IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA TALLAHASSEE DIVISION

In re Application of:

The REPULIC OF ECUADOR and
DR. DIEGO GARCIA CARRION,
the Attorney General of the
Republic of Ecuador,

Applicants, CASE NO. 4:11mc73-RH/WCS

For the issuance of a subpoena under
28 U.S.C. § 1782(a) for the taking of a
deposition and production of documents by
DR. ROBERT HINCHEE,
for use in a foreign proceeding,

Respondent,

CHEVRON CORPORATION,

Intervenor-Respondent.

_____/

ORDER LIMITING THE USE OF COMPELLED DISCOVERY PENDING APPEAL

This proceeding is a small part of an expansive, long-running international dispute. The principal adversaries are the Republic of Ecuador and its Attorney

General (collectively "the Republic"), on one side, and on the other, Chevron Corporation and Dr. Robert Hinchee.

Dr. Hinchee was a testifying expert for Chevron in earlier litigation in Ecuador. He resides in this district. In connection with an international arbitration proceeding that is now pending, the Republic served a subpoena *duces tecum* requiring Dr. Hinchee to produce a great number of documents. Chevron intervened in support of Dr. Hinchee. The international arbitration proceeding is *Chevron Corp. v. Republic of Ecuador*, PCA Case No. 2009-23, and is referred to in this order as "the Arbitration."

Chevron and Dr. Hinchee asserted that many of the requested documents were privileged or protected from disclosure by the work-product doctrine. By an order entered on November 2, 2012 ("the November 2 order"), Chevron and Dr. Hinchee were compelled to produce many of the requested documents. Production is ongoing.

Chevron and Dr. Hinchee have indicated that they intend to appeal the November 2 order. They have not asked to delay the production of the documents while the appeal is pending. But they have moved for an order restricting the use and *further* disclosure of the documents while the appeal is pending. For the reasons set out on the record of the telephonic hearing on November 20, 2012, this

order grants Chevron's and Dr. Hinchee's motion in substantial part, restricting the use and disclosure of the documents until any appeal is resolved.

IT IS ORDERED:

1. Chevron's and Dr. Hinchee's consented motion, ECF No. 65, for expedited consideration of their motion for a protective order is GRANTED.

2. Chevron's and Dr. Hinchee's motion and amended motion, ECF Nos. 64 and 66, for a protective order are GRANTED IN PART.

3. Unless otherwise ordered, documents that Chevron or Dr. Hinchee discloses to the Republic as a result of the November 2 order—and information derived from the documents—may be used only in connection with the Arbitration, must not be used for any other purpose, and must not be disclosed to anyone other than (a) attorneys of record in the Arbitration, (b) persons in their law firms assisting in the Arbitration, (c) witnesses to whom disclosure is appropriate for purposes of testifying or preparing to testify in the Arbitration, (d) expert witnesses or potential expert witnesses who have a reasonable need for the documents or information in connection with their role in the Arbitration, (e) parties or employees of parties who have a reasonable need for the information in order to assist an attorney of record in preparing the Arbitration, and (f) court reporters, interpreters, or officials administering or facilitating the Arbitration.

4. Before receiving documents or information under paragraph 3(c) or 3(d), a witness, expert witness, or potential expert witness must sign an acknowledgment agreeing to be bound by this order's requirements. The acknowledgment must be maintained by the attorney providing the documents or information to the person. By agreement, the attorneys for all parties to this § 1782 proceeding may waive the requirement for a written acknowledgment or may extend the requirement for a written acknowledgement to other categories of persons receiving documents or information under paragraph 3.

5. Before filing in the Arbitration a document obtained as a result of the November 2 order—or disclosing in the Arbitration information derived from such a document—a party must give Chevron notice of its intention to do so. The notice must be given at least 14 days in advance, if feasible, or otherwise as soon as feasible.

6. This order binds the parties to this § 1782 proceeding and their officers, agents, servants, employees, and attorneys—and others in active concert or participation with any of them—who receive actual notice of this order by personal service or otherwise.

7. This order does not restrict the use or disclosure of documents or information by anyone who obtains the documents or information other than as a direct or indirect result of the November 2 order.

8. This order's requirements will end (a) when the deadline for filing a notice of appeal of the November 2 order passes and no appeal has been filed, or (b) if a notice of appeal is filed, when the United States Court of Appeals for the Eleventh Circuit issues its mandate affirming the November 2 order or dismissing the appeal.

SO ORDERED on November 20, 2012.

s/Robert L. Hinkle
United States District Judge