

CHEVRON'S BRIBERY SCANDAL

Evidence suggests a Chevron plan to disrupt Ecuador's judicial system
Amazon Defense Coalition/October 29, 2009

In what appears to be a last-ditch effort to evade a potential \$27.3 billion environmental liability in Ecuador, Chevron on August 31 posted to YouTube secret video recordings that the company claimed implicates the trial judge and government officials in a purported \$3 million bribery scheme. These videos, shot secretly by Chevron contractor Diego Borja and American businessman Wayne Hansen, raise significant questions about whether Chevron, or persons working on behalf of the company, stage-managed a bribery scheme in violation of U.S. criminal laws as part of an elaborate hoax intended to disrupt the Ecuador trial. So far, Chevron has refused to answer [dozens of fundamental questions that point to its own culpability in possible criminal conduct to undermine a trial in a foreign nation.](#)

Chevron's Purported Evidence

On August 31, Chevron posted a heavily edited series of grainy videos on YouTube. Chevron said the videos were shot by Borja and Hansen from secret cameras lodged in a watch and pen. Chevron claimed the footage captured trial Judge Juan Nunez stating he will rule against the company and that appeals will be denied. The oil company also claimed that the videos are evidence of a plot that implicates Judge Nunez. In a meeting where the judge is not present, a third Ecuadorian man claims to Borja and Hansen that he has arranged a bribe to the judge, the President of Ecuador, and the plaintiffs to ensure that Hansen's company receives a remediation contract. Chevron presented no concrete, non-hearsay evidence to back up these extreme assertions, which it advertised in a press release distributed widely via paid wire services.

Even though Chevron claims the videos capture criminal conduct, Chevron held this "evidence" for nearly three months without handing it over to the authorities. Further, the only clear evidence of criminal conduct on the videos is that of the Chevron contractor, Borja, working in concert with Hansen to try to bribe the individual who purports to be an Ecuadorian government official. While Chevron held the videos, agents of the company spirited Borja and Hansen – the key witnesses -- out of the country and paid for Borja's relocation and an ongoing salary. Even though both men were shooting video separately, Chevron has never produced two videos, never disclosed who edited the tapes for YouTube, and refused a request by Ecuador's government to release its own forensic report that the company claims authenticated the tapes. Since publicly posting the video footage, Chevron has refused to answer any of the numerous other questions surrounding its own role in the scandal, particularly in scripting and planning the fourth meeting where the purported bribe is discussed. This highly scripted meeting took place in Quito on June 22, just days after Borja met with Chevron's U.S. lawyers in San Francisco. It also looks as if the company planned the cover-up in advance by ensuring that Borja and Hansen would be unavailable to answer questions. Chevron secured both

men criminal defense lawyers and has confirmed it is paying their legal fees. Neither Hansen nor Borja has been made available by these lawyers for questioning by either journalists or authorities.

The Judge

The recordings do not appear to support Chevron's accusations about Judge Nunez. Rather than show evidence of judicial misconduct, the videos clearly demonstrate that on 13 separate occasions Judge Nunez rebuffed leading questions posed by Borja and Hansen asking if he would rule against Chevron. What the recordings did show was a vague "yes sir" purportedly uttered off screen by Nunez as a response to Hansen's broken Spanish query into whether Chevron was guilty. What is clear is that Judge Nunez was not seen at the time he answered "yes sir" and that the comment might have been inserted in the editing process. As the *Los Angeles Times* noted in an editorial about the incident, which called for an investigation of Chevron: "...it is unclear to whom the judge is speaking and whether he is responding to the question or just trying to end the meeting." Similarly, the *Financial Times* noted: "The video begs the question whether Judge Nunez understood what he was being asked."

Chevron's materials provide no firm evidence that Judge Nunez was involved in any unusual activity, or that he knew of the bribery scheme.

Borja and Hansen

Chevron claims that the Borja and Hansen – as Good Samaritans -- turned over the tapes to Chevron to expose corruption in Ecuador. But Chevron did not disclose that it had contracted with Borja as late as March 2009 to work on the underlying trial where the company faces the \$27 billion liability, or that Borja has an office in the same small commercial building in Quito, Ecuador where Chevron's local counsel works. It did not disclose what it paid Borja for his work on the trial, which was done under contract to lawyers working for Chevron. Nor did it disclose how much it paid to relocate Borja to the United States. It also did not disclose that it had hired a prominent criminal defense lawyer to represent Borja, essentially preventing him from being questioned. It appears, in fact, that Chevron might be guilty of obstruction of justice by arranging for Borja to leave Ecuador so his own role in possibly working on behalf of Chevron could not be probed.

Chevron also maintains that it had no relationship with Wayne Hansen, whom we now know is a convicted drug trafficker who was involved in a conspiracy to import 275,000 pounds of marijuana from Colombia. But Hansen has mysteriously become unavailable as well. What is known is that Chevron hired a criminal defense lawyer to represent Hansen. The company is likely paying the fees of that attorney, probably as a way to discourage Hansen from revealing facts that might implicate Chevron's own employees in planning the scheme. Regarding the provision of an attorney for Hansen, former federal prosecutor and current law professor Laurie Levenson told Bloomberg: "Either Chevron has turned into the biggest Good Samaritan out there or they have allied

interests with this man ... The ball is in Chevron's court to give a better explanation of whether they'll pay his legal costs out of the goodness of their heart or as part of a contractual arrangement."

Chevron's Aggressive Risk-taking

Chevron's own role in producing and disclosing the secret videos could impose a significant cost on the company, including possible liability for those officials involved who may have tried to undermine a foreign nation's judicial system to extract an advantage in a private litigation. There could be multiple opportunities, via various court proceedings and investigations, to force Chevron officials to answer questions under oath in the United States. That said, nothing in Chevron's videos significantly impacts the underlying trial. Almost all of the evidence was gathered before Judge Nunez took over the case in late 2008 – including all of the scientific evidence that formed the basis for the court-appointed expert's damage assessment. More than 62,000 scientific sampling results prove conclusively that Texaco (now Chevron) is responsible for devastating a region of Amazon rainforest the size of Rhode Island with contamination at least thirty times larger than the Exxon Valdez spill. Notwithstanding Chevron's attempts to further delay the litigation, a decision is expected in 2010. If the decision is adverse to Chevron, lawyers for the Amazon communities plan to move expeditiously to seize Chevron's assets to satisfy the judgment.

#