17 Q. When did that shift start?

18 A. I don't know. Probably over the last ten  
19 years or so.

20 Q. And BTEX is benzene, toluene,  
21 ethylbenzene, and xylene, right?

22 A. Yes.

23 Q. Those are potentially components of TPH,  
24 right?

25 A. Yes.

0111

1 Q. And do you know why there has been a  
2 regulatory shift in favor of BTEX and away from TPH in  
3 the US?

4 A. I think in part it's because the  
5 analytical techniques have improved, and in part to  
6 get more specificity about cleanup and toxicity.

7 Q. Is it fair to say that the BTEX -- that  
8 BTEX are the constituents in TPH that are of the most  
9 concern in terms of protecting human health and the  
10 environment?

11 A. For refined petroleum products, yes.

12 Q. What about for crude oil?

13 A. I don't know.

14 Q. Do you know what the total -- on that  
15 same slide it says, in the third point,  
16 "100 milligrams per kilogram TPH common old standard."  
17 Do you see that?

18 A. Yes.

19 Q. Do you know who made the determination to  
20 include that statement in this PowerPoint?

21 A. No.

22 Q. Is that a reference to a screening  
23 standard or a remediation standard?

24 A. I believe to a remediation standard.

25 Q. When, to your knowledge, was

0112

1 100 milligrams per kilogram TPH in soil a common  
2 remediation standard in the US?

3 A. This isn't something that I worked on for  
4 the case, but Mark Quarles -- I believe it was Mark  
5 Quarles put together a list of state standards for TPH  
6 for as many states as he could find, and that's where  
7 that comes from.

8 Q. And for what year -- what years did those  
9 standards apply to in the package that Mr. Quarles put  
10 together?

11 A. I don't recall exactly. What I do recall  
12 is that there were -- there was like a review article  
13 in one of the petroleum journals that -- and I believe  
14 it was in the '90s -- that compiled a number of those  
15 standards. So beyond that, I don't know the answer to  
16 your question.

17 Q. Are you familiar with the total petroleum  
18 hydrocarbon criteria working group?

19 A. I've heard that.

20 MR. CRIMMINS: I'm going to mark a new  
21 exhibit, 681.

22 (Deposition Exhibit 681 was marked.)

23 Q. (BY MR. CRIMMINS) Exhibit 681 is volume  
24 1 of the Total Petroleum Hydrocarbon Criteria Working  
25 Group Series titled "Analysis of Petroleum  
0113

1 Hydrocarbons in Environmental Media." Do you see  
2 that?

3 A. Yes.

4 Q. Are you familiar with this publication?

5 A. I know that I've read publications by the  
6 TPH criteria working group, but I can't recall if I've  
7 seen this one in particular.

8 Q. What is your understanding of what the  
9 total petroleum hydrocarbon criteria working group is?

10 A. I believe it's largely a collection of  
11 petroleum industry and petroleum association groups.

12 Q. Was anyone at Stratus ever a member of  
13 this group, to your knowledge?

14 A. No.

15 Q. If you turn to the page that's a little  
16 Roman ix. It's the preface.

17 A. Okay.

18 Q. In the first paragraph it says, "The  
19 Working Group convened in 1993 to address the large  
20 disparity among cleanup requirements being used by  
21 states at sites contaminated with hydrocarbon  
22 materials such as fuels, lubricating oils and crude  
23 oils. These requirements usually focus on total  
24 petroleum hydrocarbon (TPH), with numerical standards  
25 ranging from tens to tens of thousands of milligrams  
0114

1 of TPH per kilogram of soil. Recognizing that these  
2 standards are not based on a scientific assessment of



3 human health risk, Working Group members established  
4 the following goal for their effort:

5 "To develop scientifically defensible  
6 information for establishing soil cleanup levels that  
7 are protective of human health at petroleum  
8 contaminated sites." Do you see that?

9 A. Yes.

10 Q. Do you have any reason to disagree with  
11 the statement that as of 1993 numerical standards for  
12 TPH ranged from tens to tens of thousands of  
13 milligrams per kilogram of soil?

14 MR. BEIER: Objection, form, foundation.

15 A. No.

16 Q. (BY MR. CRIMMINS) To your knowledge, has  
17 anyone working for Stratus published any articles  
18 concerning the use of TPH as a cleanup standard?

19 A. I don't believe they have.

20 Q. To your knowledge, has anyone at Stratus  
21 ever published any article addressing the use of TPH  
22 as a screening level?

23 A. I don't believe so.

24 Q. Are you aware of any US EPA guidance or  
25 screening levels for TPH in soil?

0115

1 A. I'm not aware of any. I just -- I don't  
2 know.

3 Q. Are you aware that the US EPA has  
4 approved site closures with more than 10,000 ppm TPH  
5 after risk assessment has been conducted?

6 MR. BEIER: Object to the form, assumes  
7 facts not in evidence. You can answer.

8 A. Could you repeat that, please.

9 Q. (BY MR. CRIMMINS) Sure. Are you aware  
10 that the US EPA has approved site closures in the US  
11 with more than 10,000 ppm of TPH present in the soil  
12 after a risk assessment has been conducted?

13 A. I have some familiarity with that, and my  
14 recollection is that that is in areas that were not  
15 close to people and where the depth to groundwater was  
16 above a certain depth -- below a certain depth from  
17 the surface.

18 Q. So your understanding is that the  
19 approval of the EPA of remediation depends in part on  
20 site-specific circumstances such as depth to  
21 groundwater and the proximity to populations; is that  
22 right?

23 A. Yes.

24 Q. And does it also typically depend, in  
25 your experience, on a risk assessment that includes a

0116

1 determination of the chemical makeup of the TPH that's  
2 present in the soil?

3 A. That I don't know.

4 Q. Does it also include the analysis of  
5 potential exposure pathways from hydrocarbons left in  
6 the soil?

7 A. Yes, that would be part of a risk  
8 assessment.

9 Q. In states with -- in this regulatory  
10 shift towards risk-based petroleum cleanup levels, is  
11 it fair to say that the need for a cleanup typically  
12 depends on the presence of benzene, ethylene, toluene,  
13 or xylene?

14 A. The regulatory shift hasn't been to  
15 risk-based levels necessarily. What I discussed  
16 before was that the shift has been toward analyzing  
17 for individual components, chemical components, rather  
18 than TPH. So -- could you read the rest of the  
19 question again?

20 Q. Sure. Given that clarification, is it  
21 your understanding that the reason for that shift is  
22 because certain individual components of TPH present  
23 more risk to human health and the environment than  
24 other components of TPH?

25 A. As I said before, I think it's a  
0117

1 combination of improved analytical techniques and  
2 concern about toxicity of individual components.

3 Q. Did you ever have any discussions at  
4 Stratus or with any members of the plaintiffs' team on  
5 the subject of using -- of sampling for BTEX or using  
6 BTEX as a criteria for the cleanup in the materials  
7 that you, Stratus, drafted with regard to remediation  
8 of the concession area in Ecuador?

9 MR. BEIER: Object to the form. Also  
10 object to the characterization, "you, Stratus." She's  
11 not a Rule 30(b) witness. You can answer as to  
12 individual.

13 A. That was very long. Could you break that  
14 up into maybe a couple parts, or rephrase?

15 Q. (BY MR. CRIMMINS) Did you ever have any  
16 discussions at Stratus-- with anyone at Stratus about  
17 using a remediation standard other than TPH in the  
18 materials you drafted regarding the Ecuador  
19 litigation?

20 A. Not that I recall, no.

21 Q. Given the regulatory shift that you  
22 recognize in your testimony, can you explain why that  
23 was never discussed with regard to the Ecuador matter?

24 A. I know that we talked about analyzing  
25 samples for BTEX, but why it was -- the question is  
0118

1 why it was never discussed --

2 Q. Right.

3 A. -- to go with individual? I don't know.

4 Q. Did you ever discuss using risk-based  
5 cleanup standards?

6 A. No.

7 Q. Is it fair to say that the -- that in  
8 using a TPH-based cleanup standard, the lower the  
9 concentration of TPH to be remediated to, the more  
10 expensive the remediation would be?

11 A. Yes, because it would include more areas  
12 that would need to be remediated.

13 MR. CRIMMINS: Let's mark Exhibit 682.  
14 (Deposition Exhibit 682 was marked.)

15 Q. (BY MR. CRIMMINS) Exhibit 682 is an  
16 e-mail exchange. The e-mail at the top of the page is  
17 from Ann Maest to ampage, Aaron Marr Page, Doug  
18 Beltman, copy to Jennifer Peers, dated January 13,  
19 2010.

20 A. Yes.

21 Q. Have you seen this e-mail exchange  
22 before?

23 A. I remember it, yes.

24 Q. There is a reference to an attachment in  
25 the e-mail at the bottom from Doug Beltman, it says,  
0119

1 "Hey Aaron: Attached is the table of PEPDA cleanup  
2 numbers that Ann was referring to on the call." Do  
3 you see that?

4 A. Yes.

5 Q. Do you know whether you have a copy of  
6 that attachment?

7 A. I don't know. I remember that it was  
8 difficult trying to get that table, but I don't know  
9 if I have a copy of it.

10 Q. Okay. You remember looking at it at some  
11 point?

12 A. Yes.

13 Q. You write in your e-mail, "Hi Aaron - It  
14 looks like PEPDA does not accept a value higher than  
15 2,500 ppm TPH for their decontamination operation - if  
16 they measure concentrations higher, they would in  
17 theory keep trying to decontaminate the pit area." Do  
18 you see that?

19 A. Yes.

20 Q. And PEPDA there is a reference to what?

21 A. PetroEcuador, I believe. I know they  
22 changed their name. I believe it's PetroEcuador.

23 Q. At the time of this e-mail and -- well,  
24 is it your understanding that the PEPDA is, if not  
25 PetroEcuador, a unit of PetroEcuador that is charged  
0120

1 with remunerating --

2 A. Yes.

3 Q. -- PetroEcuador operations?

4 A. I believe that's right.

5 Q. Do you have an understanding that UMR is  
6 responsible for that today? Have you heard of that  
7 agency?

8 A. No.

9 Q. Okay. At the end of this e-mail you  
10 write, "Background TPH concentrations (because of the  
11 methods) seem to be in the 100 to 200 ppm range." Do  
12 you see that?

13 A. Yes.

14 Q. What did you mean by "because of the  
15 methods" in that statement?

16 A. That's what we were talking about  
17 earlier, that it's just difficult to get a reliable  
18 number under 100 ppm.

19 Q. So when you write, "Background TPH  
20 concentrations (because of the method) seem to be in  
21 the 100 to 200 ppm range," do you not mean that  
22 background TPH concentrations are in the 100 to 200  
23 ppm range?

24 A. If you measured background concentrations  
25 using the TPH method, you wouldn't -- that's the  
0121

1 concentration you would get. If you had more -- you  
2 know, a better method, I suppose, then you might  
3 measure low concentrations. So there could be a  
4 difference between what was actually there and what  
5 was measured.

6 Q. So using analytical techniques that are  
7 available today to measure TPH, is it your  
8 understanding that whether it's background or  
9 detection limits, the ability to measure TPH below the  
10 100, 200 ppm range is not possible?

11 A. That's my understanding.

12 Q. Okay. Do you know what ATSDR is?

13 A. Yes.

14 Q. What is ATSDR? It's not a quiz.

15 A. I don't remember.

16 Q. Do you understand ATSDR to be the US  
17 Agency for Toxic Substances and Disease Registry?

18 A. Yes.

19 Q. Is that the US agency that evaluates the  
20 health effects of exposure to hazardous substances?

21 A. I believe so.

22 Q. Are you aware of the ATSDR publication of  
23 the Public Health Profile on TPH?

24 A. I don't recall if I've seen that. I  
25 don't know.

0122

1 Q. Are you aware that the ATSDR concluded  
2 that the presence of TPH is not an indicator of risk

3 to human health or the environment?

4 MR. BEIER: Objection, form, assumes  
5 facts not in evidence. You can answer.

6 A. I don't know.

7 MR. CRIMMINS: I'll mark --

8 Q. (BY MR. CRIMMINS) Would you agree with  
9 the following statement, quote, The amount of TPH  
10 found in a sample is useful of the general indicator  
11 of petroleum contamination at a site. However, this  
12 TPH measurement or number tells us little about how  
13 the particular petroleum hydrocarbons in the sample  
14 may affect people, animals, and plants.

15 A. What is the source of that?

16 Q. I'm reading from Toxicological Profile  
17 for Total Petroleum Hydrocarbons, published by the US  
18 Department of Health and Human Services, Public Health  
19 Service Agency for Toxic Substances and Disease  
20 Registry, September 1999.

21 And the question is whether you agree  
22 with that statement?

23 MR. BEIER: Object to the form. You can  
24 answer.

25 A. As a general matter, yes.

0123

1 Q. (BY MR. CRIMMINS) Do you agree with the  
2 statement, "TPH itself is not a direct indicator of  
3 risk to humans or the environment"?

4 A. That was the second part of what you read  
5 me?

6 Q. It was a new quote. Do you want me to  
7 repeat it?

8 A. Isn't it awfully similar to the one  
9 before?

10 Q. Whether it is or not, do you agree with  
11 the statement, "TPH itself is not a direct indicator  
12 of risk to humans or to the environment"?

13 A. Yeah, in terms of quantifying risk,  
14 that's correct.

15 Q. Do you agree with the statement,  
16 "Petroleum hydrocarbons are the principal component in  
17 a wide variety of commercial products, e.g., gasoline,  
18 fuel oils, lubricating oils, solvents, mineral  
19 spirits, mineral oils, and crude oil"?

20 MR. BEIER: Object to form.

21 A. What was -- could you repeat that?

22 Q. (BY MR. CRIMMINS) Sure. Do you agree  
23 with the statement, "Petroleum hydrocarbons are the  
24 principal components in a wide variety of commercial  
25 products; for example, gasoline, fuel oils,

0124

1 lubricating oils, solvents, mineral spirits, mineral  
2 oils, and crude oil"?

3 A. Yes. Sorry.

4 MR. BEIER: Go ahead.

5 Q. (BY MR. CRIMMINS) Do you agree that had  
6 you evaluated the former concession area using a  
7 risk-based cleanup standard, you would not have been  
8 able to justify any remediation?

9 MR. BEIER: Objection, argumentative.

10 A. No.

11 Q. (BY MR. CRIMMINS) Are you aware of what  
12 the TPH-based criteria for pit closure is in Columbia?  
13 The country of Columbia neighboring Ecuador.

14 A. I know that Sara McMillen presented that  
15 once during the settlement meeting, and I think it's  
16 quite high, but I don't recall the number.

17 Q. Did you ever attempt to verify what the  
18 TPH-based criteria for pit closure was in countries  
19 neighboring Ecuador?

20 A. I personally did not.

21 Q. Did anyone at Stratus?

22 A. I don't know.

23 Q. Did anyone working for the plaintiffs?

24 A. I don't know.

25 Q. Do you know what the TPH-based criteria

0125

1 for pit closure is in Venezuela?

2 A. No.

3 Q. Do you know what the TPH-based standard  
4 for oil field cleanup is in Louisiana?

5 A. I believe it varies depending on  
6 site-specific conditions.

7 Q. Do you know what the lowest value is?

8 A. No.

9 Q. Do you know what the highest one is?

10 A. I believe it's 10,000 milligrams per  
11 kilogram.

12 Q. Did you -- do you know the TPH-based  
13 standard for oil field cleanup in Texas?

14 A. I don't recall right now.

15 Q. In determining the appropriate cleanup  
16 level to use in the materials you drafted for use in  
17 the Lago Agrio proceeding, did you consider the  
18 cleanup standards in other countries in the region of  
19 Ecuador?

20 A. No, but I don't think that's necessarily  
21 relevant.

22 Q. Why not?

23 A. Because Ecuador has a constitution that's  
24 very different than neighboring countries.

25 Q. What constitutional provision are you

0126

1 referring to?

2 A. The one that gives a right to nature and

3 its, you know, right to a clean and healthy  
4 environment. Those aren't the exact words, but it has  
5 a very different constitution, especially in the area  
6 of environment, than any of the surrounding countries.

7 Q. And is it your position that that  
8 constitutional provision applies to the regulation of  
9 remediation standards for oil field pits?

10 MR. BEIER: Objection, calls for a  
11 conclusion of law. You can answer.

12 A. Could you repeat that?

13 Q. (BY MR. CRIMMINS) Sure. Is it your  
14 position that the constitutional provision you just  
15 referred to applies to the regulation of remediation  
16 standards for oil field pits?

17 MR. BEIER: Same objection.

18 A. I don't have a position on that. I'm  
19 just stating that that's what the constitution --  
20 that's a part of the constitution.

21 Q. (BY MR. CRIMMINS) Is it fair to say that  
22 in evaluating the cleanup standard to be used in the  
23 materials drafted by Stratus for use in the Lago Agrio  
24 proceeding, the overarching goal was to use the most  
25 stringent standard possible that could be justified?

0127

1 MR. BEIER: Objection, argumentative.

2 A. I don't know.

3 Q. (BY MR. CRIMMINS) Is it fair to say that  
4 in evaluating the cleanup standard to be used in the  
5 materials drafted by Stratus for use in the Lago Agrio  
6 proceeding, the goal was to use a cleanup standard  
7 that would result in the most expensive remediation?

8 MR. BEIER: Same objection.

9 A. I don't believe so, but I don't know.

10 Q. (BY MR. CRIMMINS) Did Mr. Donziger ever  
11 explain to you that the goal with regard to the use of  
12 science in the Lago Agrio litigation was to justify as  
13 large a damage calculation as possible?

14 A. I don't recall him saying that.

15 MR. CRIMMINS: I'm going to mark  
16 Exhibit 683.

17 (Deposition Exhibit 683 was marked.)

18 Q. (BY MR. CRIMMINS) Exhibit 683 is a  
19 document produced by Mr. Donziger, Bates labeled  
20 DONZ00027310, page 1 of 14 through 14 of 14. It's a  
21 long e-mail exchange with multiple parts.

22 Ms. Maest, have you ever seen this e-mail  
23 exchange before? I'll note you're not on any of the  
24 e-mails. The question is, have you ever seen it?

25 A. No.

0128

1 Q. Would you look at page 9 of 14 of  
2 Exhibit 683. This document is printed in a strange

3 way, but you see in the middle of the page there is an  
4 e-mail from Dave Russell?

5 A. Yes.

6 Q. And in the e-mail, one, two, three, four,  
7 five paragraphs down it says "In time." Do you see  
8 that?

9 A. Yes.

10 Q. Mr. Russell writes, "In time, the  
11 petroleum will degrade and become essentially inert or  
12 go to something approaching asphalt." Do you see  
13 that?

14 A. Yes.

15 Q. Do you agree with that statement?

16 A. No.

17 Q. Why not?

18 A. Because we have petroleum present under  
19 sites that have been inactive for decades. So in  
20 groundwater that's certainly not true.

21 Q. Would you agree that Mr. Russell is more  
22 experienced in the remediation of crude oil sites than  
23 you are?

24 A. I'm not familiar with his experience.

25 Q. Would you look at page 10 of 14. And

0129

1 this is a continuation of the e-mail from Mr. Russell.  
2 At the very bottom of the page where it says, "There  
3 is yet another major issue." Do you see that?

4 A. Yes.

5 Q. He says, "Mother nature is not doing too  
6 bad a job of washing the contaminants from the pits.  
7 The data we are seeing so far strongly suggest that we  
8 have some very low levels of Diesel range organics, or  
9 DROs." Do you see that?

10 A. Yes.

11 Q. Do you agree with that statement?

12 A. No.

13 Q. Why not?

14 A. Because very high levels of DRO have been  
15 measured in soils under and around pits in the  
16 concession.

17 Q. Are you aware -- what are the different  
18 constituents that make up the diesel range organics?

19 A. Specifically, I don't know.

20 Q. If you don't know what make up diesel  
21 range organics, how do you know that there have been  
22 detected very high levels of diesel range organics in  
23 soils under or around pits in the concession area?

24 A. Because Chevron measured them. They  
25 broke their TPH into DRO and GRO, diesel range

0130

1 organics and gasoline range organics, and pretty  
2 consistently the diesel range organic concentrations



3 were higher than the gasoline range, which makes sense  
4 for crude oil. And there were -- Chevron or Texaco  
5 measured very high concentrations of those in and  
6 around pits and soils.

7 Q. Are you referring to sampling analysis  
8 done during the judicial inspections?

9 A. Yes.

10 Q. And are you aware of any regulatory  
11 limits that apply to diesel range organics in Ecuador?

12 A. No.

13 Q. So when you say "very high levels," it's  
14 very high in reference to what?

15 A. Anything. I mean, background. In other  
16 words, it makes up a large portion of the TPH, and  
17 there are TPH standards in Ecuador. I don't recall  
18 the numbers right now, but I'm pretty sure that, you  
19 know, there were plenty of samples, over  
20 1,000 milligrams or kilogram of just the diesel range  
21 organics.

22 Q. You're not aware of any regulatory limit  
23 that applies to that?

24 A. In?

25 Q. In Ecuador.

0131

1 A. In Ecuador? No.

2 Q. Have you read Dr. O'Reilly's published  
3 paper concerning oil contamination in Ecuador?

4 A. Could you give me some more information  
5 about it?

6 Q. Yeah, I will at the next break. Did  
7 plaintiffs, in any sampling done by plaintiffs, ever  
8 detect BTEX in any water or soil sample?

9 A. Sampling done by whom?

10 Q. The plaintiffs in the judicial  
11 inspections or any other sampling that the plaintiffs  
12 have performed, are you aware of any detection of  
13 benzene in any water or soil sample?

14 A. I don't believe they analyzed the samples  
15 for BTEX.

16 Q. Did Cabrera analyze samples for BTEX?

17 A. I don't recall right now.

18 Q. So sitting here today, you're not aware  
19 of any sampling done by plaintiffs or Cabrera that  
20 detected benzene, correct?

21 A. I don't recall any.

22 Q. Do you know what the half-life of benzene  
23 is in water?

24 A. The half-life? It really depends.

25 Q. What does it depend on?

0132

1 A. It depends on the presence of bacteria  
2 that would be degrading it, mostly.

3 Q. Would benzene tend to degrade or  
4 volatilize more quickly or more slowly in a tropical  
5 environment as compared to a dry environment?

6 MR. BEIER: Object to the form. You can  
7 answer.

8 A. Other things being equal, it would  
9 probably degrade faster because of the kinetics. But,  
10 I mean, there are a number of sites where benzene is  
11 present in groundwater and it's been there for over 50  
12 years, so it really depends.

13 Q. (BY MR. CRIMMINS) In your experience, is  
14 that typical or atypical?

15 A. I think it's fairly typical in deep  
16 groundwater.

17 Q. What about in surface water?

18 A. Surface water, I don't know. You don't  
19 see as much BTEX lasting in surface water.

20 Q. Have you read any of Mr. Russell's --  
21 that's Dave Russell -- publications?

22 A. I -- what do you mean by publications?

23 Q. Any of his books or articles?

24 A. No.

25 Q. Can you explain what methods are used to  
0133

1 evaluate the mobility of whether hydrocarbons in soil?

2 A. You mean just -- do you mean -- what do  
3 you mean?

4 Q. What are the methods that are used to  
5 evaluate whether hydrocarbons move in soil?

6 A. Well, in general you would collect soil  
7 and groundwater samples down gradient of the source,  
8 and look at the extent of contamination.

9 Q. And to your knowledge, have such methods  
10 been followed in the sampling of groundwater by the  
11 plaintiffs in the Lago Agrio case?

12 A. There has been some sampling of  
13 groundwater that's down gradient of pits, and they did  
14 find quite high concentrations of TPH in groundwater.

15 Q. How far down gradient from the nearest  
16 pit?

17 A. We talked about this a little bit  
18 yesterday. It's probably tens of feet at the most.  
19 It's not very far.

20 Q. And the pits that you just referred to,  
21 or the sample you just referred to which, in your  
22 words, the plaintiffs found quite high concentrations  
23 of TPH in groundwater, were any of those pits, pits  
24 that were remediated by TexPet in the RAP?

25 A. I don't recall.

0134

1 Q. Who did the groundwater sampling that you  
2 just referred to?

3 A. You mean which individuals?

4 Q. Yeah.

5 A. I don't know. It was in the judicial  
6 inspection reports, the perito ones.

7 Q. Have you read the reports filed by a man  
8 named Dr. Newell on the subject of mobility of whether  
9 crude's in soil that was submitted to the Lago Agrio  
10 court?

11 A. By Chevron?

12 Q. I believe it was by Chevron. I'm not  
13 certain. Yes.

14 A. Could you repeat that?

15 Q. Have you read Dr. Newell's reports on the  
16 topic of mobility of whether hydrocarbons in soil that  
17 was submitted to the Lago Agrio court?

18 A. I believe so.

19 Q. Do you recall what the conclusion of that  
20 report was?

21 A. No. Not sitting here right now, no.

22 Q. Have you met Paul Templet?

23 A. Yes.

24 Q. Who is Paul Templet?

25 A. He is a -- he used to, I believe, be the  
0135

1 head of the Louisiana -- one of the Louisiana agencies  
2 responsible for petroleum, and he's a consultant.

3 Q. He was a subcontractor to Stratus in  
4 connection with the Ecuador case; is that right?

5 A. I believe he was.

6 Q. He worked for plaintiffs, though, right?

7 A. Yes.

8 Q. Are you aware that parts of Mr. Templet's  
9 testimony in the Louisiana court case were  
10 incorporated into Cabrera's supplemental report with  
11 that attribution?

12 A. Could you repeat that?

13 Q. Sure. Are you aware that parts of  
14 Mr. Templet's testimony in a Louisiana court case were  
15 incorporated into Cabrera's supplemental report  
16 without attribution?

17 A. No.

18 Q. Was Stratus involved in obtaining  
19 material from Mr. Templet for incorporation into  
20 material submitted to Cabrera?

21 A. Submitted to the plaintiffs? Yes.

22 Q. What material?

23 A. There were a number of references that  
24 Mr. Templet had that he provided to us.

25 Q. Anything else?

0136

1 A. Not that I can think of.

2 Q. Yesterday you mentioned a couple of areas

3 of expertise that you consider yourself an expert in,  
4 and I just wanted to ask about a couple of others.

5 Do you consider yourself an expert on oil  
6 field practices regarding the use of pits, discharge  
7 of produced water, or flaring of casing gas?

8 A. No.

9 Q. Do you consider yourself an expert on the  
10 remediation of crude oil from oil field production  
11 sites?

12 A. No.

13 Q. Did someone recommend Paul Templet to  
14 Stratus?

15 A. I don't know. I'm not sure how we got  
16 his name.

17 Q. Have you worked -- did you work with  
18 Mr. Templet at any time prior to the Ecuador matter?

19 A. No.

20 Q. Have you ever met him before?

21 A. Before his involvement in the case?

22 Q. Yes.

23 A. No.

24 MR. CRIMMINS: It's 1:10. Do you want to  
25 take a lunch break?

0137

1 MR. BEIER: Sure.

2 THE VIDEOGRAPHER: This is the end of  
3 tape No. 2. Going off the record. The time is 1:09.

4 (Recess taken.)

5 THE VIDEOGRAPHER: We are back on the  
6 record. The time is 2 p.m. This is the beginning of  
7 tape number 3 in the deposition of Ann Maest, Volume  
8 2.

9 Q. (BY MR. CRIMMINS) Ms. Maest, before the  
10 lunch break we were -- we had talked a little bit  
11 about Paul Templet; do you remember that?

12 A. Yes.

13 Q. When did you first meet -- you have met  
14 Paul Templet in person?

15 A. Yes.

16 Q. How many times?

17 A. Just once.

18 Q. Where was that?

19 A. In Ecuador.

20 Q. When?

21 A. I believe it was sometime in 2007.

22 Q. Same time as what? Oh, sometime.

23 A. Sometime in 2007.

24 Q. Are you able to narrow it down any  
25 further than that?

0138

1 A. No.

2 Q. Was Mr. Templet in Ecuador at the time

3 you were in Ecuador for the March 3 meeting at which  
4 Mr. Cabrera was present?

5 A. No.

6 Q. Okay.

7 A. It was after that.

8 Q. It was after that that you met

9 Mr. Templet?

10 A. Yes.

11 Q. What was Mr. Templet doing in Ecuador  
12 when you met him?

13 A. I believe he was -- well, we were in  
14 the -- went to the jungle together, to the Napo  
15 Concession, and towards some of the sites, and some of  
16 the pits and the well sites. And I believe the  
17 purpose of his trip was to meet with the plaintiff  
18 team, have a field trip to some of the sites, and form  
19 an opinion about, you know, the condition of the site  
20 and possible -- think about possible remediation  
21 approaches.

22 Q. And were you traveling with Mr. Templet  
23 at this time?

24 A. I traveled with him from Quito to Lago  
25 Agrio and around in the concession.

0139

1 Q. Okay. Who else was with you on that trip  
2 around the concession?

3 A. I don't recall.

4 Q. Was Mr. Donziger with you?

5 A. I don't recall.

6 Q. Did Mr. Templet produce a report for  
7 plaintiffs of some kind?

8 A. I'm not sure.

9 Q. Is Mr. Templet involved in drafting any  
10 of the materials -- the summary report annexes that  
11 Stratus drafted in early 2008?

12 A. I don't believe so.

13 Q. When was the last time you spoke to  
14 Mr. Templet?

15 A. It's probably been at least two years.

16 Q. Other than with regard to the Lago Agrio  
17 case, have you worked with Mr. Templet since 2007?

18 A. No.

19 Q. Have you ever met with Pablo Fajardo in  
20 the United States?

21 A. Yes.

22 Q. How many times?

23 A. I can just think of one right now.

24 Q. And where was that?

25 A. He came to Stratus Consulting.

0140

1 Q. In Boulder?

2 A. In Boulder, yeah.

3 Q. Okay. Have you ever spoken to  
4 Mr. Fajardo on the phone at a time when your  
5 understanding was Mr. Fajardo was present in the US?

6 A. Not that I can recall. I don't think so.

7 Q. Have you ever drafted a letter to the  
8 SEC, or been involved in drafting a letter to the SEC  
9 regarding the Ecuador matter?

10 A. I don't think so.

11 MR. CRIMMINS: I'm going to mark  
12 Exhibit 684.

13 (Deposition Exhibit 684 was marked.)

14 Q. (BY MR. CRIMMINS) Exhibit 684 is Bates  
15 labeled Donziger 6991. The first page is page 1 of 1,  
16 and then the rest of the exhibit is Donziger 6992,  
17 page 1 of 8 through 8 of 8.

18 The first page is an e-mail from  
19 Mr. Donziger to Dan Firger, "Subject: Latest draft of  
20 letter," and then there is attachment, "SEC letter  
21 February 27.doc." Do you see that?

22 A. Yes.

23 Q. Do you know who Dan Firger is?

24 A. No.

25 Q. Ever heard of him?

0141

1 A. No.

2 Q. The attachment, as you'll see, is a  
3 letter -- or a draft of a letter to Christopher Cox,  
4 chairman of the US Securities and Exchange Commission;  
5 do you see that?

6 A. Yes.

7 Q. If you flip to the last page, this  
8 document was produced in native format to us from  
9 Mr. Donziger, along with the metadata, and the last  
10 page of the exhibit contains a printout of the  
11 metadata. And you can see on there that it indicates  
12 that the author of this document is Ann Maest; do you  
13 see that?

14 A. I see that it says that, yes.

15 Q. Do you have any understanding why your  
16 name would appear as the author in the metadata of  
17 this draft letter to the SEC?

18 A. No.

19 Q. In looking at the letter that's in  
20 Exhibit 684, have you ever seen that letter, or a  
21 draft of that letter before?

22 A. I can't recall right now if I saw this.  
23 I heard that there was going to be a letter to the  
24 SEC.

25 Q. Do you recall whether you ever reviewed

0142

1 or edited a letter to the SEC regarding the Ecuador  
2 matter?

3 A. No.

4 Q. Do you ever let other people at Stratus  
5 use your computer?

6 A. No.

7 Q. Has Steven Donziger, to your knowledge,  
8 ever used your computer?

9 A. Not that I know of.

10 Q. Thank you.

11 MR. CRIMMINS: I'll mark a new exhibit,  
12 Exhibit 685.

13 (Deposition Exhibit 685 was marked.)

14 Q. (BY MR. CRIMMINS) Exhibit 685 is Bates  
15 number Donziger 40421 -- actually, it's a one, two,  
16 three, four-page document. It's two sided, two pages,  
17 equaling four pages. Each page is labeled 40421.

18 It's an e-mail at the top of the chain on  
19 the first page from Steven Donziger to B Powers, re  
20 Fausto's request, dated May 29, 2006; do you see that?

21 A. Yes.

22 Q. If you look through the chain, you'll see  
23 that on the e-mail -- the first e-mail in the chain  
24 is -- starts on the back -- the second page of the  
25 exhibit, which is the backside of the first page, and  
0143

1 it's an e-mail from Bill Powers to Nathalie Weemaels;  
2 do you see that?

3 A. Yes.

4 Q. Do you see that you are cc'd there, among  
5 other people?

6 A. Yes.

7 Q. Do you have an understanding as to who  
8 Nathalie Weemaels is?

9 A. She is someone who worked with E-Tech in  
10 Ecuador. She lives in Ecuador.

11 Q. Was she a subcontractor to E-Tech?

12 A. I think she was paid by E-Tech. I'm not  
13 sure.

14 Q. What was her role in the Ecuador case  
15 while working for E-Tech?

16 A. I recall that she had, I think, some kind  
17 of a -- she was observing some sampling and wrote up a  
18 short report on that.

19 Q. Was she observing JI inspection sampling?

20 A. I think so.

21 Q. Was she observing the sampling by any  
22 particular party, or all of the sampling?

23 A. Let me just take a look at this. Could  
24 you repeat your last question, please.

25 Q. Sure. Was Ms. Weemaels observing the  
0144

1 sampling of any particular party, or all of the  
2 sampling taking place in the JI inspections?

3 A. Well, at a JI inspection both parties  
4 would sample, so it would be --

5 Q. Did her report address the sampling by  
6 both the plaintiffs' expert and Chevron's expert?

7 A. I believe -- I believe it was just  
8 Chevron's.

9 Q. Do you recall what sites Ms. Weemaels  
10 covered in her report on Chevron's JI inspection  
11 sampling?

12 A. No.

13 Q. Do you recall what the conclusions of  
14 that report were?

15 A. No.

16 Q. What is Ms. Weemaels' area of expertise?

17 A. I believe she's an agricultural engineer,  
18 something like that.

19 Q. Do you know what degrees she has? I  
20 don't think they got a verbal response from you.

21 A. Oh, I'm sorry. No. No.

22 Q. Looking at this Exhibit 685, in the first  
23 e-mail in the chain, which is on the second to last  
24 page of the exhibit, it's an e-mail from Nathalie  
25 Weemaels to -- it looks like to Bill Powers, or  
0145

1 someone named Bill; do you see that?

2 A. I don't see who it's to. The "Saludos  
3 Bill" is from the e-mail up above, right?

4 Q. It appears that way to me, too. Would  
5 you agree it's hard to tell where that starts or ends?

6 A. So I'm not really sure who her e-mail is  
7 to.

8 Q. Do you see where it says, "Now, about  
9 Texaco"?

10 A. Yes.

11 Q. Down from there, there are a few bullet  
12 points. The entry to those say, "As far as I see, the  
13 4 steps would be," and then there are four bullet  
14 points; do you see that?

15 A. Yes.

16 Q. The first bullet point says, "Assisting  
17 the preparation meeting that will be held with the  
18 technicians in Quito." Do you see that?

19 A. Yes.

20 Q. Do you know who the technicians are that  
21 are referred to there?

22 A. No.

23 Q. And then it says, "Field work one day  
24 before inspections and inspection days." Do you see  
25 that?

0146

1 A. Yes.

2 Q. Do you know what that's in reference to?



3 A. I believe that's -- she's saying that one  
4 day before the inspections would happen she would show  
5 up, and then she would be available for that day and  
6 the inspection days.

7 Q. And the next one says "Report." Do you  
8 see that?

9 A. Yes.

10 Q. And is that -- what is your understanding  
11 of what that report refers to?

12 A. I think it's a report with her  
13 observations about the sampling.

14 Q. And then the fourth bullet point says,  
15 "Presenting the report to Julio Gonzalez and asking  
16 his support to put pressure on the judge's experts."  
17 Do you see that?

18 A. Yes.

19 Q. Do you recall a report to Julio Gonzalez?

20 A. No.

21 Q. I asked you earlier today or yesterday  
22 whether you knew who Julio Gonzalez was; do you  
23 remember that?

24 A. Yes.

25 Q. I think you said you know and are

0147

1 familiar with that name, correct?

2 A. That's correct.

3 Q. Does reviewing this Exhibit 685 refresh  
4 your recollection at all about who Julio Gonzalez is?

5 A. No.

6 Q. Did the plaintiffs' team have a plan to  
7 use or hire people to put pressure on the  
8 court-appointed settling experts during the judicial  
9 inspection phase of the Lago Agrio case?

10 A. Not that I'm aware of.

11 Q. If you look above on the next e-mail,  
12 it's an e-mail from Bill Powers to Nathalie Weemaels,  
13 and you are cc'd on that, along with others; do you  
14 see that?

15 A. Yes.

16 Q. In that e-mail, a couple paragraphs down,  
17 it says, "Nathalie - Steven and all of us think  
18 Julio's involvement would be great, especially from  
19 the standpoint of putting pressure on the judge's  
20 experts to make decisions and not allow Chevron to  
21 sample in places where there is obviously no  
22 contamination." Do you see that?

23 A. Yes.

24 Q. Does that refresh your recollection at  
25 all about a plan to have Julio Gonzalez or others put

0148

1 pressure on the settling experts in the judicial phase  
2 of the Lago Agrio litigation?

3 A. No, it does not.

4 Q. Have you ever met any of the settling  
5 experts who were appointed by the Lago Agrio court in  
6 connection with any of the judicial inspections in the  
7 case?

8 A. No.

9 Q. Are you aware of anybody on the Lago  
10 Agrio plaintiffs' team meeting ex parte with any of  
11 those experts?

12 A. No.

13 Q. On the first page of Exhibit 685 there's  
14 an e-mail from Fausto Penafiel to Bill Powers; do you  
15 see that?

16 A. Yes.

17 Q. And in that e-mail it says, "I would  
18 appreciate very much, as we agreed a few days ago, if  
19 you could rewrite the veedores report, in line with  
20 the paper you presented to the judge and in such a way  
21 that it favours our case (as I have read the report,  
22 and it needs to be rewritten)." Do you see that?

23 A. Yes.

24 Q. Do you remember yesterday we talked about  
25 whether you were aware of any veedores project or  
0149

1 veedore project?

2 A. Right.

3 Q. And you said you were not aware of that,  
4 correct?

5 A. Right.

6 Q. Does reading this e-mail refresh your  
7 recollection at all about a report written by one or  
8 more persons who were referred to as veedores?

9 A. I suppose you could consider Nathalie a  
10 veedores, but I didn't -- I guess I didn't think of it  
11 as a veedores report or veedores plan.

12 Q. In what sense did you consider Nathalie  
13 Weemaels to be a veedores?

14 A. She was observing sampling that happened  
15 during the judicial inspection, so . . .

16 Q. Turn again to the third page of the  
17 exhibit, it's right at the top of the page, which is  
18 part of the e-mail from Bill Powers, dated March 22,  
19 2006. It says, "We are in contact with Ing. Fernando  
20 Reyes Cisneros, one of the two peritos 'veladores'  
21 which is keeping an eye on the judge's peritos." Do  
22 you see that?

23 A. Yes.

24 Q. Now, you know who Fernando Reyes is,  
25 correct?

0150

1 A. Is that the same Fernando Reyes? I know  
2 of Fernando Reyes, yeah.

3 Q. He was in attendance at the March 3  
4 meeting in Quito, correct?

5 A. Right.

6 Q. Are you familiar with any role Mr. Reyes  
7 played in the Lago Agrio litigation prior to March of  
8 2007?

9 A. No.

10 Q. In the first page, again, of the  
11 Exhibit 685, the e-mail from Fausto Penafiel, where it  
12 says, "If you could rewrite the veedores report in  
13 line with the paper you presented to the judge." Do  
14 you see that?

15 A. Yes.

16 Q. Are you aware of what paper Bill Powers  
17 presented to the judge that's referred to here?

18 A. I know that Bill wrote a report, like a  
19 short paper, for the plaintiffs, and I believe they  
20 submitted it to the courts -- the court. And I  
21 believe it was about oil field practices, kind of an  
22 historical overview on oil field practices. So I  
23 believe that's what he's referring to, but I don't  
24 know.

25 Q. Do you know if that paper that Mr. Powers  
0151

1 wrote was presented on the record in the Lago Agrio  
2 case?

3 A. I believe so.

4 Q. Are you aware of Mr. Powers ever meeting  
5 ex parte with any judge in the Lago Agrio case?

6 A. No.

7 Q. Have you ever met ex parte with any judge  
8 in the Lago Agrio case?

9 A. No.

10 (Deposition Exhibit 686 was marked.)

11 Q. I'm handing you Exhibit 686. Exhibit 686  
12 is Bates labeled DONZ40552 through 553, although it  
13 looks like a number of those pages are, again --  
14 contain the same Bates label. The first page of the  
15 Exhibit 686 is an e-mail from Steven Donziger to Aaron  
16 and Daria, "Subject: Memo for Kohn," dated June 15,  
17 2006; do you see that?

18 A. Yes.

19 Q. If you'll turn to -- first, do you recall  
20 me asking you earlier in this deposition whether  
21 you -- whether it had ever been contemplated that you  
22 would serve as the court-appointed global peritaje  
23 expert? Do you remember me asking you that?

24 A. Yes.

25 Q. And you said, no, you never heard of  
0152

1 that, right?

2 A. Right.

3 Q. Would you turn to page 4 of the  
4 attachment, it's got DONZ40553 on the bottom right.

5 A. The one that's --

6 Q. Yes.

7 A. Okay.

8 Q. At the top of that page, item C -- first  
9 I should point out that this attachment to the e-mail  
10 is a memo from Steven Donziger to Joe Kohn, "Re:  
11 Update on Ecuador case," dated June 15, 2006. Do you  
12 see that?

13 A. Yes.

14 Q. Mr. Donziger writes to Mr. Kohn in item C  
15 on page 4, "For the peritaje global, it is the judge  
16 who appoints the perito. This is more complicated  
17 than I thought, as Alberto had always indicated we  
18 could use our own perito. If Chevron influences this  
19 process, we will again confront the same problems we  
20 were facing in the inspections -- court-appointed  
21 peritos who cannot be trusted, or who are too weak to  
22 force the issue." Do you see that?

23 A. Yes.

24 Q. Then he says, "I am focusing significant  
25 attention in this area. Our idea is to get Dr. Ann  
0153

1 Maest of E-Tech or somebody trusted from the US to  
2 play this role, but it is unclear if we will be able  
3 to engineer that appointment." Do you see that?

4 A. Yes.

5 Q. Does that in any way refresh your  
6 recollection as to whether Mr. Donziger ever raised  
7 with you his idea of having you or someone else from  
8 the US play the role of the global perito?

9 A. I don't remember anything like that.

10 Q. The last sentence of that paragraph says,  
11 "This process as it is set up structurally poses a  
12 significant risk to us." Do you see that?

13 A. Yes.

14 Q. Did you ever have any conversations with  
15 Mr. Donziger in which he expressed the view that  
16 having an independent court-appointed expert posed a  
17 significant risk to the plaintiffs' case?

18 MR. BEIER: Object to the form. You can  
19 answer.

20 A. I don't know that that's what he's saying  
21 here, but -- could you ask your question again?

22 Q. (BY MR. CRIMMINS) Sure. Did you ever  
23 have any conversations with Mr. Donziger in which he  
24 expressed a view that having an independent  
25 court-appointed expert posed a significant risk to the  
0154

1 plaintiffs' case?

2 A. No.

3 Q. I'm going to hand you what was previously  
4 marked as Exhibit 938.

5 A. I have two copies.

6 Q. Oh, thanks. Exhibit 938 was previously  
7 marked in the Peers deposition. It is a memo of sorts  
8 titled, "Things to do next week in Quito," with a  
9 number of handwritten notes on it; do you see that?

10 A. Yes.

11 Q. Are these your handwritten notes?

12 A. Yes.

13 Q. Did you write the typewritten part of  
14 this Exhibit 938?

15 A. I don't recall.

16 Q. No. 3 on the list of things to do next  
17 week in Quito says, "Meet with HAVOC to discuss their  
18 QA/QC procedures for JI samples (Ann)." Do you see  
19 that?

20 A. Yes.

21 Q. Did you meet -- you or did you-- did you  
22 meet with anyone from HAVOC to discuss their QA/QC  
23 procedures?

24 A. I did meet with some employees at HAVOC  
25 to discuss their analytical techniques.

0155

1 Q. Where did that meeting take place?

2 A. At the HAVOC lab in Quito.

3 Q. How many times have you been to the HAVOC  
4 lab in Quito?

5 A. I just remember once for sure.

6 Q. Is it possible you've been there more  
7 than one time?

8 A. It's possible, but I don't recall it.

9 Q. And the purpose of your visit -- strike  
10 that.

11 Did you visit HAVOC Lab in or around  
12 February of 2008 as indicated in this things to do  
13 next week in Quito memo, Exhibit 938?

14 A. I believe it was in 2008. I don't  
15 remember when.

16 Q. What is your understanding of HAVOC's  
17 connection to the Ecuador case?

18 A. I believe that they are the main -- or  
19 one of the main -- were one of the main labs used by  
20 the plaintiff peritos for the judicial inspections.

21 Q. And which other labs were used by the  
22 plaintiffs to analyze samples from the judicial  
23 inspections?

24 A. I don't recall right now.

25 Q. Were you aware that plaintiffs had also

0156

1 used Catolica Laboratory for analysis for samples  
2 taken in JI inspections before they started using

3 HAVOC?

4 A. That sounds familiar.

5 Q. Have you ever been to Catolica Lab?

6 A. I don't believe so.

7 Q. Have you ever spoken to someone about  
8 Catolica Lab?

9 A. I don't -- I can't remember any.

10 Q. Do you know why plaintiffs stopped using  
11 Catolica Lab?

12 A. No.

13 Q. Did anybody ever tell you any reason why  
14 they didn't want to use Catolica Lab anymore?

15 A. I don't remember anything about that.

16 Q. Do you remember yesterday I asked you if  
17 you knew a person by the name of Fausto Mareano?

18 A. Yes.

19 Q. And you did not recall that name,  
20 correct?

21 A. Right.

22 Q. Who did you meet with at HAVOC Lab?

23 A. Maybe that was him.

24 Q. Fausto Mareano, I'll represent to you,  
25 was the owner of HAVOC Lab.

0157

1 A. Yes.

2 Q. Was that the person you met with there?

3 A. Yes. Yes.

4 Q. Did you meet with anybody else at HAVOC  
5 Lab?

6 A. There were a couple other people. He was  
7 the main person, though.

8 Q. Did you ever communicate with Mr. Mareano  
9 by phone?

10 A. I don't recall.

11 Q. Did you communicate with him at all by  
12 e-mail?

13 A. I believe so.

14 Q. Did you communicate with him by e-mail  
15 frequently?

16 A. No.

17 Q. Did your e-mail communication with him  
18 span a particular period of time?

19 A. I'm not 100 percent sure that I did  
20 communicate with him by e-mail, and I don't recall the  
21 time period if I did.

22 Q. Other than the time you visited HAVOC Lab  
23 in 2008, did you meet with Mr. Mareano at any other  
24 time?

25 A. I can't recall any right now.

0158

1 Q. Why were you tasked with meeting with  
2 HAVOC to discuss their QA/QC procedures for JI samples

3 in 2008?

4 A. Because we wanted to, the plaintiff team,  
5 wanted to understand, you know, the quality of their  
6 analytical work.

7 Q. The JI inspections had been completed by  
8 this time, correct?

9 A. I don't know.

10 Q. Did someone express any concerns -- on  
11 the plaintiffs' team concerns about HAVOC's analytical  
12 techniques?

13 A. No.

14 Q. Why was it that in 2008, after completion  
15 of the judicial inspections, that the plaintiffs' team  
16 was focusing on the quality of HAVOC's analytical  
17 work?

18 A. I don't recall.

19 Q. Are you aware of a sampling and analysis  
20 plan that was agreed to between the parties to the  
21 Lago Agrio litigation at the beginning of the case?

22 A. Yes.

23 Q. Are you familiar with that plan?

24 A. I used to be.

25 Q. Okay. Did you analyze or explore whether  
0159

1 HAVOC's analytical techniques complied with the  
2 sampling and analysis plan that the parties had agreed  
3 to at the beginning of the case?

4 A. I remember looking at that plan. I don't  
5 recall if I compared HAVOC's procedures with that  
6 plan.

7 Q. Did you ask Fausto Mareano, or anyone  
8 else, whether HAVOC's analytical techniques complied  
9 with the sampling and analysis plan?

10 A. I don't believe so.

11 Q. To your knowledge, did anyone on the  
12 plaintiffs' team evaluate whether HAVOC's analytical  
13 techniques complied with the sampling and analysis  
14 plan?

15 A. I don't know.

16 Q. Are you aware as you sit here today that  
17 Chevron has been very critical of HAVOC Labs?

18 A. Yes.

19 Q. When did you first become aware that  
20 Chevron was criticizing HAVOC Labs?

21 A. I don't remember.

22 Q. Was that criticism what prompted your  
23 meeting with HAVOC Labs to evaluate their analytical  
24 techniques?

25 A. I don't think so, but I don't remember.

0160

1 Q. Are you aware of the efforts by Chevron  
2 to obtain a court order in Quito for a judicial

3 inspection of HAVOC Labs?

4 A. I don't recall it being a judicial  
5 inspection, but what I recall right now is that I  
6 believe they tried to shut down HAVOC Labs, and they  
7 wanted to do an inspection of the lab, and I can't  
8 remember if they did it or not.

9 Q. What do you mean that Chevron tried to  
10 shut down HAVOC Labs?

11 A. That's what I remember hearing.

12 Q. Who told you that?

13 A. I think, you know, the plaintiff team.

14 Q. Mr. Donziger?

15 A. I don't recall who.

16 Q. Are you aware that there were numerous  
17 court orders requiring HAVOC to subject itself to an  
18 inspection by a court-appointed expert in Quito?

19 A. No.

20 Q. Are you aware of efforts by the  
21 plaintiffs' team to block those inspections, including  
22 through the use of demonstrations, ex parte contacts  
23 with the court, and other methods?

24 A. No. I know that they were upset about it  
25 and concerned with it. I don't know -- I don't

0161

1 remember hearing anything about demonstrations or  
2 anything like that.

3 Q. Have you seen any of the Crude outtake  
4 footage in which Mr. Donziger goes to visit the judge  
5 in Quito that ordered the inspection of HAVOC Labs?

6 A. I don't recall that.

7 Q. Were you involved in any efforts to block  
8 the inspections of HAVOC Lab ordered by the court in  
9 Quito?

10 A. No. No.

11 Q. To your knowledge, was anyone at Stratus  
12 involved in efforts to block inspection of HAVOC Lab  
13 as ordered by the court in Quito?

14 A. Not that I'm aware of, no. I doubt it.

15 Q. Did anyone at HAVOC describe for you the  
16 equipment they possess to do the sample analysis that  
17 they purportedly did during the judicial inspection  
18 process?

19 A. Yes.

20 Q. What equipment did they say they had?

21 A. Oh, it's been a while since I was there,  
22 but I remember that they had a gas chromatograph. And  
23 I believe they had a -- I can't remember if it was a  
24 flame or a furnace atomic absorption spectrometer.  
25 Those are the ones I can remember right now.

0162

1 Q. The gas chromatograph -- there is a gas  
2 chromatograph mass spectrometer that they have?



3 A. No, I don't believe it was. I believe it  
4 was just a gas chromatograph.

5 Q. Okay. Did they have a gas chromatograph  
6 mass spectrometer?

7 A. I don't believe so.

8 Q. Did you see the gas chromatograph  
9 equipment while you were present physically at HAVOC  
10 Lab?

11 A. Yes.

12 Q. And the other piece of equipment you  
13 mentioned, I'm sorry that I didn't get it down. Is  
14 that a -- I think you said a flame or a furnace atomic  
15 absorption spectrometer; is that right?

16 A. Right.

17 Q. Is that different than a plasma atomic  
18 absorption spectrometer, or is that the same thing?

19 A. Yes. No, it's different.

20 Q. Okay. So can you describe for me what a  
21 flame atomic absorption spectrometer is?

22 A. I think it was a furnace, actually. It's  
23 used to analyze water or digested soil samples for  
24 metals.

25 Q. And what is the difference -- I'm sorry,  
0163

1 go ahead.

2 A. The furnace has lower detection limits  
3 than the flame.

4 Q. In other words, the furnace atomic  
5 absorption spectrometer can analyze samples that  
6 contain lower volumes, lower amounts of metals?

7 A. Lower concentrations of metals.

8 Q. Lower concentrations?

9 A. Yes.

10 Q. And how does that compare to a plasma  
11 atomic absorption spectrometer?

12 A. Do you mean an inductively coupled  
13 plasma?

14 Q. I'm out of my depth here, so --

15 A. It's also known as an ICP. An ICP does  
16 simultaneous analysis of -- well, determination of a  
17 number of different metals and analytes at the same  
18 time, whereas a flame or furnace atomic absorption  
19 spectrometer is one metal at a time. And the  
20 detection limit for the ICP is -- it varies a lot, but  
21 it's sort of in between the flame and the furnace for  
22 a given metal.

23 Q. And you saw that piece of equipment when  
24 you were present there as well?

25 A. Which?

0164

1 Q. The furnace atomic absorption  
2 spectrometer.

3 A. As I said, I believe it was a furnace.

4 It was either a flame or a furnace.

5 Q. Whatever it was, you saw that piece of  
6 equipment --

7 A. Yes.

8 Q. -- physically when you were at HAVOC Lab?

9 A. Yes.

10 Q. When you visited HAVOC Lab, did you come  
11 to learn how long HAVOC Lab had been in possession of  
12 that equipment?

13 A. I don't remember.

14 Q. Other than the two pieces of equipment  
15 you described, was there any other piece of equipment  
16 at HAVOC Labs that was significant in your mind with  
17 regard to the evaluation of their analytical  
18 techniques that you were doing?

19 A. Again, it's been a while. I know that  
20 they had areas set up for wet chemistry. I believe  
21 they had a setup for E.coli. For analyzing samples  
22 for the presence of, you know, E.coli. That's all I  
23 can recall right now. I think there were others, but  
24 I can't remember what they are.

25 Q. From your visit to HAVOC Lab and your  
0165

1 evaluation of HAVOC Lab's analytical techniques, did  
2 you come away with any concerns about the analytical  
3 techniques used by HAVOC Labs?

4 A. Just in the inspection that I did. That  
5 was just a part of the analysis. I mean, they didn't  
6 have a lot of equipment, but it seemed to be adequate  
7 for doing basic analytical procedures that would  
8 relate to the samples collected in the concession.

9 But I also wanted to understand their  
10 quality control procedures, and that was more, you  
11 know -- I remember Fausto Mareano showing me books  
12 that contained information about how often do they  
13 reanalyze samples, how do they do their standard  
14 curves, and that sort of thing.

15 Q. So in terms of the equipment, before we  
16 move onto the QA/QC procedures, did you come away with  
17 a conclusion regarding whether or not HAVOC was in  
18 possession at that time in 2008, at least, of the  
19 equipment necessary to have done the analysis they  
20 claim to have done on plaintiffs' samples during the  
21 judicial inspection process?

22 A. Yes.

23 Q. What was that conclusion?

24 A. That they could do it.

25 Q. And in your evaluation of HAVOC's QA/QC  
0166

1 processes, did you come away with any conclusion  
2 concerning the adequacy of those processes?

3 A. Well, again, it's been a while since I  
4 looked at any of this, but what I recall is that  
5 overall the QA/QC procedures were fairly good, but  
6 there were some shortcomings, and I can't recall right  
7 now what they were.

8 Q. Do you remember any of those  
9 shortcomings?

10 A. No.

11 Q. When you visited HAVOC Lab, did you --  
12 would you say that you conducted an audit of HAVOC  
13 Lab?

14 A. In a way, yes.

15 Q. When you visited or audited HAVOC Lab in  
16 2008, were you shown a sample preparation lab?

17 A. Yes.

18 Q. And did they have the necessary equipment  
19 to record sample weight and volume?

20 A. Sample weight. I believe they had  
21 scales. Volume, I don't really see why that's  
22 relevant.

23 Q. Did they have equipment to record sample  
24 volumes?

25 A. Well, I don't -- I'm not really sure what  
0167

1 you mean by that. Like the volume of water that they  
2 received?

3 Q. Sure.

4 A. That's not anything a lab does, really,  
5 so . . .

6 Q. From your audit of HAVOC Labs, did you  
7 come away with an impression concerning whether the  
8 lab was clean?

9 A. It wasn't the cleanest lab I ever  
10 visited, but it was -- they didn't have, you know, a  
11 clean room. If you have very -- an instrument that  
12 requires -- that has very low detection limits, then  
13 you would need a special clean room. They didn't have  
14 that kind of instrumentation, so they didn't have that  
15 kind of a room. But it was adequate.

16 Q. Did they have hoods for ventilation?

17 A. I don't recall right now.

18 Q. What type of HVAC system did they have?

19 A. You mean in the building?

20 Q. In that part of the building.

21 A. I don't know.

22 Q. HAVOC was located in a -- can you  
23 describe the building where HAVOC Labs is located?

24 A. I don't really recall. I mean, it was --  
25 you know, it was just a part of Quito where there were  
0168

1 many, many buildings. It wasn't a -- it didn't appear  
2 to be a house. I don't really recall.

3 Q. It was not in a stand-alone building that  
4 contained only HAVOC Lab, correct?

5 A. I don't recall.

6 Q. Do you recall what floor of the building  
7 it was on?

8 A. I remember walking up some stairs. So I  
9 guess it was at least on what we would refer to as the  
10 second floor.

11 Q. Did you observe that there were other  
12 tenants in the building besides HAVOC Lab?

13 A. Not that I recall.

14 Q. Were there -- did you observe that there  
15 was space for other tenants?

16 A. I don't remember that.

17 Q. Do you remember whether there were any  
18 windows in the lab?

19 A. No.

20 Q. Were the windows -- well, strike that.

21 Did HAVOC Lab have any refrigerators?

22 A. Yes.

23 Q. How many?

24 A. I don't remember.

25 Q. Do you recall whether there was an

0169

1 industrial-type refrigerator there or household-type  
2 refrigerator?

3 A. I do not recall.

4 Q. Did the lab have any freezers?

5 A. I don't remember that.

6 Q. The analysis that HAVOC Labs performed  
7 during the judicial inspections, was that all done at  
8 HAVOC, or did they subcontract out any of the  
9 analysis?

10 A. I don't remember.

11 Q. How many staff did HAVOC Labs have at the  
12 time you inspected the lab in 2008?

13 A. I probably -- I don't know, but I  
14 personally saw maybe four to six people.

15 Q. Did you review or audit the  
16 qualifications of any of the staff at HAVOC Labs?

17 A. I don't remember.

18 Q. Did anybody else go with you when you  
19 audited the HAVOC Lab?

20 A. Yes.

21 Q. Who?

22 A. I think it was Dick Kamp, but I can't  
23 recall.

24 Q. Did either you or Mr. Kamp document your  
25 audit of HAVOC Labs in writing in any way?

0170

1 A. Probably. I probably took notes. I  
2 can't recall right now for sure.

3 Q. Do you know if you still have those  
4 notes?

5 A. I don't know. I produced everything that  
6 I had. So if they were in there, then I have them.  
7 If they weren't, then I don't.

8 Q. Did you prepare a report on your -- on  
9 the HAVOC Lab?

10 A. I don't believe I prepared a report on  
11 that visit.

12 Q. Did you prepare any type of report  
13 concerning the analytical techniques used by HAVOC  
14 Lab?

15 A. Well, that was a part of the material  
16 that I prepared for the plaintiffs that ended up in  
17 one of the annexes.

18 Q. One of the annexes that was provided to  
19 Cabrera?

20 A. Yes -- well, one of the -- right, the  
21 materials that were provided to Cabrera.

22 Q. Did you recommend that HAVOC not be used  
23 for the peritaje global lab work?

24 A. I don't remember. I know we were looking  
25 at a couple of different labs.

0171

1 Q. You were looking at CorpLabs, for  
2 example, right?

3 A. Yes.

4 Q. You visited CorpLabs with  
5 Mr. Villacreces, as you testified to earlier?

6 A. Actually, they came to the Quito  
7 plaintiff office.

8 Q. Have you ever been to CorpLabs?

9 A. No.

10 Q. Did you also evaluate the use of LabSu  
11 for the peritaje global?

12 A. The name is familiar. I don't recall if  
13 I did or not.

14 Q. Do you recall the name of any other labs  
15 that you evaluated for potential use during the  
16 peritaje global?

17 A. No.

18 Q. Are you aware of which lab or labs were  
19 used to analyze samples that Mr. Cabrera took during  
20 the peritaje global?

21 A. I don't recall.

22 Q. Do you know which lab or labs analyzed  
23 the samples collected by Mr. Gomez?

24 A. I remember looking at the data, but I  
25 can't remember which lab.

0172

1 Q. Did you warn Mr. Donziger or tell  
2 Mr. Donziger that you had found issues with HAVOC Lab

3 that were of concern?

4 A. I don't recall.

5 Q. Did HAVOC Lab have the necessary  
6 equipment and expertise to analyze for chromium VI?

7 A. I believe they did.

8 Q. Do you know whether HAVOC Lab evaluated  
9 or analyzed plaintiffs' samples for chromium VI?

10 A. I don't recall.

11 Q. Do you recall plaintiffs' samples being  
12 analyzed for chromium VI by Cal Science?

13 A. By? Pardon me?

14 Q. By Cal Science?

15 A. I don't remember that name, no.

16 MR. CRIMMINS: I'll mark a new exhibit.  
17 It will be 687.

18 (Deposition Exhibit 687 was marked.)

19 Q. (BY MR. CRIMMINS) Exhibit 687 is Bates  
20 labeled STRATUS-NATIVE 051432 through 1433. It is a  
21 February 20 e-mail from Ann Maest to Jennifer Peers  
22 and Doug Beltman, "Re: Ecuador database checking."  
23 Do you see that?

24 A. Yes.

25 Q. About halfway down the page is an e-mail  
0173

1 from you dated February 20 at 12:22 p.m.; do you see  
2 that?

3 A. Yes.

4 Q. And in there you write, "HAVOC has real  
5 numbers for total PAHs and then applies 'factors' to  
6 arrive at the individual PAH concentrations." Do you  
7 see that?

8 A. Yes.

9 Q. Can you explain what you were saying  
10 there?

11 A. I remember now that they did do that. I  
12 can't recall right now exactly how they did it, but  
13 what this means is that they would get a number for  
14 total PAHs in a sample, but the individual ones they  
15 wouldn't actually analyze individually. They just  
16 applied some factors to the total number, so . . .

17 Q. So PAHs are polycyclic aromatic  
18 hydrocarbons, right?

19 A. Yes.

20 Q. What are examples of polycyclic aromatic  
21 hydrocarbons?

22 A. I can't think of these right now. I'm  
23 totally blanking, sorry. It's been a while. Sorry,  
24 I'm blanking.

25 Q. Okay. If you look at the last page of  
0174

1 STRATUS-NATIVE 05 -- I'm sorry, of Exhibit 687, which  
2 is STRATUS-NATIVE 051433, it's part of an e-mail from

3 Doug Beltman. In the middle of the long paragraph 1,  
4 the end of the fifth line, do you see a sentence that  
5 starts, "My interpretation"?

6 A. Yes.

7 Q. Mr. Beltman says, "My interpretation is  
8 also consistent with the fact that labs can't analyze  
9 for PAHs in bulk - they have to quantify individual  
10 PAHs and then add them together to get total PAHs."  
11 Do you see that?

12 A. Yes.

13 Q. Do you agree with Mr. Donziger's  
14 statement, "that labs can't analyze for PAHs in bulk -  
15 they have to quantify individual PAHs and then add  
16 them together to get total PAHs"?

17 MR. BEIER: Object to the form.

18 MR. CRIMMINS: What did I say?

19 A. You said Mr. Donziger.

20 Q. (BY MR. CRIMMINS) Let me do it again  
21 just to get it right. I'm sorry.

22 Do you agree with Mr. Beltman's statement  
23 "that labs can't analyze for PAHs in bulk - they have  
24 to quantify individual PAHs and then add them together  
25 to get total PAHs"?

0175

1 A. I don't know.

2 Q. Can you identify any US EPA-approved  
3 method for calculating individual PAHs through a  
4 method of factoring total PAHs?

5 A. No, there isn't one.

6 Q. So the method that you describe in your  
7 e-mail that HAVOC uses, that would not be an approved  
8 EPA method, correct?

9 A. That's correct.

10 Q. How did you conclude that this was the  
11 method that HAVOC used for calculating individual  
12 PAHs?

13 A. I believe they told me that.

14 Q. Did you ask why they did it this way  
15 rather than just simply analyze for individual PAHs?

16 A. I don't recall right now.

17 Q. Did HAVOC have the equipment necessary to  
18 analyze samples for individual PAHs?

19 A. I don't believe they did.

20 Q. What equipment would that be?

21 A. Well, a GC mass spec, chromatograph mass  
22 spectrometer, would certainly do it.

23 Q. They did not have that equipment?

24 A. They did not have that.

25 Q. Do you know what factors or how HAVOC

0176

1 came up with the factors that they used to calculate  
2 individual PAH concentrations from their total PAH

3 results?

4 A. I don't recall right now. I remember  
5 they explained it to me, and I don't recall right now  
6 what it was.

7 Q. Are you familiar with the report  
8 submitted by Chevron expert Deborah Proctor to the  
9 Lago Agrio court that concluded that HAVOC did not  
10 analyze for chromium VI?

11 A. I don't remember that, no.

12 Q. It's your recollection that HAVOC Labs  
13 did, in fact, analyze samples for chromium VI during  
14 the judicial inspections, or is this something you  
15 don't remember either way?

16 A. I don't -- I don't recall. I mean, I  
17 think your question before was could they, and they  
18 had the equipment to do it, but I don't know if they  
19 did.

20 Q. Okay.

21 A. I just thought of a PAH. Benzo-a-pyrene  
22 is an example of a PAH.

23 Q. Okay. Thank you. When you were  
24 evaluating labs to potentially use for analysis of  
25 samples in the peritaje global, what were the criteria  
0177

1 that were -- that you were using in that evaluation?

2 A. I don't recall exactly, but they would  
3 need to be able to analyze soil and water samples for,  
4 you know, range of concentrations of heavy metals and  
5 petroleum -- total petroleum hydrocarbons and PAHs.  
6 And have good reliable quality assurance, quality  
7 control methods, and have some accreditations.

8 Q. Which accreditations?

9 A. That was part of what we were trying to  
10 determine. It's different in Ecuador than it is in  
11 the United States. And HAVOC did have a number of  
12 accreditations, but they were, as I said, different  
13 than what's in the United States, so . . .

14 Q. Did you also evaluate using labs in the  
15 US to evaluate the samples or analyze the samples  
16 collected during the peritaje global?

17 A. I believe we considered it.

18 Q. Did you evaluate particular labs in the  
19 US?

20 A. I don't recall doing that.

21 Q. Of the labs you evaluated in Ecuador to  
22 conduct analysis of the samples collected during the  
23 peritaje global, were there labs that did not meet the  
24 criteria that you just set forth?

25 A. I don't recall right now.

0178

1 Q. One of the criteria you set forth was  
2 that they would need to be able to analyze soil and



3 water samples for a range of concentrations of, among  
4 other things, PAHs?

5 A. Yes.

6 Q. Isn't it true that your conclusion was  
7 that HAVOC did not have the ability to analyze soil  
8 and water samples for PAHs?

9 A. Not for individual PAHs.

10 Q. Did you recommend to Mr. Donziger or any  
11 member of the plaintiffs' team that HAVOC not be used  
12 as a lab to analyze samples from the peritaje global?

13 MR. BEIER: Objection, asked and  
14 answered.

15 A. As I said, I can't remember.

16 Q. (BY MR. CRIMMINS) Are you aware that  
17 Chevron tested the wells of residents living in  
18 proximity to well sites during the judicial  
19 inspections and found no evidence of petroleum  
20 contamination in any drinking water well?

21 A. I know that Chevron sampled what they  
22 said were drinking water sources, and they found  
23 detectable concentrations in some, but none of them  
24 were very high. But I didn't -- and I don't think  
25 anyone on the plaintiffs' team did an independent

0179

1 assessment of whether those really were drinking water  
2 sources.

3 Q. Do you have any evidence to contradict  
4 the Chevron reports filed in the Lago Agrio case that  
5 say they sampled drinking water wells of all local  
6 residents in the vicinity of well sites?

7 MR. BEIER: Objection, form, foundation.  
8 You can answer.

9 A. I am pretty sure they didn't sample all  
10 wells in -- isn't that what you said?

11 Q. (BY MR. CRIMMINS) Well, do you have any  
12 evidence to contradict the sampling data submitted by  
13 Chevron relating to the testing of drinking water  
14 wells of residents living in proximity to well sites  
15 during the judicial inspections?

16 MR. BEIER: Same objections.

17 A. I don't have any evidence to contradict  
18 it or support it either way.

19 Q. (BY MR. CRIMMINS) And plaintiffs didn't  
20 do any sampling of drinking water wells of local  
21 residents; isn't that right?

22 A. I'm not sure. I don't know.

23 Q. Are you aware of any scientific data  
24 indicating that drinking water wells have been  
25 impacted in any way by hydrocarbons in the former

0180

1 concession area?

2 A. Drinking water wells?

3 Q. Yes.  
4 A. I don't believe so.  
5 Q. Are you aware of any scientific data  
6 indicating that drinking water wells have been  
7 impacted in any way by petroleum operations in the --  
8 by TexPet petroleum operations prior to 1990?

9 A. Could you repeat that?

10 Q. Sure. Are you aware of any scientific  
11 data indicating that drinking water wells have been  
12 impacted in any way by TexPet's operations in the  
13 former concession area prior to 1990?

14 A. I'm not aware of any.

15 Q. Why didn't plaintiffs sample any drinking  
16 water wells?

17 A. I said I don't know if they did or not.  
18 And if they didn't, I don't know why they didn't.

19 Q. Did plaintiffs take any samples from any  
20 municipal water systems?

21 A. I think, you know, I think we talked  
22 about this a little bit yesterday. The municipal  
23 water systems as such are not very good or reliable in  
24 the concession area. And I don't know if they ever  
25 collected samples from any of the -- those systems  
0181

1 when they were operating.

2 MR. CRIMMINS: Move to strike the first  
3 part of the response as nonresponsive.

4 Q. (BY MR. CRIMMINS) Is your answer to my  
5 question, did plaintiffs take any samples from any  
6 municipal water systems, is the answer to that  
7 question you don't know?

8 A. Yes.

9 Q. Did plaintiffs ever analyze for fecal  
10 coliforms in any water sample collected at any time in  
11 the Lago Agrio case?

12 A. I don't know.

13 Q. Have you reviewed the results of  
14 Chevron's water data that indicates that the vast  
15 majority of drinking water sources are contaminated  
16 with fecal coliform?

17 A. Yes.

18 Q. Do you believe this is a health risk for  
19 local residents in the former concession area?

20 A. I believe that it's a short-term risk,  
21 but doesn't present, you know, the long-term issues  
22 that the -- you know, the other contaminants do that  
23 are there from Texaco's operations.

24 Q. Contaminants that are where? In drinking  
25 water?

0182

1 A. In the environment.

2 Q. In what media in the environment?

3 A. Air, water, soil.

4 Q. On what scientific evidence do you base  
5 your opinion that there are contaminants in the air  
6 today from Chevron -- or from TexPet's operations  
7 prior to 1990?

8 A. That's not what I meant.

9 Q. What did you mean?

10 A. That while the -- well, I don't have any  
11 evidence about air contamination, so I should remove  
12 that from my last statement. Water and soil. Just  
13 water and soil.

14 Q. And what is the scientific basis for your  
15 opinion that there are contaminants present in the  
16 environment today from TexPet's operations prior to  
17 1990?

18 A. Because there are a number of well sites  
19 that have not been operated since Texaco stopped  
20 operating them, and there are high concentrations of  
21 petroleum hydrocarbons in the soil and in those  
22 locations.

23 Q. Which well sites are those?

24 A. I don't recall. You know, there is a  
25 long list. There are certain wells that have never  
0183

1 been operated by PetroEcuador, and those were -- some  
2 of those were part of the judicial inspections and the  
3 peritaje global, and the samples contained elevated  
4 concentrations of petroleum hydrocarbons.

5 Q. In the sites that you claim were operated  
6 only by TexPet and not PetroEcuador and have high  
7 concentrations of contaminants in the soils, are any  
8 of those sites that were remediated by TexPet during  
9 the RAP?

10 A. Are any of them. I think -- I believe  
11 so, but I'm not sure.

12 Q. Have you worked on any water evaluation  
13 projects in South America?

14 A. At all?

15 Q. Yes.

16 A. Yes.

17 Q. Where?

18 A. Peru.

19 Q. What type of facility or what type of  
20 impacts were you considering in your work in Peru?

21 A. It was a, still is, a large gold mine.  
22 So we analyzed samples for a long list of metals and  
23 cyanide, sulfate, nitrate, and fecal coliform.

24 Q. What is the gold mine? What's the  
25 operator there in Peru?

0184

1 A. It's Newmont -- well, it's a Peruvian  
2 partner but it's called the Yanacocha Gold Mine.

3 Q. And did you make findings with regard to  
4 your work in connection with that gold mine concerning  
5 risk to public health?

6 A. Yes.

7 Q. What were your conclusions?

8 A. Our conclusions were that -- it's been a  
9 while, but what I recall right now is that there were  
10 short-term health risks from the presence of fecal  
11 coliform because concentrations were very high in some  
12 locations. There were also risks to aquatic biota  
13 from metals that were related to releases from the  
14 mine.

15 Q. Anything else?

16 A. Well, there were many, many conclusions.

17 Q. Any other conclusions you recall  
18 regarding risk to public health from contaminants in  
19 environmental media?

20 A. I think the overall conclusion was that  
21 there weren't any significant long-term health risks  
22 currently to the population, but that there were  
23 important short-term health risks to the population.

24 Q. How do you define a short-term health  
25 risk?

0185

1 A. Something that would adversely affect you  
2 over a short period of time. Like, let's say, food  
3 poisoning, versus cancer, or something.

4 Q. Would you classify something as a  
5 short-term health effect if it would adversely affect  
6 you over a short period of time even if those adverse  
7 effects were severe?

8 A. Could you rephrase that?

9 Q. Sure. I'm just trying to understand the  
10 difference between a short-term health effect and  
11 long-term health effect as you've used those terms.  
12 If a child were to get severe diarrhea from fecal  
13 coliform contamination in drinking water, that can  
14 lead to death, right?

15 A. Right.

16 Q. Would you consider that a short-term  
17 health effect or a long-term health effect?

18 A. Well, the short term is a temporal.  
19 It's, you know, how long -- how quickly it would  
20 affect you, that's all that means.

21 Q. Okay. So short-term health effect could  
22 mean a health effect that could kill you very quickly?

23 A. It could, yes.

24 Q. And in your analysis of the fecal  
25 coliform contamination in the area of the Peruvian

0186

1 mine, were some of the short-term health effects  
2 resulting from that fecal coliform contamination

3 potentially severe?

4 A. They were potentially severe.

5 Q. And could include death, right?

6 A. In theory it could.

7 Q. In practice, doesn't fecal coliform  
8 contamination kill people in places like Peru?

9 A. That's not my field. I don't know. I  
10 believe that it could lead to death, yes. It  
11 doesn't -- the term "short term" is not the severity,  
12 it has to do with how quickly it affects you.

13 Q. Okay. Are you a toxicologist?

14 A. No.

15 Q. Does Stratus employ any toxicologists?

16 A. Yes.

17 Q. Who?

18 A. What kind of toxicology are you talking  
19 about?

20 Q. What are the different types of  
21 toxicology?

22 A. Human and ecological, you know, fish  
23 toxicity, fish toxicology.

24 Q. Michael Carney is a fish toxicologist,  
25 right?

0187

1 A. Right.

2 Q. Does Stratus employ -- would you classify  
3 Michael Carney as an ecological toxicologist?

4 A. I would call him a fisheries  
5 toxicologist.

6 Q. Okay. Are there any toxicologists  
7 employed by Stratus -- human toxicologists that are  
8 employed by Stratus?

9 A. No, not that I can think of right now.

10 Q. Other than Michael Carney, are there any  
11 toxicologists of any kind employed by Stratus?

12 A. Yes.

13 Q. Who?

14 A. Josh Lipton, who is the CEO, is a  
15 fisheries toxicologist. Jeff Morris is a fisheries  
16 toxicologist. I'm trying to think if there are --  
17 that's all I can think of right now.

18 Q. So other than fisheries toxicologists, is  
19 it fair to say that Stratus does not employ any  
20 toxicologists?

21 A. I believe that's correct.

22 Q. And has that been the case since at least  
23 2007?

24 A. I believe so.

25 Q. Putting Stratus aside, were there any  
0188

1 toxicologists -- human toxicologists that worked on  
2 plaintiffs' team?

3 A. I don't know.

4 Q. In 2008 in connection with the work that  
5 Stratus was doing with regard to possible settlement  
6 discussions or mediation, do you recall that Stratus  
7 reached any different conclusions than the conclusions  
8 that were set forth in the reports or annexes that  
9 were prepared by Stratus and provided to Cabrera?

10 MR. BEIER: Object to the form. You can  
11 answer.

12 A. I don't know that we reached any  
13 conclusions in the settlement, number one. And also  
14 the second part of that is, you know, we didn't give  
15 anything directly to Cabrera. Our materials were  
16 given to Steven Donziger and the plaintiffs.

17 Q. (BY MR. CRIMMINS) With the expectation  
18 that they would be provided to Cabrera, right?

19 A. Yes.

20 Q. And you know, in fact, they were provided  
21 to Cabrera because you saw that work product in the  
22 Cabrera report, right?

23 A. Materials that looked like it, yes.

24 Q. Mr. Donziger has now testified in New  
25 York in his deposition over the course of 12 days now  
0189

1 that Stratus and the plaintiffs wrote the Cabrera  
2 report. Do you have any basis to dispute that?

3 MR. BEIER: Objection, argumentative.

4 MR. NARWOLD: Objection.

5 A. We didn't write the Cabrera report.

6 Q. (BY MR. CRIMMINS) Do you make any  
7 distinction between the statement Stratus and  
8 plaintiffs wrote the Cabrera report and Stratus and  
9 plaintiffs submitted a summary report and annexes that  
10 were adopted verbatim by Cabrera as the Cabrera  
11 report?

12 MR. BEIER: Objection, asked and  
13 answered, argumentative. Answer again.

14 A. The Cabrera report, I believe, was 4,000  
15 pages. The information that Stratus prepared and that  
16 ultimately ended up in the Cabrera report, I don't  
17 know if it was verbatim or not, I personally haven't  
18 checked that, was only a small portion of that. So I  
19 would not agree at all that we wrote the Cabrera  
20 report.

21 Q. (BY MR. CRIMMINS) What I said in my  
22 question was, do you make any distinction between the  
23 statement that Stratus and the plaintiffs' team wrote  
24 the Cabrera report on the one hand, and on the other  
25 hand the statement that Stratus and the plaintiffs'  
0190

1 team submitted a summary report and annexes that were  
2 adopted verbatim by Cabrera as the Cabrera report?

3 MR. BEIER: Same objections, plus  
4 foundation.

5 A. I don't -- I'm not sure how to answer  
6 that.

7 Q. (BY MR. CRIMMINS) You testified earlier  
8 that you only reviewed a portion of the filed Cabrera  
9 report, right?

10 A. Yes.

11 Q. So as far as you know, Ms. Maest, the  
12 annexes in the summary report that were drafted by  
13 Stratus were given to plaintiffs' lawyers,  
14 incorporated into a report and more annexes that  
15 you've testified you knew that plaintiffs' team in  
16 Quito was working on, submitted that entire package to  
17 Cabrera, and Cabrera signed that and filed it as his  
18 own in the Lago Agrio court, correct?

19 MR. BEIER: Object to the form,  
20 mischaracterizes her testimony, and assumes facts not  
21 in evidence. You can answer.

22 A. I don't know.

23 Q. (BY MR. CRIMMINS) You have no basis to  
24 dispute that, correct?

25 A. Could you ask it again, please?

0191

1 Q. Sure. My question is, do you have any  
2 personal knowledge or are you aware of any evidence  
3 that would contradict the following account: Stratus  
4 drafted a summary report and annexes which were  
5 combined with annexes drafted by the Lago Agrio  
6 plaintiffs' team, given to Mr. Cabrera, who thereupon  
7 signed it and filed it with the Lago Agrio court  
8 without making any changes whatsoever or even reading  
9 it?

10 MR. BEIER: Objection, form, foundation,  
11 assumes facts not in evidence. You can answer.

12 A. I'm not sure what Mr. Cabrera did. I  
13 believe that the first large appendix was all his  
14 teams, so that would not fit with your description.

15 Q. (BY MR. CRIMMINS) And I think you  
16 testified earlier that your belief in that regard is  
17 based on what Mr. Donziger told you, right?

18 A. And my belief in what regard?

19 Q. That Appendix A to the Cabrera report was  
20 prepared by Mr. Cabrera's independent team?

21 A. Yes. And it doesn't -- you know, it's  
22 certainly nothing that Stratus prepared.

23 Q. And, in fact, you don't have any  
24 evidence, other than Mr. Cabrera's statement -- strike  
25 that.

0192

1 You don't have any evidence, other than  
2 what is stated in Annex V of the Cabrera report, that

3 Mr. Cabrera even had an independent team; isn't that  
4 right?

5 MR. BEIER: Objection, argumentative.  
6 You can answer.

7 A. Have any evidence. I guess I personally  
8 don't.

9 Q. (BY MR. CRIMMINS) And you, in fact, do  
10 have personal knowledge that at least one member of  
11 that supposedly independent team, Ximena Echeverria,  
12 was actually a member of the plaintiffs' team working  
13 in the plaintiffs' Quito office with you, among  
14 others, correct?

15 A. She worked in the Quito office of the  
16 plaintiffs, yes, but . . .

17 MR. CRIMMINS: We've been going about an  
18 hour and a half. Let's take a break.

19 THE VIDEOGRAPHER: This is the end of  
20 tape number 3. Going off the record, the time is  
21 3:26.

22 (Recess taken.)

23 THE VIDEOGRAPHER: We are back on the  
24 record. The time is 3:40. This is the beginning of  
25 tape number 4 in the deposition of Ann Maest,  
0193

1 Volume 2.

2 Q. (BY MR. CRIMMINS) Ms. Maest, can you  
3 locate Exhibit 938 in the pile in front of you. We  
4 looked at it a little bit earlier today. It looks  
5 like this.

6 A. Okay.

7 Q. Do you see it?

8 A. Yes.

9 Q. About halfway down the page there's a  
10 handwritten little star there; do you see that?

11 A. Yes.

12 Q. Then in the bullet point below that star  
13 it says, "Results of standard reference materials  
14 analysis for samples submitted by Richard for data  
15 quality annex." Do you see that?

16 A. Yes.

17 Q. And then next to that, I think you  
18 testified this was your handwriting, it says, "Copy  
19 certificates and sent to Luis V for chrom VI and TPH."  
20 Do you see that?

21 A. Yes.

22 Q. Why were you -- this is under the  
23 subheading or the heading "Gather information for  
24 annexes." Do you see that?

25 A. Yes.

0194

1 Q. Do you know why you wrote "Copy  
2 certificates and send to Luis V for chrom VI and TPH"?



3 A. Yes.  
4 Q. What was that in reference to?  
5 A. I believe that was the standard reference  
6 materials have certificates of analysis and, you know,  
7 they have -- they make up samples of a known  
8 concentration and labs can analyze those and then they  
9 have a certificate of analysis that says what the  
10 concentration range is supposed to be. So . . .  
11 Q. So is that a method that's used to test  
12 whether a lab's analytical techniques are getting the  
13 results they should be getting?  
14 A. Yes.  
15 Q. Okay. And the certificates that you're  
16 referring to here, were those certificates from the  
17 lab that was analyzing the samples taken by  
18 Mr. Cabrera during the peritaje global?  
19 A. Could you repeat that?  
20 Q. The certificates that you reference here,  
21 when it says, "Copy certificates and send to Luis V  
22 for chrom VI and TPH"?  
23 A. Yes.  
24 Q. Were those certificates that certified  
25 that the lab that Mr. Cabrera's samples were submitted  
0195  
1 to correctly analyzed for chrom VI and TPH?  
2 A. No.  
3 Q. What were they?  
4 A. They were certificates of analysis from  
5 the entity that made the standard reference water  
6 samples that says what the concentration range should  
7 be.  
8 Q. Okay. And why were you sending those to  
9 Luis Villacreces?  
10 A. I believe it was because he was going to  
11 get the results from the lab, and then he could see  
12 how closely they matched these certificate of  
13 analysis.  
14 Q. And do you know whether Luis Villacreces  
15 actually went ahead and did that?  
16 A. Did what?  
17 Q. Got the results from the lab and compared  
18 them to the certificates to see how closely they  
19 matched?  
20 A. I don't recall right now if he did or  
21 not.  
22 Q. Did you ever do that?  
23 A. I don't recall.  
24 Q. Do you recall ever saying to check --  
25 that you needed to check on the method of analysis to  
0196  
1 make sure that the plaintiffs were getting chrom VI  
2 results and not total chromium results?

3 A. Do I ever remember saying that?  
4 Q. Yeah.  
5 A. You mean as part of the deposition?  
6 Q. No. I mean back over the last few years  
7 working on the Ecuador case. Did you ever -- let me  
8 put it this way: Did you ever have a concern that any  
9 analytical results for chromium VI were actually total  
10 chromium results?  
11 A. I don't know if that specifically was a  
12 concern.  
13 Q. What concerns do you recall regarding  
14 analytical results for chromium VI?  
15 A. I would have to go back and look, but I  
16 do recall that there was some issue with the analysis  
17 of chromium VI. Right now I don't recall what it was.  
18 Q. Do you recall what lab that issue related  
19 to?  
20 A. No.  
21 (Deposition Exhibit 688 was marked.)  
22 Q. Exhibit -- I'm handing you Exhibit 688.  
23 Exhibit 688 is a document produced by Mr. Donziger,  
24 Bates labeled DONZ41148. It's a February 12, 2008,  
25 e-mail from Ms. Maest to Mr. Donziger at the top.  
0197

1 Ms. Maest, have you seen this e-mail  
2 exchange before, Exhibit 688?  
3 A. I do recall this vaguely.  
4 Q. In the e-mail at the bottom it says --  
5 and this is e-mail from you dated February 12, 2008,  
6 at 9:19 do you see that?  
7 A. Yes.  
8 Q. And it says, "I'm in the Quito office,  
9 and Luis V and I have discussed the information we  
10 need from HAVOC and how to get it. We need  
11 information on their certification (not just the  
12 certificate and what they're accredited for, which we  
13 have), and we need some more specific information  
14 about the samples they received from our peritos." Do  
15 you see that?  
16 A. Yes.  
17 Q. Was this in connection with the audit of  
18 HAVOC Lab that you did in February of 2008?  
19 A. I'm not sure when I did that visit, and I  
20 believe this is associated with it, yes.  
21 Q. Okay. What is being referred to when you  
22 say, "We need information on their certification," and  
23 then distinguish that from the certificate of what  
24 they are accredited for?  
25 A. I'm not sure. I'm not sure.  
0198

1 Certification, I'm assuming that means if they are  
2 certified to do certain types of analyses.

3 Q. And did you ever --

4 A. I -- actually, it's confusing to me. I'm  
5 not sure what that means.

6 Q. And then it says, "And we need some more  
7 specific information about the samples they received  
8 from our peritos. For example, did HAVOC receive  
9 chain of custody sheets." Do you see that?

10 A. Yes.

11 Q. Did you get that information from HAVOC  
12 as to whether they received chain of custody sheets  
13 for each of the samples analyzed during the JI  
14 inspections?

15 A. I don't remember.

16 Q. In your evaluation of HAVOC Lab's chain  
17 of custody procedures, did you review the chain of  
18 custody sheets for all of the work, the analysis they  
19 did in connection with the JI inspections?

20 A. I know that I reviewed chain of custody  
21 sheets from HAVOC. I don't remember, you know, how  
22 many or -- I don't remember how many I reviewed.

23 Q. Were any of the chain of custody sheets  
24 that you did review incomplete?

25 A. Not that I recall.

0199

1 Q. Did you come to some conclusion as to  
2 whether there were in HAVOC's possession chain of  
3 custody sheets with regard to each of the samples  
4 analyzed during the judicial inspections?

5 A. I don't recall right now. I know for  
6 sure that I didn't review it for each and every  
7 sample, so . . .

8 Q. The next item you indicate there, ". . .  
9 were the samples analyzed within holding times."

10 A. Yes.

11 Q. What is that in reference to?

12 A. There are recommended holding times.  
13 That's from the time that the sample is collected to  
14 the time the sample is analyzed. So that's what that  
15 refers to.

16 Q. And did you get an answer to that  
17 question concerning whether the samples HAVOC analyzed  
18 during the judicial inspections were analyzed within  
19 the recommended holding times?

20 A. I believe I did.

21 Q. What was that answer?

22 A. I don't recall every detail right now,  
23 but generally the answer was that they were.

24 Q. You say generally that they were. Does  
25 that mean that some were not?

0200

1 A. I don't know. I don't recall, that's  
2 probably a better answer.

3 Q. So you don't recall either way whether  
4 all of the samples analyzed by HAVOC during the  
5 judicial inspections were analyzed within the  
6 recommended holding times?

7 A. Could you repeat that?

8 Q. Sure. So you don't recall either way  
9 whether all the samples analyzed by HAVOC during the  
10 judicial inspections were analyzed within the  
11 recommended holding times?

12 A. I do remember that that was not an issue.  
13 The specifics of it I don't recall at this time.

14 Q. Do you know what the holding time -- the  
15 recommended holding time is for chromium 6 in water?

16 A. I believe it's short. I don't recall  
17 exactly.

18 Q. Did HAVOC analyze any samples during --  
19 any water samples during the judicial inspections  
20 within 24 hours?

21 A. I don't know.

22 Q. And then the next question you have there  
23 is "... were the samples properly preserved." Do  
24 you see that?

25 A. Yes.

0201

1 Q. Did you get an answer to that question  
2 during your audit of HAVOC Lab?

3 A. I don't recall. I prepared a sheet that  
4 asked about preservation methods and -- but I can't  
5 remember how that came out.

6 Q. And then the next sentence you write here  
7 says, "We spoke to Juan Pablo and the other attorney  
8 downstairs (Pablo isn't here), and they think (and so  
9 do I) that it would be better for Richard to ask for  
10 this information from HAVOC as part of his work (he  
11 needs to know the quality of the laboratory analysis  
12 to evaluate the data)." Do you see that?

13 A. Yes.

14 Q. The Richard referred to there, is that  
15 Richard Cabrera?

16 A. I believe so.

17 Q. The audit that you were doing of HAVOC  
18 Lab, was that done at the request of Richard Cabrera?

19 A. No.

20 Q. Why did you think that it would be better  
21 for Richard Cabrera to ask HAVOC for the information  
22 set forth in your e-mail as opposed to you doing it  
23 yourself?

24 A. Because they were his samples.

25 Q. Which were his samples?

0202

1 A. Let me review this. I'm not sure if this  
2 is kind of prospective thinking about the future in

3 collecting them, or something had already happened.

4 What was your last question again?

5 Q. Sure. Why did you think that it would be  
6 better for Richard Cabrera to ask HAVOC for the  
7 information set forth in your e-mail as opposed to you  
8 doing it yourself? And you said because they were his  
9 samples. And I asked, which were his samples? What  
10 are you referring to when you say "his samples"?

11 A. What I meant there was any samples that  
12 he collects as part of the peritaje global.

13 Q. And the sampling for the peritaje global  
14 was complete as of this time in February of 2008,  
15 wasn't it?

16 A. I believe so.

17 Q. Were any of the samples collected during  
18 the peritaje global analyzed by HAVOC Lab?

19 A. I can't remember right now.

20 Q. You testified earlier that the purpose of  
21 your audit of HAVOC Lab was to get an understanding of  
22 the quality of the analytical techniques used by HAVOC  
23 during the judicial inspections, right?

24 A. You know, I don't really recall. I think  
25 the first part of that is definitely true, to get a  
0203

1 picture of the quality of their analyses. I can't  
2 recall right now if it was for the judicial inspection  
3 or part of the peritaje global or both.

4 Q. Was the reason that you wanted to have  
5 Richard Cabrera ask HAVOC for this information as  
6 opposed to having plaintiffs' ask for it was because  
7 you didn't want to reveal to HAVOC Labs that Stratus  
8 and the plaintiffs' team was working to help Richard  
9 Cabrera gather information for the report to be filed  
10 in his name?

11 A. I don't know. I don't -- I don't really  
12 remember why I said that.

13 Q. The GIS database that we discussed  
14 earlier, do you recall whether you received that or  
15 that Stratus received that on a hard drive?

16 MR. BEIER: Object to the form. You can  
17 answer.

18 A. Were you referring -- and I was confused  
19 about this before -- are you referring to the GIS  
20 database or the analytical results database?

21 Q. (BY MR. CRIMMINS) The analytical results  
22 database is the one that Ms. Belanger worked on,  
23 right?

24 A. Yes.

25 Q. I'm referring to the GIS database that I  
0204

1 think you said Ms. -- I think you said Ms. Naranjo  
2 worked on in the Quito office; is that right?

3 A. She worked on GIS in the Quito office. I  
4 know that we got GIS information from the Quito  
5 office. And your question again was?

6 Q. We earlier discussed the GIS database,  
7 and you testified that you know you had seen it and  
8 may have received it, but you didn't know. You didn't  
9 know if you still had it. Do you recall that?

10 A. More or less.

11 Q. Is that consistent with your  
12 understanding?

13 A. As I said, there was a GIS, you know --  
14 I'm not a GIS person, so I'm not really sure how this  
15 whole thing works, but people in the Quito office  
16 were -- had GIS information, and I believe they sent  
17 some of that to Stratus on a hard drive, and I'm not  
18 sure what happened to it after that.

19 Q. Do you know if during the efforts to  
20 collect documents responsive to the subpoena in this  
21 case, whether anyone searched for that hard drive?

22 A. I don't know.

23 Q. In responding to the subpoena in this  
24 case, did you tell anyone about Stratus having  
25 received this GIS information on a hard drive?

0205

1 A. Could you repeat that?

2 Q. Sure. In responding to the subpoena in  
3 this case, did you tell anyone about Stratus having  
4 received this GIS information on a hard drive?

5 A. Did I tell anyone at Stratus, you mean?

6 Q. Yes.

7 A. Well, others at Stratus knew about it.

8 Q. Okay. Are you aware of anyone at  
9 Stratus -- I'm sorry, I asked that already.

10 I would ask that that hard drive be  
11 searched for and produced if it is in the possession  
12 of Stratus.

13 A. I don't think it is. We don't have the  
14 hard drive. They gave it to us. I believe we  
15 downloaded the information and sent it back to the  
16 Quito office.

17 Q. You downloaded it to where?

18 A. That I don't know.

19 Q. Was it downloaded to another hard drive?

20 A. I don't know.

21 Q. Was it downloaded to a Stratus server?

22 A. Probably, but I don't have firsthand  
23 information about that.

24 Q. How do you know that it was downloaded  
25 and then sent back?

0206

1 A. I just remember that somebody brought the  
2 hard drive back to Quito.

3 Q. Okay. Well, I just ask that a search be  
4 made for the GIS information or the GIS database that  
5 is provided, and if it is still in the possession of  
6 Stratus that it be produced.

7 MR. BEIER: To my knowledge, it's all  
8 been produced.

9 A. And I don't know that it's a GIS  
10 database. I recall that there were aerial photographs  
11 that were just very large size, and they couldn't --  
12 you know, that was the only way they could get the  
13 information to us and -- but I'm not sure it was a GIS  
14 database, so . . .

15 MR. CRIMMINS: Mr. Beier, I just wanted a  
16 clear record. Did you say to my knowledge it's been  
17 produced?

18 MR. BEIER: To my knowledge, everything  
19 that's covered by the subpoena has been produced.

20 MR. CRIMMINS: But you have no knowledge  
21 of this specific GIS information, right?

22 MR. BEIER: Of specific GIS information,  
23 I don't know.

24 MR. CRIMMINS: I'm going to mark a new  
25 exhibit. Exhibit 689.

0207

1 (Deposition Exhibit 689 was marked.)

2 Q. (BY MR. CRIMMINS) Exhibit 689 is a  
3 one-page document labeled STRATUS-NATIVE 052374. It  
4 is a November 14, 2007, e-mail from Ann Maest to  
5 Steven Donziger and Doug Beltman at the top. The  
6 subject is ground water info. Do you see that?

7 A. Yes.

8 Q. In the top e-mail from you to Mr. Beltman  
9 and Mr. Donziger you say, "I've taken a quick look  
10 through the files you sent. First of all, there is no  
11 informe." Informe means report in Spanish, right?

12 A. Yes.

13 Q. "Is there a report that discusses how  
14 they took the samples, why, et cetera? The Excel  
15 files don't even give information on the depth of  
16 samples or the lithology." Do you see that?

17 A. Yes.

18 Q. Do you know which files you're referring  
19 to there?

20 A. Let me read this. Well, I remember this,  
21 and the files were information from groundwater  
22 sampling, I believe. And I'm not sure what happened  
23 after this but, you know -- I didn't even know what  
24 this was from when I received it.

25 Q. At the bottom of that e-mail you say,

0208

1 "See if you can get a report. Is this the work that  
2 followed from the plan that I reviewed (Dr. Luis

3 Cumbal Flores)?" Do you see that?

4 A. Yes.

5 Q. Did you ever get an answer to that  
6 question?

7 A. Probably, but I don't remember what it  
8 was right now.

9 Q. In the e-mail towards the bottom from  
10 Olga Lucia Gomez Ceron; do you see that?

11 A. Yes.

12 Q. To Steven Donziger, there is a reference  
13 to Bioplume II; do you see that?

14 A. Yes.

15 Q. What is Bioplume II?

16 A. I believe that that's a model that looks  
17 at degradation of petroleum compounds, and possibly  
18 other constituents, and I believe he put in  
19 information such as, you know, iron and manganese  
20 concentrations and amount of dissolved oxygen. And  
21 it's a way of getting at the extent of biodegradation  
22 of petroleum contaminants.

23 Q. Do you know who the authors of that model  
24 are?

25 A. No.

0209

1 Q. Are you aware that one of the authors of  
2 Bioplume II filed an expert report in Lago Agrio  
3 concluding there is no groundwater contamination in  
4 the former concession area?

5 A. No.

6 Q. How familiar are you with the Bioplume  
7 program or model?

8 A. Not very. Just what I just said.

9 Q. Have you used it before?

10 A. No.

11 Q. Are you qualified to evaluate whether or  
12 not a study or plan will collect the data necessary  
13 for Bioplume?

14 A. Could you repeat that?

15 Q. Sure. Are you qualified to evaluate  
16 whether or not a study plan will collect the data  
17 necessary to run Bioplume?

18 A. Well, I mean, yes, I guess is the short  
19 answer. You know, after reviewing the information  
20 about Bioplume, yes.

21 Q. The information that Ms. Gomez Ceron  
22 indicates was attached to this Exhibit 689, right?

23 A. No. I'm just talking about what is  
24 required to run the model. You know, there would be  
25 some kind of documentation with the model, Bioplume

0210

1 II, and what I recall is that you need information on,  
2 you know, kind of the oxidation state of groundwater,



3 and that is within my area of expertise.

4 Q. What I was referring to was the e-mail  
5 from Olga Lucia Gomez to Steven Donziger. It's in  
6 Spanish, but doesn't that say, here is all the  
7 information required to run the model Bioplume II?

8 A. Yes.

9 Q. So was it your understanding that was an  
10 attachment to her e-mail?

11 A. I don't know. I mean, that's what it  
12 looks like, but I don't -- I wasn't copied on this  
13 e-mail. I'm not really sure.

14 Q. Was -- did you -- did anyone at Stratus  
15 run Bioplume II with regard to making any  
16 determination of groundwater contamination in the  
17 former concession area?

18 A. No.

19 Q. In your -- the critique of -- or the  
20 review of the plan drafted by Dr. Luis Cumbal Flores  
21 that we talked about yesterday, what made you  
22 qualified to review his plan concerning the  
23 groundwater study that was proposed therein?

24 A. What are my qualifications for reviewing  
25 groundwater study plans?

0211

1 Q. Yes.

2 A. You know, I've collected many groundwater  
3 samples myself. I've made groundwater sampling plans.  
4 I've reviewed groundwater sampling plans. I've  
5 analyzed groundwater samples myself. I've overseen  
6 samples that have been collected by others and  
7 analyzed at laboratories. So . . .

8 Q. Are you aware of Dr. Flores' credentials  
9 or qualifications?

10 A. No.

11 MR. CRIMMINS: I'm going to mark as  
12 Exhibit 690 a document Bates labeled  
13 STRATUS-NATIVE 46486.

14 (Deposition Exhibit 690 was marked.)

15 Q. (BY MR. CRIMMINS) Which is an e-mail  
16 from Ann Maest to Steven Donziger, dated November 19,  
17 2007, and cc'ing Joe Kohn and Doug Beltman. Subject  
18 line is groundwater tasks. Do you see that?

19 A. Yes.

20 Q. Do you recall writing this e-mail?

21 A. No.

22 Q. Do you have any doubt that you -- well,  
23 let me back up a second. It says in the body of the  
24 e-mail, "Sent for Doug by Ann." Do you see that?

25 A. Yes.

0212

1 Q. Do you -- is that a practice of yours?

2 Has Mr. Beltman ever asked you to send e-mails and you

3 would indicate that is actually from him not you?

4 MR. BEIER: Object to the form. You can  
5 answer.

6 A. Well, I didn't -- could you repeat that?

7 Q. (BY MR. CRIMMINS) Well, do you  
8 understand -- why does it say, "Sent for Doug by Ann,"  
9 in your e-mail, Exhibit 690?

10 A. Because the e-mail itself was written by  
11 Doug, but I sent it for him.

12 Q. Do you know why you were sending it for  
13 him in this instance?

14 A. I can only assume that it's because he  
15 was on family vacation, as it says down below.

16 Q. Oh, okay. Thank you. Were you involved  
17 at all in drafting this e-mail with Mr. Beltman?

18 A. Let me take a look at it. I remember  
19 talking with Doug about these tasks, or potential  
20 tasks. I don't know if I had anything to do with this  
21 e-mail aside from sending it. I don't recall.

22 Q. In your discussions with Mr. Beltman  
23 about the tasks set forth here, was the intent to  
24 create a plan to characterize the presence and extent  
25 of groundwater contamination in the former concession  
0213

1 area?

2 A. Let me read through this a little better.  
3 Hold on. Yes.

4 Q. In No. 2 in the e-mail drafted by  
5 Mr. Beltman and sent by you in Exhibit 690 it says,  
6 "As quickly as possible, we will design and conduct a  
7 focused groundwater contamination study. The purpose  
8 will be to confirm (potentially) our assumption that  
9 groundwater is contaminated." Do you see that?

10 A. Yes.

11 Q. And at this point in time, November of  
12 2007, with regard to groundwater contamination in the  
13 former concession area, all plaintiffs had was an  
14 assumption of contamination, correct?

15 A. I don't know. I know that the plaintiff  
16 perito sampled groundwater and found elevated  
17 concentrations, but I don't know the timing of that  
18 relative to this e-mail.

19 Q. Do you have any reason to dispute what  
20 Mr. Beltman wrote in 690, that -- what he referred to  
21 as an assumption that groundwater is contaminated?

22 MR. BEIER: Objection, form, foundation.

23 A. Can you rephrase that?

24 Q. (BY MR. CRIMMINS) Well, Mr. Beltman  
25 writes, "The purpose will be to confirm (potentially)  
0214

1 our assumption that groundwater is contaminated,"  
2 right?

3 A. That's what it says, yes.

4 Q. Does that lead you to conclude that there  
5 was no confirmation at that time with actual data of  
6 groundwater contamination?

7 A. Not necessarily. I don't know what Doug  
8 had in mind when he wrote that, or what he knew about  
9 groundwater contamination at that time.

10 Q. Is it fair to say that at this point in  
11 time in November 2007, plaintiffs had not conducted a  
12 groundwater contamination study?

13 MR. BEIER: Objection, form, foundation.  
14 You can answer.

15 A. I don't know.

16 Q. (BY MR. CRIMMINS) No. 3 it says, "Based  
17 on what we learned from No. 2, we will then design and  
18 conduct a study to define the nature and extent of  
19 groundwater contamination at a few key sites." Do you  
20 see that?

21 A. Yes.

22 Q. Is it fair to say that as of November  
23 2007 the plaintiffs had not conducted a study to  
24 define the nature and extent of groundwater  
25 contamination at any site in the former concession  
0215

1 area?

2 MR. BEIER: Same objections.

3 A. My understanding is that the extent of  
4 groundwater contamination had not been studied at that  
5 time. I think the nature of the contamination had  
6 been studied, although I'm not sure of the timing with  
7 the perito reports.

8 Q. (BY MR. CRIMMINS) In your answer there  
9 you were referring to the groundwater samples near  
10 pits that you referred to earlier, correct?

11 A. Yes.

12 Q. The third sentence of No. 3 says, "We  
13 will also conduct field studies to determine the  
14 movement and chemical fate of petroleum hydrocarbons  
15 in groundwater." Do you see that?

16 A. Yes.

17 Q. Is it fair to say that as of 2007  
18 plaintiffs had not conducted field studies to  
19 determine the movement and chemical fate of petroleum  
20 hydrocarbons in groundwater in the former concession  
21 area?

22 A. Again, I'm not sure about the timing of  
23 the perito reports, but the perito reports showed that  
24 contaminants moved from pits to groundwater. So to  
25 that extent, they did study that.

0216

1 Q. In your opinion, are the plaintiffs' JI  
2 expert perito reports, quote, Studies that would

3 determine the movement and chemical fate of petroleum  
4 hydrocarbons in groundwater?

5 MR. BEIER: Object to form, foundation.

6 You can answer.

7 A. Well, a study of the chemical fate and  
8 transport starts at the sources and then goes  
9 downstream or down gradient from that. So what I'm  
10 saying is that a certain portion of that fate and  
11 transport had been examined by the perito reports, but  
12 the full extent had not.

13 Q. (BY MR. CRIMMINS) Is it fair to say that  
14 the extent to which the JI perito reports done by the  
15 plaintiffs provided information concerning the  
16 movement and chemical fate of petroleum hydrocarbons  
17 in groundwater in the former concession area, that  
18 information would be limited to fate and transport  
19 within an area very close to the pits at which  
20 groundwater samples were taken?

21 A. Yes.

22 Q. And is it fair to say that the JI  
23 sampling conducted by Chevron included much more  
24 extensive groundwater sampling at areas farther from  
25 pits?

0217

1 A. No --

2 Q. What part of that is not accurate?

3 A. -- I wouldn't say that. I don't remember  
4 the numbers right now, but Chevron had some sampling  
5 of groundwater, but I don't recall Chevron doing any  
6 kind of a study to look at fate and transport of  
7 petroleum contaminants in groundwater either.

8 Q. So are you saying that the plaintiffs' JI  
9 groundwater sampling qualifies as a study of the fate  
10 and transport of petroleum contaminants but Chevron's  
11 JI groundwater sampling does not?

12 MR. BEIER: Object to the form,  
13 mischaracterizes her testimony. You can answer.

14 A. It appeared from the sampling locations  
15 that Chevron did not collect samples in locations that  
16 would show groundwater contamination. It's true that  
17 some of them are farther away, but they were farther  
18 away in a direction that would not, you know, show  
19 they were -- for example, they were up gradient from  
20 the pits, so those would not show contamination from  
21 the pits.

22 Q. How familiar are you with the groundwater  
23 sampling conducted by Chevron?

24 A. At the time, I was fairly familiar with  
25 it.

0218

1 Q. Is it your testimony that Chevron's  
2 groundwater samples are only taken up gradient of the

3 pits?

4 A. I don't recall right now. I know that  
5 they -- a number of samples were taken up gradient of  
6 the pits, and those were apparently background  
7 samples.

8 Q. And is that a standard practice in  
9 delineating the extent of a potential groundwater  
10 contamination plume?

11 A. It's a part of it, yes, to know what you  
12 have without the contamination.

13 Q. Did you observe any of plaintiffs' JI  
14 groundwater sampling?

15 A. I was at -- yes, I did. Well, let me  
16 take that back. I know that I observed soil sampling,  
17 augers that they -- where they collected soil samples.  
18 I don't recall right now if I observed any groundwater  
19 sampling.

20 Q. When plaintiffs collected groundwater  
21 samplings in connection with the JIs, those samples  
22 were taken from holes dug with augers from which soil  
23 samples were taken, right?

24 A. I believe so, yes.

25 Q. In your experience, is that an

0219

1 appropriate method by which to collect a groundwater  
2 sample?

3 A. It can be if you, you know, leave the  
4 well to sit for a while and then come back and go  
5 under the surface of the water and take samples.

6 Q. What do you mean by "go under the surface  
7 of the water"?

8 A. I mean collect a sample not from just the  
9 very top of the water table.

10 Q. And how is that done?

11 A. You can put a peristaltic pump -- use a  
12 peristaltic pump in a tube.

13 Q. Was any of the groundwater samples taken  
14 from auger holes by the plaintiffs' JI experts taken  
15 using a peristaltic pump?

16 A. I don't recall.

17 Q. Is the reason why you say you need to go  
18 below the surface of the water after it settles for a  
19 while so you don't get the sample contaminated by  
20 what's sitting on the surface of the water?

21 A. Yes.

22 Q. So, for example, lowering a sawed-off  
23 Coke can down into the hole and collecting the water  
24 that comes up in it would not be an appropriate method  
25 by which to take that sample, would it?

0220

1 A. A sawed-off Coke can?

2 Q. Yeah.

3 A. No, that wouldn't be a good idea.

4 Q. In fact, lowering any form of cup or  
5 basin into the hole and then scooping water and just  
6 pulling it straight back up would not be an  
7 appropriate method of taking a groundwater sample,  
8 would it?

9 A. Could you say that again?

10 Q. Sure. Lowering any form of cup into the  
11 hole and then pulling it back out full of water would  
12 not be an appropriate method by which to take a  
13 groundwater sample, would it?

14 A. It would be a sample of groundwater. I  
15 think you have to understand that the groundwater  
16 table was very high, and is very high in the  
17 concession area, so there's, you know, intimate mixing  
18 of groundwater with contaminated soils. I mean, that  
19 would not be the best way to get a sample of  
20 groundwater down gradient of the pits.

21 Q. Would it be consistent -- would that  
22 practice be consistent with sampling techniques under  
23 EPA standards?

24 A. EPA doesn't have standards for collection  
25 of groundwater samples, so there are no standards for  
0221

1 collection of groundwater samples.

2 Q. What US agency sets forth standards for  
3 collecting groundwater samples?

4 A. None.

5 Q. What state agency in the state of  
6 Colorado sets forth standards for collecting  
7 groundwater samples?

8 A. None.

9 Q. Are you aware of any standards --  
10 government standards of any government body in the  
11 United States that sets forth standards or techniques  
12 for collecting groundwater samples?

13 A. Those are very different standards or  
14 techniques. There are recommended methods or -- but  
15 there are no standards.

16 Q. Who recommends methods?

17 A. A number of different entities. The US  
18 Geological Survey has, you know, a number of documents  
19 that show their methods for collection of groundwater  
20 sampling -- groundwater samples.

21 Q. Are you aware of any agency or  
22 organization anywhere in the world that recommends,  
23 for collecting groundwater samples, a method that  
24 includes drilling an auger hole and then lowering a  
25 cup into the hole to collect water from the hole?

0222

1 A. Could you say that again, please.

2 Q. Sure. Are you aware of any agency or

3 organization anywhere in the world that recommends, as  
4 a method for collecting groundwater samples, drilling  
5 an auger hole and then lowering a cup into the hole to  
6 collect water?

7 A. I mean, you can definitely do that. It's  
8 called bailing, and the USGS has a write-up on bailing  
9 of samples using that approach, so yes.

10 Q. Is it your understanding that the bailing  
11 approach is what the JI expert -- the plaintiffs' JI  
12 experts used in collecting their groundwater samples  
13 in connection with the judicial inspections in the  
14 Lago Agrio case?

15 A. I believe so.

16 Q. Have you ever conducted an audit of a lab  
17 other than your audit of HAVOC Lab?

18 A. Yes.

19 Q. What lab?

20 A. There's several different labs. For  
21 example, when we were considering which lab to use for  
22 the Yanacocha samples from Peru, we considered a  
23 number of labs and did a review of their techniques  
24 and quality control procedures and all of that.

25 Q. Do you have an understanding as to the  
0223

1 order that Chevron sought and received several times  
2 from the Quito court for inspection of HAVOC Lab that  
3 that inspection entailed an audit of HAVOC Lab by a  
4 judicially appointed expert?

5 A. I don't know about that, no.

6 (Deposition Exhibit 691 was marked.)

7 Q. I hand you a new exhibit, 691.

8 Exhibit 691 is a document labeled STRATUS-NATIVE  
9 051072 through 075, along with the metadata. It's an  
10 e-mail. The first -- on the first page is an e-mail  
11 from Ann Maest to Doug Beltman cc'ing Jennifer Peers,  
12 dated Thursday, February 21, 2008. Do you see that?

13 A. Yes.

14 Q. On the page labeled STRATUS-NATIVE  
15 51075 -- I'm sorry, if you flip back to the first page  
16 you'll see there is an attachment, and it says,  
17 "Richard.db.issues.doc." Do you see that?

18 A. Yes.

19 Q. And then STRATUS-NATIVE 51075 contains  
20 that attachment. And it says a number of, "Issues  
21 with Richard's db." Do you understand it to be a  
22 reference to Richard Cabrera's database?

23 A. Yes.

24 Q. The first bullet point says, "A number of  
25 concentrations are either Nd (with no number - there  
0224

1 are 132 results with this) e.g., benzene results, or  
2 have no number or dash (-) in the results column." Do

3 you see that?

4 A. Yes.

5 Q. Nd is nondetect; is that right?

6 A. It could also be not determined.

7 Q. What's the difference between not  
8 detected and not determined?

9 A. Not determined means that it wasn't  
10 analyzed at all, and not detected means that it was  
11 analyzed but the concentration was below the detection  
12 limit.

13 Q. The next sentence says, "For the ones  
14 with Nd, we need to find the detection limits." Do  
15 you see that?

16 A. Yes.

17 Q. Does that reform your view as to whether  
18 Nd refers to nondetect or not determined in this  
19 document?

20 A. Well, there it probably refers to  
21 detection limits, but I'm not -- I don't know. That  
22 doesn't tell me for sure that that's what ND refers  
23 to.

24 Q. Did you write this attachment "Issues  
25 with Richard's db"?

0225

1 A. I'm not sure. I believe so, but I don't  
2 remember writing it right now.

3 Q. The third to last bullet point on the --  
4 on this document, it says, "There are no detection of  
5 Cr VI." That's chrom VI, right?

6 A. Yes.

7 Q. "... Cr total in water, benzene,  
8 ethylbenzene, toluene, or xylene." Do you see that?

9 A. Yes.

10 Q. Is it accurate that in Mr. Cabrera's  
11 sampling there were no samples with detectable limits  
12 of benzene, ethylbenzene, toluene, or xylene?

13 A. That appears to be what this says.

14 Q. Is that your recollection as well?

15 A. I don't recall right now.

16 Q. And is it also true that Mr. Cabrera did  
17 not find any chromium VI in any samples taken during  
18 the peritaje global?

19 A. I don't recall.

20 Q. Do you recall that the plaintiffs in  
21 their judicial inspections did find chromium VI in  
22 both soil and water?

23 A. I remember that there were detections of  
24 chromium VI. I can't recall what they were in.

25 Q. Did you ever read the Chevron expert

0226

1 report that concluded that HAVOC had never actually  
2 analyzed for chrom VI?



3 A. I don't recall reading that.

4 Q. Did you yourself ever come to a  
5 conclusion as to whether HAVOC Lab had ever analyzed  
6 for chromium VI?

7 A. I don't remember.

8 Q. What was your understanding as to why you  
9 had access to Cabrera's sampling data as of  
10 February 21, 2008?

11 A. I don't know why I had access to it.

12 Q. Do you know how you got access to it?

13 A. I believe we got the information from the  
14 Quito office.

15 Q. The plaintiffs' Quito office?

16 A. The plaintiffs' Quito office, yes.

17 Q. Do you recall whether you had some  
18 understanding at this time whether Chevron also had  
19 some access to Cabrera's database?

20 A. I don't know.

21 MR. CRIMMINS: I'll mark another exhibit  
22 692.

23 (Deposition Exhibit 692 was marked.)

24 Q. (BY MR. CRIMMINS) Exhibit 692 is a  
25 document labeled STRATUS-NATIVE 050355. E-mail on the  
0227

1 first page is from Ann Maest to Doug Beltman and  
2 Steven Donziger, dated December 4, 2007; do you see  
3 that?

4 A. Yes.

5 Q. Do you recognize this document?

6 A. Well, from the middle of the first page  
7 over on the top of the second one looks like what we  
8 were looking at earlier.

9 Q. Looks like that's cut and pasted, the  
10 e-mail we just reviewed earlier, concerning tasks  
11 relating to a groundwater investigation; right?

12 A. Yes.

13 Q. And the top half of the e-mail on the  
14 first page, is that something you wrote?

15 A. It appears that way.

16 Q. In the first paragraph of that e-mail,  
17 second line, it says, "I have reviewed the groundwater  
18 information that Pablo gave me at the meeting -  
19 nothing new there. Again, it's hard to interpret  
20 because there is no report that documents what they  
21 did in the field or even where the samples were  
22 collected from (they have depth but nothing on  
23 geology/lithology). Also, most of the samples are  
24 clean." Do you see that?

25 A. Yes.

0228

1 Q. Which groundwater information are you  
2 referring to there?

3 A. I think this is the same information that  
4 was the subject of another e-mail that -- when I was  
5 asking Steven, you know, where did this come from.

6 Q. That's the e-mail where you were asking,  
7 did this come from the plan I reviewed by Dr. Flores?

8 A. Yes.

9 Q. You said you never got an answer to that  
10 question?

11 A. No, I didn't say that. I don't know if I  
12 did or not.

13 Q. Then you lay out some tasks. "Here are  
14 some of the tasks that we can get started on right  
15 away now if you approve." Do you see that?

16 A. Yes.

17 Q. "Develop criteria for site selection.  
18 Select sites for groundwater investigation,"  
19 et cetera. Were any of those tasks ever approved?

20 A. I can't tell from this, without some more  
21 context, what it is referring to.

22 Q. Looking at the part of the e-mail below  
23 that was pasted in from the earlier document we looked  
24 at that had set out three tasks relating to the  
25 conduct of a groundwater contamination study, were  
0229

1 those tasks ever executed?

2 A. No.

3 Q. And No. 3 above in your e-mail, it says,  
4 "Investigate availability of geoprobe or other  
5 sampling rigs for deployment in Concession." Do you  
6 see that?

7 A. Yes.

8 Q. What is a geoprobe?

9 A. It's a mobile -- basically a drilling  
10 unit that can, you know, fit on the back of a truck or  
11 something. There are a couple different kinds. And  
12 it -- you know, there are several different kinds. It  
13 can drill a hole, sample the hole, sample groundwater,  
14 that sort of thing.

15 Q. Is collecting groundwater samples using a  
16 geoprobe a superior method compared to bailing?

17 A. You can still bail with a geoprobe.  
18 That's just the way the hole is drilled.

19 Q. Can a geoprobe also be used to collect  
20 samples, as you indicated earlier was the preferred  
21 method of getting a sample from below the surface of  
22 the water in the hole without having the sample  
23 contaminated with what is on the surface of the water?

24 A. No. It's really just, you know, the  
25 device that would drill the hole. The thing that's a  
0230

1 little better about the geoprobe is that it can go  
2 deeper than a hand-drilled auger, generally, depending

3 on what the material is.

4 Q. Did -- and why was -- why were you  
5 suggesting that you investigate the availability of  
6 geoprobe or other sampling rig for deployment to the  
7 concession?

8 A. That would be in case we did some of  
9 these tasks below, the groundwater study.

10 Q. Were the tasks below -- would it not be  
11 possible to conduct the groundwater study as set forth  
12 below using a hand auger?

13 A. You could, but the other advantage of a  
14 geoprobe is that it drills the hole much faster, so it  
15 would take a lot more time to drill it than by hand  
16 augerring.

17 Q. The next -- at the end of that No. 3 you  
18 write, "If not possible, determine other way to get  
19 defensible groundwater samples." Do you see that?

20 A. Yes.

21 Q. Did plaintiffs ever deploy a geoprobe or  
22 other sampling rig to the concession area?

23 A. I don't believe so.

24 Q. Does a geoprobe stir soil up?

25 A. It can, yes.

0231

1 Q. And does the use of a geoprobe, in your  
2 opinion, interfere with the collection of groundwater  
3 samples?

4 A. Well, it doesn't interfere, it allows you  
5 to take a groundwater sample.

6 Q. So the use of a geoprobe, in your  
7 opinion, does not interfere with the taking of  
8 groundwater samples?

9 A. Interfere. As I said, I don't -- I'm not  
10 really sure what you mean by that, interfere. It  
11 allows to you take the sample.

12 Q. So my question really doesn't make much  
13 sense, is that what you're saying?

14 A. Right.

15 Q. Just to finish this, the reason my  
16 question doesn't make much sense is because it doesn't  
17 make any sense to suggest that a geoprobe interferes  
18 with the taking of groundwater samples, correct?

19 A. Right.

20 Q. Okay. So as of the time you wrote this  
21 in December of 2007, is it fair to say that you were  
22 concerned that plaintiffs' prior groundwater sampling  
23 was not defensible?

24 A. Could you repeat that, please?

25 Q. Sure. Is it fair to say at the time you

0232

1 wrote this in December of 2007 you were concerned that  
2 plaintiffs' prior groundwater sampling was not

3 defensible?

4 A. No, that's not fair. That's not what I  
5 meant by this at all.

6 Q. And why were you writing, "If not  
7 possible, determine other way to get defensible  
8 groundwater samples"?

9 A. It didn't have anything to do with what  
10 has been done in the past, it's just that's the  
11 part -- that's something you need to consider when you  
12 are undertaking a groundwater study. And you could  
13 leave that word out and it would still have the same  
14 meaning.

15 Q. Are you aware that in the -- one of the  
16 annexes drafted by Cabrera -- I'm sorry, one of the  
17 annexes drafted by Stratus to be given to Mr. Cabrera,  
18 Stratus indicated that the methods used by the  
19 plaintiff to collect groundwater samples during the JI  
20 inspections probably introduced high levels of  
21 suspended soil in the samples, which might bias  
22 sampling results?

23 A. Could you say that again?

24 Q. Sure. Are you aware that in one of the  
25 annexes drafted by Stratus to be given to Mr. Cabrera,  
0233

1 Stratus indicated that the methods used by the  
2 plaintiff to collect groundwater samples during the JI  
3 inspections probably introduced high levels of  
4 suspended soil in the samples, which might bias  
5 sampling results?

6 A. I believe that was a part of what ended  
7 up as appendix -- I can't recall, it was like B or  
8 something on the quality of the data. But it was not  
9 a statement about all the samples.

10 Q. But it was a statement that was contained  
11 in the final Cabrera report, that the methods used by  
12 plaintiffs to collect groundwater samples probably  
13 introduced high levels of suspended soil in the  
14 samples, right?

15 MR. BEIER: Objection, foundation.

16 A. I don't remember.

17 Q. (BY MR. CRIMMINS) High levels of  
18 suspended soil means the sample is muddy, right?

19 A. That there are particles of soil in the  
20 water, but that can be -- you know, if you wait until  
21 that settles out, then you take a sample and then it  
22 doesn't have suspended material in it.

23 Q. If you do what you said earlier, which is  
24 take the sample from below the surface of the water  
25 and not mix it with what's on the surface of the  
0234

1 water, right?

2 A. No, that's not related to that at all.

3 This is just if you have suspended material -- you  
4 think about taking a sample of muddy river water, and  
5 if you let that sit around, the suspended particles  
6 will settle out, and then you can take a sample of  
7 what's up above that and not get suspended material in  
8 it.

9 Q. And how long do you have to wait?

10 A. It depends. It depends on the particles.  
11 It can be anywhere from minutes to hours.

12 Q. And did the plaintiffs, in collecting  
13 their groundwater samples from auger holes in the  
14 former concession area during the JI inspections, wait  
15 the requisite amount of time to avoid having their  
16 samples contain suspended soil?

17 A. I remember asking some of the staff in  
18 Quito that, and the answer I got was that they did.  
19 But I think there was one example where there was a  
20 picture in one of the perito reports from the  
21 plaintiffs' side that showed a muddy sample, and I  
22 believe that's what that referred to.

23 Q. Your belief is that referred to a single  
24 sample taken by the plaintiffs, not the methodology  
25 used by the plaintiffs?

0235

1 A. Well, it's -- no. The methodology, it's  
2 true that you could get suspended soil particles in  
3 the groundwater sample; but as I said, if you waited  
4 for those to settle out, then you don't have that  
5 problem.

6 Q. Plaintiffs' methodology in collecting  
7 groundwater samples during the JI inspections did not  
8 vary from site to site, did it?

9 MR. BEIER: Object to the form,  
10 foundation.

11 A. I don't know. I know that there were  
12 different peritos for different sites.

13 Q. (BY MR. CRIMMINS) I hand you what's  
14 previously been marked as Exhibit 284. Exhibit 284 is  
15 an e-mail from Doug Beltman to Pablo Fajardo and  
16 Steven Donziger, dated August 1, 2008. You can see  
17 it's in English at the top -- I'm sorry, Spanish at  
18 the top and English at the bottom, and that's how it  
19 was produced.

20 A. Yes.

21 Q. Have you seen this e-mail before?

22 A. Not that I recall. I don't think so.

23 Q. In the e-mail at the bottom in English  
24 Mr. Beltman writes, "One of our tasks for the comments  
25 on the Cabrera Report in the Plan de Trabajo is to

0236

1 conduct a technical TexPet cleanup in the 1990s  
2 complied with the technical requirements for the

3 cleanup." Do you see that?

4 A. Yes.

5 Q. Were you involved in executing that task?

6 A. I did a little bit on that, as I recall,  
7 but I think it was mostly Doug Beltman.

8 Q. What did you do in regard to that task?

9 A. I believe I reviewed information in the  
10 Woodward-Clyde report that gave some information on  
11 TPH concentrations in soil. That's all I can recall  
12 right now.

13 Q. In the second page of Exhibit 284  
14 Mr. Beltman writes, "Although there are some  
15 ambiguities of language and potential legal issues  
16 (such as apparent contradictions between the  
17 March 1995 Statement of Work and the RAP), I did not  
18 find any clear instances where TexPet did not meet the  
19 conditions required in the cleanup." Do you see that?

20 A. Yes.

21 Q. Do you have any basis for contradicting  
22 Mr. Beltman's statement that I just read?

23 MR. BEIER: Objection, foundation, form.

24 A. That sentence that's on the top of the  
25 second page?

0237

1 Q. (BY MR. CRIMMINS) Yeah, the one I just  
2 read.

3 A. Okay. What I recall is that Doug was  
4 doing a very kind of, you know, did they follow the  
5 letter of the contract. And according to that, he  
6 didn't find any -- this is what he said, didn't find  
7 any instances where TexPet didn't meet the conditions  
8 required in the cleanup.

9 Q. Do you have any reason to disagree with  
10 that conclusion?

11 MR. BEIER: Same objections.

12 A. Well, I didn't do this analysis, so I  
13 don't really know beyond what I just said.

14 (Deposition Exhibit 693 was marked.)

15 Q. (BY MR. CRIMMINS) I hand you  
16 Exhibit 693. Exhibit 693 is Bates labeled DONZ14397  
17 through 14400. It's a memo from Steven Donziger to  
18 Doug Beltman, dated 8/26/2008, "Re: TexPet Cleanup  
19 Pits with Greater than 5,000 ppm TPH." Do you see  
20 that?

21 A. I think it's the other way around, it's  
22 from Doug Beltman to Steven Donziger.

23 Q. Thank you, you're right. Have you seen  
24 this memo or the attachment to this memo before?

25 A. I've seen the table, table labeled,

0238

1 "Table 1. TexPet cleanup pits with TPH concentrations  
2 greater than 5,000 ppm."

3 Q. And where did -- who compiled Table 1?

4 A. I believe it was Jennifer Peers.

5 Q. Did you supervise Jennifer Peers in that  
6 work?

7 A. I didn't supervise her, but I -- I  
8 believe some of this information is from  
9 Woodward-Clyde, and I started making a table like  
10 this, and then she, I believe, kind of took it over  
11 and added more information to it.

12 Q. So you started compiling this table, and  
13 then Ms. Peers finished it?

14 A. I believe so.

15 Q. What was the source that you and  
16 Ms. Peers were using for the right-hand column of this  
17 table that indicates who operated each well?

18 A. That was from information that we got  
19 from the plaintiffs' office in Quito.

20 Q. Do you know where they got the  
21 information?

22 A. I believe they went to a -- one of the  
23 agencies in Quito and dug out some old records and  
24 copied them.

25 Q. How old were the records?

0239

1 A. It was a variety of dates, but I don't  
2 know exactly the range.

3 Q. Was any of the information current as of  
4 the time this table was compiled?

5 A. I believe it was all current.

6 Q. Well, you said it was old records, right?

7 A. Right. But, you know, if a well was  
8 never operated by PetroEcuador, that was information  
9 that they got from this agency that they went to.

10 Q. Well, information that says a well was  
11 never operated by PetroEcuador would only be as  
12 current as the report that that information was  
13 contained in, correct?

14 A. That's true.

15 Q. Did you ever come to learn that seven of  
16 the sites on this table that are labeled "Texaco" only  
17 sites in the column "Well operated by" had actually  
18 been operated by PetroEcuador and/or their workovers  
19 conducted by PetroEcuador at those sites?

20 A. No.

21 Q. I hand you a document that was marked in  
22 the Mills deposition as Exhibit 172. Exhibit 172 is  
23 STRATUS-NATIVE 128142 through 128146. They appear to  
24 be notes but they are typewritten notes of a meeting  
25 in Boulder on June 4 and 5, 2008; do you see that?

0240

1 A. Yes.

2 Q. Are these your notes from that meeting?

3 A. I'm not sure.  
4 Q. Have you seen this document before?  
5 A. I am not sure.  
6 Q. Under "Objections/Missing Elements" on  
7 the first page it says at the first bullet point, "No  
8 groundwater number - not enough data." Do you see  
9 that?

10 A. Yes.  
11 Q. Is it fair to say that as of June 2008  
12 there was insufficient groundwater data to make any  
13 determination concerning the necessity of remediation  
14 of groundwater in the former concession area?

15 MR. BEIER: Objection, form, foundation.

16 A. I don't know. All it says is no  
17 groundwater number, not enough data. I'm not sure  
18 what that refers to exactly.

19 Q. (BY MR. CRIMMINS) I'm asking you, is it  
20 fair to say that as of June 2008 there was  
21 insufficient groundwater data to make any  
22 determination concerning the necessity of the  
23 remediation of groundwater in the former concession  
24 area?

25 MR. BEIER: Same objections.

0241

1 A. I don't know.  
2 Q. (BY MR. CRIMMINS) On the second page of  
3 Exhibit 172 under "Statement of Findings," No. 3,  
4 "Sufficient and reliable information." It says, "But  
5 doesn't include groundwater (need plain language about  
6 groundwater contamination for press KH), sediments,  
7 air - not enough data." Do you see that?

8 A. Yes.

9 Q. Is it fair to say that as of June of 2008  
10 there is insufficient data concerning any sediment or  
11 air contamination in the former concession area that  
12 would justify any remedial action?

13 MR. BEIER: Objection, form, foundation.

14 A. There is insufficient data on sediment  
15 and air -- what was the rest of that?

16 Q. (BY MR. CRIMMINS) To justify any  
17 remedial action.

18 A. For?

19 Q. Sediments or air.

20 A. There was certainly information that  
21 showed elevated concentrations of contaminants --  
22 petroleum contaminants in sediment. I don't know  
23 about air.

24 Q. Where you did the sediment -- sorry.

25 A. I'm not aware of any air data that I can

0242

1 recall right now.

2 Q. The sediment data you referred to, what's



3 the source of that?

4 A. I believe there were sediment data  
5 collected as a part of the judicial inspections.

6 Q. By whom?

7 A. By the plaintiffs.

8 Q. Did Mr. Cabrera collect any sediment  
9 data?

10 A. Yes, he did.

11 Q. On page -- STRATUS-NATIVE 128144, the  
12 bottom of the page it says, "Amicus Project.  
13 Questions people have asked when contacted (Dave  
14 Mills)." Then it says, "Who is Cabrera? What is our  
15 relationship to Cabrera?" Do you see that?

16 A. Yes.

17 Q. Do you recall being part of any  
18 discussions about how to characterize Stratus'  
19 relationship to Cabrera when people asked?

20 A. No.

21 MR. CRIMMINS: I'll mark Exhibit 698  
22 STRATUS-NATIVE 051806.

23 (Deposition Exhibit 698 was marked.)

24 Q. (BY MR. CRIMMINS) Exhibit 698 is  
25 STRATUS-NATIVE 051806. It's an e-mail from Ann Maest  
0243

1 to Steven Donziger and others, dated October 29, 2007.

2 Do you see that?

3 A. Yes.

4 Q. And it's, "Re: Emergency/Ann, please  
5 call me ASAP." Do you see that?

6 A. Yes.

7 Q. Do you have a recollection of what the  
8 emergency was that is being referred to there?

9 A. Well, from reading the e-mail, I think it  
10 might have had something to do with a call from the  
11 Wall Street Journal.

12 Q. You write, "Here's a quick analysis of  
13 produced waters and their toxic content in comparison  
14 to standards. The only information from the  
15 concession is from a PetroEcuador sample taken at the  
16 Shushufindi Norte Station in 2001. There are also  
17 tables in AGRA with analyses of produced water from  
18 different fields in the concession. AGRA analyzed  
19 these samples for TPH but nothing else that could be  
20 toxic - just salts. I include some general  
21 information, but upstream concentrations are not that  
22 much lower in TPH, so I didn't include a comparison to  
23 standards." Do you see that?

24 A. Yes.

25 Q. Does that indicate that from the data you  
0244

1 reviewed you did not find any impacts from produced  
2 water discharges in the concession area?

3 A. No. No. That's a very broad conclusion.  
4 I don't think that's warranted from what I say here.

5 Q. I'll try to narrow it. Is it fair to say  
6 that your conclusion here was that because upstream  
7 concentrations are not that much lower in TPH from  
8 downstream concentrations that you did not find a TPH  
9 impact from produced water discharge in the former  
10 concession area?

11 A. I would narrow that even further and say  
12 that in the samples that were in AGRA that I reviewed,  
13 I didn't see a large increase in TPH downstream. But  
14 still, it's very vague. I'm not really sure what this  
15 refers to exactly.

16 Q. Is it fair to say -- I'm sorry.

17 A. I'm not exactly sure what this is.

18 Q. Is it fair to say you didn't include a  
19 comparison to standards because a comparison to  
20 standards would have indicated that produced water  
21 discharges in the former concession area did not  
22 present a problem?

23 MR. BEIER: Objection, argumentative,  
24 form.

25 A. No, it's not fair to say that.

0245

1 Q. (BY MR. CRIMMINS) And why didn't you  
2 include a comparison to standards as you wrote in  
3 Exhibit 698?

4 A. I don't know for sure, but if they don't  
5 exceed standards and they are not that much higher  
6 than upstream, then the relevant comparison is  
7 upstream versus downstream.

8 Q. In whatever you were comparing here for  
9 Mr. Donziger, did you include the comparison of  
10 upstream versus downstream concentrations?

11 A. I don't know.

12 Q. I hand you -- these are four annexes to  
13 the Cabrera report. They are Exhibit 694, 695, 696,  
14 and 697. These are four of the annexes to the Cabrera  
15 report that earlier you indicated you would like to  
16 see before answering the question of whether you know  
17 who was involved in drafting them.

18 Exhibit 694 is "Annex L, Psychosocial  
19 Study of the Impact of Texaco's Oil Development in the  
20 Amazon Communities of Ecuador." Take a moment to  
21 review that and let me know if you know who was  
22 involved in drafting that annex.

23 MR. NARWOLD: While she's reviewing,  
24 let's go through that again. Which --

25 MR. CRIMMINS: 694 is Annex L to the  
0246

1 Cabrera report. 695 is Exhibit -- Annex J to the  
2 Cabrera report. 696 is Annex P to the Cabrera report.

3 And 697 is Annex I to the Cabrera report.

4 Q. (BY MR. CRIMMINS) Ms. Maest, in the time  
5 you've had to review the Exhibit 694, are you able to  
6 determine who drafted that exhibit, Annex L to the  
7 Cabrera report?

8 A. No.

9 Q. Looking at 695, Annex J to the Cabrera  
10 report, "Ecological Impact of Contamination in the  
11 Concession Area," just take a moment to look at that,  
12 and let me know if you know who drafted that.

13 A. Which annex next?

14 Q. J. Ms. Maest, in the time you had, and  
15 you may not have had as much time as you want, but I'm  
16 running out of time, in the time you had to review  
17 Exhibit 695, Annex J to the Cabrera report, do you  
18 know who wrote that report -- or that annex?

19 A. Stratus Consulting was involved in  
20 writing the materials that are -- at least some of the  
21 materials that are present here. I don't know the  
22 extent to which this is like what Stratus wrote.

23 Q. Okay. Exhibit 696 is Annex P. Would you  
24 take a moment to look at that. This is the "Proposed  
25 Comprehensive Health Program in Response to Oil  
0247

1 Operations in Sucumbios and Orellana."

2 A. I don't know. I'm not sure. I don't  
3 think Stratus was involved in this one.

4 Q. And Exhibit 697 is Annex I to the Cabrera  
5 report called "Reported Spills." If you take a quick  
6 look at that and let me know if you can -- if you know  
7 who drafted or compiled that annex.

8 A. I remember hearing about this, but I'm  
9 not really sure who wrote it -- who was involved in  
10 writing it.

11 Q. You heard about it being written?

12 A. Maybe it's just that I remember seeing  
13 some documents about spills in the concession, and I  
14 don't know if that was for the Cabrera report or  
15 something else.

16 Q. Okay. Other than Fausto Penafiel, who we  
17 talked about yesterday, and Luis Villacreces, how many  
18 of the other judicial inspection peritos for the  
19 plaintiffs have you met?

20 A. I'm not sure. Probably two or three.  
21 One to three others.

22 Q. I'm sorry, I handed you the wrong copy of  
23 this. Can you remember what their names are?

24 A. No.

25 Q. Are you aware that Dominic D'Oro  
0248

1 evaluated the JI sediment data, and included in the  
2 report submitted to the Lago Agrio court that

3 sediments posed no risks to aquatic organisms?

4 A. I don't know how he could do that if he  
5 didn't have enough data.

6 Q. And in your opinion, there is not enough  
7 data to make that conclusion?

8 A. I think to make a statement that there is  
9 no risk, you would need quite a bit of data. More  
10 than what I'm aware is available.

11 Q. And is it also the case to make the  
12 opposite statement that there is risk, that you would  
13 also need more data?

14 A. You would need more data, yes.

15 Q. What percentage of the Lago Agrio record  
16 would you estimate you have read?

17 A. What do you mean by the Lago Agrio  
18 record?

19 Q. The Lago Agrio court record that resides  
20 in the Lago Agrio courthouse.

21 MR. BEIER: Objection, foundation, form.

22 A. Are you referring to the judicial  
23 inspections?

24 Q. (BY MR. CRIMMINS) I'm referring to the  
25 entire record in the legal case.

0249

1 MR. BEIER: Same objections.

2 MR. CRIMMINS: I'll withdraw the  
3 question.

4 Q. (BY MR. CRIMMINS) I've handed you a  
5 stack of exhibits, and this is the last thing we'll do  
6 because I know I'm out of time. These are all notes  
7 that were produced by Stratus. I just have one  
8 substantive question, but as I go through and I'll  
9 enter the exhibit numbers for the record. Will you  
10 look through these and let me know if any of these  
11 notes were not taken by you, not in your handwriting?

12 MR. CRIMMINS: Exhibit 612 is  
13 STRATUS-NATIVE 128116.

14 Exhibit 613 is STRATUS-NATIVE 128120.

15 Exhibit 614 is STRATUS-NATIVE 128128.

16 Exhibit 615 is STRATUS-NATIVE 128129.

17 Exhibit 617 is STRATUS-NATIVE 008824.

18 For the record, I'm just reading off the  
19 first page of the Bates numbers for these exhibits.

20 Exhibit 618 is STRATUS-NATIVE 8825.

21 Exhibit 619 is STRATUS-NATIVE 8834.

22 Exhibit 620 is STRATUS-NATIVE 128197.

23 Exhibit 621 is STRATUS-NATIVE 8832.

24 Exhibit 622 is STRATUS-NATIVE 8835.

25 Exhibit 623 is STRATUS-NATIVE 8836, which  
0250

1 is actually an article that has just a little bit of  
2 handwriting in the left-hand margin.

3 Exhibit 624 is STRATUS-NATIVE 8838.  
4 Exhibit 625 is STRATUS-NATIVE 8839.  
5 Exhibit 626 is STRATUS-NATIVE 8840.  
6 Exhibit 627 is STRATUS-NATIVE 8842.  
7 Exhibit 628 is STRATUS-NATIVE 8843.  
8 Exhibit 629 is STRATUS-NATIVE 8845.  
9 Exhibit 630 is STRATUS-NATIVE 8846.  
10 Exhibit 631 is STRATUS-NATIVE 8848.  
11 Exhibit 632 is STRATUS-NATIVE 128118.  
12 Exhibit 633 is STRATUS-NATIVE 8862.  
13 Exhibit 634 is STRATUS-NATIVE 8864, which  
14 again just contains some handwriting in the margins.  
15 Exhibit 635 is STRATUS-NATIVE 8869, and  
16 again contains handwritten notes in the margins.  
17 Exhibit 636 is STRATUS-NATIVE 8874.  
18 Exhibit 637 is STRATUS-NATIVE 8882, which  
19 again contains handwriting in the margins.  
20 Exhibit 638 is STRATUS-NATIVE 8885.  
21 Exhibit 639 is STRATUS-NATIVE 8887, and  
22 again contains handwriting in the margins.  
23 Exhibit 640 is STRATUS-NATIVE 8891, and  
24 again contains handwriting in the margins.  
25 Exhibit 641 is STRATUS-NATIVE 8897,  
0251

1 contains handwriting in the margins.  
2 Exhibit 642 is STRATUS-NATIVE 8898.  
3 Exhibit 643 is STRATUS-NATIVE 8899.  
4 Exhibit 644 is STRATUS-NATIVE 8901,  
5 contains handwriting in the margins.  
6 Exhibit 645 is STRATUS-NATIVE 8904.  
7 Exhibit 646 is STRATUS-NATIVE 128155.  
8 Exhibit 647 is STRATUS-NATIVE 128162.  
9 Exhibit 648 is STRATUS-NATIVE 128175,  
10 contains handwriting in the margins.  
11 Exhibit 649 is STRATUS-NATIVE 128181.  
12 Exhibit 650 is STRATUS-NATIVE 8905.  
13 Exhibit 651 is STRATUS-NATIVE 8906.  
14 Exhibit 652 is STRATUS-NATIVE 8907.  
15 Exhibit 653 is STRATUS-NATIVE 8908.  
16 Exhibit 654 is STRATUS-NATIVE 8909.  
17 Exhibit 655 is STRATUS-NATIVE 8911.  
18 Exhibit 656 is STRATUS-NATIVE 8914.  
19 Exhibit 657 is STRATUS-NATIVE 8915.  
20 Exhibit 658 is STRATUS-NATIVE 8916.  
21 Exhibit 658 (sic) is STRATUS-NATIVE 8917.  
22 Exhibit 660 is STRATUS-NATIVE 8921.  
23 Exhibit 661 is STRATUS-NATIVE 8922.  
24 Exhibit 662 is STRATUS-NATIVE 128115,  
25 contains some handwriting.

0252

1 Exhibit 663 is STRATUS-NATIVE 128178.  
2 Exhibit 664 is STRATUS-NATIVE 128182.

3 Exhibit 665 is STRATUS-NATIVE 128187.  
4 Exhibit 666 is STRATUS-NATIVE 128189.  
5 Exhibit 667 is STRATUS-NATIVE 128194.  
6 Exhibit 668 is STRATUS-NATIVE 128198,  
7 contains handwriting in the margins.  
8 Exhibit 669 is STRATUS-NATIVE 128202.  
9 Exhibit 670 is Stratus 128210.  
10 And Exhibit 671 is STRATUS-NATIVE 128211.

11 A. Okay. I just found one that had -- it  
12 has my writing, but it also has somebody else's on it.

13 Q. (BY MR. CRIMMINS) Which exhibit is that?

14 A. 640.

15 Q. Exhibit 640, which of the writing is  
16 yours?

17 A. It's probably easier to say what is not  
18 mine.

19 Q. Okay.

20 A. On page 1 on the bottom, gamma squared --  
21 I can't read that, "Acceptacion," something like that,  
22 "vanyo de calib," maybe.

23 Q. The last two things written on the bottom  
24 right-hand portion are not your handwriting?

25 A. Right.

0253

1 Q. Okay.

2 A. And then on the second page in the middle  
3 on the right there's a line, and then to the right of  
4 that, that's not my handwriting.

5 Q. So everything to the right of that line  
6 on page 2, Exhibit 640, is not yours?

7 A. Right.

8 Q. Do you know whose it is?

9 A. I am not sure. I think it might be  
10 somebody from the Quito office, but I don't know who.

11 Q. Okay.

12 A. And then on page 4 on the bottom,  
13 "digestion" and "TPH," those are not in my writing.

14 Q. Okay.

15 A. And the rest of it is.

16 Q. So other than those exceptions on  
17 Exhibit 640, the rest of the handwriting on the  
18 exhibits you just reviewed do contain your  
19 handwriting, correct?

20 A. Yes.

21 Q. Just one question --

22 MR. BEIER: Counsel, we have exceeded the  
23 time that the court has allowed.

24 MR. CRIMMINS: I have one more question.

25 Marty, the advisory notes to the rule suggest not

0254

1 being overly preoccupied with time, I think.

2 MR. BEIER: I understand.

3 MR. CRIMMINS: I think I can answer ask  
4 one plaintiffs' question.

5 MR. BEIER: We are already past an  
6 additional seven hours that the rules afford.

7 MR. CRIMMINS: Are you going to prevent  
8 me from asking one additional question?

9 MR. BEIER: I'll leave it up to you for  
10 one more question or not.

11 A. If it's really just one, it's okay.

12 Q. (BY MR. CRIMMINS) One more question.  
13 It's on Exhibit 667.

14 A. Okay.

15 Q. At the top of the page there is a star,  
16 and it says, "My password," and it says, I think,  
17 something like "M control," something. Do you know,  
18 in looking at that, what that is a password to?

19 A. No. I sort of remember writing that,  
20 but -- my password. It might have something to do  
21 with the Quito office, but I don't remember.

22 Q. Okay. Thank you for your time.

23 MR. CRIMMINS: Just for the record, I  
24 know you'll object, but I want to say for the record  
25 that especially in light of the delinquent document  
0255

1 production by Mr. Donziger in New York of  
2 approximately 90,000 pages just this week, even as  
3 this deposition here was going on, and many of those  
4 documents containing communications to and from  
5 Ms. Maest, and referring to Ms. Maest, that we reserve  
6 the right to seek additional time to depose Ms. Maest  
7 from the Colorado court.

8 MR. BEIER: You're correct, we will  
9 object to any additional time.

10 MR. NARWOLD: Also, we're going to  
11 reserve our three hours of cross-examination to a time  
12 convenient to counsel and to the witness.

13 MR. CRIMMINS: I think we're off the  
14 record, then.

15 MR. BEIER: We're going to reserve  
16 signing.

17 THE VIDEOGRAPHER: This is the end of  
18 tape 4 of 4. Going off the record. The time 4:30  
19 (sic).

20 WHEREUPON, the within proceedings were  
21 concluded at the approximate hour of 5:30 p.m. on the  
22 20th day of January, 2011.

23

24

25

0256

1 I, ANN S. MAEST, do hereby certify that I  
2 have read the above and foregoing deposition and that

3 the same is a true and accurate transcription of my  
4 testimony, except for attached amendments, if any.

5 Amendments attached ( ) Yes ( ) No

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ANN S. MAEST

13 The signature above of ANN S. MAEST was  
14 subscribed and sworn to before me in the county of  
15 \_\_\_\_\_, state of Colorado, this \_\_\_\_\_ day of  
16 \_\_\_\_\_, 2011.

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Notary Public  
My commission expires

24 Chevron Corporation 1/20/11 Volumes I and II (bb)

0257  
1 REPORTER'S CERTIFICATE

2 STATE OF COLORADO )  
3 ) ss.

3 CITY AND COUNTY OF DENVER )

4 I, BARBARA BIRGER, Registered Merit  
5 Reporter, Certified Realtime Reporter, and Notary  
6 Public, State of Colorado, do hereby certify that  
7 previous to the commencement of the examination, the  
8 said ANN S. MAEST was duly sworn by me to testify to  
9 the truth in relation to the matters in controversy  
10 between the parties hereto; that the said deposition  
11 was taken in machine shorthand by me at the time and  
12 place aforesaid and was thereafter reduced to  
13 typewritten form herein; that the foregoing is a true  
14 transcript of the questions asked, testimony given,  
15 and proceedings had.  
16

10 I further certify that I am not employed  
11 by, related to, nor counsel for any of the parties  
12 herein, nor otherwise interested in the outcome of  
13 this litigation.

13 IN WITNESS WHEREOF, I have affixed my  
14 signature this 24th day of January,  
15 2011.

15 My commission expires November 26, 2014.  
16



- 17    ☒ Reading and Signing was requested.  
18    ☐ Reading and Signing was waived.  
19    ☐ Reading and Signing is not required.  
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