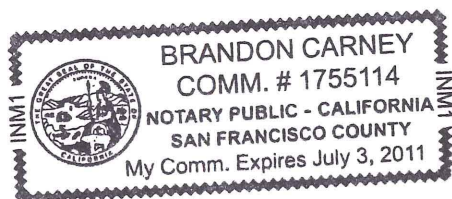


STATE OF CALIFORNIA )  
ESTADO DE CALIFORNIA )  
 )  
COUNTY OF SAN FRANCISCO )  
CONDADO DE SAN FRANCISCO ) SS

**CERTIFICATION/**  
**CERTIFICACIÓN**

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from English into Spanish of the attached document.

Por la presente certifico que la traducción adjunta de inglés a español es, a mi leal saber y entender, traducción fiel y exacta del documento adjunto.




Steve Walsh, West Coast Client Manager/Gerente de Relaciones con Clientes Costa Occidental  
Geotext Translations, Inc.

State of California, County of San Francisco  
Subscribed and sworn to (or affirmed) before me  
on this 25 day of January, 20 11,  
by Steve Walsh,  
proved to me on the basis of satisfactory  
evidence to be the person(s) who appeared  
before me.

Signature: 

Estado de California, Condado de San Francisco  
Suscrito y declarado bajo juramento (o afirmado) ante  
mí en este día 25 de enero del 20 11,  
Por Steve Walsh,  
Habiendo acreditado en mi presencia, mediante prueba  
satisfactoria, que es la persona (personas) que  
compareció (comparecieron) ante mí.

Firma: [firma]

**25 de mayo de 2007**

Viaje de Trudie. Vuelo de regreso. Volamos con ella y Theresa. Visita a las comunidades cofana y siona (consigue la transcripción). San Carlos (nos reunimos con Rosa); la Primavera (Carmen Pérez, quien estuvo en la reunión de accionista en SF hace dos años y es una líder enérgica de la comunidad). Trudie es una mujer bondadosa y apasionada...orgullosa de ser la esposa de un cantante famoso y no tiene empacho en usar su estatus para ser de ayuda. Vino con Helen, la amable persona de Rainforest Fdt. La presencia de Trudie fue, en general, edificante, pero como con la mayoría de las celebridades, algo complicada. Menciono el asunto de la tienda de regalos del museo de Guayas, flirteando con Acosta durante la cena con la esposa de este al otro lado de la mesa. El método de Trudie para manejarse conmigo es generalmente muy seductor. Tiene la necesidad de saber que todo hombre a su alrededor se siente atraído por ella, y ella sabe cómo usar su atractivo para que ellos lo sean. Constantemente hace bromas con connotaciones sexuales (al brindar mira en los ojos o podrías no tener relaciones sexuales por siete años). Qué desconexión cultural – comprando baratijas en Dureno [sic], haciendo que la gente se quede afuera de la reunión, demasiada gente, tratando de comprar cosas en el museo de Guayas, etc. Ninguna de estas personas había oído hablar de Sting ni les importaba un carajo. (Consigue las transcripciones de las traducciones históricas).

Dos reuniones muy perturbadoras con el Juez en Lago Agrio el 21 de mayo. Primero con Trudie y Luis –Yánez, rebosante de simpatía y sandeces, comienza a acusar a Texaco de presentar demasiados escritos. Y entonces, esa noche, observé otro aspecto de Pablo. Me llamó para preguntarme si yo llamaría al juez para que lo pudiéramos ver en su casa. PF había estado todo el día en Dureno [sic] en la reunión, y tenía que contestar cinco peticiones, y tenía que levantarse el día siguiente a las 6 de la mañana para ir a la reunión de los Sionas. Estaba exhausto, frustrado, desmoralizado. Llamé al juez y el pidió que lleváramos algo de whisky o algo de vino. No lo hicimos. Cuando llegamos allí, estaba claramente borracho y estaba con una joven. Nos sentamos e inmediatamente me miró y dijo que Texaco sabe lo que hago o no cada segundo del día, que los agentes de inteligencia de Texaco le han estado siguiendo, y que sabían que nos habíamos reunido con Pablo y Julio ese día abajo en la cochera. Richard, el perito, estuvo en Lago ese mismo día para tomar posesión del cargo, y que el juez lo demoró cuando ese mismo día Texaco presentó más escritos, todos repitiendo las objeciones previas. Se estaba preparando para explicar por qué era justificado que esto se demorara más. PF estaba visiblemente angustiado, sentado en las sillas de plástico, inclinado hacia adelante, casi implorándole al juez mientras hacía esfuerzos para controlar su irritación, explicándole cuánto dinero nos costaban estas demoras. El juez le acusó de mentir acerca de los costos. Pienso que este juez está dedicado de cuerpo y alma a sobrevivir este año y escaparse del caso sin tomar ninguna decisión de importancia. Pienso que teme a Texaco más de lo que nos teme a nosotros, y el hecho de que hemos establecido a Richard de la manera perfecta le aterroriza porque sabe lo que Texaco está planeando. Salí de la reunión con una sensación abrumadora de que no podemos ganar el caso, que las conversaciones de conciliación Operación María son la única salida realista para nosotros.

UNICEF, brindis en la cena, la charla de Perkins, la idea de Acosta, la dificultad creciente de manejar desde lejos

[...]

[...]

[...]

[...]

[...]

### **7 de marzo de 2007 (miércoles)**

Volando hoy de regreso a casa. Han ocurrido dos cosas importantes: E-tech está de vuelta en actividad, y Champ y E-tech están trabajando juntos; y una rueda de prensa el martes con Luis Macas.

**Reunión técnica el sábado en la oficina: estaba Richard.** El sábado tuvimos todo el día una reunión técnica en la oficina – inusual para un “día laboral”, como dijo Pablo. Estaban Richard y Fernando, como también Ann, Dick y Champ. Pablo hizo su presentación primero; ¡excelente!; después Olga Lucía, lo mejor que la he visto; después Champ. Mucho ánimo y energía en la sala. Me hizo dar cuenta de cuánto hemos logrado. Para el almuerzo del domingo, fuimos a Mosaico (los cuatro gringos, yo incluido) y nos pasamos cuatro horas allí hablando de las cosas. [Hay que] conseguir de Berlinger la transcripción de la entrevista, porque Charles fue sorprendente. Meada de elefante, Hummer, botas de avestruz– deben capturar la personalidad de este tipo. Me encanta cómo es, el epítome de los petroleros que todo lo pueden hacer, mientras que Ann es la académica por excelencia. Ponerlos juntos en un equipo será un desastre o una genialidad – No estoy seguro qué. De todos modos, en cuanto a E-tech, Ann se dio cuenta de cuán confusa era la base de datos, entonces tenemos que arreglar eso antes de empezar el PG. También, el problema del laboratorio. El nuevo laboratorio está en Coca. Es un laboratorio argentino y no pueden hacer pruebas de cromo 6, además no está claro si pueden resistir ser infiltrados. Ann sugiere un laboratorio de los Estados Unidos, pero eso involucraría más tiempo y gastos y sería de hecho admitir que Texaco podría haber tenido razón acerca de Havoc. No tengo tanto apuro para empezar con el PG ahora que veo cuán confusa es nuestra información y cómo ciertas cuestiones no han sido resueltas. Me pasé el día entero haciendo comentarios, principalmente dirigidos a Richard. Presentamos todo nuestro caso y teoría legal: ¡qué beneficioso! Necesitamos hacer lo mismo con el juez. Richard parece ser sencillo y más buena gente de lo que pensé. La clave con Richard [...]

El PG será como un subconjunto del alegato, y el corazón del mismo. ¿Podemos hacer esto, y podemos hacerlo en un tiempo breve? Necesito mudarme a Quito y concentrarme en el trabajo legal. ¿De dónde sacaré el tiempo?

**Preparación del lunes para la rueda de prensa: Luis Macas en Oriente.** El lunes, nos preparamos para la rueda de prensa mientras LY con Macas en el Oriente. Increíble cómo podemos ahora hacer dos cosas importantes en el mismo día –esa es la confianza que LY y yo nos tenemos mutuamente. Finalmente, las cinco nacionalidades aparecieron para una reunión, incluso los Hua (al menos parte de los Hua); Macas los atrajo. Luego, LM vino a la rueda de prensa el martes en Quito (ayer). La rueda de prensa fue poderosa ([hay que] conseguir la carpeta). LM pidió [que se haga] una investigación penal de la empresa y dijo que el juez tenía que mover el caso. Estamos más fuertes que nunca; la respuesta patética de Texaco fue [que] RV solamente afirmó que no había fraude, y mintiendo nuevamente sobre el fraude, y ellos distribuyeron eso vía un oscuro sitio web. Tuvimos una cena de despedida con LY en Briciola, y se podía ver a LY rebosando de confianza y satisfacción. Esta claramente no era una situación en la que Macas nos estaba haciendo un favor, sino una con claros beneficios mutuos, ya que el perfil del caso se mueve hacia arriba. CONAIE puede fácilmente aconsejar a las nacionalidades sobre cómo diseñar una estrategia a largo plazo de manera tal que el dinero no se gaste todo de una vez. LM está ahora en estrecho contacto con LY. LY quiere que yo vaya con él y LM a Loja para un evento con los pobladores indígenas, ya que esa es la zona que fue el motivo por el cual se creó Lago Agrio, y de dónde es Macas. Una gran idea, yo estaba totalmente halagado de que se me invitara. LM tiene este increíble misticismo y carisma. Pero... mencionó que se reunió con el juez y dijo que podría haber movilizaciones si el caso no se movía más rápidamente. Esto tiene beneficios políticos para nosotros, pero podría dañarnos legalmente. Tuve que tomar el micrófono y limpiarlo; [hay que] conseguir la transcripción.

Estando en Lago, LM y todas las nacionalidades fueron a ver a Yánez. LY dijo que Yánez los trató con el mayor respeto. Es este desfile de visitantes que esperemos nos consiga la orden para empezar el PG.

Estoy completamente exhausto después de trabajar diez días sin parar, 18 horas al día. Quiero ir al torneo de la Big East mañana en el Garden. Tengo que darme ese gusto; pero hay tanto todavía que hacer.

#### **4 de marzo (Domingo)**

Mucho ha sucedido en los tres últimos días. Estamos en una batalla campal crítica con Texaco, quizás el más importante ejemplo aún de combate cuerpo a cuerpo, que podría fácilmente determinar si podemos lograr el objetivo final.

[...]



[...]

[...]

También hemos estado atacando por el costado a RV y su equipo con una estrategia de prensa e internet, utilizando a Amazon Watch como sustituto, pero también a través de nuestros propios sitios web que creó Joseph. Y por debajo de la diversión de las rondas de prensa habían algunos datos concretos irrefutables que no podían pasar por alto, el documento que preparé en una semana el pasado mes de agosto, en el que traté de juntar todos los datos (los negocios sucios de Chevron), al que aunque ni siquiera diez personas lo hayan leído en todo el país, los abogados de Texaco definitivamente lo han leído y analizado minuciosamente y hasta el momento (7 meses más tarde) no han sido capaces de responder y han dejado todo a ese memorándum de relaciones públicas anónimo que no tiene ninguna documentación. El éxito de la “estrecha” batalla informativa fue obvio para mí, cuando vi la basura de memorándum que Robertson le dio a William de VF, un memorándum que no sería aprobado en un examen de escuela intermedia, ya que no tiene siquiera una sola nota al pie de página. Y el segundo memorándum que se le entregó a William, el memorándum de “materiales consolidados”, tenía algunas notas al pie de página toscas, tales como “CONAIE 1983”, parecía como si lo hubiera preparado un alumno de quinto grado. La compañía está simplemente cansada, se ve en los materiales. Están también limitados por la falta de buena información, y las mentiras y el análisis defectuoso de RV. Y el enfoque “silo” que siguen las empresas (los abogados se encargan de la ley, el personal de comunicaciones hace las relaciones públicas y nadie está a cargo así todos pueden salir corriendo a esconderse si algo sale mal) los está realmente dañando, en contraste con nosotros, que estamos completamente integrados (como deja en claro nuestro último boletín, cronometrado en Track 2 en Nueva York, nos ayuda con la estrategia y las políticas en ambos países). Y dada la incorporación de Winston en el caso de Nueva York, la estrategia de RV en el último año se ha convertido en un pantano del que no hay ninguna salida clara. Agrega a esto la elección de Correa y el resto, y es claro que el cálculo de riesgos para la compañía ha cambiado completamente; tiene que cambiar, a menos que se hayan dormido sobre el volante, lo que me consta que no ha pasado. Meter a Varela en esta fosa tiene que ser la peor forma de interrumpir una carrera, tal vez un encargo fatal para una carrera. Pero refleja la desesperación, la falta de opciones localmente, y posiblemente las últimas boqueadas de una empresa cuyas opciones se están desvaneciendo rápidamente.

El ataque de PP al juez en la ronda de prensa es un acto de desesperación, pero todavía siento esa desazón (que sentí el viernes a la noche y el sábado a la mañana después de la reunión con el juez) de que están volviendo la corrupción y las presiones y que tenemos que desviar recursos ahora para proteger políticamente al juez en vez de enfocarnos en el PG. Si fuera Texaco y mi política estuviera dictada localmente por un manojito de abogados preocupados solo por su propio interés y carentes de juicio, haría exactamente lo mismo. Si fuera PP, haría la misma cosa. Y la realidad es que T ha demorado de una manera inteligente y efectiva el PG por varias semanas con sus escritos (consíguelos de Pablo) que debido al procedimiento del

derecho civil ecuatoriano requieren que el juez tenga que hacer malabares antes de ordenar el proceso.

El viernes a la noche, Pablo y Luis se reunieron con el juez en un restaurante del barrio de este cerca del aeropuerto. Se suponía que yo fuera, pero no pude encontrarlo, y ellos me dijeron, a través de Lupita que no fuera, y no pudieron comunicarse conmigo para darme la nueva dirección porque había perdido mi teléfono celular. De todos modos, ellos aparecieron por el hotel alrededor de las 11 y salimos a comer algo de sushi. A ellos les gusta Noé porque va un grupo de mujeres sexy, y les gusta la mesa en el medio del restaurante para tener la mejor vista de la gente que pasa para ir a fumar o al baño. (Una clase diferente de nudismo que el de la mujer huaorani el primer día del juicio). Estaba realmente enojado por las noticias que me informaron, que el juez todavía no quería dar su decisión, que necesitaba protección, que un magistrado de la Corte Suprema venía el jueves para investigarlo dadas las denuncias, etc. Claramente, la estrategia de T está dando resultado.

Las diferentes partes de la estrategia para lograr nuestro objetivo tienen que funcionar de manera coordinada, y el único elemento fuera de sincronía en este momento es el hecho de que no tenemos la orden para empezar con el PG. Esta es la única cosa que falta; si podemos solucionarla, estamos a salvo.

## **Marzo 1**

**El juez todavía se niega a dictar su providencia.** Todavía hay problemas con el juez, que no dicta su providencia, aunque Pablo había dicho que la emitiría ayer. Pablo volvió a Lago y se reunió con el juez. La secretaria le dijo que ella recibió una llamada de un magistrado desconocido de la Corte Suprema, diciéndole a él que ralentice los casos medioambientales (nuestro caso y el OCP). Nosotros creemos que éstas son huevadas, que nadie realmente ha llamado, y que esta acción formó parte de la presión de Texaco a través de la secretaria. Además, estas presiones tendientes a sacar del medio al juez, misteriosa y súbitamente se han acelerado nuevamente, y nosotros creemos que Texaco está detrás de ellas. El resultado es que el juez nos ha pedido ayuda para que lo protejamos, como hicimos en el mes de agosto pasado. Y hace dos días, el juez llamó a Richard y le pidió que recomendara a un perito, lo que me pareció raro si habíamos establecido que Richard sería nombrado pero, según Pablo, es probable que forme parte del complicado plan del juez para protegerse. Mientras tanto, todos nuestros planes están en suspenso: la carta abierta a los accionistas, el boletín de prensa tanto aquí como en Estados Unidos, y nuestra conferencia de prensa. Mi primera notificación ocurrió alrededor de las 11 de la mañana. Hablamos otra vez con Pablo a las 5 de la tarde y yo comencé a darme cuenta de que, en este momento, nuestro precioso equilibrio entre las estrategias internas/externas está descalabrado nuevamente. Yo no estoy convencido de que Luis y Pablo reconozcan la parte pública lo suficiente. Claramente, el juez es un hombre débil, que vive atemorizado y, actualmente, teme emitir providencia más de lo que teme no emitirla. Además, estoy seguro de que Reis Veiga y su equipo están luchando por sus condenadas vidas. No estoy seguro de si quiero ir a Ambato el viernes. Encuentro que todo esto es terriblemente frustrante, y me recuerda los viejos tiempos y, de nuevo, me recuerda lo difícil que será conseguir nuestro fallo aun con todo a nuestro favor.

**Problema con Amazon Watch nuevamente.** Acabo de encontrar la carta que Leila mandó al grupo Kimerling (Maharuk Nuahia) donde ellos admitían errores y decían que el Frente no representaba a todos los afectados, dando a Kimerling una victoria importante. Yo escribí una carta muy fuerte en respuesta y estoy disgustado porque ellos no me mostraron esta carta

antes. Luis también está disgustado. Ellos son tan controladores: el viaje de Daryl Hannah previsto para el final de marzo me pone nervioso porque están equiparando problemas en la zona sur de Oriente con la del norte, pero pretenden que nosotros organicemos la reunión y manejemos la prensa en su nombre. Conseguir correo electrónico para referencia.

[...]

## **27 de febrero (martes)**

**Varela de regreso en Quito.** De regreso en Quito (llegué el domingo a la noche). Cena con APV anoche en Briciola. Dijo que su socio, VonReckow, representa a una empresa grande que fabrica jabones y detergentes y que ellos tenían una mansión enorme en Quito que estaban arrendando a Jamie Varela, quien ahora va a vivir en Quito a tiempo completo y que tiene una oficina aquí. Pérez Pallares estaba haciendo el trato, pero cuando se enteró de que Marianne trabaja para el estudio jurídico de Ponce, se rehusó a tratar con ella para una transacción inmobiliaria! Llamó a APV un “rojo subversivo”... imagínate a Callejas yéndose cuando Luis habló ante el juez, y tienes un equipo cada vez más exacerbado. No estoy seguro qué es lo que esperan ellos que haga Varela. Mi cálculo es que no pueden conseguir a ningún nacional [ciudadano del país] para que hable en nombre de ellos, y, por lo tanto, tienen que recurrir a Varela. También estoy seguro de que PPallares probablemente dijo que ya no podía más hacerlo todo por sí mismo y solicitó refuerzos. Veo a Varela como otra oportunidad deliciosa. No tiene ni idea de lo que se mete, si decidimos ir tras él.

Texaco está curiosamente en silencio respecto a los medios [de comunicación]. Parecen absolutamente derrotados. Ortiz probablemente está pasando a otra cosa, dado que ahora lo estamos atacando. No compran más anuncios comerciales. No publican comunicados de prensa: el último (seguramente ordenado por Reis) fue contraproducente en el tribunal de Nueva York con respecto a la caracterización de la cuestión del fraude. Estoy muy seguro de que Varela está aquí para cubrir los huecos, pero él es un ejecutivo de élite. ¿Qué podrían estar pensando? Sus opciones son tan limitadas.

**Reunión con Richard.** Me reuní en Mister Bagel con Fernando, Luis, Pablo y Richard. Nos reunimos por una hora. Explicué todo. Tengo mucha confianza en Richard, más que antes. Es humilde, callado; pienso que me gusta aún más que Fernando. Le pregunté

a Pablo si estaba 100% seguro de que el juez designaría a Richard y no a Echeverría, y me dijo que sí, pero dado que esta es la decisión más importante del caso hasta el momento, simplemente no hay margen para cometer un error. Hablé constructivamente acerca de la importancia del caso, de lo que significa para la historia, de cómo podemos hacer algo que siempre se recordará, de lo que esto significaría para el país y para el mundo, etc. Eso siempre funciona en el momento oportuno.

Me encontré con Luis y Pablo el domingo por la noche y ayer y los puse al tanto. Lo más importante es que estamos trabajando más duro que nunca. Cuánto más pienso acerca de ello, [veo que] lo más importante es golpearlos ahora más duro que nunca si esperamos conseguir algo significativo de las negociaciones. Estoy seguro de que estas negociaciones están teniendo lugar a alto nivel y que el equipo local de Texaco no tiene conocimiento de ellas. Los de arriba no quieren desmoralizar a los locales, ni tampoco darle a Reis la oportunidad de que haga sabotaje. Cuánto más pienso acerca de ello, más convencido estoy de que ni Luis ni Pablo deberían ser partícipes de los detalles de las charlas. De la misma manera que ellos no traen a O'Reilly, nosotros no deberíamos llevar a nuestros personajes más importantes, al menos hasta el final. Si esto conduce a algo, sin embargo, yo quiero que Pablo y Luis firmen con O'Reilly. También, hablé con Pablo y Luis acerca de los derechos vitalicios, hice bromas acerca de que los 10.000 no suben sumándolos, Pablo usó como ejemplo la analogía del taxi al aeropuerto con la mujer y acordamos trabajar juntos si alguien se acercaba a cualquiera de nosotros con respecto a los derechos vitalicios. Ellos tienen que lidiar con muchas cosas; nos podría dañar si en seis meses hay una oferta concreta y ellos tienen que decirle a la gente que las reuniones se han llevado cabo por un tiempo largo sin ellos; por otra parte, sin confidencialidad, este proceso no puede ser productivo. Es un verdadero dilema. Pero, dados nuestros niveles de confianza, pienso que podemos mantenerlo confidencial y explicar el porqué más tarde si hay algo bueno para ofrecer.

Ayer me reuní con el embajador venezolano. Es la tercera vez que lo veo este año: primero en la celebración de Morales en el Guay, segundo en la barbacoa de VPazos, y ahora ayer en su oficina con Lupita. Fue increíblemente amable. Lo invitamos a la zona y le dije (contra el consejo de Raúl) acerca de nuestro deseo de que se haga esa llamada telefónica. Dijo que podía concertar para nosotros una reunión con el Ministro de Energía de Venezuela. Este es el comienzo de la apertura de un frente verdadero. La otra parte es que acabo de enviar una carta abierta a los accionistas para que sea publicada en el sitio de AW, en la cual hablamos de la posibilidad de que se cierren las oportunidades de inversión en Latinoamérica. Espero que AW esté de acuerdo. Están un poco metiéndose a profundidades, pero es aquí donde se cuecen las habas.

La cuestión de la presentación de la demanda "CB bar" y lo que esto significa en cuanto a dinero. No es el dinero, sino un principio básico de justicia.

Siendo tan inteligente como es Cullen, nos proporciona indicios que nos dan confianza.

**24 de febrero (sabado)**

[...]

[...]

[...]



[...]

[...]

**12 de febrero de 2007 (lunes)**

Volando a casa en LAN. Sobre ascuas con respecto a la audiencia de mañana con Sand y luego la reunión con Cullen el miércoles. Revisé el documento de Texaco con William en el restaurante del aeropuerto. Esa mierda me enferma. Sin embargo, todavía pienso que tenemos problemas con nuestro laboratorio y eso me preocupa.

Volé a Lago el viernes después de haber pasado una noche de perros. Estuvimos en Guay el jueves pasado y el tener que llamar al trío terrible me puso nervioso toda la noche. Me doy cuenta que me había estado conteniendo con respecto a Ortiz, quizás debido a Carmen, quizás debido a mi reunión inicial con él en la primera inspección, pero me he estado conteniendo por mucho tiempo.

Cuestión legal clave el viernes: ¿quién será el perito? De acuerdo a Pablo, podría ser una de 22 personas. El juez eliminó a 15 de ambos lados; lo que deja a 7. Eliminemos a los primeros 5 de los siete (los anormales corruptos, y eso deja a Echeverría y a Richard. Richard prestó servicios en la última inspección y a él lo encontró Fernando Reyes, quien resultó ser un buen amigo del caso. Richard mostró una independencia sorprendente cuando le dijo al juez discretamente que el muestreo de Texaco era una mierda. La pregunta es: ¿empujamos para que sea el mismo Reyes o Richard? Al principio, pensé que la idea de que Reyes no fuera el perito mataría el caso. Simplemente detesto gastar mucho más dinero en el caso no sabiendo si podemos presentar un reclamo por daños y perjuicios ante la corte, lo cual básicamente nos impediría ganar el caso antes de que [el juez] ni siquiera haya tomado una decisión. Confío en Reyes; no conozco a Richard, aunque parece prometedor. Entonces, el sábado por la tarde me reuní con Richard junto con Reyes en el Hotel Quito, una de mis interminables series de reuniones. Era un hombre modesto, no muy sofisticado, pero parecía inteligente y controlado en sus expresiones, quizás el contraste ideal en lo que respecta a Chevron, pero no hay modo de estar seguro y, por lo tanto, hay riesgos. Reyes piensa que debemos optar por Richard y que él lo puede ayudar. El problema es que Wray hizo un acuerdo estúpido con Callejas en la primera inspección, en el que acordaron que el perito para el PG sería alguien que hubiera actuado en el juicio. No tengo idea del motivo para esta limitación, quizás simplemente pareció lógico en ese momento antes de que supiéramos cuán inútiles serían los peritos y los dirimientes. Para salirse de ese acuerdo, el juez tendría que impugnar a todos los peritos de ambos lados, más a los 7 dirimientes. En realidad, los únicos dos dirimientes que no fueron impugnados son los dos últimos. Por lo tanto, tendríamos que impugnarlos para tener cualquier posibilidad de conseguir a Reyes, lo cual podría ayudar de todas maneras. El proceso es tan estúpidamente retrógrado.

Todavía [hay] una gran cuestión sobre el componente social. Dos cuestiones: Padre que conoce a Pablo (nos escribimos o bien él escribe) y el español. Estoy muy afuera de esto. Hablar de una encuesta de 1.000 hogares. No soy muy entusiasta acerca de esto, pero Esperanza lo está empujando.

Pablo: 8 [asesinatos] en 15 días en Sushi; William dice que está siendo procesado por terrorismo; LY ni siquiera sabe acerca de esto; estamos tan ocupados y esto es gran parte de la cultura de mierda. Debemos hablar con Petroecuador acerca de esto. Su hermano tiene amenazas de muerte. Se relaciona con el trabajo de Pablo acerca de PetroEcuador colocando tuberías y haciendo que la gente salga en defensa de sus derechos. [La llamada] en el identificador de llamadas en la oficina de relaciones humanas de Shushu era de los servicios de inteligencia militar. Pablo hizo algún tipo de denuncia.

Hablamos sobre la próxima charla de conciliación...decidimos el propósito de la reunión para ver si vale la pena tener una reunión concreta. Debe haber representantes en una reunión concreta.

Nunca me he sentido tan abrumado en todo el historial de este caso. Tanto para hacer, además del trabajo legal. ¿Cómo vamos a preparar y escribir el [Peritaje] Global en 120 días? ¿El alegato? ¿Mantener a todos vivos? El otro día le dije a Berlinger que pienso que este caso va a terminar de manera favorable, pero de una manera que nadie puede posiblemente prever, como a través de una tragedia que les fuerce a conciliar.

[...]

[...]

**7 de febrero (miércoles)**

**Esta semana se ha convertido en una auténtica caldera. Estaba nervioso de que todo estaba yendo demasiado bien, I ahora me doy cuenta de que tenía un buen motivo. Hay siempre un problema escondido debajo de la piedra más cercana, listo para activarse y poner trabas en cualquier momento. El último es que el juez se siente obligado por un acuerdo que Wray hizo con Callejas durante la primera inspección de usar peritos ya designados por la corte. Pensaba que habíamos resuelto esto con el juez y que Fernando Reyes sería designado como el perito. Hemos estado trabajando con él en anticipación. Ahora, el juez piensa que no puede hacer eso. Esto es función de la campaña de presiones de T, Callejas presentó 30 páginas de mierda ayer por la mañana. El juez le dijo a William de VF que Pablo cometió un error, no llegó con su equipo completo. Fue una reunión crítica la de ayer con el juez; Callejas se fue cuando hablaba Yanza, y luego regresó. Patético. Debería haber estado allí. Julio debería haber estado a tiempo, y debería haber tomado el avión el domingo. El vuelo VIP estaba lleno y tuvo entonces que ir a Coca, y no llegó a la reunión hasta las 10:45. Callejas y Pelusa se quedaron todo el día, partiendo el martes a la mañana. ¿Qué estuvieron haciendo? Tanto APV como yo hablamos con el juez por teléfono, no tenía lugar para escucharnos. Yo estaba realmente enojado con Julio, dijo que habíamos ganado nueve de los diez pasos, eso no está mal. Es un ingenuo; no se da cuenta cómo funciona el poder. ¿Cómo puede APV no aparecer en una reunión crítica?**

**Para tratar esto, estuvimos usando el teléfono celular de Verónica por razones de seguridad. Estoy preocupado por la seguridad de Pablo. William de VF está tomando todas sus notas, y puso su cuidado a cargo de Texaco ayer después de la reunión con el juez y estos enviaron personal de seguridad para que miraran por él. Sara McMillen está en la ciudad y se va a reunir con él para almorzar. Estoy seguro de que están teniendo reuniones de empresa sobre cómo tratar con VF. Anoche, después de 9 días, vi nuevamente a William. Estaba un poco nervioso porque tenía temor de que le hicieran**

juicio por difamación escrita y hacer que el artículo fuera aprobado por sus abogados. Necesito hacerle conocer la ciencia y estoy todavía preocupado de que no la tengo toda conmigo. No se puede ubicar a Fausto Peñafiel en ninguna parte.

El problema fundamental es que no podremos poner la reclamación por daños y perjuicios ante la corte, y Texaco tendrá el mismo derecho a presionar y manipular al perito. El fundamento jurídico en contra de esto: todos los peritos han sido impugnados y los dirimientes fueron nombrados de manera ilegal. Ese es el fundamento jurídico. Nuevamente, muestra la debilidad institucional de la corte y la personal del juez. Va a dejar de cumplir con el acuerdo con nosotros. Es débil y está asustado. Es sorprendente como todo este esfuerzo puede arruinarse o estar amenazado por una decisión.

Me reuní ayer con el presidente de la Corte Suprema (consigue el nombre). Describe la llamada telefónica a Yáñez; dijo, apúrese, fije un plazo de 45 días. Desempeño sorprendente, un total de 5 minutos, un desempeño con bríos, un ejemplo absoluto de cómo funciona la política en Ecuador. Podría realmente habernos dañado, aunque no lo pareciera en ese momento, al forzar a Yáñez a apurarse y tomar la decisión equivocada, en vez de esperar y tomar la decisión correcta después de que se la expliquemos.

Me reuní con Chang, la ministro de salud. Basura de edificio, no pude siquiera encontrar el baño – refleja históricamente cuán poco dinero el gobierno ha otorgado a la salud pública. No tenía conocimiento de la cuestión o los problemas de cáncer, pero se mostró muy interesada y sensible. Dijo que ella presentaría la cuestión al Gabinete el viernes en su reunión en Tena (Correa está celebrando las reuniones de gabinete en las provincias). Su ayudante, Beatrice, indicó que históricamente el Ministerio de Salud no trata con cuestiones del petróleo. Sugirió una cooperación interinstitucional entre los ministerios. Tenemos un nuevo folleto; necesitamos llevarle a ella hoy los materiales.

Kohn dejó un mensaje: Collingsworth le llamó y le preguntó si había mediación. CB y Terry están explorando. Quizás quieran salirse del caso en SF, quizás quieran jodernos y destrozarnos frente de nuestros clientes, pero esto es definitivamente un complot de CB para hacer algo. Recuerda, CB me enfrentó en la revista Outside.

Reunión de dos horas de Raúl con Correa. Correa lo contrató para tres cuestiones: la fumigación colombiana, Oxy y Texaco. Dijo que Correa lo dice en serio y que desea un legado. Quiere ver la lista de los abogados que están dañando al país. Problema con Reichler y Lehane presionando.

[...]

[...]

[...]



[...]

[...]

**19 de enero de 2007 (Quito)**

**Ayer fue uno de esos días totalmente increíbles que me hacen sentir agradecido de estar haciendo esto. Cosas clave:**

**Obtuve los documentos de ambas partes con respecto a la sentencia sumaria y estuve realmente deprimido el día anterior (miércoles). Tenía la misma desazón que tuve cuando viajé en avión al Ecuador con Abady en enero de 1994. Son simplemente buenos en lo que hacen, pero son muy ingeniosos en la forma en que lo hacen. Distorsionan tantos hechos, sin mentir técnicamente.**

**En una llamada telefónica destacué el punto principal: que distorsionan completamente el caso de Lago al tratar de hacer que parezca diferente al caso Aguinda entablado en 1993.**

Ese es punto clave de su teoría de la ley 99- explicar detalles mirando a los documentos. Esta es una verdadera mentira. También nos demuelen por “intimidar” a sus empleados, “cortejar” a accionistas disidentes, “amedrentar” a la empresa. Consigue el correo electrónico de Neil: él hace una pregunta crítica, ¿cómo hizo George Branch en el 2002 antes de que Rakoff estipulara que el mismo caso con las mismas reclamaciones pudiera ir al Ecuador, DESPUÉS de que aprobaran la ley 99, y ahora quejarse ellos de esto?

Anoche me reuní con el juez en [su] casa. Casa y muebles modestos. Preparó té. Realmente me gusta el tipo. ¿Recuerdas que en el pasado mes de agosto yo quise remontar la ola y sacarlo del caso? Este fue un ejemplo de la inteligencia total de Pablo. Lo salvamos, y ahora estamos cosechando los beneficios. Explica la política sobre el complot para separar a Yáñez, para sacarse de encima al Prefecto y controlar el dinero. Pablo está bajo intensas presiones. Trataron de usar nuestro caso, reclutar nuestro apoyo, porque sabían que estábamos molestos con él. Texaco observaba desde los costados de la cancha, tratando de provocarnos. En vez, el Comité adoptó una resolución, la cual él pudo usar ante la Judicatura para salvar su puesto. Odia a Guerra, porque Guerra fue parte del complot. Guerra será el juez que decida el caso. Tenemos que empezar a cabildarlo, trabajando con él.

Pablo es realmente genial. Se lleva bien con todo el mundo en la corte. Tiene una estrategia de largo plazo brillante: no dejarse absorber por la politiquería. Aún con Ileana, la secretaria, que todavía nos está jodiendo y que aún no ha aprendido su lección, se lleva bien con ella y nunca se lo toma personalmente.

Le propuse al escritor de Vanity Fair... lo de Pablo. Le di vueltas explicándole detalles de la vida de Pablo. Este sería un golpe maestro enorme.

Con Luis, APV, Raúl nos reunimos con el Procurador General interino. “La puerta está siempre abierta”, le dijo a Luis; una distancia enorme de los días de las protestas, de pelear por nuestro acceso a los ámbitos del poder. Piensa en lo que ha sucedido en diez años, en cómo hemos ido de pelear desde fuera del poder a meternos dentro de éste.

Almuerzo con Kelly McBride. La invité a ir a San Carlos hoy.

Reunión para cortejar a MEY.

[...]

[...]

[...]

[...]

[...]

**Cuestiones legales en este punto del caso de la reunión legal:** Primero, peritaje global. La primera cuestión es quién es el perito. Nos queda sólo Reyes. La mujer de USF claramente no está lista para la tarea. Otras ideas: el tipo de España que recomendó Esperanza no es realista. Elegir entre tres opciones: no hacer nada más que el estudio de Champs, un estudio completo en cada sitio; algún tipo de estudio parcial. Cuando abrimos el tema para el debate, Fausto dijo no hacer nada más, que ya tenemos una muestra estadísticamente significativa. Me inclino a hacerlo todo por motivos legales y políticos, para hacer que sea más fácil para nosotros probar las reclamaciones y que le sea más fácil al juez para determinar los daños y perjuicios en todo el ecosistema. FP está preparando un presupuesto. A Wray dijo lo mismo: no hay ninguna necesidad, pero si lo hiciéramos nos ayudaría. Por lo tanto, dos personas dijeron que no había ninguna necesidad. El presupuesto será probablemente entre 500 y 700; claramente Havoc no quiere trabajar más con nosotros y, por lo tanto, tenemos que buscar un laboratorio extranjero. Otra cuestión es el alegato.

**Fernando Reyes y el global:** el viernes tuve una entrevista de una hora con él para hacer un examen firme. Le pregunté cómo podría T atacarlo, y él señaló lo siguiente: trabajó para DINAPA y DNH; trabajó para Fugro McClellan como fiscalizador durante tres meses, escribió en un libro que el gobierno comparte parte de la responsabilidad. También trabajó para Maxus como auditor medioambiental en el famoso Bloque 16, que había causado tanta controversia. Le dije a boca de jarro que si hacía esto probablemente nunca más trabajaría en la industria petrolera en el Ecuador, al menos para una empresa estadounidense, pero que podría ser un héroe nacional y tener trabajo durante el resto de su vida participando en la limpieza. Hay un cierto nivel de “desconfianza” en él por estos trabajos pasados, por nuestro acuerdo previo como veedor, por el tibio borrador de informe que escribió, etc. Le pregunté si se sentiría cómodo abofeteándoles con una sentencia de 10b. Me contestó que sí a todo, pero no sé si tiene la madera para llevarlo a cabo, pero en este momento no veo ningún Plan B. El fondo de la cuestión es que él es uno de “los nuestros” . Veo que [se podría] usar a E-tech para darle cobertura; pero tiene que jugar completamente con nosotros y permitirnos el liderazgo al mismo tiempo que proyecta la imagen de que está trabajando para la corte. Pienso que sabe cómo hacer esto; me preocupa que nos usará como lo hizo Camino para tratar de obtener tanto dinero de nosotros como le sea posible. Recuerden que le pidió 30.000 a Alberto para obtener todos aquellos documentos de PetroEcuador cuando estábamos comenzando el caso. Y todavía me está molestando acerca de los 1.000 que afirma le debemos por un trabajo que nunca terminó haciéndolo porque cortamos el proyecto de veeduría por anticipado. Parece ser de mente estrecha cuando necesitamos un gran pensador, como Charles o Russell. ¿Podría ponerse de pie un gran pensador ecuatoriano?

**Alberto Wray:** También nos reunimos con él el viernes para obtener su opinión sobre el **global**, entre otros asuntos, en la sala de conferencia que da al parque con una competencia en el lugar de saltos de bicicleta. Siempre me gusta verme con Alberto... no puedo explicar por qué, pero me serena. Simplemente siento como su interés y participación hace esto real. Al comienzo del caso simplemente no podía estar cómodo alrededor de él, pero habiéndome asimilado, siento como si fuéramos amigos. Tuvimos una gran cena el lunes a la noche con Raúl en Zasu y contamos historias por 3-4 horas, tocando algunas mierdas personales acerca del racismo contra los latinos en el estudio jurídico de Raúl. Alberto me parece vulnerable. Quizás debido a que ha sufrido tremendos ataques de Paco Velasco, Tandazo y los antiarbitraje y no sabe cómo defenderse. Dijo que el propósito del global era probar que la

contaminación actual era función del “sistema operativo” de Texaco, y para determinar el área total impactada, sea o no reparable, y de serlo, cuánto costaría. Dijo que nunca fue la idea hacer mucho trabajo de campo. Dijo que desde un punto de vista jurídico, cuántos más datos haya, mejor. Más problemáticos son los daños y perjuicios. Comencé a enumerar categorías, tales como el hábitat degradado, y él las rechazó (no confío en su opinión, es muy cuadrado en derecho ecuatoriano). Dijo que el juez puede ordenar a Tex que pague; para que el Frente haga la limpieza (asunto clave, así el Frente puede controlar el dinero); hacerlo de tal manera; y un 10% adicional para la organización.

[...]



[...]

[...]

[...]

## **20 de noviembre**

**Vuelvo a casa en avión – excelente viaje**, uno de los mejores por varios motivos. Creo que hemos pasado a otro nivel; mucho que responder. Tres inspecciones Sur de Coca y excelente cobertura de prensa, sumado al silencio de Texaco. Dos artículos en El Comercio, uno el segundo día, uno el lunes después del último día. También cubrieron la historia AP el primer día. El domingo, publicaron un artículo sobre Obama que mencionaba su conocimiento de la causa. Además, tenemos la carta al editor firmada por las comunidades indígenas, que trata los dos temas de las mentiras de Texaco – sobre nuestro dinero y sobre la división de las comunidades indígenas. También hay otras señales de debilidad de Texaco; tuvimos varios comunicados de prensa esta semana, comenzando con las propias inspecciones. El intento de último minuto de Texaco de suspender las inspecciones; el primer día de las inspecciones. Las declaraciones de PP en Washington. Hice varias entrevistas en radio: Radio Municipio (6.30 am, el jueves); CORAPE el lunes a las 6.30; luego Radio Quito a las 7:30 (con Luis) y luego Radio Centro a las 10, una grabación que saldrá al aire hoy. Nuestra entrevista en Radio Quito fue levantada por Ecuador Inmediato. También salimos por televisión: Gamavision, Teleamazonas, y creo que Ecuavisa. Además el informe sobre arbitraje, más la cobertura local en la zona, y una GRAN presencia de locales. La gente de Tex siente la presión: el tipo de seguridad le hace gestos obscenos a la gente de cámaras de Joe, pone las manos sobre la lente de la cámara, etc. Te enseña cómo definir la cobertura de los medios de prensa: el gran artículo en el Comercio fue el fin de las inspecciones, aunque aún le quedan diez a Texaco. Este es un punto clave de decisión. De camino al aeropuerto, el taxista me dijo que yo me encontraba mucho mejor. Era el mismo tipo que me había criticado después de mi última aparición en TV con Andres Carrion, nos llevó a Radio Quito y dijo que había mejorado considerablemente. Creo que mi español realmente está mejorando. Les estamos dando duro en varios temas básicos: 1) estamos ganando; 2) el juicio está llegando a su fin;

3) están mintiendo, tratando de esquilmar al país; 4) es una lucha enorme del pueblo ecuatoriano contra una empresa extranjera malvada; 5) la principal defensa de Tex es la demora, y a sus abogados solo les interesa el dinero. Tenemos pendiente a Ortiz en Teleamazonas, y Radio Visión, las empresas de TV y radio, respectivamente. De hecho hemos ganado enorme credibilidad y francamente pienso tiene muchísimo que ver con la integridad personal de LY, PF y la mía, además de la de otros miembros de nuestro equipo que dan entrevistas, como Juampa y Julio.

**Gran sorpresa:** El perito dirimente, a través de Reyes, le dijo al juez que las muestras de Texaco eran una porquería. ¡Luis y Pablo lo hallaron recién el jueves pasado y nunca me dijeron!

**Tres amenazas: Kimerling, Bonifaz y Russell/Camino.** Wray me envió un correo electrónico de Jorge Jurado que era muy negativo sobre mi persona, y reenvió un correo de Dave Russell en el que lo alentaba a accionar contra nosotros. No tengo duda de que Russell es quien alentó a Camino a accionar contra nosotros, y probablemente haya contactado al bufete de Philadelphia para él. Fue muy desagradable y me hizo acordar del estrés y angustia que sentí muy a menudo durante esos días oscuros en que Camino y Mónica estaban en el equipo. La gran pregunta con Bonifaz es hasta que punto presentar la demanda ante el colegio de abogados. Y la situación de Kimerling es aún peor: ella estuvo en el foro en NY, y parece – según el correo electrónico de Atossa (ella también habló en ese evento) – que el movimiento de Kimerling para debilitarnos cobra vigor. Según AS, está cerca de conseguir que el Fecunae (el grupo Kichwa) la respalde. Viaja a estas reuniones internacionales (en este caso un foro de la ONU) con Moi (que se hizo famoso por el libro “Savages”) y acaparan la atención como celebridades y la gente está bajo su influencia mientras nosotros trabajamos duro en el campo. Como dice LY, todo aquel que le compra a Moi un boleto de avión a un destino internacional recibe su respaldo.

Los Hua son problemáticos por varias razones. Sonríen demasiado, están interesados en el dinero y en bienes materiales, y les encanta ir a los almacenes en Quito. Son los únicos que visitaron NY y pidieron quedarse. Como dice Esperanza, Kimerling es la patrona: “nadie consulta contigo, nadie te escucha, soy la única que te escucha, soy la única a la que le importas”, con orígenes históricos en sistemas agrícolas feudales en Ecuador. LY dijo fuera del Foro que habló con los Hua y parecían estar en total acuerdo con él; Kimerling luego los llamó por teléfono celular y les ordenó que leyeran la carta que ella les había escrito, donde tomaban la posición totalmente contraria. Joseph dijo que estaban borrachos fuera del foro, donde hicieron el ridículo, y partieron en un UV nuevo de \$60.000. DEBEMOS ir a visitarlos. El Frente ha estado tan absorbido con las inspecciones que perdieron poder político con los Hua, lo que le permitió a Kimerling el espacio político para poner en marcha a su “movimiento” que se pone un nombre indígena de fantasía: parte Hua, parte Kichwa. Está tratando de quitar dos de los grupos indígenas de nuestro juicio, los más glamorosos (los Hua) y los más numerosos (los Kichwa, que en sí son inmigrantes en la zona). Los Kichwa tienen base Rumipamba y me estoy dando cuenta porque tenemos 19 clientes ahí, y Bonifaz se desentendió de esto por tantos años que esto le ha abierto un espacio a Kimerling.

**Tuvimos una cena de celebración** (fin de las inspecciones) en La Briciola. Vi a Carmen Tello despedirse de LY con un beso y supe que la idea de conectar a la elite de Quito con la jungla estaba dando sus frutos. LY hizo el mejor brindis que jamás haya escuchado (puedes pedirle la cinta a Berlinger).

Tuvimos una reunión de personal ayer. Recibimos muchísimas sugerencias: Joseph sobre el cáncer, el lado humano. Es preciso humanizar el tema del cáncer. La gente se siente bastante enfadada. Lauren me dijo que en dos años ella y Julio contraerían matrimonio, que nunca se había sentido así. El día de la primera inspección renunció y se salió de sus casillas cuando quisimos enviarla nuevamente a Quito. Juan estaba en la cena. Las cenas son muy costosas pero bien valen la pena en tanto fortalecen el ánimo y la unidad del equipo.

**Lupita** hizo que me diera cuenta de la importancia de la gestión, de tomarse el tiempo con cada persona para escuchar lo que tienen para decir, y de establecer estructuras para que la gente tenga oportunidad de expresar sus ideas y participar. Lupita me dijo que su cirugía de nariz (especulación de Juan) obedecía de hecho a que Gustavo le había pegado; ella no ha estado ganando dinero. Cuando le pregunté qué necesitaba para independizarse de Gustavo, no supo qué decirme. Su valor está en aumento – ella conoce a todos en los medios de prensa, y todos la quieren, es totalmente leal, trabaja a destajo, y comprende lo de la confianza/el movimiento.

**Carmen sobre Ortiz:** dijo que él estaba cada vez más desilusionado, no quiere ser el portavoz de Tex; piensa que están debilitándose. Lo mismo respecto de Callejas (aunque no estoy seguro de creerle). Dice que cuanto más se queja Callejas, más es lo que tienen que pagarle para que siga adelante. Alberto Wray y Monica solían hacernos lo mismo al principio de la causa. Los únicos que no hacen eso son los miembros de nuestro equipo legal actual.

**Me reuní con Esperanza y Manuel:** quieren que el Peritaje Global se centre en el impacto humano, no en la ciencia. Sugirieron que contratemos a un sociólogo o alguna otra persona que sea el perito, no Fernando Reyes (MP me recordó que quería cobrarnos \$30.000 por algunos documentos PE a principios de la causa; yo ya lo había olvidado). Tenían algunas ideas muy buenas, pero no estoy seguro de que tengamos tiempo de realizar esos estudios.

**Hablé con E-tech:** pone en marcha el [peritaje] Global, consiguen que PE financie la reinyección de los pozos, etc.

**Reunión con el juez:** el sábado por la noche en casa de Lupe. 7 niños de seis madres. Tuvo un hijo. Se refirió a Marx, Lenin, Heidegger, Montasque [sic], Rousseau. 22 blazos en un automóvil, cerca de apresar a un traficante colombiano. La mujer en la parte trasera del automóvil murió. Dijo que Guerra está tratando de controlar al Perfecto de Lago, que Guerra no será el próximo presidente; que será Novillo. Un auténtico humanista. Comprende que la muestra de Texaco está repleta de mierda.

## **16 de noviembre**

**Reunión con Manuel/Frente débil; no quieren 160.000.** Comprendí que LY está muy retrasado y el Frente (y por ende la causa) corren riesgo de quedar fuera. Ayer fui a Rumipamba y vi a María Aguinda. Luego, tuve una entrevista emocional con Juan Diego donde básicamente le dije que en los 13 años de trabajo, no puedo decir que hayamos logrado un beneficio tangible para al menos una persona en la región. La causa está consumiendo las fuerzas del movimiento. No he visto a Manuel desde hace muchísimo, pero me di cuenta de que estamos en sintonía: el Frente necesita abrirse, estar menos oculto, ampliar su liderazgo, y llegar a otros sectores de la sociedad ecuatoriana. Concretamente, el fondo de Manuel acaba de darle 1 millón a SOLCA para comenzar un centro de tratamiento contra el cáncer en Lago Agrio; 250.000 para poner un sistema de agua en Rumipamba; y asignó 160.000 al Frente para que lleve adelante los cinco estudios para la causa. Todo esto sucede gracias a la causa; sin embargo,

el Frente no se lleva el mérito. En primer lugar, según MP, LY no quería los 160 y se ha resistido a recibirlos, no escribiendo la carta necesaria. No desea asumir la responsabilidad; esto sucede en un momento en el que Kimerling ataca al Frente por no informar con transparencia cómo va a gastar el dinero que recupere en la causa y LY no necesita un problema adicional en esta área. Para mí, esto constituye una absoluta falta de visión y de agallas: toma el dinero, anúncialo como una victoria a toda la gente, y realiza la reunión con total transparencia. El tema de SOLCA realmente me enfada. El Frente tendría que dar una conferencia de prensa con SOLCA llevándose el mérito por él, y cerrando el espacio político de modo que Texaco no pueda aprovechar la munificencia repentina del gobierno. Lo mismo con Rumipamba: MP me dijo que estaban por obtener un sistema de agua que cuesta 250.000 gracias a la causa; sin embargo, LY en nuestra reunión en Rumipamba nunca lo mencionó, no se llevó el crédito, etc. Estos son beneficios tangibles que pueden fortalecer políticamente al Frente.

**Inspección el martes:** Obtener todo del Acta. En general, estas inspecciones realmente le molestan a Texaco. El lunes intentaron una maniobra difícil: trataron de convencer que al juez de suspender la inspección por 60 días justo antes de salir para el lugar de la inspección. LY recibió un mensaje de texto en el que le decía que el juez estaba saliendo de Lago: teníamos nuestras propias fuentes de inteligencia en el lugar. Hicieron esta maniobra para Guanta, San Carlos y ahora para Yuca. Cuando movilizamos a la prensa, entonces tratan de retrasarlo. Así que acudieron a la inspección pensando que el juez estaba predispuesto en su contra. Es increíble cómo se victimizan. Racines le preguntó a Lupita cuánto le habíamos pagado a los periodistas para que estuvieran presentes: la concurrencia fue buena. Había tres emisoras de televisión – Gamavision, Teleamazonas, y la emisora local de Lago, además de AP, El Comercio, Universo, Expreso, etc. Dicho esto, Callejas, Larrea y Racines nos criticaron en la última parte y nuestros abogados fueron débiles. Me gritaron de nombre basado en un artículo en American Lawyer.

**Cosas que quise decir durante la inspección.** El miércoles por la noche tras regresar de Quito, no me podía dormir después de pensar en tantas cosas que decir durante la inspección: ayudar a la gente, entonces por qué portar armas; cuánto dinero ganas; darles agua para beber; darles alimento para beber [sic]; formular argumentos tecnológicos sobre la fusión porque se pierde el caso, etc.; el petróleo no tiene contaminantes.

**Cultura. Accidente en motocicleta.** Ayer (jueves) fue un día terrible en la oficina. En primer lugar, un automóvil chocó a una motocicleta en la calle; un hombre sangra en la calle, tiembla y está por entrar en shock, y la gente simplemente está parada mirando. La mujer que lo chocó trató de escapar, pero un policía lo impidió. Había un centro médico en la esquina: alguna gente simplemente miraba desde la puerta, no ayudaba, ni siquiera alcanzaba agua. Joseph se agachó y lo ayudaba. Como dijo Joseph, en Cuba el primer automóvil en pasar hubiese llevado al hombre la hospital; en Ecuador, la gente simplemente se para a mirar. Luego, se cortó la luz porque la mujer que ocupa la otra mitad de la casa no pagó la factura. En Ecuador, la empresa de electricidad corta la luz después de cinco días de no pagar la factura. Vino un hombre y simplemente cortó la luz. Alexandra dijo que vendría pero nunca apareció. Me vuelve loco; le desagrada a todos en la oficina. Joseph llamó el domingo para hablar sobre su cheque y ella le dijo que volviera a llamar en el horario de atención. Luego Lupita llamó al electricista, le pagó \$10 y habilitó nuevamente la electricidad. Joseph, Lupita y yo almorzamos y hablamos sobre la cultura totalmente pasiva de Ecuador. Por ejemplo, de cómo Sylvia para obtener resultados en los medios de prensa dice cosas como “No seas malito, ven por favor”. Estas imploraciones aduladoras, pero como dice Joseph, aquí funciona. La cultura de Ecuador lo vuelve loco a Joseph. La pregunta es cómo esta

característica cultural se plasma en la política, y cómo esto afecta a la causa. Y en muchos sentidos, la naturaleza de Ecuador como nación está dividida entre la humildad y la pasividad, entre la corrupción y la honestidad. Y esta dicotomía se manifiesta prácticamente en todo lo que hacemos.

**Nuestros líderes son burócratas:** LY pone al juez y al equipo técnico en un hotel diferente. Secreto de la información. Temor al riesgo. Temor de recibir dinero de Manuel. Temor de poner nuestras exigencias al frente y centrarse en términos de los paros en el Oriente.

**Reunión con juez en el hotel:** El martes por la noche en el Hotel Auca. Con Lupita, en la noche tarde: dijo que nuestra inteligencia era mala; cómo es que Texaco sabe lo que vamos a hacer antes de que lo hagamos (citó nuestra reunión con él varios meses atrás con APV, PF y LY). Dice que tres días antes ellos le dijeron que veníamos. Dijo que Pablo debería haber interrumpido a Texaco para crear un incidente durante la patética inspección del martes. Pidió ayuda sobre el tema de la vía [sic – visa] para que su novia visitara Nueva York.

[...]

[...]

## 27 de octubre

En viaje a Jax [Jacksonville] hoy para el partido entre Florida y Georgia, el máximo escape, y, sí que lo necesito.

**Reunión con Alberto:** Después de la presentación de Moscoso, estaba comenzando a sentir resistencia de parte de Raúl sobre el posible juicio a PE. Alberto me convenció de lo contrario y me recordó cuán brillante es él. Nos reunimos en la sala de conferencias, yo, APV, LY, PF y JP. Hicimos preguntas, y él pontificó (“al ver”). Dijo que veía peligros tanto con Correa como con Noboa; con Correa, dijo que éste nunca llegaría a una conciliación con Chevron por motivos políticos y que Noboa desistiría demasiado pronto por las mismas razones. Dijo que Texaco seguramente estaba calculando que una victoria de Noboa haría las cosas más fáciles para ellos y, por lo tanto, postergarían hacer cualquier cosa hasta que pudieran ver si podían escaparse de esto durante el gobierno de Noboa. Por otra parte, realmente cree que la elección de Noboa podría ayudar, dado que Noboa quiere resolver estos tipos de problemas de “inversiones extranjeras”. AW tiene una relación superestrecha con el VP de Noboa, Tayano, y con su mano derecha, Angeltia Albán. Es sorprendente cómo ahora podemos participar en los mismos juegos en los que participa Texaco, porque ahora tenemos contactos en todas partes. Estos son los puntos principales de AW:

- Dijo que debemos aprovechar la breve ventana de oportunidades que tenemos con PE antes de que terminen las elecciones. Necesitamos obtener los documentos de PE que solicitamos al comienzo del caso y que ellos nunca proveyeron. También podemos obtener documentos de PE de la divulgación de pruebas del asunto ante Sand autenticados a través de PE, en vez de Winston.
- También dijo que hay que averiguar de parte de PE qué tipo de cambios tecnológicos introdujeron cuando tomaron control de la concesión, tales como la instalación de quemadores de gases y equipos de reinyección. Y conseguir informes quejándose de la remediación.



- Con respecto al juicio de Moscoso, él estaba pensando en voz alta: “Veo ventajas claras” y se refirió después a diversas cuestiones: contratos, actas, contratos no ejecutados por PE porque nunca realizó ninguna remediación, la validez de las actas finales que pueden ser cuestionadas. Analiza cómo nunca se hicieron ninguna remediación, simplemente arrojaron tierra sobre las piscinas, y que por lo tanto la exoneración no tiene ningún valor; después dice que del otro modo, pero mucho más difícil, es atacar el problema a través de los principios de las leyes medioambientales, en vez de los principios de las leyes de contratos; que persiste la contaminación en el suelo y en el agua y que no existe ningún vencimiento del plazo impuesto por la ley de prescripción [SOL, por sus siglas en inglés) y que por lo tanto hay que solicitar la “nulidad absoluta” de las actas que exoneraron a
- Habló de la cuestión de la finalidad de la transacción. Alberto dijo que podríamos utilizar la cuestión del plazo de prescripción de 1 año después de que se desestimara a Aguinda. Por lo tanto, Chevron podría efectivamente invocar la ley de prescripción como defensa contra cualquier reclamo. Le pregunté acerca del fallo del juez SF en el caso Cristóbal, y tanto APV como AW dijeron que estaba equivocado como una cuestión de derecho ecuatoriano y que ese fallo nunca sería emitido por un juez ecuatoriano. AW dijo que el gobierno nunca ofrecería una indemnización del tipo de la que yo estaba hablando con Raúl (mira el borrador inicial de la propuesta de conciliación), y que nunca indemnizaría por juicios entablados por daños y perjuicios personales, los que de todos modos no reclamamos. Esto me preocupa porque ellos van a querer una finalidad y nosotros vamos a querer fondos para nuestros clientes por daños y perjuicios a la salud. Si Texaco nunca pudiera obtener finalidad con respecto a las reclamaciones individuales nunca seríamos capaces de negociar un fondo para daños a la salud y nuestros clientes quedarían reducidos a sus escasos recursos y a los caprichos del sistema judicial ecuatoriano. En otras palabras, jamás obtendrían una reparación. La idea de que el Congreso adoptara una ley que proveyera finalidad fue recibida con ojos levantados. Imposible, como tantas otras cosas en el Ecuador. AW dejó en claro que pensaba que el gobierno jamás otorgaría una indemnización. Aunque otorgo deferencia a esa opinión, pienso que AW analiza las cosas como son, no como pudieran ser después de cabildeos y trabajo político, lo que nunca parece entrar en sus cálculos. No tiene ningún indicio de las extensas relaciones que hemos establecido con PE, por ejemplo.
- En cuanto a una indemnización por parte del gobierno, se expresó contrariamente a que el gobierno proveyera una indemnización, ellos deberían hacer precisamente lo opuesto: deja en claro que combatirían toda acción. Pero tenía una buena idea: que tomemos el 10% que de conformidad con las leyes estaba destinado al Frente y que el Frente gaste eso en un fondo para reparar los daños a la salud. La otra idea fascinante que tuvo fue la de crear un fondo con el dinero de Texaco, pero que el Estado asuma la obligación, de tal manera que Texaco no tenga que reconocer los derechos de los demandantes. En general, le gustaba la idea de que el gobierno participe.

**Noboa—Correa:** Vi a Noboa en la TV—la prensa transmite estas conferencias de prensa informales. Primero, el microcrédito con PRIAN en el diario—pedir a la gente que lo complete. Después, la gente completa los documentos para nuevas viviendas—promesas de construir 300.000 al año. Carlos Vera trajo un experto para demostrar que es completamente imposible, pero el resto de la prensa lo comunica sin criticar.

[...]

[...]

**Raúl en general:** Raúl es una maravilla. Llegó el domingo en la noche e inmediatamente salió a cenar con Ivonne Baki y su grupo. Ella está tratando de obtener un puesto en el Ministerio de Relaciones Exteriores bajo la administración de Noboa. Mi Dios, la obsequiosidad me saca de quicio. Las fuerzas de Gutiérrez y las de Noboa se están uniendo, lo que significa que el viejo grupo de Gutiérrez recibirá algunos puestos en el gabinete. De modo que Baki se junta a Lucio contra viento y marea, tal vez el viajar a los Estados Unidos después de habérselo derrocado va a ser premiado. La cosa importante es que Raúl la estaba trabajando para proteger el caso Texaco por las dudas de que Noboa gane. Por cierto, Chevron se acercará a ellos inmediatamente, y probablemente ya lo hayan hecho. Recuerdo que yo la vi en la piscina del Hotel Quito después de que Lucio fuese derrocado y tuve ganas de encararla. Ahora estoy contento de no haberlo hecho, porque tal vez pueda ser aliada nuestra.

**Moscoso:** Finalmente lo he venido a conocer. Durante la primera reunión, el lunes, preguntó si pensábamos que PE debería participar en el caso Lago. Surgió el tema de si Chevron debería ser demandado civilmente basándose en la acusación de fraude. Volvió el martes e hizo una presentación. Raúl habló con Eric y Neil y, como no es de sorprender, no gustan de la idea. Nos ENCANTA la idea. Ésta es una oportunidad histórica, que nunca se había presentado, lograr que PE nos apoye para poder, finalmente, alterar hacia nuestro lado el curso de la burocracia dinosauria que ha sido aliada de Texaco por décadas. Galo, Vargos Pazzos, Moscoso — nuestros aliados están firmemente establecidos en la cima, y la ventanilla de oportunidad es corta, ya que serán reemplazados a mediados de enero. Dicha demanda, para poder ser políticamente viable, probablemente debe ser presentada antes de la segunda rueda de votación, el 26 de noviembre. Raúl está más o menos opuesto; organizamos una llamada telefónica para el jueves. Yo voy a incluir a Joe Kohn y a Alejandro en la llamada y vamos a hacer todo lo posible. La realidad es que ellos tienen el poder para aplastar la idea. Durante la reunión del equipo legal ayer expliqué a los miembros que su interés principal es el interés de su firma de abogados, no la causa. Y esa es una diferencia en nuestros intereses y enfoque. APV dice que debemos iniciar la demanda de todos modos, para forzar a Borja a tomar una posición, en Ecuador, de que hubo un fraude (la presentación en EE. UU. ha tenido poco impacto en el caso Lago). Lupita vino con RH porque ella me dijo durante el Foro en el fin de semana, donde él fue un juez en el juicio simulado, que él estaba coqueteando con ella.

**Conciliación:** Repasé el plan con Raúl durante el almuerzo del lunes con Luis. Realmente considero que Raúl es quien necesitamos. Esto es complicado. Necesitamos a RH para el convenio de conciliación, lo que finalmente le detallé al tratar de adelantarme a los acontecimientos.

**Grupo de trabajo:** Se reunieron con Galo el jueves pasado: todos los funcionarios superiores de PE además de LY, Pablo y dos dirigentes a nivel comunitario. Crearon un GRUPO Mixto, que surgió de mi memo al iniciarse la semana. Esto debe finalizarse de modo que esté listo y funcionando antes de que entre Noboa. Esta es la semilla que nos permitirá colaborar en una remediación y permitir que el gobierno colabore. Dijo que Galo realmente visitó las piscinas y dijo que Texaco hizo una remediación de mierda. ¡Esto es increíble! El respeto que LY y nuestro equipo está obteniendo a los niveles más altos del gobierno es impresionante. Recuerde, Palacio es el que finalmente ordenó que se encargaran de la factura de Winston.

**Reunión del equipo legal:** Planificación de inspecciones en noviembre. Traer a un sacerdote de España para atestiguar sobre la destrucción indígena. Mal encauzamiento a Texaco: diciendo que tenemos testigos especiales del gobierno que atestiguarán acerca del fraude durante la remediación. Robo de Lupita, yo empujando al equipo para ver esto como algo digno de manifestar y explotar, pero Lupita ni siquiera ha hecho la denuncia. Julio no creyó que los hechos fueron

[...]

[...]

[...]

[...]



[...]

[...]

[...]

[...]

[...]

[...]

[...]

**El representante de PDVSA en Ecuador estuvo en la cena – Luis Márquez. Le dimos cosas. Pusimos las cosas en marcha. Tipo realmente agradable, humilde. Interesante que PDVSA tiene un representante en el Ecuador. La perspectiva más general es que Venezuela construya una refinería enorme en el Ecuador en la costa del Pacífico, desde la cual pueda exportar a los nuevos mercados de China y Asia. Me encanta. Si Correa gana, este tipo de cosas realmente pueden suceder.**

Estaba la hija de VP. Contó la historia de cómo robó 51 cabezas de ganado. Tiene una finca de 3.500 acres en Concordia. Vende aceite de palma africana, bananas; cría ganado. El tipo es rico aunque siempre llora miseria. Quiere demandar a Noboa.

Caso legal: va bien con la decisión de Yáñez de cancelar las inspecciones. Chevron entra en erupción. Golpe duro. Irónicamente, una función de otras quejas sobre Yáñez con las que no tuvimos nada que ver, pero que él percibe que estamos detrás. Pablo parecería manejarlo realmente bien. Escribimos una queja contra Yáñez, pero nunca la presentamos, aunque le hicimos saber que podríamos presentarla si no se adhiere a la ley y a lo que necesitamos. La peor parte es que después de la decisión –que fue cubierta por la prensa ecuatoriana y por el Oil Daily – le dijo a Luis que teníamos que apoyarle ahora que pelea por sobrevivir en la corte. Entonces, en vez de un juez fuerte que ve la viabilidad de nuestro caso, ahora podríamos tener un juez débil, que quiere dictaminar correctamente por todos los motivos personales equivocados. Necesitamos empezar con las inspecciones (buscando un perito) y el peritaje global.

Es obvio que el Ecuador es un país donde las cosas se logran hacer a través de relaciones personales. A medida que desarrolle más relaciones, más fuerza tendremos. Pero para hacer esto, realmente tengo que pasar más tiempo en Quito, incluso vivir en Quito. Así podría conocer a Correa, María Paula, etc. Nuestro equipo no podría estar trabajando mejor ahora. El pleito de Camino en contra mío y de Joe en los Estados Unidos.

Viaje del viernes pasado a Coca con Charles Champ. Visitamos Lago Central y Sacha Central. Las impresiones de Champ: Un viejo refrán del este de Texas: “Tiene que lucir bien desde el camino”. Vimos las operaciones de limpieza por parte de PE en Sacha Central en más de 300 piscinas. Alentador, y amenazante. Se necesita examinarlo más.

**25 de julio 2006**

Estoy volviendo de un viaje de cuatro días. Realizamos una rueda de prensa ayer para anunciar la coalición. Todo salió muy bien, excelentes posters, Joseph hizo las cosas muy bien, Lupita no me habla. Gran avance esta semana: el gobierno demandó a Texaco en los tribunales de los Estados Unidos, y la noticia fue recogida por los periódicos del Ecuador y Reuters. Lehane está trabajando el WSJ. Ayer fue desestimado el caso de Bonifaz. Hablamos con Pablo y Luis en el almuerzo sobre la posibilidad de una conciliación y la forma de llegar a eso.

Tres posibles noticias importantes: charla sobre conciliación con Raúl, el gobierno acusa a Chevron de fraude y la desestimación del caso SF de Bonifaz. Es como si la niebla se hubiera levantado y se viera el cielo despejado: Por primera vez veo un camino hacia el final, aunque no va a ser fácil llegar hasta allí. Pero al menos se puede ver cómo llegar. Es la primera vez.

Lo que Robinson me dijo acerca de los Bormans mostrando esas películas, y luego que 20 Cofanes fueron bautizados. Pablo me muestra que algunos niveles de TPH fueron de aproximadamente 5.000 en la limpieza según lo informado por Texaco.

Seminario legal – A Pablo se le llenaron los ojos de lágrimas cuando me puse duro sobre cambiar la estructura de la forma en que abordamos el caso, en lugar de trabajar dentro de la estructura. Luis y Aaron estaban allí, APV está de vacaciones, Julio está con la pierna quebrada. Parece que nuestro equipo legal se reduce día a día. El asunto es que todavía tenemos los mismos problemas. Parece que las acusaciones de corrupción contra Yáñez que salieron en El Comercio hace dos semanas han envuelto a toda la corte en una guerra parricida. Yáñez presentó luego una queja contra Guerra, que a su vez había presentado una queja contra Novillo. De acuerdo con Pablo, Guerra quiere controlar nuestro caso. También dijo que la corte tiene la sensación de que estamos por detrás de las quejas contra Yáñez y Novillo, lo cual no es así, aunque tenemos mucho de qué quejarnos, lo que resulta algo irónico. Les pregunté si esta teoría de la corte nos perjudicaba o ayudaba, y tanto Pablo como Luis me dijeron que nos ayudaba. Llegado este punto, me lancé a mi sermón habitual acerca de que la única manera de que la corte nos respete es que nos teman y que la única manera que nos teman es si creen que tenemos el control de sus carreras, sus trabajos, su reputación, es decir, su capacidad para ganarse la vida. Volvemos a lo que Mateo dijo hace meses, respondiendo a mi analogía de Perú sobre ese ladronzuelo al que quemaron en la hoguera. Creo que Pablo nunca entendió esta cuestión fundamental, a pesar de que es un izquierdista comprometido; es como si él realmente creyera que la ley es un vehículo para el cambio social. Pero también tiene que ver con algo que él no puede controlar, pero sospecho que se da cuenta, su condición social humilde en un país en que el privilegio está arraigado y totalmente ligado al poder. Cuando Pablo entra en la corte, es uno de ellos, no se diferencia de los secretarios y empleados - un chico punk de la Amazonía, sin nada que lo respalde, nada que temer, no hay “hilos que tirar”. Cuando Callejas entra en la corte, tiene 500 años de historia a sus espaldas, más el impresionante poder de una multinacional, recursos ilimitados, anuncios a toda página, una villa en una base militar y la arrogancia absoluta de quien sabe que es “el hombre”. Así que cuando Pablo dice que habla con Guerra, o cualquiera de los demás jueces, yo no sé [...]



[...]

Siento otra vez como que todavía existe el tornillo de presión en el que estuvimos en mi último viaje, a pesar del destello de esperanza cuando salió el artículo de El Comercio sobre Yáñez. Nuestra primera y principal cuestión es si el juez aceptará la renuncia a las inspecciones. Si esto pasa, y Pablo piensa que pasará, pero Aaron y yo pensamos que él es excesivamente optimista, entonces tendremos que afrontar la perspectiva de más inspecciones derrochadoras, consumidoras de tiempo y costosas. Si esto no pasa, entonces estaremos en guerra total con el juez para hacer que sea separado del cargo. Atrás tenemos a Luis Muñoz, que es ahora candidato y que según APV tan poderoso y corrupto como el que más. Texaco ahora se da cuenta que su mejor defensa es solicitar tantas inspecciones como sea posible. En un caso separado en la misma corte, el OCP pidió simplemente 91, mientras que los demandantes solicitaron dos. El escrito como terceros que presentamos trata exactamente esta cuestión.

Suponiendo que se conceda la renuncia, queremos hacer cuatro inspecciones más; Texaco tiene diez. Idealmente, vamos a marchar directamente con las inspecciones después del feriado judicial y terminar nuestras cuatro hacia fines de agosto, si Joe pone el dinero. Pero todavía hay otras cuestiones no resueltas que podrían terminar con nosotros. Primero es la cuestión de los dirimientes. Pablo sostiene que vayamos con Yáñez y consintamos en un perito, para deshacernos de la cuestión de los dirimientes. Pero, ¿cómo podemos controlar a este perito? Esto significa [tener que] poner nombres ante la corte, pero no tenemos ningún nombre: Fausto Peñafiel se fue, y él nunca sugirió a nadie de todos modos. Manuel está más o menos ausente sin aviso. Y hay un grupo muy pequeño de gente técnica que no esté “contagiada” (en las palabras de Luis). Por lo tanto, la teoría de un perito único parece buena, pero todo depende de la ejecución. Y sabes bien que Texaco tendrá un montón de candidatos disponibles y que, por añadidura, probablemente les pagará extra para poder controlarlos. Entonces sugerí que nos mantengamos con dos peritos, nos deshagamos de los dirimientes porque no hay ninguna divergencia y tracemos una línea en la arena para presionar a la corte. Siempre me ha gustado la idea de dos peritos, porque al menos podríamos controlar nuestros resultados al 100% y luego argumentar ante la corte hasta el cansancio. Tener un único perito hace que se concentre demasiado el poder en una persona designada por el juez, y dada la política ecuatoriana, no veo a ningún perito que realmente sea capaz de llegar honestamente al grano de la cuestión. Pero Pablo nunca quiere trazar una línea en la arena, y fue ahí cuando se puso lloroso. Era probablemente la tensión y la soledad; quizás el sentimiento de que no contaba con mi apoyo, en general. Quizás mi declaración arrogante de que si no podemos resolver estas cuestiones, Joe no pondrá más dinero en...(una declaración verdadera, pero una amenaza velada a un amigo, hecha con poca elegancia y sin duda tomada por él como una bofetada). Entonces, me suavicé y consentí al menos por el momento que prosiguiéramos con la solución de un perito único y que tratáramos de moldearlo a nuestro favor. Esto parece inverosímil con Yáñez como juez, pero podríamos tener que tragarnos solamente algunos problemas para terminar con las pocas últimas inspecciones. Siempre que tome las muestras donde queremos, y no opine con respecto a las cuestiones de mayor importancia, deberíamos estar bien. Pero no me siento cómodo con esto.

Entonces la cuestión es, ¿debemos presentar la queja contra Yáñez ante la judicatura, lo que se suponía que haríamos el lunes pero que aplazamos porque la situación en la corte era tan inestable y pensamos que Yáñez podría ser separado del cargo de todos modos? Otra cuestión es que necesitamos otro abogado para Pablo mientras Julio está ausente: y necesitamos otro abogado de todos modos, alguien que restriegue las actas del proceso buscando admisiones de Texaco, un trabajo que en sí mismo podría tomar fácilmente meses. No hay ningún nombre obvio, pero Julio está buscando. En Lago, Pablo y Luis dijeron que no hay ningún abogado disponible que no haya sido “contagiado” por el sistema corrupto. Simplemente contratar a un abogado se está volviendo prácticamente imposible. Luego hay 8 exhortos que Pablo y APV minuciosamente prepararon e hicieron traducir; mierda, Alberto pidió en la primera semana del proceso que vengan de los Estados Unidos, pero la mayor parte de los cuales probablemente no necesitamos más, dado cómo se han desarrollado los acontecimientos. Esto podría tomar meses de trabajo adicional: los exhortos tienen que ser certificados por la Cancillería del Ecuador y luego enviados a los tribunales estadounidenses, donde la información certificada se obtiene directamente del juez o el secretario. Alberto también pidió que se tome una declaración jurada de Dan King, por razones de las que no tengo ninguna idea. Y alguien en los Estados Unidos tendría que trabajar probablemente extensas horas en seguimiento, porque la información tiene que ser devuelta al Ecuador dentro de los 90 días. Más el costo de tomar una declaración jurada. Seguramente Joe realmente va a estar en esto. Le pregunté a Pablo si podíamos retirar los exhortos y él pareció desconcertado. Por supuesto podemos, y tal vez lo haremos. Tengo que mirarlos antes de que recorramos este camino de succión adicional de recursos. Pero ni Pablo ni APV siquiera preguntaron si necesitábamos esas cosas; como se pidió, automáticamente se pusieron en acción para hacerlo. Pareciera que gran parte de su filosofía con respecto al litigio se basa en: ya que ésta es la manera en que siempre ha pasado, esta es la manera en que también debe pasar en este caso. No puedo sacarlos de eso.

[...]

[...]

[...]

**3 de junio de 2006**

**Vuelvo a casa en Miami. Dos viajes seguidos sin prensa. Anoche, María de la Cruz me dijo que no parecía cansado como me suele pasar al final de mis viajes. Eso se debe a que me sentí muy animado al final del día porque por fin parece que tenemos un equipo competente en cada posición, al menos lo tuvimos esta semana. Contar con Ann y Mark, más Aaron y Daria, con el apoyo de Alejandro y Julio, me hace ver lo que podría ser, y lo que podría haber sido si hubiéramos tenido este apoyo desde el principio. La oficina era una colmena de actividad, gente reunida en la cocina, en todos los espacios disponibles, ayer hubo 15 personas trabajando en la oficina. La historia de Ann sobre el caso en Denver me asustó, todos los testimonios periciales fueron desechados en razón de Daubert. Ella comentó que hay que tener excelentes asesores jurídicos y una buena base científica para ganar estos casos, y por supuesto estoy preocupado porque no tenemos nada de eso. Juntamos materiales para la reunión WS del martes, parecen muy buenos. Sólo tengo que armar la presentación el domingo y el lunes, y hacerlo al más alto nivel. Creo que necesito más casos, no quiero que este caso se convierta en mi vida.**

**Lupita nos dijo ayer que se iba a finales de mes para regresar a Colombia. Cielos, resultó ser una triunfadora.**

Texaco presenta documentos solicitando dos inspecciones antes de la vacancia judicial - nuestras inspecciones, no las suyas. ¡Qué descaro! Adoptan una línea totalmente dura. Luís estuvo de acuerdo con organizar una importante movilización la última semana de junio. Eso va a ser un montón de trabajo. La cantidad de trabajo nos está matando. Todavía no hemos respondido al ataque de T contra E-tech del 25 de abril. Anoche me iba a reunir con Borja, el AG, pero se canceló debido al tráfico.

**2 de junio de 2006**

Día intenso ayer. Dolor de cabeza espantoso, deshidratado, no dormí bien. Estaba preparando los papeles de Winston cuando Pablo nos dio un shock, lo cual me hizo acordar nuevamente de que nada en este caso va de acuerdo con los planes: Callejas cambió de opinión y rechazó nuestro acuerdo para las siete inspecciones siguientes porque sus jefes en EE.UU. no se mueven de su posición dura, tratando de forzarnos a hacer todas nuestras inspecciones y quieren que el próximo grupo de inspecciones sea 8:1. Traté de llamar al juez por teléfono celular, y no sabía quién era yo, y empezó con los rumores de que mi despacho está siempre abierto, deseo ser justo, etc. La llamada fue inútil y me recordó lo débil que era el juez, la falta de confianza en si mismo, una característica personal e institucional que nos está matando y está ayudando a Texaco. Nuestro plan de 2 años para terminar el caso exige un juez decidido dispuesto a tomar decisiones, y no es este tipo. Eso llevó a un conflicto intenso con Luis y Pablo porque se torna cada vez más claro que este caso los ha convertido en burócratas insignificantes en lugar de líderes políticos. Pablo es un típico abogado y Luis está agotado e inherentemente sombrío acerca de la movilización de gente, y la combinación ha llevado a una situación en la que hemos desmovilizado a las comunidades base. Les dije que necesitábamos una protesta masiva en la corte y sólo después de eso deberíamos hablar con el juez acerca de lo que necesita hacer. El juez debe temernos para que esto se mueva de la manera en que necesita moverse, y ahora mismo no hay temor, no hay un precio que pagar por no tomar esas decisiones clave. Luis se resistió: “¿Sobre qué vamos a protestar?” Bueno, ¿quizás el hecho de que vamos a perder el caso a menos que termine pronto? Vamos, levántate de las nalgas. Él se queda ahí sentado en la oficina y no hace nada. Realmente creo que debería regresar a la selva y vivir allí como organizador. Pero si lo hace, no habrá nadie a cargo de manejar la oficina. Nuestra falta de liderazgo y la debilidad de la corte nos están matando al limitar nuestras opciones. También tuve una discusión intensa con Alejandro, y lo reventé por pensar demasiado como un abogado. Reñí con él intensamente sobre el tema de la protesta y por tener a un americano designado como perito para el peritaje global. Tanto él como Pablo piensan dentro de las cuatro paredes de la abogacía, en lugar de ver que la abogacía es parte de una campaña más grande para ganar justicia, que requiere acción dentro y fuera de la corte.

Almorcé con Fernando Reyes. Terminamos el arreglo, dijimos que podría reanudarse más tarde. Él es el ejemplo perfecto de lo que está bien y mal con la gente técnica de Ecuador.

Tan débil, tan poco dispuesta a enfrentarse. Pero cené con Ann y uno se da cuenta por qué: no hay un mercado para la gente dispuesta a hacer el trabajo que responsabiliza a las compañías petroleras. Simplemente no es posible ganarse la vida haciéndolo. Va contra la corriente de toda la economía. Lo cual me lleva nuevamente a mi argumento de que necesitamos un extranjero como perito para el global. Ningún Ec va a plantarse y hacerlos responsables de miles de millones; simplemente no va a suceder. Ni siquiera la gente más progresiva y confiable del país que trabaja en cualquiera de los campos afines lo va a hacer. Sin esa prevención, no veo la forma en que podamos continuar con el peritaje global.

La ética laboral me está volviendo loco: Manual [sic] nunca se presentó a trabajar con E-tech como lo prometió; Fausto no vino al almuerzo y no me avisó; Luis Villacreses jamás vino como lo prometió. Olga jamás se presentó el día antes por las citas de su marido con el médico, además había tenido un accidente; y hoy, Alejandro tiene que ir a un funeral. Nadie administra la oficina, exacerbado por los pagos tardíos constantes que probablemente le dan a la gente.

Como acotación al margen, Daria me dijo que las pasantes se ofendieron con mi comentario del miércoles a la noche (cuando me reuní con ellas) cuando les sugerí que establezcan una relación personal con el juez para hacerle lobby, y que eso podría ayudar en el caso. No sé qué significa esto, pero queda claro que esta gente es muy joven. Quizás fue demasiado para ellas. Supongo que tuvo más que ver con su temor por el nivel de responsabilidad que implica.

CB envió un email a Alfredo diciéndole que por la decisión de la corte de Lago de 2001 estamos perdiendo el caso. APV envió un email mostrándole el caso SC (caso Torres), diciéndole que no debería opinar sobre la ley cuando no sabe todos los casos. CB le contestó con un email diciéndole que deberíamos enviárselo a Herrera, que por supuesto ya lo hicimos la semana pasada durante nuestra reunión de 10 horas.

### **31 de mayo de 2006**

Dos grandes acontecimientos: la semana pasada, fui a Washington D.C. para reunirme con los abogados de WS. Fue como abrir las compuertas con Neil y Eric Slocum. Raúl entraba y salía, pero lo llamaron. La cuestión principal es si van a tener presupuesto para financiar un cambio significativo en la estrategia: modificar la demanda para incluir el asunto del fraude, tomar declaraciones a Reis Veiga e ir a los niveles más altos de la empresa, y obligarlos a chillar, obligarlos a pedir una suspensión. Pero todo está en un terreno tan frágil, y estoy seguro que ni Neil ni Eric entienden realmente las cosas que podrían impedirles cumplir su promesa como los buenos abogados litigantes que son: el hecho de que Borja tiene que aprobarlo, que Raúl no es necesariamente el más fuerte de los manipuladores para hacerle ver lo que hay que hacer, y el hecho de que el mismo Borja es tan débil ahora, como resultado de este papel en el debacle de Oxy (él dijo primero que el contrato era ilegal, y cuando no lo mantuvo, se convirtió en el blanco de las protestas).

Ayer tuvimos un taller de cinco horas que fue muy intenso y frustrante. Examinamos opciones sobre el peritaje global; tenía planes de A a E, y me di cuenta de lo difícil que va a ser este aspecto del caso. El problema principal es que no tendremos ningún control sobre el perito, que será nombrado por el juez. Pablo y nuestro equipo legal siguen insistiendo en que la solución es que el juez nombre a alguien que sea favorable para nosotros, pero no me fío de este método dada nuestra experiencia hasta la fecha. Todo lo que T tiene que hacer es pedir una serie de muestreos, y terminarán pagando más a la persona. Por otra parte, podrían extenderlo enormemente. Creo que cuanto más duro trabajamos, más se aleja el horizonte. Y nuestro equipo legal está metido en esa caja. Aaron también se dio cuenta. Un ejemplo es la idea de nombrar a un extranjero como perito para el global, lo que fue rechazado de plano por Alejandro y el equipo. Por fin levanté la voz y dije simplemente: “Díganme cómo hacer algo en lugar de decirme siempre que no se puede hacer”. Realmente me pregunto si le puedo decir a Joe de buena fe que esto va a salir bien. Estamos ganando en la prueba, pero estamos perdiendo la guerra más grande por falta de tiempo. **Otra cosa que noté es que no tenemos pruebas para las demás categorías principales de daños: hábitat degradado, daños culturales. ¿Por qué nadie había pensado en esto?** Por último, hablé extensamente sobre la necesidad de una estrategia política. Nos dejamos estar en este asunto por 12 meses, por muchas razones muy justificadas, sobre todo el agotamiento, la falta de recursos, la naturaleza oscura de Luís, la falta de liderazgo, la falta de gente para organizar. Esto tiene que cambiar. Podemos tener la mejor prueba del mundo, pero si no tenemos un plan político, no cabe duda de que vamos a perder. Por otro lado, con una prueba mediocre y un buen plan político, tenemos buenas probabilidades de ganar.

La cantidad de trabajo es abrumadora y hay tantas piezas móviles que no sé si podremos mantenerlas unidas. Nuestro equipo legal está bien integrado; Alberto Wray está con nosotros, cuando presta poca atención a lo que estamos haciendo; el equipo legal de WS; Borja, que dejará su cargo pronto, y Joe, que todavía quiere estar adentro. El dinero es un pegamento que puede unir todos estos elementos dispares, pero no tenemos mucho de eso. Una jerarquía corporativa es otro pegamento, y tampoco tenemos eso. Sin embargo, Texaco tiene ambos y son capaces de coordinar hábilmente sus estrategias legales aquí y allá. Creo que es un milagro lo mucho que logramos con tan poco, pero en última instancia eso no significa nada si no ganamos. En realidad, ¿de qué vale abrirse paso para llegar a la final de un evento deportivo si no se gana, sabiendo que tu derrota condenará a la ruina al equipo? Uno lucha constantemente para evitar que se apague el fuego. Y luego veo que esto consume mi vida y no veo una salida a corto plazo. No se puede hacer esto a tiempo parcial, y la realidad es que debería pasar más tiempo aquí, no menos, y sin embargo, tengo un matrimonio que construir y voy a tener un hijo que disfrutar. Siento que mis opciones se reducen, no aumentan. Por eso es que no puedo culpar a Daria y Aaron por querer ir a Egipto en lugar de seguir aquí.

**13 de mayo de 2006**

[...]

[...]



[...]

[...]

Otro gran asunto pendiente: hacer las inspecciones o esperar y conservar los recursos. La cuestión del dinero nos está matando. Las deudas han trepado a \$114.000, personas que esperan recibir su pago, tienen familias, no es una buena dinámica; la moral en la oficina parece baja, y eso fue confirmado por Lupita. Hay que forzar la cuestión con Joe, creo que estoy fallando en eso. CB siempre decía que uno debía aparentar que no tenía dinero, porque sino el ecuatoriano te comía vivo. Tenía y sigue teniendo razón, mira Alberto y Mónica como Anexo A. Tenemos que seguir adelante, seguir luchando, tenemos que creer que vamos a ganar, tenemos que crear la energía de que vamos a ganar, de lo contrario todo esto se va a marchitar y morir.

Otros hechos de este viaje: Juan Aulestia nos criticó duramente a mí y a Luís por no vincular el caso al debate nacional más amplio sobre el petróleo, como en el asunto de Oxy; preparar la denuncia de CB ante el colegio de abogados de Massachusetts, y las sensaciones extrañas que esto genera: una conversación con E-tech ayer sobre el viaje previsto para finales de mayo, y la sensación de que ellos también se sienten abrumados con la combinación de anexos y trabajo de campo que tienen que hacer; problemas con el laboratorio HAVOC, el hecho de que las muestras coinciden exactamente y que no han producido documentos de calidad y control; la falta de liderazgo y administración por parte de Fausto P.; se desestima el caso Edison Camino en mi contra - fue jodido

que la jueza no nos dejase presentar una defensa y que desestimara la acción cuando él tenía una dudosa demanda contra mí. Creo que, a través de la intimidación, hemos puesto fin a dos demandas —una sobre las inspecciones de Havoc y la de Camino en mi contra.

**7 de mayo 2006**

[...]

[...]

[...]

[...]

[...]

[...]

**Dos nuevos argumentos legales.** Resolver dos argumentos importantes: en primer lugar, el plan de muestreo y análisis que supuestamente acordamos y que Alberto firmó sin autorización no tiene ningún efecto legal, porque los peritos son independientes y las partes no pueden consentir a que limite su independencia. En segundo lugar, el contrato de remediación entre el gobierno y T es de por sí ilegal, porque un delincuente no puede celebrar un contrato para escaparse de un delito. Esto sería como si una niña fuera violada y el violador tratara de firmar un contrato con sus padres para evitar toda responsabilidad.

**Reunión con el juez el día antes de la inspección de SC.** El día anterior (el martes), me encontré con el juez en esta oficina; dijo que la inspección tendría lugar “vida o muerte”. Estaba preocupado por la disposición del código sobre los peritos dirimientes; que todo el asunto pueda ser declarado nulo por una corte superior, la misma cuestión que Alberto había llamado una “estupidez” en un correo electrónico algunas semanas antes cuando Pablo fue el primero en presentar la cuestión después de oír por casualidad que Guerra expresaba cierta preocupación por ello. Estos jueces realmente no son muy inteligentes; es como un trabajo vocacional para ellos; tratan de resolver disputas a un nivel muy básico, hay poco o ningún componente intelectual en la ley. Citó un código del código civil para mostrar su preocupación. Cita el código y explica mejor. Aproveché la situación para explicar nuestra teoría del caso. Después, Julio simplemente no entendió la cuestión de obligación solidaria, *de* cómo Texaco podría ser responsable de la contaminación causada por PE con sus viejos equipos. Los conceptos de negligencia y obligación solidaria son aceptables en el Ecuador, pero nadie los utiliza; por lo tanto, los jueces no están expuestos a ellos. Esa parte de nuestro caso es una verdadera batalla cuesta arriba. Pero sigo pensando en lo que Mateo me dijo: el único modo que ganaremos este caso es si el juez piensa que él será empapado con gasolina y quemado si falla en contra nuestra. Dada la moralidad o inmoralidad del sistema judicial del Ecuador, ese tipo de comentario ni siquiera me impresionó. Es parte de las reglas del juego aquí. Me gusta el juez – en febrero, estaba seguro de que habíamos perdido a la corte con el informe [sic] dirimente del perito. Pero debido a una buena estrategia y a alguna contrapresión, la corte está ahora disponible, lista para ser tomada y accesible.

**Almuerzo con el juez.** Esta fue la segunda reunión con el juez. Almorzamos con él el viernes pasado en el Cangrejo Rojo. Me encanta este cabildeo. Soy apto para ello. Pero lo detesto,



detesto que sea necesario, detesto que sea parte de la cultura legal, APV lo detesta; pienso que esto obra en contra toda persona decente. El juez trajo a una chica veinte añera y no pensé nada de ello. Pablo más tarde sugirió que ella pudiera haber sido un espía de T. Ella no dijo nada durante todo el almuerzo. Luis y APV estaban allí. Le di al juez un memorando de una página sobre la ley y le mostré los gráficos de SA-53, el sitio que los peritos han supuestamente dirimido. Hablamos de la teoría, de la necesidad de dejar que la gente de San Carlos hable, sobre la necesidad de no cancelar la inspección, de no tener otro Guanta.

Reunión en la embajada – más sobre el juez

Bonifax es despedido.

El martes reunión con el juez, Pablo, y un almuerzo

[...]

[...]

[...]

**21 de febrero** – Puede haber sido mi día más intenso del juicio hasta ahora. Giran por todas partes las presiones de corrupción, amenazas de muerte, etc. El juicio de Camino contra mí está por iniciarse el 9 de marzo, y me estoy empezando a desesperar. Esto es parte de lo que ellos quieren: me estoy volviendo paranoico, pensando que todas las personas con las que tengo un problema o que amenazan nuestro plan están siendo pagadas por Chevron de algún modo, sea que lo estén o no. Hablé con Ramiro Bonillo sobre la película explosiva ayer, y luego me di cuenta de que quizás haya escuchas telefónicas en nuestros teléfonos así que Chevron seguramente está enterado. Lo van a llamar y simplemente le pagarán 1,000 y él les dará la película, que rápidamente destruirán como lo han hecho con otras pruebas. Si esos hijos de puta pudieran succionar los 18 mil millones de galones para hacer de cuenta que nunca sucedió, lo harían en un instante.

[...]

[...]

[...]

Burocracia: La agenda que preparó Fausto. Comienza con “saludo” de Donziger, luego “saludo” de Yanza, luego “verificación del quórum” para ambos grupos de abogados y técnicos, luego la designación del secretario ad hoc que escribirá las resoluciones formales propuestas y aprobadas.

Fui con Grandes. Dios, qué ejemplar mentiroso hijo de puta. Habló de su pedido en HAVOC que salió directamente de las reglas de juego de T. Primero se me ocurrió que le están pagando, pero ahora creo que simplemente sigue la corriente de poder como muchos otros ecuatorianos. Dijo que no tuvo contacto alguno con Camino ni con Chevron, pero estas coincidencias son demasiado fuertes - considero que la reunión de planificación de Texaco durante las fiestas ha dado lugar a un gran conjunto de cambios, y luego se están tornando corruptos. Él sólo repitió sus preguntas de mierda y se las envió a HAVOC porque sabe que lo odiamos y, a la larga, su trabajo está con las compañías petroleras. Este tipo es una mierda reventada y sentí ganas de saltar sobre la mesa y cagarlo a palos. Pablo estuvo fantástico, siguió diciendo cómo iba cayendo en la trampa de Texaco sin darse cuenta. Creo que la reunión no tuvo efecto alguno.

Luego tuvimos reunión judicial. Presenté mi plan tripartito anticorrupción sobre los peritos dirimientes, dando por terminadas las inspecciones y atacando a Callejas personalmente. Pablo me desafió, pero logré su apoyo. Se aceptó el plan de conseguir que el “loco” (APV) gritara fraude en cada oportunidad en San Carlos. Ahora sólo debo asegurarme de que suceda. Se habló mucho del juicio de Camino. Mucho trabajo que hacer con Joe, no confío en APV con su método disperso de último momento, así que trataré de encargarme yo mismo de este asunto. No creo que pueda pedirle a MM que sea testigo. No es justo para él y cómo ha construido su carrera. Luego me reuní con Weilbauer – el hombre rico más agradable y elegante de todos. Viejo, pero no ha aminorado su paso para nada, sigue siendo un líder importante, llamó a ese médico con quien nos reuniremos el viernes para ver de ir a San Carlos como testigo.

Cena con Raúl Herrera, su asociado Manuel, y este argentino que representa a Phillip Morris en Quito en San Telmo. Cultura: Cómo el dueño le dijo que me conocía para hacerme ver bien frente a mis invitados, cómo envió un cóctel de camarones gratis, para tratar de hacerme ver bien!!! ¡¡¡Y no lo conocía ni había hablado nunca con él antes!!! Me encanta toda esa mierda.

A Raúl se le caía la baba sobre el memo de la FCPA emitido por el gobierno; definitivamente tenemos que avanzar en esa dirección. Esencialmente estamos haciendo una buena parte de su trabajo – yo estoy a cargo del tema del fraude y el memo; Julio hace la anulación del memo de contrato (que me olvidé de mencionar - ¿cuántas otras cosas me olvidaré porque tengo la cabeza atestada?); Aaron se encarga del memo de la FCPA, la investigación de la FCPA que ellos harán y que me entusiasma totalmente. Me encanta Raúl, gran abrazo, este tipo podría ser un buen amigo. Él habló sobre la asunción presidencial de Evo y de haber conocido a Tom Hayden. Descubrimiento importante: sus contactos con Chávez, trabajan directamente con su AG, cuando Pat Robertson dijo esa pendejada de asesinarlo, ellos estaban allá y trabajaron en el argumento para la extradición de Robertson por el gobierno de Venezuela. Yo dije: “¿Saben la mejor manera de sacarse a Chevron de encima de su cliente? Chávez.” Se quedaron boquiabiertos - lo saben también, le dije que organizáramos una reunión confidencial en Caracas con la gente de él y ver qué posibilidades hay. Solía pensar que simplemente con que Chávez sacara a relucir el tema con Chevron que se produciría una diferencia, pero ya no lo creo porque veo cómo está reaccionando Chevron. Se habló sobre la embajadora hija de puta de EE.UU., quien le dijo a él en un almuerzo de trabajo que no dejara que el caso de Texaco “escalara” – le dije a Raúl que consiguiera esa reunión con la embajada, que la aprovechara, que realmente les ayudaría a escuchar otro punto de vista. Manuel me habló de su caso de Guatemala. Esta gente hace un magnífico trabajo. Sobre la resistencia de su firma de que tomara este caso. Nos reuniremos otra vez al día siguiente, desea mantener distancia pero realmente podemos hacerlo realidad. Dice que su cliente no está tan interesado en la producción de pruebas – Necesito moverlos en este tema.

Llamé a Laura a la noche y me dijo que estaba preocupada por mí. La aprecio mucho por eso.

[...]

[...]

[...]

**27 de enero – Ayer (jueves) fue el último día de viaje y mis emociones eran de todo tipo. Tanto por hacer, tan poco tiempo. En la mañana, cancelé la reunión con Mali en Ecociencia por falta de tiempo. Lupita vino a mi cuarto con la radio y yo llamé a Paco Velasco para hacer una breve entrevista sobre el premio a la irresponsabilidad corporativa. En el desayuno, Raúl Herrera llamó y coordinamos un horario para el almuerzo, y me sorprendió que aún estuviera por allí. A las 10 de la mañana, Fausto y yo nos reunimos con G y F, y le expliqué la necesidad de contar con testigos para el arbitraje. Almorcé con Raúl, en tanto LY almorzó con el juez. Por la tarde, me reuní con Aaron y Daria para hablar de trabajo, le encargué a APM que escriba peticiones a la corte (sacarnos de encima a Zambrano y reducir el pago de los peritos) y luego tuvimos una reunión sobre estrategia de comunicación; me reuní con MM en su casa y luego cenamos con LY.**

**Puntos clave:**



**Reunión con GF – Realmente me disgustó. Dijo que Zambrano estaba nervioso cuando se reunió con ellos, y no pidió ayuda. Entonces, le indicaron que él y su grupo (que no el poco fiable Jurado) trabajaron con un tal Prof. Melo en el Politécnico. Melo es conocido por ser corrupto, pero fue perito en una causa judicial contra Oxy en la que le ofreció cambiar sus conclusiones por dinero, y lo hizo. Es el asesor de JZ. Dadas nuestras sospechas sobre JZ (MP dijo que era un corrupto) el panorama ahora se ha aclarado. Sabemos cómo llegó Jurado allí el 18 de agosto; la pregunta es cómo aparecieron estos otros cuatro de repente. Obviamente, Texaco los trajo y nuevamente, Alberto no tenía ni idea y actuó como si no importara. ¿Estaba ocultando acaso su incapacidad para luchar cuerpo a cuerpo o simplemente estaba tan poco atento que realmente pensó que Texaco no ejercería su propia influencia en este asunto? No tengo duda. Y esto me fue confirmado por GF, quien dijo que los peritos elegidos por el juez eran de segundo y tercer orden y no tenían una reputación en Ecuador. Y también descubrí que ambos GF presentaron sus CV al juez, y que pese a ser los mejores de Ecuador no se los tuvo en cuenta. Volví furioso a la oficina, le dije a LY, y decidimos pedir que lo despidieran usando la carta que nos habíamos guardado bajo la manga: su participación en el informe de la Contraloría, donde las conclusiones eran contrarias a Texaco. ¿Recuerdas la insistencia de JZ para que se le pagara por los meses en que las inspecciones fueron suspendidas debido al despido de Lucio? Todo tiene sentido ahora. Y Jurado, supuestamente un amigo, resultó ser para nada fiable. En esencia, nos fregaron, pero en lugar de volverme loco lo veo como un obstáculo por sortear. La decisión de solicitar su despido se hizo rápido; luego, mientras volvía a casa, comencé a dudar ya que posiblemente la influencia de GF será suficiente para al menos neutralizarlo. Pero ¿para qué arriesgarse? Si nos quejamos después, parecerá envidia. Tuve una fuerte discusión con AP sobre si adjuntar el artículo Vistazo como anexo a la petición; él decía que al juez ecuatoriano no le gustará. Yo insistí pero ganó él. Dijo que los jueces son muy estrechos de mente en Ecuador y todo lo que necesitan es el informe de contraloría con el nombre de JZ. Observo que GF tenía una oficina enorme con una mesa de conferencias y una fotografía del Che en su estante para libros.**

**Luis almorzó con Yañez: Cuando volví de la reunión con GF, le conté a LY y dije que teníamos que hacer algo. Esto simplemente se combinó con sus tácticas dilatorias de las inspecciones de campo, lo cual volvió a enfurecerme. En unos minutos, LY había llamado al juez e iban a reunirse para almorzar a la 1, en una hora. Le di \$40 de mi bolsillo. Le hice repasar el calendario de inspecciones, las demoras de Texaco, el problema con los peritos dirimientes, querían pago por no trabajar. LY dice que el juez lo comprendió. Yo aún tengo mis dudas.**

**Almuerzo SRD con Herrera. Me reuní en los Troncos. Él llegó 25 minutos más tarde, no tuvo en cuenta el tránsito. Yo estaba ansioso para recibir noticias. Se veía elegante en su traje azul, corbata, camisa blanca y gemelos. Él cumple su función pase lo que pase. En primer lugar, me habla sobre la audiencia de Sand, que fue verdaderamente bien; ya estaba por obtener la declaración jurada de Ricardo Crespo sobre la historia legislativa de la Ley de Gestión Ambiental para demostrar no fue creada con el propósito expreso del Estado para evitar el acuerdo de conciliación; declaraciones juradas de otras personas en relación con el JOA, entre los que se incluyen antiguos funcionarios de PE; tenía previsto un almuerzo con el embajador de EE. UU. el viernes; fue con AG a una reunión del colegio de abogados de Pinchincha, habló sobre la causa y la ligó al tema de Oxy. Dijo que teníamos que seguir con lo que estábamos haciendo. Vino de la ceremonia inaugural de Evo, vio al Subsecretario de Estado Shannon en la ceremonia,**

le dijo lo que estaba haciendo. Él le da enorme credibilidad a nuestra causa, tan sólo por su red de relaciones en toda América Latina y en el gobierno de EE. UU. Creo que hice algo tonto al pedirle la carta de CB en la que solicitaba ser co-asesor, lo que él negó. También coincidimos en que era demasiado pronto para hablar de un acuerdo global. Creo que podría ser un enviado de Dios, pero que de todos modos hay que tratarlo con recaudos. ¿Acaso su oposición a un acuerdo obedeció a su necesidad de cobrar honorarios? De hecho, creo que entiende que aún no es momento de cosechar frutos. Es preciso fortalecer la posición del gobierno en el arbitraje, y debemos seguir impulsando el juicio y necesitamos conseguir que se complete la evaluación de costos.

MM: dijo que José María era un auténtico oportunista, y un estúpido; el embajador en Caracas era una “bestia” y absoluto oportunista. Definí el trabajo legal (ver documento) con Aaron y Daria; le encargué a APM que redactara una petición para librarnos de Zambrano.

[...]

[...]

24 de enero – Ruptura de 25 en la mañana en el Hotel Quito. María Paolo es increíble; dijo que trabajaría durante toda la campaña presidencial para que el mensaje se presentara este año. Esta es gente joven e idealista de 20 a 30 años. Podrían liderar el país algún día, o simplemente puede que se estén dando importancia. Quieren formar un partido político. Quieren hacer el bien. ¿Los va a corromper el poder? Valentina y Malki estaban presentes.

El asunto clave son las inspecciones solicitadas. Ds presentan, T rechaza; T presenta, nosotros rechazamos. LY y PF se reúnen con Callejas hoy por dos horas. Volvieron con un “arreglo” que consistía en el 80% de nuestras inspecciones, el 20% de las inspecciones de T. Esto fue desalentador – quería las proporciones opuestas, por lo cual inicialmente parecía ser una rendición. Las ventajas para nosotros fueron que nos permitiría hacer Guanta y San Carlos, dos lugares donde T no compareció por estar atemorizado (cancelaron Guanta y San Carlos fue suspendido por el paro el agosto pasado – y estas son nuestras dos inspecciones mayores en términos de gente y los medios). También nos permitiría inspeccionar dos pozos en el campo de Aguarico, donde no hemos estado, y dos pozos adicionales en el otro lado del campo de Lago. Todo esto está diseñado para permitirnos cubrir la prueba de todos los campos, lo cual fortalecerá nuestra extrapolación final para todos los pozos construidos por Texaco. Sin embargo, todavía no creo que sea necesario. Ya que T utilizó los mismos métodos en todas partes, y lo reconocen; simplemente no creo que necesitamos seguir haciendo inspecciones en todos los campos [sic] y, de hecho, aun bajo nuestro propio plan vamos a evitar los campos pequeños y aislados. No creo que estas inspecciones adelanten la causa – en muchos respectos, la retrasan y le hacen el juego a T. Pero T rechazó aun esto. Parte de su queja, la cual considero completamente ridícula, es que su equipo técnico no está preparado para los pozos siguientes en la lista que deben inspeccionar, porque se encuentra [sic] en el sur – al sur de Coca. Después analizamos, y Pablo volvió a cambiar de parecer en función de mi recomendación y la de APM. Vamos a retirar inspecciones en forma pública – un adelanto importante para PF desde nuestra primera discusión acerca de esto el miércoles pasado. Las retiradas serán Shushu y todo Sacha Central (mirar mapa y explicar) – un total de 26. Esto reduce el número restante de 87 a 51, mientras que a T le quedan 10. Queremos consumir sus 10 rápidamente, y luego parar cuando nos convenga a nosotros. Ellos quieren prolongarlo, por lo cual proponen la fórmula 80-20. T prefiere la demora. Calcular los números. Gana por lo menos 300m por año, le paga a los abogados 10m por año – con esta tasa de rendimiento quieren que se continúe para siempre.

Creo que PF me escucha y me respeta, pero nunca adopta mis sugerencias a menos que APM le diga cómo hacer algo.

Me presenté a la discusión durante la tarde entre Ermil, PF, LY – habían resaltado en amarillo la parte de la demanda del pleito que dice que el 10% va al Frente. Judy K y Quenema la estaba [sic] utilizando para decir que el 100% del dinero iría al Frente, y las comunidades no recibirían nada. Estaban redactando una declaración preventiva explicando la realidad, de que el dinero iría a todas las comunidades. Lo más interesante es que LY dijo que AW nunca los consultó con respecto a la redacción de la demanda, y nunca tuvieron la oportunidad de revisarla. Esto se remonta a los errores de Alberto: el demandar a la parte equivocada en la demanda, y después solicitar demasiadas inspecciones en lugar de controlar el proceso, el capitular en cuanto al laboratorio de campo con la primera queja, el permitir que la visa de trabajo caducara durante la primera inspección, el firmar el Plan de Análisis – la mayoría de estas, una función de su incapacidad para enfrentarse a los abogados de TEX y de controlar el litigio.

**AW recibe una carta de 12 páginas. Leila dice que está nerviosa.**

**Premio Davos hoy para Chevron por “irresponsabilidad corporativa”.**

**Anita a bordo – Lupita inventa: Caso Texaco/Ecuador en la lucha. Tanta suerte tener las fotos de Lou y Kayana para seleccionar de las fotos en la tapa de la carpeta.**

[...]

[...]

[...]

[...]



[...]

[...]

[...]

[...]

[...]

[...]

**27 de nov. – Llegué por un vuelo nocturno – Pablo durmió dos noches seguidas en el autobús cuando perdió su vuelo de regreso el lunes para la inspección del miércoles. Así que no me puedo quejar.**

**Me reuní con Luis sobre la situación de CB. No lo despedí. Le di la oportunidad de explicarse antes del 15 de enero. Le dije a LY que estaba muy decepcionado. Él y PF me lo explicaron a mí y a AP y pareció tener más sentido, pero ellos aún no se dan cuenta del daño que él está causando. Por ejemplo, limita [mi] capacidad para ver al Procurador. LY dijo que él no podía presionar o la gente sospecharía que había alguien detrás de eso. Interesante y en cierto nivel admirable el concepto que tienen de la justicia – desean darle a un tipo que se se los está chingando por completo la oportunidad de que lo escuchen. LY sabe que CB usará sus caprichos para tratar de manipular las cosas con el fin de volver a ganarse la confianza de los clientes y eso lo preocupa. Conseguir la carta. Lo ayudé con la carta y el contrato –creo que esto va a volver loco a CB. Estoy empezando a tener dudas sobre las fallas de liderazgo de LY, pero como le dije a AP, necesitan un administrador fuerte, no un líder fuerte debido a todos los intereses distintos que componen a las comunidades base. LY está indicado perfectamente para ese rol, y él lo entiende bien, aunque su falta de acción con lo de CB me vuelve loco.**

**Tuve una reunión de tipo legal con PF, AP y LY. Pablo notificó algunos hechos increíbles que me llevan a creer que el bando de Texaco está muy desmoralizado en este momento. Él dijo que Callejas le ha confiado que sus propios amigos y familia le han hecho un corte de mangas por su participación en el caso. Dijo que el bando de Tex tiene un temor bárbaro de la gente local (temor de gente bárbaro). Mi propio análisis confirma esto – los hemos estado “aporreando” en la prensa y ellos han**

estado casi totalmente mudos mientras el emperador es puesto en evidencia. El seguimiento de Guanta sigue en plena marcha dos meses después y Pérez Pallares debe sentirse muy solo, ya que él es solo un vocero. Él canceló el evento en San Francisco, por lo que dominamos eso; aparentemente los están echando de la base militar; Benjamin Ortiz se negó a ser su vocero. Carmen dijo que a Ortiz le ofrecieron el triple de dinero para que fuera el vocero de ellos, y él no aceptó porque su prestigio era más importante. Estoy seguro de que PP está enojado [sic] con RV por dejarlo solo de esta manera. No me sorprendería que PP renunciara – ¿quién querría esto, a su edad, que lo dejen solo para recibir todas las balas por Texaco, al final de su vida cuando debería estar jubilado y disfrutando todo el dinero que ganó por cagar a sus conciudadanos?

Desde el punto de vista legal, los hemos hecho retroceder. Ya no usan el Anexo J. Hemos atacado sus informes como ilegítimos, porque sus peritos no tienen permiso de trabajo (un detalle, pero ¿por qué no?). Los hemos obligado a utilizar las normas de Ecuador. Están a la defensiva con respecto a Guanta y sus vínculos con el ejército. Probablemente cagamos su relación con las fuerzas armadas. RV ya no viene por aquí. Hemos planteado con legitimidad la cuestión del fraude. Él podría estar preocupado por un arresto. Lehane da otra dimensión – Herbert, Roll Call, la historia de AP sobre la petición. No saben con qué tendrán que lidiar de un momento a otro, y aún tenemos tantas cartas que no hemos jugado – la causa penal, el informe de contraloría, el anexo de nuestros propios peritos, el dinero del global, etc.

Pero me preocupa que haya tanto trabajo jurídico que no se está haciendo debido a nuestros recursos limitados – lo de la fusión, varios anexos, todo lo de la lista de documentos integrada. Nos queda mucho por hacer y estamos poniendo tanto de esto en manos de dos recientes graduados de la facultad de Derecho (Aaron y Julio).

En el artículo de USA, Roll Call se menciona la presión “inapropiada” que Chevron está poniéndole al Congreso. Me invitan al show de Paco para tratar el tema de TLC con cuatro campesinos de Colombia, Perú, Venezuela y Brasil. Comienzo a atacar a PP por ganar millones de Texaco a cambio de perjudicar los intereses de sus conciudadanos. Lo hice dos veces en el show de Paco – una vez el 19 de octubre, cuando Guanta fue cancelado, y otra vez el martes a la mañana. El primer ataque provocó una reacción de enojo ante el juez. Quiero que sienta personalmente el acaloramiento.

Tuvimos una reunión de prensa más tarde ese día y planificamos la campaña de diciembre: la carta de Thomas ayer, el jueves la revelación del contrato secreto, el lunes el ataque a sus peritos que no tienen permisos de trabajo, el jueves siguiente, el testimonio de Jarrin, posteriormente el boletín de riqueza. Hablé de filosofía – siempre debemos estar en plan de ataque; debemos elegir un tema por día, o semana, a lo Jim Baker; siempre debemos ser creíbles. Gaby y Lupy tienen sus limitaciones. No hicieron un seguimiento de la carta de Thomas, se limitaron a enviar un email masivo y ya era la 1.30 de la tarde y aún no habían hecho ninguna llamada. Le grité a Gaby cuando me cuestionó mis correcciones a la carta de Thomas – dijo que eran exageradas, donde se apoya la declaración de que están gastando miles para presionar al Congreso.

Cené con Pablo el martes a la noche en Lago. Hablamos de cuánto nos ha perjudicado Camino. Aún tenemos considerables problemas residuales con los informes de Dávila y Grandes. Pablo dijo que cree que a Camino le pagó Texaco, que está trabajaba para Texaco. Le dije que a mí me parecía que él era decididamente un corrupto, que su único objetivo era obtener dinero después de que yo rechacé su proposición de tomar una parte del dinero de la resolución judicial. Camino creyó (equivocadamente, como Monica y CB) que era indispensable y se le fue la mano en este asunto con todo. Dije que Dávila y Grandes, siendo débiles, simplemente cayeron en su ética dominante y corrupta – recordemos que Camino pidió 100.000 como compensación, y luego pidió 25.000 por informe pericial. Concordamos en que Texaco no nos temía antes, pero que ahora nos temen.

Hablé con LY en el avión sobre el temor. Dijo que él no sentía temor, sólo por la hija. Parece casi arrogante, pero lo entiendo. PF sigue viviendo solo en la casa, apagó las luces, cerró el portón con llave y fuimos a cenar. Volví a insistirles que consigan a alguien y les paguen 300 al mes, pero dijeron que no podían encontrar a nadie.

Hablé con AW en una llamada [sic] en conferencia. Vamos avanzando con la carta de la SEC, el aviso, una serie de frentes. Leila dijo que habló con LY, y que él sentía temor realmente. Quizás ella esté oyendo algo que yo no, o quizás él le esté diciendo algo a ella que a mí no me dice.

18 de nov. – Luis regresó ayer por la tarde de Lago; se lo veía agobiado, sin afeitarse y estresado. Tenía una mancha de tinta en la camisa. Era el cumpleaños de su hija y lo que debería haber sido un día alegre, un día libre poco usual para él para llevarla a almorzar mariscos en Lato, fue una tragedia. Entregó una demanda de derechos humanos acerca de un intento de secuestro de su hija dos días antes – la llamada telefónica en St. Elmo. Considerando la vacilación en presentar reclamaciones oficiales hace dos semanas para la petición de derechos humanos, me sorprendió con qué rapidez se presentó esta reclamación con el grupo local de derechos humanos. La hija de uno – eso es enteramente otro nivel. Hay demasiadas coincidencias ahora como para que esto no haya sido orquestado. Agarraron a la mujer, que no habla; el hombre se escapó. AP dijo que comenzó a pensar en sus chicos y si debería decírselo a su padre La valentía es asombrosa, sencillamente aumenta la determinación. AP observó que había guardias de seguridad afuera hablando con los militares al otro lado de la calle. Todos suponemos que la casa tiene micrófonos ocultos, que los teléfonos los tienen. Estos tipos dejarían entrar a cualquiera para colocar un micrófono oculto, sin embargo si no los tenemos, ¿cómo podemos conseguir un cierto nivel de protección física?

Ya no podemos hablar sobre información confidencial en la oficina. ¿Cómo contrató T de repente a un botánico, que se presentó en la primera inspección donde estaba nuestro botánico? ¿Cómo se enteró



**Pérez Pallares para cancelar el foro en el San Fran el miércoles? ¿Es sólo coincidencia o estamos todos locos? Esto es lo que Gato quiso decir con eso de sicotizarse.**

**Comunicado de prensa burlándose de Pérez Pallares por no querer debatir en público. Pronostiqué que él renunciaría en el plazo de tres meses si seguíamos aplicando presión.**

**Carta al Rep. Thomas. Lehane de arriba a abajo. Volví a redactar la carta de Daria.**

**Debo reunirme con el padre de Gaby, Fabián Jaramillo. Debo entrevistarlo. Explicación de la historia social de Ecuador. Lo que les pagamos a los peritos es sumamente excesivo.**

**Tratativa con Gustavo Pinto – siento como que me pasé al lado oscuro. Primera reunión en la que no se me comió crudo. Hice una oferta modesta, más una bonificación. Acordamos mantener esto entre nosotros, sin un acuerdo por escrito. Monitoreo independiente.**

**Siempre me parece que no logro ponerme al día, pero positivamente. Miro un documento legal para la documentación que hay que redactar – es increíble la cantidad de trabajo e increíble que un reciente graduado de la facultad de Derecho desempeñe un papel tan crucial.**

**17 de nov.** -- El tema de la seguridad está poniendo nerviosos a todos, incluso a mí. Luis y yo cenábamos hace dos noches con Ermel en St. Elmo y él recibió una llamada en el celular y se fue, visiblemente alterado. Su ex esposa lo llamó y le dijo que dos personas trataron de entrar en la casa y hacerle daño a su hija de 9 años cuando ella estaba sola en la casa. Asombroso, la niña se queda sola en la casa desde las 4 p.m. hasta que su madre regresa. Él envió a Pablo y aparentemente estaban tratando de robar la ropa que colgaba de la cuerda de tender. Parece una explicación extraña. Luego, anoche me reuní con Michelle, el esposo policía francés de Pilar, que dijo que la “pérdida” de mis computadoras no fue una coincidencia en vista del robo de la computadora de AP. Por último, LY dijo que algo hizo despertar a Donald en su casa en las afueras de Lago la otra noche, y que el salió y se encontró con un grupo de unos 20 hombres armados en la oscuridad. Ellos le preguntaron dónde quedaba Sushufindi – ellos creen que eran de las FARC, que iban a “limpiar” a los “sicarios” comunes (asesinos a sueldo) que actúan en su nombre en la región de Sushufindi. Gato me enseñó una palabra nueva: “sicoziar” que básicamente significa sicotizar, volver loco, meterse en la cabeza de uno y trastornarla. Michelle dice que decididamente hay un “perro” que me sigue, quieren saber lo que estamos haciendo para que nos puedan controlar, pero él duda que quieran matarnos. Dice que para una empresa grande no representa un gran costo o un grave problema ponernos un par de perros para que nos sigan y vigilen nuestro comportamiento. La idea de que siquiera piense en semejante opción es escalofriante.

La historia de corrupción de Pilar – imparables aquí. Realmente desmoralizante. Conseguir su informe.

Me reuní con Archie y el equipo en la clínica de la Universidad Católica sobre el caso penal contra RV, con los estudiantes. Me encantó el ambiente. AP y Archie buscaban en el código penal alguna disposición que pudiera usarse contra Reis Veiga y realmente lo único que pudieron encontrar fue una que se refería a un funcionario público, todas eran sobre el cambio de documentos reales, no un alegato de conocimiento doloso general como tenemos en los Estados Unidos. Por lo tanto, habría que acusar a RV de complicidad con un funcionario público en vez que entablarle juicio contra él directamente. Me parece increíble que el país

que ocupa un lugar tan prominente en la lista de lugares corruptos no tenga una ley antifraude básica. El código penal se redactó en 1932. Archie bromeaba sobre ello. El siguiente paso – podemos desarrollar el caso y darlo al fiscal, e [...]

Hay tanto pendiente: acabo de ver docenas de documentos que necesitamos sacar. Me senté con Aaron para que se encargue de supervisar las tareas legales. Es increíble que un chico recién salido de la facultad de leyes vaya a hacerse cargo de esto, pero está capacitado legalmente pero veremos desde el punto de vista gerencial. Es chocante lo mucho que hay que hacer, con tan pocos recursos. Comienza Julio, un nuevo abogado con un salario de 500/mes. Deseo traer estudiante de la clínica para tener más lazos con Archie.

Los indígenas se movilizan hoy contra TLC; Joe no me respondió. Obviamente se siente culpable. Mensaje: es necesario abrir un frente informando que Texaco está corrompiendo el proceso y es una empresa corrupta. Gustavo Pinto habló en el evento de libros, con un discurso muy formal. Tenemos que llegar a estas personas. Me reuní con Aulestia para hablar sobre el plan; debemos convencer a Luis. Voy a llamar a Pilar para tratar de interiorizarla de la causa.

[...]

[...]

[...]

[...]

[...]

[...]

[...]

Contrastar esta discusión con mi sugerencia el febrero pasado a Alberto de que RV tenía conflicto de intereses y que deberíamos hacer hincapié en esto, llamando como testigo a AV por lo menos con el fin de que confiese que firmó los documentos. Alberto dijo que lo pensaría. Cuando lo mencioné otra vez dos semanas más tarde, lo rechazó de plano.

Después de un año en el desierto, las ideas comenzaron a fluir otra vez como nunca antes. Cuando mucho, cuando nada. Catarsis. Las mejores ideas afloran a la superficie; se alentó a todas las ideas. Entre todas nuestras mentes tenemos confianza en que llegaremos a la mejor decisión. Ningún individuo está tomando las decisiones; nadie es indispensable, y todos contribuyen en forma vital. Se trata de estar vivo, de ejercer la voluntad humana en contra de lo imposible en pos de una convicción. En estas reuniones siento, a veces siento como si estuviera en un seminario en una escuela de derecho o como parte de una celda revolucionaria. Nunca siento como si estuviera en un bufete. Todo se encuentra sobre el tapete. El antiguo control jerárquico ejercido por CB ha sido completamente extirpado. El se ha hecho irrelevante. Nadie se siente intimidado por él. La deferencia otorgada a Alberto, que tanto nos limitaba, ya no forma parte de la dinámica. El falso abismo entre el trabajo técnico y el trabajo legal, debido a los malentendidos de MP y Edison, ha desaparecido por completo. También es el caso para la separación tradicional entre abogado y cliente. Primero, PF es un abogado, pero también es cliente. LY se encuentra presente en todas las reuniones y probablemente el mismo ya podría ser abogado bastante eficaz. Y yo he madurado enormemente; realmente siento que no me pertenece, no es mi causa; soy solamente parte de un equipo legal mayor, y más que eso, parte de una lucha política mayor que involucra miles de personas con centenares de cosas que ocurren diariamente, sobre muchas de las cuales no sé nada.

Por lo tanto, pusimos todo lo que pudimos sobre el tapete. Tienen varios problemas – el utilizar laboratorios americanos. Sus peritos no están certificados por asociaciones profesionales ecuatorianas, por lo cual, teóricamente, podríamos lograr que se cancelaran todos sus informes periciales (por otra parte, sus informes nos ayudan). Sus peritos no tienen permisos de trabajo. Utilizando a King and Spalding para el famoso Anexo J, cuando la misma empresa los representó en el litigio previo. El experto clave del juez, Johnny Zambrano, fue utilizado en el trabajo para el informe de la Controlaría [sic], por lo cual podría ser despedido si es que deseamos tomar ese camino. RV como testigo. Tantas opciones. Como lo expresó AP, “Creo que debemos ser más agresivos”. No lo dudes, mano.

El asunto clave es la causa penal. ¿Podemos poner ese asunto en marcha? ¿Qué significa? Realmente quiero consolidar el control con un contrato antes de seguir por esa vía, lo cual creo los forzará a negociar para obtener una posible resolución. No quiero que CB esté ni remotamente involucrado. Necesitamos comunicarnos con Archie.

[...]



[...]

5 de octubre (miércoles) -- Las cosas se están moviendo a nuestro favor desde el punto de vista legal. Novedades legales: PF me enseñó la decisión del juez sobre la moción de T de limitar las inspecciones solicitadas exclusivamente a los ítems que desean inspeccionar. Los pusimos en un terrible aprieto durante una inspección reciente, cuando le pedimos que recolectaran muestras de algunas piscinas ocultas. Esta es la tercera victoria para nosotros en las últimas semanas: las otras dos fueron cuando el juez falló en contra de T sobre los materiales que los peritos del juez podían revisar (T quería limitarlos), y cuando el juez falló a nuestro favor en nuestra petición de que se le exigiera a T comparar sus resultados con la legislación ecuatoriana. Creo que el juez está cada vez más con nosotros. Cuando Callejas se opuso a la inspección de la piscina oculta, PF dijo “prepárense” y el juez dijo “yo también me voy a preparar”. El juez tiene una buena relación con Pablo, parece que él le agrada, pero no le agradaba Mónica. El juez tomó la carpeta de prensa en esa reunión de agosto en nuestra oficina con peritos del juez.

El tema del próximo juez: Manuel se está esforzando por lograr que Alberto Guerra vuelva a ser nombrado Presidente en diciembre para que se haga cargo del caso. Él le dijo a PF que quiere dictar sentencia en este caso. Esto significa que lo acelerará y terminaremos en dos años. Hermán Yáñez es otro posible juez. LY lo conoce, le gusta, pero no estamos seguros de si queremos lidiar con el proceso

de aprendizaje. Otra posibilidad es que SC podría nombrar un cuarto juez en diciembre, y esta persona desconocida podría convertirse en Presidente del tribunal.

Dilema con Vistazo: claro si yo no permito que se mencione mi nombre, posiblemente ningún artículo. Pero si sale mi nombre por ahí alegando fraude, me pone en la línea de fuego con T y podría obstaculizar una posible conciliación.

Le están pagando a Alicia el último mes de trabajo. Luis y Pablo parecen apenados, pero relativamente no afectados. Se lo están tomando a la risa.

Parece que Zembrano está diciendo que tiene ganas de volver. Pero también amenaza con no acudir a la inspección hasta que lo solucionemos. LY y PF se reúnen hoy con Callejas. Callejas recibió la orden de traicionarnos en el acuerdo anterior que teníamos de presentar una propuesta conjunta ante la corte.

Hablé con la clase de AP, parecían sorprendidos. Lo sorprendente para mí es que ésta es la escuela de derecho más importante en Quito y sabían muy poco sobre esto.

Me estoy preparando para la gran prensa de Guanta.

Me encontré con el hermano de Randy Borman. Lo entrevisté. Dijo que la población cofán se redujo en la década de 1930, no debido a Texaco, lo que desbarata uno de nuestros principales argumentos. Fue bueno en el tema del impacto cultural, cómo han disminuido las tierras. Dijo que no estaba seguro si los cofanes seguirían existiendo en el futuro. Pero no quiso ser testigo. Habla mal el español y el inglés, probablemente hable bien el cofán. Nació en Quito, pero vivió con los cofanes hasta los 18 años, y luego otra vez entre 1990 y 2002. Misionero, me asusta. Parece muy poco sofisticado. Rareza histórica del Instituto Lingüístico de Verano.

Reunión legal tarde en el día. El tema de la fusión me está volviendo loco. Aaron habla sin decir nada, parece muy joven como abogado, no sabe cómo ser un defensor y sólo recopila información. LY dijo que se asustó al escuchar su análisis en un español muy torpe. Creo que Aaron es mucho menos de lo que pensé, necesita una gran supervisión y plazos estrictos. Además se fue temprano, obligándonos a interrumpir la reunión, algo que me pareció muy desconsiderado. LY dice que mi error es que soy demasiado optimista sobre la capacidad de la gente, los sobrestimo (Russell, Camino) y se nos vuelve en contra. Por suerte, no estoy haciendo eso con Powers.

4 de octubre (Martes)--

Alicia Vaca: Luis le dijo a Lupita, a partir de mi sugerencia, después de que me dijo que había hablado con Alicia, y Alicia le había dicho que era posible que volviera. No sabía que LY había hablado con Lupita cuando vi a Lupita hacia la tarde con una cara realmente triste. Ella dijo que Luis le dijo lo que había pasado, y fue como si una daga le hubiera clavado el corazón. Aquí hay una mujer que ha perdido a su hermana en las circunstancias más monstruosas, quien por fin ha vuelto a trabajar, ha desarrollado buenas relaciones, y ha sido completamente traicionada. Como lo dijo Lupita, AV traicionó a todos. Todos los periodistas que contaron con ella como representante del Frente. Lupita dijo que se sintió realmente triste al ver que Luis le tuvo que informar. Dijo que AV siempre le había dicho que era demasiado eficiente, que no debería ser tan eficiente. Continúo preguntándome qué estaría pensando la chica, qué presión debería estar sintiendo. Como lo dijo Lupita,

¿cómo dormía de noche? ¿Qué de todas aquellas veces que vi a Ermil y a Pablo de brazos con ella, sonriendo? Sus sonrisas parecen genuinas, mientras que la sonrisa de ella – o algo con respecto a ella – siempre me pareció forzada. Cuando murió su padre recientemente, LY hizo mucho por ella, hasta trajo a su hermano de Lago por un tiempo, y yo lo conocí.

Archie: Almorcé con Archie en Pobre Diablo. Es una fuerza natural cuando entró con su sonrisa, energía, abrazos, lentes, pelo largo y rizado – una combinación de Che Guevara, Malcolm X, Carlos Fonseca, con un increíble sentido de humor. Acaba de tener una segunda hija, dijo que sus hijos eran su primera prioridad, y que siempre está en casa a las 3 de la tarde. Le presentamos la causa penal. La idea de presionar a la empresa, obtener prensa mayor en EE.UU. por medio de Lehane, y obligar al gobierno de Ecuador a que actúe en contra de la empresa legalmente para anular el contrato de reparación. Inicialmente vaciló, pero comenzó a interesarse cuando hablamos de una coalición de grupos que lo presentaría con un equipo de abogados. AP estaba presente; fue excelente, nos apoyó; nunca podría hacer esto como estadounidense sin él a nuestro lado o liderándonos. AP y Archie se animan mucho con lo de los derechos internacionales – sus ojos se iluminaron; ésta es su conexión al importante mundo exterior, su forma de estar a la vanguardia, aun llevándonos la ventaja a nosotros. Mencionan todas causas de derechos humanos en que trabajaron – Putamayo y Restrepo. Son luchadores creativos, grandes personas. AP y Archie van a preparar un memo para ver dónde están las cosas.

Julio Oleas – De la reunión con Archie fui a un segundo almuerzo en La Choza con Julio, editor de Gestión y consultor en economía. Tipo interesante – parece ser un verdadero izquierdista, pero opera en el mundo real, gana buen ingreso. Tuvimos una intensa discusión que me impulsó a un análisis profundo. Dijo que no podíamos ganar – todo lo que necesitan hacer es sobornar al juez. Le expliqué por qué, en este caso particular, eso no era necesariamente así (vigilancia, atención internacional, cambio de la coyuntura política en Ecuador con Palacio, paro) y pareció estar realmente conmovido por lo que dije. Es un verdadero economista – dijo que lo que hizo Texaco es exteriorizar algunos de sus costos. Dijo, ¿cómo podrá el juez, quien no puede ser tan sofisticado, comprender esto? Dije que lo va a comprender, pero mediante un marco diferente – como violaciones legales. Fuimos después a FLACSO, una institución académica muy prestigiosa. Foro concertado para el 22 de noviembre. Debería hablar, pero no estoy seguro por las razones de costumbre. Gran discusión sobre si Texaco comparecerá o no.

Otro: Orlando Gómez, periodista de La Hora vino e hizo las mismas preguntas que Julio - ¿cómo vas a ganar cuando todo lo que tienen que hacer es sobornar al juez? Hicimos los preparativos para que viniera a la inspección Guanta el 19 de octubre, y él va a escribir algo para La Hora y La Semana, la revista noticiera principal en Colombia. Le estábamos convenciendo de la conexión Colombiana.

Memo sobre fraude – añadido séptimo fraude del informe de Controlaría [sic]. Todavía traduciendo, interminable.

Reunión de prensa – se diseñó estrategia de prensa de 4 semanas para oct – costos de juicio para Texaco esta semana, actualización sobre juicio la semana siguiente, después RV como testigo comenzando la semana de Guanta, después Guanta con énfasis sobre Cofán, entonces las riquezas de Texaco como empresa.

[...]

[...]

[...]

**May 25, 2007**

Trudie trip. Flying back. Fly down with her and Theresa. Visit Cofan and Siona communities (get transcript). San Carlos (met with Rosa); La Primavera (Carmen Perez, who was in SF shareholder meeting two years ago and who is a strong leader of the community). Trudie is a kind, passionate woman... proud to be the wife of a famous singer and not shy about using that status to help. Came with Helen, the kind Rainforest Fdt person. Trudie's presence was generally uplifting, but as with most celebrities, somewhat complicated. Mention issue of Guay museum gift shop, flirting with Acosta at dinner with his wife across the table. Trudie's method of dealing with me is generally very seductive. She has a need to know that each man around her is attracted to her, and she is good at turning it on so each man is. She makes constant jokes with sexual overtones (when toasting look in the eyes or you might not have sex for seven years). Such a cultural disconnect – buying the trinkets in Dureno, making people stay outside of the meeting, too many people, trying to buy stuff in the Guay museum etc. None of these people had heard of Sting and could have given a damn. (Get transcripts of historic renditions.)

Two very disturbing meetings with Judge in Lago on May 21. First with Trudie and Luis – Yanez full of his charm and bullshit, starts blaming Texaco for filing too many papers. And then that night, I saw another side of Pablo. He called to ask if I would call the judge so we could go see him at his house. PF had been in Dureno all day at the meeting, and had five motions to respond to, and had to get up at 6 a.m. the next day to go to the Siona meeting. He was exhausted, frustrated, demoralized. I called the judge and he asked that we bring over some whiskey or some wine. We didn't. When we got there, he was clearly drunk and had a young woman. He sat down and immediately looked at me and said Texaco knows what I am doing and not doing every second of the day, that Texaco intelligence agents have been following him, and that they knew we had met that day in the garage downstairs with Pablo and Julio. Richard the perito was in Lago that very day to take possession, and the judge delayed it when Texaco put in more papers, all repeating previous objections, that very day. He was setting it up to explain why it is justified that this be delayed further. PF was visibly distressed in the plastic chairs, leaning forward, almost pleading with him while fighting back his temper, explaining how much money these delays are costing us. The judge accused him of lying about the costs. I think the entire being of this judge is devoted to surviving this year and getting out of this case without making any major decisions. I think he fears Texaco more than he fears us, and the fact we have set up Richard in the perfect way probably scares the hell out of him because he knows what Texaco is planning. I walked out of that meeting and my overriding feeling was that we cannot win the case, that the Operation Maria settlement talks are the only realistic way out for us.

UNICEF, toasts at dinner, Perkins speech, Acosta idea, increasingly difficult to manage from afar

### **May 3, 2007**

Had great day yesterday. Office in very celebratory mood; when I got there we sat around and shot the shit about the President's trip. Everybody is feeling good about the achievement. We had staff-wide meeting where I said: "Hemos logrado mucho, pero no hemos ganado nada." Saw some of the saturation media in Ecuador, and saws the press conference on the President's web site on the Internet and it was very effective. As Luis said, he kept to our talking points. He had the Vanity Fair article, looked at the picture, and looked at Pablo on the copter. Called out Pareja, asked for report on the difference between 17m and 3m cost for various clean-up things. Talked about Trudie trip. Explained doing encuesta, against my earlier wishes, which was weird, but I am down with it. Luis and Pablo are going to be asked to be candidates for the Asamblea Constituyente. The process continues.

### **May 2, 2007**

Back in Ecuador for a 3-day trip, with huge challenges and tensions developing. The challenges are getting a grip on the PG, and integrating the Americans with the Ecuadorians under a common vision of shared work and goals. Pablo could not attend the Stratus meeting last week in Boulder because he had to leave because of Correa's visit, which hurts us. So once again, we are stuck with a situation where I (the North American) has to come down to explain why other North Americans, who get paid many times more than Ecuadorians, need to come down and help with the project. I was hoping Pablo could see for himself and help me explain. This tension is exacerbated by the fact Pablo told me in San Fran that he and Luis had ordered a study of "social impacts" without telling me because they thought I was opposed to it. In fact, they did not tell me this during our retreat at the beach. Further, Operation Maria seems stalled as we could not get a meeting date that all could agree on, and the next Sand hearing is on May 21 which is making it difficult for Cullen to make the time. Further, AW and RAN and the Frente were in their face during the AGM, and it is obvious the company is very angry, which makes me think they might be pulling back.

Luis sent me a very angry email last week when I was in San Fran (on Sunday, April 22) which stopped me in my tracks when I read it on my Blackberry. He had hung up on me the previous Thursday when I questioned a budget issue related to a 300% bonus for technical workers who go to the campo. I later ordered than Tania stay in Quito to work with Laura and John on the data base. Luis has a huge amount of anger toward me, and I fear it has become exacerbated as of late, with the trip of Correa giving him "huevos" to



express his anger toward all of the USA via the symbol of me. It probably frustrates him that the project (and he) is so dependent on “gringos”. Instead of seeing us as true collaborators (which I often feel but don’t feel know), he often sees me as an interloper, especially given my strong personality.

I have a lot of anger myself, as I feel disrespected and unable to carry out the best work possible because of an anti-gringo animus.

Trip to San Francisc; Mike Brune; telling Raul; telling AW; meeting Stratus; Trudie

## **April 12, 2007**

Returning on LAN flight. The following happened:

Generally, Operation Maria (named after the San Carlos witness who died) – in terms of the gov participation – is more problematic than I thought. First, Acosta is losing ground internally to Pareja and he is threatening to quit, and he is our main entry point. Second, I talked to Ermil Chavez and it seems more and more clear that the Cereip fund has been captured by Ecuadorian politics and the money is not going to the region. Ermil doesn’t even have 1,000 dollars necessary for the mesa ambiente of the asamblea bi-provincial to meet. (Read his letter explaining all.) Third, we need the cooperation of PE and the new guy is so anti-environment that we cannot even get a meeting. The upshot is that the government is giving less money than we thought, which hurts in leverage with Chevron in the negotiations. Moreover, it is unclear how much control anybody can have of the beast so it adheres to one line and adopts a position that allows a settlement to happen. This is a political system with almost no executive control.

Second, the more I ponder it, the more anger bubbles up over the last meeting with Scott and Cullen. Scott’s “sanctity of contract” concern was such bullshit – like he is the one to determine what that contract meant. He still doesn’t get that this is a private lawsuit that has nothing to do with what the government did or did not do. I bought into it too much in an effort to keep the feelings good during the meeting, and now I am angry at myself, similar to that now familiar pattern in my family and with my father. Further, his entire approach to settlement was a mixture of charity and anger at the government. There was no sense of acknowledgment of responsibility. It felt as if Scott has taken his child to the teacher to apologize, but that he just couldn’t bring himself to do it once he got in front of the teacher. He tried, but he couldn’t say the words. I have such a strong desire to confront him on so many points; Joe is holding me back, and I cannot tell if it is for our own good or not. I need to keep talking to Joe.

Perez Pallares is still at it with his lies. He responded to the Roldos article by taking out a paid advertisement in El Comercio with a signed letter to Vistazo and to Roldos, repeating his lies. Our communications team not only did not send it to me, they essentially ignored it. They never wrote a response, and the chap is so vulnerable to being attacked. I still have such problems with our team. They are just stuck in the mud, unable to think about how to attack and just sitting around waiting to be given directions.

It should be Rule #1 when Texaco published an article it gets responded to. Could anything be more clear? It has taken a week to get the VF article translated and ready to send out, and it still has not happened.

The meeting with Correa had one good point – it happened – and many bad points. First, three people have tried to take credit for setting it up—Lupita, MEY, and Juan Aulestia of all things (Juan is so full of shit sometimes). This is a perfect illustration of the utter immaturity and lack of cohesion on our team. The entire thing was chaotic and unprofessional – multiple people from our office dealing with different contacts; the fact that Lupita and MEY were there, and Pablo was not invited; and the idiotic comments made after by Minister Alban, that the government is committed to helping us with the proof. Texaco has not filed a motion before Sand asking to supplement the record with this information, and this has breathed new life into their position in the NY litigation.

Met with judge in Lago on April 10 – flew down on VIP, back by mid-day. Met in empty warehouse near his house, across from the TAME office in Lago Agrio. He seemed very agitated. Said we were not helping him. Richard needed to be inscrito, but not really. Pablo explained it to me – new law passed, required peritos to be inscribed in the court, but nobody had done it yet, and to hold firm to this new rule would be ridiculous, as it would mean there could be no peritos at all in Ecuador and all of those who had served in our trial would be nullified. Yet the judge is still concerned. Texaco called him and said, “Esta entregado a los indios.” Who knows how much they are harassing him. He seemed really nervous and freaked. Inspection happened on April 11 – lasted about 30 minutes, at station not operated by Texaco.

Plan for PG: consult memo. Looking for experts in different areas. Need more time in Ecuador, this is killing me. Talked to San Sebastian and to my surprise he is interested in helping. Need to see Stratus in Denver to get help, but worried about the money. Laura and John are helping with data base, which is critical. Maest was down. Unclear if we can pull it all together in the time frame allotted. Kelly McBride could be key I think. Lovely woman. So much need.

Beach trip to Landaluz was so much fun. Pablo and I really bonded. Scene about him sitting up in bed on Sunday morning, when we had to stay an extra day because of flights, saying he couldn't go to beach with Juan Diego because he felt guilty about not being in the human rights office in Shushufindi, where people were depending on him. We worked half-days, working through various issues, trying to catch up. Luis revealed he had told the dirigentes that we were meeting with Chevron, but he had never told me he told them. I think he thought I would be mad or something, but I trust his judgment on things like that.

I am feeling completely swamped. So much to do to deal with the two tracks.

**April 4, 2007**

Flying down on LAN in the empty first class cabin; getting gripe, drinking a lot of water and tea, listening to Elton John and reflecting. I am feeling very emotional these days, as I feel we have turned the corner and the opportunity is there for a historic accomplishment. On the other hand, I am freaked out because I don't feel we are ready for what is to come – the justification for the settlement, the attention as a result of the VF article, etc. Going on Semana Santa retreat with Pablo and Luis to the beach to figure out what to do with Chevron's suddenly conciliatory posture. The question we have to answer is simple: what do we want from them? And how much would it cost? If we can't answer those two questions, we are not worthy of our responsibilities. And right now, we cannot answer them.

I had an incredible email with Russ this morning. He read the VF story. I told him the long term vision was to get Pablo into HLS, and get him back to Ecuador to start running the country. Russ wrote back that he wants to fund a beca in Pablo's name at HLS. It brought tears to my eyes, literally. Russ is a friend, the benefactor for whom I have been waiting for years. Compare with that other potential investor and the hassle he was giving me. Fuck them. I am going to get Russ to fund Pablo's human rights office in Sushufindi. Ross is funding the case. Russ is funding the movie. And Russ wants to fund more cases and more movies.

Intense argument with Laura last night. The travel and being away is taking its toll; we are not taking care of our relationship. I am very worried about this.

I sit back and dream. I cannot believe what we have accomplished. Important people interested in us. A new paradigm of not only a case, but how to do a case. Chevron wanting to settle. Billions of dollars on the table. A movie, a possible book. I cannot keep up with it all. Just four years ago I felt broke and hopeless, unable to gain traction.

I cannot wait to get off the plane and see my fellow soldiers – often the only people I feel who get me. I want to look in their eyes and see if they understand the enormity of what this team has accomplished.

## **March 19**

Went to see Kohn today in Philadelphia to talk about our upcoming meeting on Monday with Cullen and Scott in New York. Good discussion at seafood place. Joe riffed with some good advice. When I asked how to answer when they ask how much, he said to talk in ranges – Type 1 case, once in lifetime, like Enron or Worldcome; Type 2 cases don't say anything; Type 3 is an automotive parts settlement for peeling paint, for \$106m; and Type 4 are little cases that settle for \$5m or \$10m. When they ask what type of case this is, he said somewhere between Type 1 and Type 2...to keep the range open, to get them engaged, to get them to feel there is something in there for both sides. Need building blocks – little things u can agree on. The China-U.S. diplomatic reapproachment

started with ping pong. Issue of what we can deliver in a release, role of gov of Ecuador. Make it simple for them is the key. Joe said a lot of great lawyers do not know how to settle cases. I see what he means – it is complicated, and for everybody on both sides (including me) it is often more comfortable to keep waging war than to deal with the hard realities of settlement. Regardless, we realize this could be highest settlement in the history of environmental law, and I think I convinced Joe that the absolute minimum we could accept would be 1b, and I suggested we ask for 3b. The weakness is we do not have the real plan yet – it is still in development, and I don't want us to be in a position where they ask us to produce a plan or put any burden on us to come up with some sort of justification. One thing is clear – my strategy of saying if you are not willing to think about billions, let's not waste our time, is not a wise move according to Joe. Joe's value is real obvious to me on this.

Team met with President Correa yesterday. Bad press release – covered by AP and Reuters, because it was not managed correctly by our team. APV was in the meeting, but I am not sure what he was doing. Classic case of how Ecuadorians do not understand the big picture of how actions in Ecuador can have legal implications in the U.S.

Spent last week in London with Russ – promised to invest \$1m.

### **March 7, 2007 (Wed)**

Flying home today. Two big things have happened – E-tech is back in the game, and Champ and E-tech are working together; and press conference on Tuesday with Luis Macas.

**Technical meeting on Sat in office: Richard there.** Sat had all-day Tech meeting in the office – unusual for a “dia laboral” as Pablo put it. Richard and Fernando there, as was Ann, Dick, and Champ. Pablo delivered first; excellent, then Olga Lucia, the best I have seen her; then Champ. Great spirit and energy in the room. It made me realize how much we have accomplished. On Sunday lunch, went out to Mosaico (the four gringos, including me), and spent four hours there talking things through. Get interview transcript from Berlinger, because Charles was amazing. Elephant piss, Hummer, Ostrich boots – have to capture the personality of this guy. I love how he is the epitome of the can-do oil patch guy, while Ann is the ultimate academic. Teaming them up will either be a disaster or a stroke of genius – I am not sure which. Anyway, in terms of E-tech Ann realized how screwed up the data base was, so we have to fix that before starting the PG. Also, the lab problem. The new lab is in Coca. It is an Argentine lab, and they can't test for Chromium 6, plus unclear if they can resist being infiltrated. Ann is suggesting a U.S. lab, but that would be more time and expense and would be in effect admitting Texaco might have been correct about Havoc. I am not in as much of a rush to start the PG now that I see how screwy our info is, and how certain issues have not been worked out. I spend the whole day making comments and mostly directing them to Richard. We laid out our entire case and legal theory – what a benefit! We need to do the same with the judge. Richard seems low-key and cooler than a I thought. The key with Ricahrd

The PG will almost be a subset of the alegato, and the guts of it. Can we do this, and can we do it in a short time frame? I need to move to Quito and focus on the legal work. I need to do this. How will I get the time?

**Monday prep for press conference: Luis Macas in Oriente.** On Monday, prepared for press conference while LY with Macas in the el Oriente. Incredible how we can now do two major things on the same day – that is how much confidence LY and I have in each other. Finally, all five nationalities showed up for a meeting, including the Hua (at least part of the Hua); Macas drew them in. Then, LM came to press conference on Tuesday in Quito (yesterday). The press conf was powerful (get carpeta) – LM called for criminal investigation of the company, and said the judge had to move the case. We are stronger than ever; Texaco's pathetic response was RV all alone claiming there was no fraud, and lying again about the fraud, and they distributed it via an obscure website. Had farewell dinner with LY at Briciola, and you could see LY brimming with confidence and contentment. This was clearly not a situation where Macas was doing us a favor, but one with clear mutual benefits as the profile of the case moves higher. CONAIE can easily advise the nationalities on how to design a long-term strategy so the money is not all spent at once. LM is now clearly tight with LY. LY wants me to go with him and LM to Loja for an event with indigenous people, as that is the area that was the reason Lago Agrio was created, and where Macas is from. Great idea, I was totally flattered to be invited. LM has this incredible mysticism and charisma. But... he mentioned he met with the judge, and he said there could be mobilizations if the case is not moved faster. This has political benefits to us, but could hurt us legally. I had to pick up the mike and clean it up; get transcript.

While in Lago, LM and all the nationalities went to see Yanez. LY said Yanez treated them with the utmost respect. It is this parade of visitors that hopefully will get us the order to begin the PG.

I am utterly exhausted after working ten straight days, 18 hrs a day. I want to go to the Big East tourney tomorrow in the Garden. I have to give that to myself – yet there is so much still to do.

### **March 4 (Sunday)**

Some much has happened the last three days. We are in a critical, pitched battle with Texaco – perhaps the most important example of hand to hand combat yet, that could easily determine if we can reach the final outcome.

**Texaco press conf at La Union.** T has press conference last Thursday for foreign media en Club La Union (get history). PP and the recently-arrived Varela put it on, apparently with some sort of epidemiologist whose name we could not nail down. We only found out about it after the fact, because the AP reporter called me for comment, which is unusual for us as we know most everything they do – they clearly are taking elaborate security measures to prevent us from knowing about their events, but keeping them small and very last-minute (this relates back to the Reis Veiga press conference in the Hotel Colon). Only three reporters went, but they hit the local jackpot because AP (Gonzalo)

bought it and wrote a big story that hit the wires in Spanish. Mercedes from Dow Jones also wrote a story, which prompted an email from Terrence Murray at Oil Daily (check to see if both stories went out in English). When MEY says nobody went, I explained it is not the number of people who attend PCs, but who; if you get AP to come and they write a story, you have had a successful PC even if no other media come. I am also trying to get them to understand the 24/7 Internet news cycle, and how we can self-publish and thousands of people (including our most valued audience, Texaco) can see what we say even if it never gets published in any newspaper. The lead of both stories was that Texaco dismissed any possibility of a settlement, of any type, at any time – which we know, given what is happening on Track 2 with Cullen, is complete bullshit. They are either lying, or the locals don't know – given logic and Cullen's insistence on complete confidentiality, my guess is they don't know – so when I saw the lead I laughed out loud, deeply. But deeper in the AP story was something much more problematic and disturbing – a direct attack by PP on the judge, saying he was going to possibly seek his recusal for “irregularities” – without really specifying what that was, other than some “pressure” by the Frente and the fact he wanted to start the GP without finishing the inspections first. And they are still fighting, now for the fifth time, the inspections battle over the 64 we got the judge to cancel. And Texaco has not done or even asked for an inspection since last April.

**Analysis of T's weakness.** Politically and with the press, I think the Texaco locals are in a real bind. It is more clear than ever they are fighting to save their lives, careers, and personal reputations thru this case – particularly PP and AC, who have devoted their careers to what they thought was a reputable American company, earned comparably great riches, and have not seen it all threatened to go up in flames in the next several months – precisely the time of PP's life that he wants to be sitting on a beach reading a book (see his quote in Outside Magazine). The bind is tight. First, they cannot leave this work, because their personal lives are too intertwined with the outcome of the case – which is something we wanted to happen, and a great achievement of ours these last three years. Second, this work is not fungible between persons. There is really nobody else who can do it but them, as nobody in Ecuador will publicly identify with Texaco at this point other than PP and AC, and the latter does not even talk to the press, another stupid company policy that is now coming back to haunt them (see William of VF). Finally, if they switched lawyers the fraud would be too obvious to the fresh eyes, and therefore the case would collapse and PP and RV know they would be the fall guys. I fully expect RV to be cast to the tigers as red meat some point soon; I see it coming, as Cullen was not shy about this nor was he shy about Dan King.

The terrible mistake for RV was again, overreaching. By initiating the NY litigation, his lies were exposed. Real lawyers entered the case – lawyers beholden to San Ramon, to the top management of the company, lawyers who were former partners with Charles James and Edward Scott and who are not going to bullshit them. Suddenly, RV could not control all the information. This was exacerbated for him by the critical decision – perhaps the greatest accomplishment yet for us – of convincing the Ec gov to hire Winston and Strawn, which suddenly forced Jones Day to look for scapegoats as the strategy went south – with RV being the obvious one. RV's internal team and outside consultants suddenly did not have 100% control of the information. And if you look at

the NY arguments on the 95 release, it is clear RV is either lying about what the release meant, or is a terrible lawyer for not making sure the release had the proper language to protect the company. Either way, he is screwed in the eyes of the company. T's entire argument in NY on the release issue is based on some incredibly thin, hearsay parol evidence recollection of one person trying to save his personal ass and who is the same person who is orchestrating the fraud. That is just a lousy trial strategy, and there is no way a sophisticated buy like Cullen is going to take the fall for losing the NY case. Because the reality is that the Jones Day lawyers did a great job with nothing, and they would have gotten away with the cover-up had we not convinced the Ec gov to enter the case with real lawyers.

We also have been end-running RV and his team with a press and internet strategy, using Amazon Watch as the surrogate, but also via our own websites that Joseph created. And beneath the fun and games of various press conferences was some real, hard data they could not ignore – the document I put together over a week last August, trying to bring together all the data (Chevron's Dirty Business), which even if ten people have read around the country, Texaco's lawyers have definitely read and dissected and thus far (7 months later) not been able to come up with an answer and have left it all to that anonymous public relations memo that has no documentation. The success of the "narrow" info battle is obvious to me, when I saw the piece of crap memo that Robertson gave William of VF – a memo that wouldn't pass a junior high school class test in my opinion, as it did not have even a single footnote. And the second memo given to William – the "consolidated materials" memo – had some rough footnotes, like "CONAIE 1983" that looked like a 5<sup>th</sup> grader put them in. The company is just tired; you see it in the materials. They are also limited by lack of good information and RV's lies and flawed analysis. And the "silo" approach that corporations take (lawyers do law, communications people do p.r., and nobody is in charge so everybody can run for the hills if something goes wrong) is really hurting them, in contrast to us, as we are completely integrated (as our latest boletin makes clear, timed with Track 2 in New York, helps us with strategy and politics in both countries). And given Winston's entrance to the NY case, RV's strategy over the last year has become a swamp from which there is no clear exit. Throw in the Correa election and the rest, and it is clear the risk calculus for the company has changed completely – it has to, unless they are asleep at the switch, which I know they are not. Throwing Varela into this pit has to be the ultimate lousy career stop, possibly a career-dooming assignment. But it reflects the desperation, the lack of options locally, and possibly the last dying gasp of a company quickly running out of options.

PPs attack on the judge at the press conference is a desperate act, but I still have that terrible sinking feeling (which I had on Friday night and Sat morning after the meeting with the judge) that the corruption and pressure are coming back and we have to divert resources now to protecting the judge politically rather than focus on the PG. If I were Texaco and my policy locally was being dictated by a bunch of self-interested, judgment-impaired lawyers, I would be doing this exact thing. If I were PP, I would be doing the same thing. And the reality is that T has cleverly and effectively delayed the PG for several weeks with its escritos (get from Pablo) that because of Ecuador civil law

procedure require the judge to jump thru a bunch of hoops to deal with this stuff before ordering the process.

On Friday night, Pablo and Luis met with the judge near the airport in his barrio in a restaurant. I was supposed to be there, but I couldn't find it and they said not to come thru Lupita, and they could not contact me about the new address because I had lost my cell phone. Anyway, they showed up at the Hotel around 11 and we went out to get some Shushi. They love Noe because a bunch of sexy woman go there, and they like the table in the middle of the restaurant to get the best view of people walking out to smoke and go to the bathroom. (A different kind of near-nudity than the Huarani woman the first day of the trial.) I was really pissed off at the news they reported – that the judge still did not want to rule, he needed protection, that a magistrate from the Supreme Ct was coming on Thursday to check him out given the denuncias, etc. Clearly, T's strategy is working.

The different pieces of the strategy to get us home have to work in concert, and the one element out of sync at the moment is the fact we don't have the order to begin the PG. This is the one thing left; if we can get thru this, we should be home free.

### **March 1**

**Judge still refuses to issue Providencia.** Still problem with judge – no providencia yet, even though Pablo said it would come yesterday. Pablo returned to Lago and met with the judge. The secretary told him she got a call from an unknown magistrate of the Supreme Court telling him to slow down the environmental cases (our case and the OCP). We think this is complete bullshit; that nobody actually called, and that was part of Texaco's pressure via the secretary. Further, these pressures to remove the judge have mysteriously and suddenly heated up again, and we think Texaco is behind them. The bottom line is that the judge asked us for help to protect him, like we did last August. And two days ago, the judge called Richard and asked him to recommend a perito, which seemed odd to me if we had set it up that Richard would be appointed, but according to Pablo it is likely part of the judge's complicated plan to protect himself. In the meantime, all of our plans are on hold – the open shareholder's letter, the press boletin both here and up in the EU, and our press conference. My first notification was around 11 a.m.. We talked with Pablo again at 5 p.m., and I sort of realized at that point our precious equilibrium between inside/outside strategies is again out of whack. I just don't believe Luis and Pablo get the public part enough. Clearly the judge is a weak man who lives in fear, and right now he fears issuing the Providencia more than he fears not issuing it. And I am sure Reis Veiga and his team are fighting for their damn lives. I am not sure if I want to go to Ambato on Friday. I find this terribly frustrating – reminds me of the old days, and again reminds me of how hard it is going to be get our judgment even with everything in our favor.

**Problem with Amazon Watch again.** Just found our letter Leila wrote to Kimerling's group (Maharuk Nuahia) where they admitted mistakes and said the Frente does not represent all the afectados – handing a major victory to Kimerling. I wrote very strong letter in response, and I am pissed they did not show me this letter before. Luis is pissed too. They are so controlling – the Daryl Hannah trip coming up at the end of March



makes me nervous because they are equating problems in the south Oriente with the north, yet they rely on us to set up the meeting and to do press for them. Get me email for reference.

### **Feb 28 (Wed)**

Met with Alberto Acosta with LY and PF. He is the model of what a public servant should be. Said he would help us with Venezuela meeting (we now have Acosta, the ambassador, and Vargos Pazzos on this); helping shape Petroecuador's position vis-à-vis the clean-up of its pits (they need to make a clear statement they do not accept responsibility, and that this is the responsibility of Texaco); and getting other ministers (health and bienestar social) to do concrete things to help the people. What we don't have is an analysis of gov expenditures in the region, which we will need to bring the gov into settlement talks. I told him about the Borja complaint to the DOJ – he did not know, and he seemed interested in that. Alberto was so efficient – he defined for us what we were looking for, with the intro from Luis. Also there was Lucia (lawyer who used to work at Accion Ecologica), and that woman Judy, who is head of the environmental section and who is a person I would like to get to know better.

Talked to Simeon – moving forward on open ltr to shareholders. Major prep for Sat meeting with Ann and Dick and Charles – really looking forward to it.

### **Feb 27 (Tuesday)**

**Varela back in Quito.** Back in Quito (arrived Sunday night). Dinner with APV last night at Briciola. Said that his partner, VonReckow, represents a big company that manufactures soap and detergents and that they have a huge mansion in Quito that they are renting to Jamie Varela, who is now going to live in Quito fulltime and who has an office here. Perez Pallares was doing the deal, but when he found out Marianne works with the Ponce law firm, he refused to deal with her on a real estate deal! He called APV a “rojo subversive” -- take Callejas walking out when Luis spoke before the judge, and you have an increasingly embittered team. I am not sure what they expect Varela to do. My guess is they cannot get a national to speak on their behalf, so they had to turn to Varela. Also, I am sure PPallares probably said he could no longer carry it on his own, and asked for reinforcements. I see Varela as another delicious opportunity. He has no idea what he is in for, if we choose to go after him.

Texaco is curiously silent with the media. They seem absolutely defeated. Ortiz is probably moving on, giving that we are now attacking him. They are not buying ads anymore. They don't put out press releases – the last one (surely ordered by Reis) backfired in the NY court over their characterization of the fraud issue. I am pretty sure that Varela is here to pick up the slack, but he is an elite executive. What could they be thinking? Their options are so limited.

**Meeting with Richard.** Met at Mister Bagel with Fernando, Luis, Pablo and Richard. Met for one hour. Explained everything. I have a lot of confidence in Richard – more than before. He is humble, quiet – I think I even like him more than Fernando. I asked

Pablo if he was 100% sure the judge would appt Richard and not Echeverria, and he said yes, but given that this is the most important decision of the case thus far, there is simply no margin for error. Did the build up about the importance of the case, what it means for history, how we can do something that we will always be remembered for, what this would mean for the country and world, etc. That always works at the opportune moment.

Met with Luis and Pablo Sunday night and yesterday and brought them up to speed. Most importantly, we are working harder than ever. The more I think about it, the more important it is to hit them harder than ever now if we expect to get anything meaningful out of the negotiations. I am sure these negotiations are taking place at a high level, and that the local Texaco team is not aware of them. The higher ups do not want to demoralize the locals or give Reis a chance to sabotage. The more I think about it, the more convinced I am that neither Luis nor Pablo should be a part of the nuts and bolts of the talks. Just like they don't bring O'Reilly, we shouldn't bring our big guns – at least not until the end. If this leads to anything, though, I want Pablo and Luis to sign with O'Reilly. Also, talked to Pablo and Luis about life rights – joked about the 10,000 not going up by adding them, Pablo used the taxi analogy to airport with the woman as an example – and we agreed to work together if anybody approached any of us for life rights. They have a lot to deal with – it could hurt us if 6 months from now there is a real offer, and they have to tell the people the meetings have been going on without them for a long time; on the other hand, without confidentiality, this process cannot be productive. It is a real dilemma. But given our trust levels, I think we can keep it confidential and explain why later if there is something good to offer.

Met yesterday with the Venezuelan ambassador. Third time I have seen him this year – first at the Morales celebration at the Guay, second at the VPazos bbq, and now yesterday at his office with Lupita. He was incredibly nice. We invited him to the zona, and I told him (against Raul's advice) about our desire to have that phone call made. He said he could set up the meeting for us with the Minister of Energy in Venezuela. This is the beginning of the opening of a real front. The other part is that I just sent an open letter to shareholders to post on the AW site, where we talk about the possibility of investment options being shut off in Latin America. I hope AW goes for it. They are a little of their depth, but this is where the rubber meets the road.

Issue of filing CB bar complaint and what that means in terms of money. It is not money, just a basic principle of justice.

As smart as Cullen is, he gives us clues that give us confidence.

**Feb 24 (Saturday)**

**Cullen calls Joe.** Unbelievable... just as I thought. Cullen called Joe yesterday. This is the first time in the history of the 13-year-old case they have called us. They said they want to meet. Cullen wants to bring Edward Scott, who he said works closely with James. Scott was the author of that awful ltr to Amazon Watch in 2005 after the shareholder's meeting. Joe said he and I would attend from our side. We are planning to do it the week of March 12, probably in D.C. or New York. According to Joe's version of the msg Cullen left on his voice mail, he said in reference to the Ec gov that they need "either money or some commitment to change their evil ways... it doesn't do us any good to clean up if they keep pissing in the drinking water." Apparently he is already making one major concession – they don't need money from the Ecuadorian government. Agreed it would be premature to have a three-way meeting, and insisted on confidentiality. But Joe said at one point the dynamic was Tex and the gov against us; now it is us and the gov against Texaco; Joe suggested we try a third dynamic – us and Texaco, and then bring in the government. Clever, but it makes me nervous – Joe doesn't get sensitivities in Ecuador dealing with perceptions of foreigners, the politics of the base communities, etc., but certainly an effective concept to get them to relax and try to work with us. He said Scott works closely with James and can reach the people in Ecuador. Do not want shareholders to know, and want some sort of solution where everyone can hold their head high. Joe again impressed on me the importance of confidentiality. "There is a tendency to tell people you are in discussions with Chevron... resist it."

This raises all sorts of scary issues again. First, the personal – how do you start down a road that could end something that has so defined one's life for so long? I find myself taking deep breaths just thinking about it. How do we get out of the rut of the fight, and start thinking about peace? How do we come to an agreement before we end, before the trial we fought so hard to have plays out completely? Don't we want total victory? Are we even ready to know what we want? I am beginning to have doubts about the Champs proposal, after talking to Ann and Quarles; plus William said he seemed a little flojo in the interview. The psychology is probably no different than Israel and the Pals... people get so entrenched psychologically and otherwise in fighting, it becomes difficult to step out and start thinking about the other way. The very *process* of doing that can be difficult in and of itself, apart from the substantive issues. In my own head, it is not even more important to maintain the strength of the two-track process – slam them as always on the trial, while talking. The two are totally related. The amount we can get by talking is completely related to how they perceive our prospects at trial.

Why is this happening? I think William's questions were the tipping point, but it was the slow slog the last three years that has gotten us to this point where William would even matter. That is pure speculation, but I know how companies work and I know from Robertson's emails to William this has put a major fear into them. Combine that with Winston's splendid performance on Feb. 13 and the delay of that trial, the fast-tracking of the Lago trial and the SEC investigation, the situation with Correa and the possibility of this anti-Chevron virus spreading throughout the Continent, and one can see how the perfect storm has developed for us. And judging from Cullen's remarks, Reis Veiga is totally on the outs... and he might not even know about these discussions. Note how Robertson is desperately trying to cover his own ass by essentially begging William to go to Houston for an all-day meeting with Reis Veiga and Sara McMillen.

**Feeling sorry about Reis Veiga:** I am realizing how cornered Reis Veiga is or could be very soon... how so much of this is on his shoulders. Cullen seems to treat him with disdain – “this will be the first line of his obituary”. How they used him all these years, and now I have no doubt they will throw him out on the sidewalk like a piece of spoiled meat if necessary. That guy has been fighting for his career this entire 16-year-period. I almost feel sorry for him, because I know how hard he has fought for his position and to save his own ass – I might be the only person who knows how hard he has fought, and who can relate to how hard he has fought. He has to be getting desperate. I think they are beginning to realize more and more how much he has lied to them, and how he has put his personal interests above those of the integrity of the company.

**Talked to Carlos the Spanish guy:** Great guy, wants to do all sorts of great things, including encuesta of 1,200 people, do a literature research, etc. Not sure we have time or budget. Scares me, but I want it. I want to finish this with the PG and the alegato just so historians can study this for all time.

**Ann Maest:** I am realizing again how much I need her. She talked to William for two hours. Finally, I understand the difference between TPH and TPH-DRO and GRO. The latter are used to measure refined petroleum products, not crude. Yet that is what Texaco uses in its sampling as part of their deceptive practices. It captures a tiny fraction of the overall TPH, so that is their way of trying to keep the number down. She also said the salinity of the produced water in Ecuador is an average of 30,500, whereas the maximum in California is 1,000. William is getting this information to attack the argument that Chevron makes that it dumps produced water in California. Also, she told William about PRPs (potentially responsible parties), consultants who are adept at ways to get around regulations.

**Pablo and Lago case:** He said Richard said Texaco was already starting to investigate him. Judge has done nothing; hopefully, it will happen this coming week after the long slog of months and months. The latest excuse is that the court secretary (get her name) was out sick, so she couldn't execute the providencia. Then, he issues a providencia on Thursday that apparently said very little, but set him up further to appoint the perito in the next one.

**Eric Bloom:** Long talk with him on Wednesday where we finally caught up and deconstructed what happened on the 13<sup>th</sup> before Sand. Eric's feeling is we are going to win on SJ on the counterclaim (which is the release issue – Chevron has essentially had to give up its argument on the 99 Law, and now has a strict liability theory on the release itself). Eric said he thought the key issue on the JOA was Cullen's clever argument that the 1995 Settlement agreement ratifies the 1965 JOA, even if the JOA was illegal under Ecuadorian law. On Sand's first question (what happens if the parties are abiding by an illegal contract for many years), Eric said the remedy is not enforcement of the contract but disgorgement of any benefits, and that there is no authority in the law to make the contract whole. Eric said the SJ process was good for us – the more briefing, the better for us because it gave us more oppty to break down their smoke and mirrors strategy. He also said the fraud argument turned out well for us because a) it got traction without us having to back it up; b) it was reinforced by the intervenors, who trashed Texaco, which

helped us, yet by Winston opposing the intervenors it made the gov look mature and put distance between the gov and the plaintiffs, and cured some of the Bonifaz damage; c) it allows them better chance to get rid of all evidence in motion in limine about what a great job they did in the remediation. I love Eric. I knew it the day I met him – that he would be a key linchpin in our strategy on this front. The entire Winston team did an incredible job. The bottom line is, they put quicksand under Chevron. There is now no clear exit. It is one more door shut.

**Long talk with local team.** I sent email on what each minister should do under plan. They are moving forward. Chang wants to take lead. We have a lot of work to do.

David Sherman talk/investors: He thought initial terms good. I am worried word will get out, because this plays into Chevron's hands that we are business interested in money

## **Feb 20**

Excitement over reading William's email to Chevron. I think the chances of Cullen calling us back just went up. However, I don't think Chevron will call that quickly... there is too much entrenched inertia against us, and I am convinced it will take more time to turn around.

I am worried about the court. We still have not gotten the order from the judge. Pablo sent the escrito to the court last week and spoke to the judge. He thinks it will come tomorrow (Wed) after the two-day Ecuador holiday. Said delayed a week because judge had to report to the Judicatura to respond to some attempt to remove him, which Pablo insists does not come from Texaco. Said he saw judge a little wasted in Lago with a woman, and they talked. Pablo is impugning all dirimentes, hoping to get Fernando. He is worried Texaco will impugn the studio... worried? Of course they will impugn it. If they don't, it means we lose because it won't say anything.

## **Feb 15.07 (Thursday)**

Critical week... perhaps a breakthrough week. Here we go:

Got home Monday night. Went to Sand hearing Tuesday afternoon. Get transcript. Neil was awful, lining of his jacket hanging out, couldn't answer fundamental questions, completely technical without any storyline. Bunch of white lawyers, no mention of humans, as Cullen said, this is not about dirt in Ecuador, it is about a contract and how to interpret it. Four for Winston (Neil, Eric, Raul, Manny) at counsel table, and then three for Chevron, then three Chevron lawyers in the Gallery, plus me and Kohn in the very back, plus the two NYU students, Joe and Richard, and a woman and another buy who were getting water for the Chevron troops, etc. Get Chevron "book" from Neil and Eric. Tons of 3-spiral notebooks, Fisher and Kolis sitting next to Cullen. Texaco General Counsel in front row (black guy). Neil started, no narrative... recounts various contracts. Nothing about people, about humanity in Ecuador, about what Texaco is doing is just another step in this grotesque narrative. Neil did not know answer to Sand question;

Sand question reflect buy-in to Texaco philosophy. Neil's position is that the JOA terminated by law in 1973. Used "lurk in weeds" and "assumption by ambush". Sand looked like a dying Jesus Christ up there – slow, hard of hearing, hunched over when he left the court, impatiently telling everybody to sit when they stood when he entered the court.

Cullen argument was awesome, folksy, conversational, with a narrative, cited Otter at Animal House. Relied heavily on the Teran letter. This is the linchpin of Reis Veiga's fraud at that time. Cannot help but notice the little Poland Spring water bottles. Sand did not ask one hard question of Cullen. Eric finished and made a good comeback. The best victory was further delay of the trial, now until May at the earliest. This will allow us time to finish Lago first. Went to City Hall bar after and talked it through; Joe had written an outline for the meeting with Cullen.

Next day (Feb 14) a huge Valentine winter storm roiled New York. I was up at 5 a.m. to prepare for the Cullen meeting. After listening to Joe's outline yesterday (he spoke for only 5 minutes before the Winston lawyers showed up), I was really nervous he would sell us short in his desperation to entice them into a deal. So I prepared an entire presentation. Lehane had told me Lerach has no problem putting a multi-billion dollar number out, and that we should not either. I had the whole dynamic worked out in my head. I was just worried I could not get Joe to go along, and or that Joe would undermine the approach in the meeting. Met Joe at 7:30 at the Lowell Hotel for breakfast. Elegant – bagel, two orange juices, and a tea cost 43.08 before tip. Another example of the range of wacky environments I have to function in. We had an hour to get on the same page. Joe started as a friend and uncle, quoting his Dad: he said I seemed a little torqued, that I needed to be really cool, because in these meetings once you say something you cannot take it back. If u remember, in that phone call in Quito a few weeks back he acted like the gov could put in 600m if they were doing it already, and chevron could put in 200m and would have our deal – and I responded in an email that I didn't think we needed the gov to be involved at all, or if they were, at most 10 or 20% max of the total. Not only would anything more be unfair, but the reality is it would never fly in Ecuador. I emphasized to Joe that the real bottom line number was 3.5 to 4 billion, and if a number comes up, that should be the number we mention. To do anything else, given that we have worked with Russell's number all of these years, would make us look like fools. But the time we finished the breakfast, we were comfortable and I was more ready to sit back and watch the show rather than lead (talk here about leading v. secondary role in history of the case).

Got to Jones Day in blinding snowstorm. On 40<sup>th</sup> St between 2<sup>nd</sup> and 3<sup>rd</sup>. Cullen met us – he was the warm guy I remembered from court the day before, with navy blue suit, light blue shirt, solid blue tie. We went into a small conference room with no set up – not a good sign. Went into some little kitchen, and opened the fridge – all there was was a case of beer and some like milk things for coffee. Joe made a reference to Animal House, and said he felt like the fridge looked like a college dorm kitchen. We all laughed.

In meeting, Joe opened and said the magic words: we believe we will get a multi-billion judgment within one year. "We are looking for a partner in peace" Ok, that was all we needed to set the right tone. Cullen indicated this was going on a long time by making a joke that we don't want our children or grandchildren to be litigating it. He made some surprising admissions: that AW really bothered them, that he got calls all the time from Chevron when AW was doing street theatre out front, and he told them to just chill out, you will never satisfy these groups, don't even bother chasing them or trying to win their approval. Talked about working groups, structure; he made it clear they could not just write a check, that they would have have assurances the money would be spent wisely, as whether they liked it or not, the work would be identified with Chevron. Dissed Reis Veiga: said the first line of his obituary would be this, and said he could not be able to get near any discussions if they were to be successful, but he also said I would not be able to be there either, perhaps – so I made a joke about it, and we laughed. RV is isolated, and he had no problem letting me know that. He called Dan King a moron. I also made another joke, and he laughed his ass off – I said I swear I have not met with anybody from the government (in the context of explaining that the new gov is favorable to us). He said, "As I tell my kids, if you're going to lie, lie big." He left it that he would get back to that guy James, the black guy in the front row (from upper management and apparently above Edward Scott) in court, whom he described as "dispassionate". He said he had to leave around 10:20 to catch the Acela back to D.C. The meeting was short, to the point, warm, and I think productive. It accomplished our main goal: he could see we were not freaks, we were people who could compromise. When I explained the fraud on the remediation he admitted it bothered them.

So what is the upshot? Joe thinks there is an 85% chance they won't get back to us. I'm not so sure. This is a dynamic, fluid process; the key is, there is not a line of communication with a real human being, somebody who seems like he has some distance. Thus, whenever they are ready, they now know it can happen. Those who said we cannot be dealt with at all, thus justifying never talking, are going to be more isolated in the company. This is what I call significant progress, even if we don't get a call from them anytime soon. I wonder how my portrayal in the Outside mag article will factor into it.

Interesting the relationship b/w Lago and New York. The biggest victory was the delay of the trial date – something Cullen asked for, as did Neil. This leads me to conclude that Reis Veiga is still running the Lago trial team for Chevron, driving them hard, thinking the March 1 date will be their magic bullet. The fact that Cullen did not seem in any hurry up in New York tells me that Reis Veiga is operating independently of him, and the trial strategies in Lago and New York are not as closely intertwined as I had thought.

**Feb 12. 07 (Monday)**

Flying home on LAN. Pins and Needles with Sand hearing tomorrow and then meeting with Cullen on Wednesday. Went over Texaco document with William in the airport restaurant. That shit makes me sick. However, I still think we have problems with our lab and that concerns me.

Flew down to Lago on Friday after a terrible night's sleep. We were in Guay last Thursday, and calling out the terrible threesome made me nervous throughout the night. I realize I had been holding back re: Ortiz, perhaps because of Carmen, perhaps because of my initial meeting with him at the first inspection, but I have been holding back too long.

Key legal issue on Friday: who will be the perito? According to Pablo, 22 people could be it. Judge eliminated 15 from both sides; that leaves 7. Eliminate the first 5 of the seven (the corrupt freaks), and that leaves Echeverria and Richard. Richard served in the last inspection, and he was found by Fernando Reyes, who has turned out to be a good friend of the case. Richard showed some surprising independence, telling the judge quietly that Texaco's sampling was bullshit. The question is, do we push for Reyes himself or Richard? At first, I thought the idea Reyes would not be the perito was a case killer. I simply am loathe to spend much more money on the case not knowing if we can get a damage claim before the court, which essentially would prevent us from winning the case before a decision can even be made. I trust Reyes; I don't know Richard, even though he looks promising. So I met Richard with Reyes on Sat afternoon in the Hotel Quito, one of my endless series of meetings. He was a humble man, not very sophisticated, but he seemed smart and under-stated – maybe the perfect foil for Chevron, but there is no way to know for sure so there is risk. Reyes thinks we should go with Richard, and he can help him. The problem is that Wray made some dumb-fuck agreement with Callejas at the first inspection where they agreed the perito for the GP would come from somebody who had actuado en the trial. I have no idea what the reason was for this limitation, perhaps it just seemed logical at the time before we knew how useless the peritos and the dirimientes would be. To get out of this agreement the judge would have to impugn all peritos from both sides plus the 7 dirimientes. Actually, the only two dirimientes who have not been impugned at the final two. So we would have to impugn them to have any chance of getting Reyes, which might help anyway. The entire process is so ass-backwards.

Still big issue on social component. Two issues: Padre who knows Pablo (we write or he writes), and the Spanish guy. I am so not on top of this. Talking about encuesta of 1,000 homes. I am not keen on this, but Esperanza is pushing it.

Pablo: 8 asasinios in 15 days in Sushi; William says he is being prosecuted for terrorism; LY did not even know about it, we are so busy and it so much a part of the bullshit culture. We must talk to Petroecuador about it. His brother has a death threat. Relates to Pablo's work about PetroEcuador laying tubes and getting people to stand up for their rights. Caller ID in Shushu h.r. office was from inteligencia military. Pablo did some sort of denuncia.

We talked about upcoming settlement discussion...decided purpose of meeting to see if it would be worth to have a real meeting. Must have reps in real meeting.



I have never felt so overwhelmed in the entire history of this case. So much to do, plus the legal work. How are we going to do and write the Global in 120 days? The alegato? Keep everybody alive? I told Berlinger the other day that I think this case is going to end favorably, but in a way nobody can possibly foresee – like through a tragedy forcing them to settle.

### **Feb 8 (Thursday)**

We got the judge's providencia. Not as bad as we thought, as usual. Denied Chevron on everything, said he would appoint perito or peritos from group that had served. But one scenario is that he wants to be attacked by both sides to protect himself, and then he will revert to original Fernando plan. Plan B, Richard, is not so bad and might even graduate to Plan A. I am much more calm about it, but we are not out of woods yet on what is probably the most imp legal decision to date.

Saw William last night. Ken Robertson, Chevron's VP, flew down and had lunch with him and McMillen. Robertson called Pablo an "over-wrought extremist"; McMillen said the remediation was perfect. I called Pablo today and said his security threat has increased, to tener cuidado. William telling them he was doing a profile on Pablo was reckless – who knows what they will know do to dig up shit on Pablo to discredit him or have one of their local goons take action. But I cannot blame William that is no his problem and the VF publicity will likely offer Pablo a level of protection that he did not have before. The first thing they did was explain about Outside, trying to scare him off the story. The problem again is the local crew who can act outside the scope of their authority so easily and hurt somebody.

Talked to Luis about security tonite on walk home from Noe. He admits he will be a kidnapping threat if we win, people will think he is rich. We need bodyguards. It is almost a prestige thing in Ecuador – saw Carlos Vera with bodyguard in Hotel Quito, corner table, y a sub-teniente, which is very high rank. For us, it is politically unpalatable to have a bodyguard, but hugely risky not to have anything. I told LY that 30,000 people were counting on him and Pablo, so it was not really a personal decision, but also a decision of the lucha. And I told him I was worried for myself, especially with a wife and a kid now. He said was it machista (their attitude), or valiente?

Went to Guayas today to do saturation interviews with LY and Juampa and MEY. On Radio Cristal, I outed Ortiz for the first time. The folleto was perfect, the radio hosts were reading from it. Doing radio is like therapy for all us – we get real high when we do it, and Guay offers us more political space. Tex has no voice there and no capacity to cover any territory other than Quito. I met also with Santiago Roldos and Carlos Gutierrez – two of my favorite journalists in country. To Gutierrez I pitched the the hot docs, the trial before Sand as a thought piece on what arbitration means for Ecuador, and an update on the trial and following Ann Maest through the jungle as she begins the PG. Santiago is the most sensitive, touching guy. He teaches acting and has a theater group. His columns are so intelligent. He talked about his parents. He lost them when he was 7.

It is like JFK, everybody remembers where they were – LY says he cried, he was studying when he heard the news about 8 p.m. He lost both his parents. He wanted help with the National Archives and doing a documentary. He said he does not know to this day if it was an accident, or if they were killed. There was never an investigation – just a 9-day explanation, and the engine has disappeared. I think we should do something. We want to help, and he wants to meet Joe Berlinger.

I have never been so busy or excited. The team is incredibly stronger with MEY1 and MEY2, and we are going to bring in a third person and probably get rid of Sylvia. Correa has a radio show and cabinet meeting from Tena, so we are trying to get him to talk about the theme. Lupita saw Monica Chuji today.

Issue of ICJ case against Columbia and Raul, competition with Reichler, me wanting to get APV to make his own proposal. The entire issue is instructive of how Ecuador always looks to gringos to solve problems when APV could do it for 10% of the cost.

The Outside article is hurting me... Joe said it was not fair to me. Lehane says welcome to the bad-ass club. I don't mind being a bad-ass, but I do mind that Masss was dishonest. I have to do something. Do I have the stomach for this?

**Feb 7 (Wed)**

**This week has turned into a real pressure cooker. I was nervous that everything was going too well, and now I realize for good reason. There is always some problem hiding under the nearest rock, ready to activate and harass us at any moment. The latest is the judge feels bound by an agreement Wray made with Callejas in the first inspection to use peritos already appointed by the court. I thought we had worked this out with the judge, and that Fernando Reyes would be appointed the perito. We have been working with him in preparation. Now, the judge feels he cannot do that. This is a function of T's pressure campaign – Callejas submitted 30-pages of crap yesterday morning. The judge told William of VF that Pablo made a mistake, did not arrive with his full team. It was a critical meeting yesterday with the judge – Callejas walked out when Yanza spoke, then came back in. Pathetic. I should have been there. Julio should have been there on time, and flown down on Sunday. The VIP flight full so had to go to Coca, and did not get to meeting until 10:45. Callejas and Pelusa stayed all day, left Tuesday morning. What were they doing? APV and I both talked to judge by phone – he had no space to hear us. I was really angry at Julio – he said we had won nine out of ten steps, this is not bad. He is naïve – he doesn't get how power works. How can APV not show up at the critical meeting?**

**To deal with this, we were using Veronica's cell phone for security reasons. I am worried for Pablo's security. William of VF is taking all his notes – he gave his care to Texaco yesterday after the judge's meeting and they sent security to look for him. Sara McMillen is in town and is meeting him for lunch. I am sure they are having corporate meetings over how to deal with VF. Saw William again last night after 9 days. He is a little nervous, talked about fear of getting sued for libel and getting the**

article past his lawyers. I need to take him through the science and I am still worried I don't completely have it together. Fausto Penafiel is nowhere to be found.

The fundamental problem is that we will not be able to get out damage claim before the court, and Texaco will have an equal right to pressure and manipulate the perito. The legal argument against it: all peritos have been impugnado, and the derimentes were appointed illegally. That is the legal argument. Again, shows institutional weakness of court and personal weakness of judge. He is going back on his agreement with us. He is weak, and he is scared. It is amazing how this entire effort can be spoiled or threatened by one decision.

Met with President of Supreme Court yesterday (get name). Describe phone call to Yanez – said hurry up, set a 45-day plazo. Amazing performance – 5 minutes total, bravura performance, absolute example of how politics works in Ecuador. It might have actually hurt us, even though it did not appear to at the time, by forcing Yanez to hurry up and make the wrong decision, rather than wait and try to make the right decision after we explain it to him.

Met with Chang, the health minister. Crappy building, cannot even find a bathroom – reflects how little money government has given historically to health care. Was not aware of cancer issue or problems, but was very interested and responsive. She said she would present the issue to the Cabinet on Friday in their meeting in Tena (Correa is having cabinet meetings in the provinces). Her assistant, Beatrice, indicated that the Min of Health historically did not deal with petroleum issues. Suggested inter-institutional cooperation among ministries. We have new folleto – we need to bring her materials today.

Kohn left msg – Collingsworth called him, and asked if there was a mediation. CB and Terry are fishing around. Maybe they want out of their case in SF, maybe they want to fuck with us and blast us in front of our clients, but this is definitely a CB plot to do something. Remember, CB just took me on in Outside magazine.

Raul's two-hour meeting with Correa. Correa hired him for three matters – Colombia fumigation, Oxy, and Texaco. He said Correa is serious and wants a legacy. Wants to see list of lawyers who are hurting the country. Issue with Reichler and Lehane lobbying.

#### **Feb 4 (Sunday – returning to Ecuador)**

Emotions smung wildly last week. On Friday, Kohn called and said Cullen called him back to set up a meeting for Feb. 14 at 9 a.m. Sort of feel like it is all coming together, but risks are still great because of Sand. The key is this week – getting the PG ordered

with a date certain for passage. That, combined with the pressure of the Sand matter coming to head, is probably enough to scare the shit out of Chevron. If VF lets is be known they are down there, plus Berlinger film, all the better.

Outside magazine article comes in mail via Lou. Made me look like a rabble rousing jerk; Peter Maas used me. Chevron will be able to use that article against us down the road. He even quotes Cristobal against me. How much longer can I go holding fire against Cristobal? I realize cooperating with Peter was a tactical mistake. He is a cynical journalist; I am much better off behind the scenes for many reasons. Now I have to worry about William, the VF reporter. Emotionally, I feel golpeado – the shadow editor thing all over again. It was mildly complimentary – after watching me, he feels sorry for Chevron. I am trying to be cool and go on, but I am really bothered by it. I am such an easy target – I need to lay low. One thing that does come clear is that we are really under their skin.

Worked extensively with Winston on the documents for the Reply brief. The papers they filed on Tuesday were weak (see my long email to them), and I really feel they are still playing catch-up but not carving out the space to make their arguments. Everything is on the defensive. They are weak, weak, weak. But they are smart, smart, smart. Got them a bunch of stuff. It could be so much worse. Chevron is pounding them as if they are us (the collusion), while they are not pounding back as if they were us. The pathetic Cullen wrote a letter to Eric threatening him about Fact #89 on the issue of whether a remediation actually took place. We are really under their skin.

Met with Heather and Shawn, with Berlinger filming. Sometimes I feel I am letting Berlinger in too much as well. I am starting to get paranoid as a result of the Maas story.

Hanna quit – MEY starts saying I don't adequately appreciate the work of the people in the office. I am sure Lupita behind, with her manipulations. Must get there tonite to bank out impuestos press release.

**Jan 26 (Friday)**

**Death of Ministra – really learning about Ecuadorian politics, and really understanding the need to learn about it. Touched me greatly.**

**Must meet Galo Chiriboga. Do CIADI thing.**

**Long meeting about strategy – agua potable and stop contaminating.**

**Made pamphlet.**

**Great trip to Gquil canceled**

**Talked to APV: FC, Banks, Germans, Bankers**

**Jan 23/Quito (Tuesday)**

**Guayasamin party for Evo's 1<sup>st</sup> anniversary:** Monday was incredible – went to foundation ceremony in morning (what Pablo had asked that I stay for) and met ambassadors of Bolivia, Venezuela, and Cuba – Alexis and Paco Velasco were there too. Lupita said I should not wear a suit and a tie – that the proper outfit if you are “of the people” is not that. I am not so sure but I know what she means to say. Especially since Evo never wears a tie, and Correa did not wear a tie to his inauguration. Not even Obama is wearing a tie these days. At night party was so colorful and interesting. Talked extensively to Cuban ambassador. He served in Afghanistan under Najibullah, then in Prague for several years. A really smart, career diplomat. He said diplomats from both his country and mine were under orders not speak or interact with one another. Also met the PC chief at the embassy whom I remember from years ago Pablo could not have been nicer – met the dentist, the dance guy, the architect for the Capilla, Luis Macas, Richard – it is the only place where indigenous leaders and the burgesa easily mix. Pablo is obviously single-handedly providing the glue to hold much of the left together. Still introduces me as the “cabeza” of the lawsuit which I don't like but that is fixable. And it is obvious that the left in Ecuador is getting huge encouragement from the Cuban and Venezuelan governments.

Raul advised not to go thru ambassador because he said many in PDVSA at lowest level would try to stop us from them putting pressure on Chevron. Good advice. PDVSA is a commercial company and we cannot forget that.

The idea is to somehow close the doors of Latin America to Chevron so that the cost of not cleaning up Ecuador becomes higher than cleaning it up. Then we win – assuming they can get over their psychological hurdles.

Correa image is already suffering. His impetuousness is getting on the nerves of people, and there is talk (in typical negative Ecuadorian fashion) of his government collapsing in 6 months to a year. Lucio made a “pacto” with Noboa and Febres Cordero. He is dealing the political parties, and there is near-unanimous opinion that some of his cabinet ministers are not up to snuff – particularly the foreign minister, and I already saw what a total idiot the Minister of the Environment is.

Bonifaz: contacted SF law firm to work out global settlement – the guy won't go away. I told Raul to be straight with them. The firm called Neil and now they are going to call Raul. CB was be telling them he has power to settle all cases even though he has no authority to speak for Lago plaintiffs – just like the Jeff Frazier issue.

VF coming – I have to stay longer, will be my third weekend I here for first time.

MEYs started and planning trip to Guayas for Thursday.

### **Jan 21/Quito (Sunday)**

**Things lining up for us:** New York, 90 day plazo for PG, MEY coming back to work for us, desperation as reflected in Texaco's papers, Correa election, unity of team, Berlinger film, possible Vanity Fair.

**Pablo Guay trip to jungle:** On Friday (Jan 19), went to jungle with Pablo Guay and Kelly McBride, Pablo, Luis, Lupita, and the film crew. Kelly gasped when she saw the Guanta pit. Pablo talked about need for a film, he can distribute – talked to Joe about it. He invited me to come to an event Monday night at the Museo to honor Evo's first inauguration where I could meet cabinet ministers, ambassadors, etc. He explained how hard it was to come and go, that when you come back you are back to "nada" – and he encouraged me to stay. Said he could help with Venezuela and every country in Latin America. We talked extensively about Ortega, Tomas Borge, and other Sandinistas. I couldn't turn him down as much as I was looking forward to going home on Sat to Laura and Mateo. When I told Laura I was staying we had a series of very negative conversations where she accused me of choosing work over family. It was really unpleasant, but I have made the right decision. There are three things I have yet to complete: the materials for the Cullen meeting, the communications plan and the MEY personnel change, and following up with Pablo Guay. I realize now that I am probably going to need to spend two weeks per month here to take advantage of the new coyuntura.

**Visit Guanta again, meeting a bust in San Carlos:** Visited Lago 1, Lago 24 (where Tex remediated and Donald showed it was bullshit), and Guanta. I have noticed it is increasingly difficult to find open air waste pits. The pit at Guanta – the disgusting one – has gone down a bit given that PE is not longer using the pit to dump water of formation as they are reinjecting at the site. And there were no open air pits easily accessible between Lago and San Carlos. When we got to San Carlos (after the battery died and we had to push the van to jump start) the people who had been convoked did not show up. It was more than a little embarrassing. This was when we were supposed to present the results of the San Carlos inspection to the town and nobody came! As I told Joe Berlinger, why would you want to come hear the scientific results of a situation

**Luis freaking out about money:** LY emails – he is completely nervous about lack of money. Our phone and electricity will be cut off this week. We have received no money since November. LY feels the brunt of the pressure from creditors, the brunt of the pressure from the base communities, and the brunt of the pressure from staff who have not gotten paid. God, what I could do with 1 million. Swiller went silent, Russ I have not hid up yet. Joe K went on vacation without sending money, as he said he would. I

really wonder if the money is not in the bank or if he just has this problem about signing checks.

**Frente leadership crisis:** Luis is also worried about leadership crisis in Frente – he came up today on overnight bus from Coca, we took hike and met with MEY, and then LY going back on 5 p.m. bus for morning meeting with Pablo and Frente leadership.

**Jubilation over Winston papers:** I started reading the Winston papers on the way back on the plane from Coca to Quito. I got up to page 22. Later that night, I went out to dinner with Andres, Steph, etc., for Steph's 40<sup>th</sup> birthday... and stayed up real late. I couldn't wait to finish it. I think it is a masterpiece – a Rembrandt, really, particularly on the JOA/arbitration issue. All of Eric's technical arguments about the Anti-deficiency Act suddenly came alive like the most beautiful flowering sprouting in a place where you would least expect it. This totally changes the calculus of the Cullen meeting and everything else we are going.

**Possible Cullen meeting:** Before Joe K went on vacation the week of Jan 8, he called Cullen and Cullen agreed to set up a meeting when Kohn got back – probably at the beginning of Feb. When Pablo came, I discussed with legal team here and they agreed I should go forward despite the risks of being slammed afterwards by our enemies, such as Kimerling, Cristobal, etc. Anyway, JK said that Cullen gave his song and dance, saying the number would have to be less than 100m and they were worried about finality. Blatant conflict of interest between lawyers and clients. Said he already spoke to Bonifaz about a medical fund. I am worried about Kohn undermining me in negotiations.

**Bonifaz case update:** Worried about his case – could still get in way of settlement, if Tex smart they settle with him for a small amount, he comes down and acts like hero and we are cut out on the big amount, plus it could divide the communities. We are trying to find out what days his clients are planning on traveling to the USA.

**Jan 19/07 (Quito)**

**Yesterday was one of those utterly incredible days that make me feel so appreciative that I am doing this. Key things:**

**Got the papers on summary judgment on both sides and was really depressed the day before (Wed). I had that same sinking feeling that I had on the plane ride with Abady to Ecuador in January of 1994. They are just do good at what they do, but they are so slick about it. They distort so many facts without technically lying.**

**On phone call I pointed out the main point: that they are completely distorting the Lago case by trying to make it appear different than the Aguinda case filed in 1993.**

**This is key point on their 99 law theory – explain details by looking at papers. This is a real lie. They also blasted us for “intimidating” their employees, “wooing” dissident shareholders, “bullying” the company. Get Neil’s email: he raises a critical question – how did George Branch in 2002 before Rakoff stipulate that the same case with the same claims could go to Ecuador, AFTER they had passed the 99 law, and now they complain about it?**

**Met with judge last night in house. Humble house, furniture. Made tea. I really like the guy. Remember last August I wanted to ride the wave and get him off case? This was an example of Pablo’s total intelligence. We saved him, and now we are reaping the benefits. Explain politics around plot to remove Yanez to get rid of the Perfecto and control the money. Pablo under severe pressure. They tried to use our case, enlist our support, because they knew we were upset with him. Texaco watching from sidelines, trying to provoke us. Instead, the Comité passed a resolution that he was able to use before the Judicatura to save his job. He hates Guerra, because Guerra was part of the plot. Guerra will be the judge to decide the case. We have to start lobbying him, working with him.**

**Pablo is so fucking amazing. He gets along with everybody in the court. He has this brilliant long-term strategy of not getting sucked into the petty politics. Even with Ileana, the secretary, who is still fucking us and has not learned her lesson, he gets along well with her and it never gets personal.**

**Pitched the writer at Vanity Fair... on Pablo. Turned him around by explaining details of Pablo’s life. This would be a huge coup.**

**Met interim AG with Luis, APV, Raul. “The door is always open” he said to Luis – a far cry from the days of the protests, fighting our way into the halls of power. Think of what has happened in ten years – how we have gone from fighting on the outside of power, to being on the inside.**

**Lunch with Kelly McBride. Invited her down to San Carlos today.**

**Wooing meeting with MEY.**

### **Jan 17/07 (Quito)**

**Went to Correa inauguration two days ago. Great hope – saw Daniel Ortega, Alan Garcia, Lula, Evo, Chavez, Bachalet – really, awesome display of Latin American power although Kirchner stayed away as a result of the President of Iran showing up. Got in with press pass. Palacio was very dignified. APV told me first time since 1984 that a President of Ec gave the presidential sash to the next President. First time in history of**



Ecuador that the old President and his family walked out with the new President and his family. All the Presidents got stuck on red carpet leading out – cars were not ready, horse shit on the streets, Ortega rushing into the crowd, journalists swarming about each of the heads of state. Get copy of speech. Highlight seeing MEY and re-connecting.

At Mitad del Mundo, great ceremony – I got in stage. Young people – Min of Environment is 37, Cancillera so young, very informal, few are wearing ties, the Min of Agriculture on TV wearing jeans. The three ministers “ratified” from the previous government were all booed – said “fuera” “nueva gente”. Chavez was at Correa’s side the entire time. Correa impulsive – when booing, said the people must be “infiltrados”. Look at mural behind Congress – painting with the CIA.

Worried about Raul and multi-million dollar factura. Raul was at reception for PDVSA yesterday with WS promotional materials. This is his big break but I am concerned the Correa gov will get his bill and then we will look bad because we have been making introductions for him. We need to figure this out with two steps – one, that Raul significantly discount his bill out of the gate, and then discount it again before paying – and that we have conversations with key people putting distance between ourselves and Winston. The problem is that this gov is totally against international arbitration, and they don’t necessarily distinguish between different litigations and they don’t have a clear plan about how to protect their interest against a global legal and financial system that appears to be gamed against them. I need to talk to Raul about it today.

Met with MEY yesterday. We have such a connection. We need to bring her in and reform our team and take advantage of the new coyuntera. Luis is tied up with CEDES issues (Juana is leaving).

Pablo told me the Texaco people saw me at the inauguration on TV and within minutes Pelusa had called the court in Lago to find out if I had been there.

## Dec 16

Back on plane to U.S. Continental, got upgraded to first class. Here is the deal:

New Correa gov offers great hope after fear of Noboa. We were depressed before, euphoric now. Met with **Alberto Acosta** (future minister of energy), and Vargas Pazos. The meeting with Correa did not come thru – he was traveling to various South American countries. We are Raul got meeting with Acosta. Explained case to Acosta. I was struck by his level of honesty, his stature, his intelligence – this is an entirely new thing, the first signs of which I really saw in the earlier meeting with Galo Chiriboga. There are some

incredible, dedicated, honest people in Ecuador. I always thought Mauricio was in the minority, but the reality is that there is probably a whole generation of people waiting to step up if given the opportunity. Acosta said: "Our economy will exist in the service of humanity, not humanity in service of the economy." I talked for a good five minutes and I was proud of myself. Raul explained case. Said only thing they couldn't control was naming of Procurador, and he said they did not have one name to submit to Congress yet of the three required. People were either too old, too young, too this, too that. (He told APV he was too young – very flattering, he would make an excellent PGE.) Acosta said Correa took decision not to take part in Oxy arb – said it was a political decision, wants to discourage other companies from pursuing. This is totally misguided – Raul tried to explain, but did not want to hear. Idea: paises emergentes (bad term used by Raul) form bloque to renegotiated BIT. Acosta seemed to like idea; will try to pursue. APV explained case, as did I. APV also explained mining case: AA said he would be open to dialogue, that the people went work, etc., that it is a little more complicated. In all, meeting gave me a high: I love AA. He greeted me warmly – we had taken part in a press conference together at Accion way back, where no journalists showed up except La Hora (wrote a big story) on issue of arbitration or something (don't remember). We were all very jacked after the meeting – felt hope, like another element had fallen in place for us.

**The integration and closeness of LY, Pablo and myself** is muy impresionante. I feel like we are brothers, and that we are fighting side by side in war, and that we are incredibly loyal and committed to each other. The jokes – Pablo was out with that woman, and I call to offer condoms, and he starts laughing. He has such a great sense of humor, I have such high hopes for him, want to get LLM in EU and become AG of country. But at times he seems very immature and unsophisticated – but the only think holding him back is lack of experience.

**Breakfast with VP, Alexandra, and Lupita** (and friend who will be Pres of Central Bank): Happened Friday at Hotel Quito. What utter contrast to last breakfast, when we were all down with Noboa's first-round victory. I love VP and daughter. She was instrumental in defeating Correa on the banana front. She made it happen. Want to bring her in to our team as spokesperson. Want to bring VP in as consultant to make vision thing get traction. He said the rumor is that the embassy told Correa anybody but VP would be acceptable as defense minister. In paper today it said Correa said he wanted a woman in the position to balance his cabinet. The guy sort of reminds me of Clinton in this respect. VP introduced me to friend as a "good gringo" and we had a lot of laughs talking about how I could be the U.S. ambassador under an Obama administration. Says wants me to meet prima of Correa.

Strategy: Need to finalize **Venezuela** – that is only element still missing to force them to the table.

**Good thing Alberto did:** waited until 6 p.m. on final day of proof period to submit request for global peritaje. (They pulled the same time stunt on us during Guanta.)

**Russ coming in January** – now have contact with two billionaires, Bing and Russ. Andres told me Russ travels under a Bulgarian passport and is vacationing in Mexico. Need budget, need to design trip.

**Negotiating:** It dawned on me for first time during lunch meeting on Wed – LY and PF should not be at negotiation so they can be protected politically and they can criticize the offer on an equal footing with the rest of the people, to maintain their credibility. I see me, Joe, Robinson and Humberto (to protect the Judy flank), and a colona woman, such as Mariana. Plus the support committee. Fine line between getting ready and tipping our hand to Texaco. I am worried if they are there they will bear brunt of inevitable criticism.

**Bonifaz and old tricks/SF Case/Jeff Frazier:** Amazing. We got word from the “CIS” that Frazier coming to San Pablo to sign up clients. LY went Friday to town to explain and close doors. Frazier met with Esperanza on Monday and she expressed sentiment that he was stepping on our toes. In meantime, got word his contract was 40% plus 5% on appeal – pigs, to say the least. After talking to Esperanza, he wanted to meet with LY. We set up meeting for Wed with LY, APV, and PF – plus Frazier and his punk Ecuadorian assistant David. They completely backed off after hearing the situation about CB. Frazier said CB told him it was a completely different case, that the nine clients were not a part of our case, which is a lie. He said CB and Terry don’t know how to run a case, and they had called him to join in and help finance it after seeing that it would get legs. He is working on Oxy case plus fumigations case with Alfredo, and I don’t think he wanted to jeopardize that. Next, we hear CB has contacted a lawyer, Alberto Racines Martinez, to continue his fruitless pursuit of clients after Frazier probably called him with the bad news. One thing you can say, the man is indefatigable. This lawyer is related to Pelusa, who is a member of Texaco’s legal team. This is getting too close for comfort. Manuel Pallares called LY with this info because Poritz told him he wanted to come down on Dec 25 at CB’s behest to deliver \$100,000 worth of medical equipment and arrange the visas for the nine to come up to get examined for depositions, etc. I see it: CB is using the punk Poritz and his high school project to open doors with clients – the same model as the oil companies and missionaries. Had lunch yesterday (Friday) with APV, PF, and LY at the Cangrejo Rojo and we decided to embark on a two-step plan: 1) visit the community where the nine people are, and get a feel for what the plan is, if they were deceived, etc., using someone from the Frente, like Donald, with LY there (according to LY, the dirigente of the community already said they did not know that what they signed is for a lawsuit); and 2) decide what to do.

The reality is we could probably kill the CB lawsuit by convincing his clients to fire him once we explain the situation and apply political pressure, but this entails certain risks for us that include him charging us with interfering with his clients and also removing a point of leverage against the company that can potentially work in our favor. I talked to Joe and he said it might be best to contain it to nine clients, but let it keep going – it is pressure on the company, a case we could ultimately control by signing up more clients, it keeps CB busy and not focused on us, and it provides an escape mechanism should we lose our case – another bite of the apple so to speak. So our interests might overlap a bit

now with Bonifaz. Sort of same reason I did not terribly mind Kimerling's attempt to intervene in New York – as long as it does not go too far.

**Legal issues at this point in case from legal meeting:** First, peritaje global. First issue is who is the perito. We are down to Reyes. The woman from USF is clearly not up to task. Other ideas: guy from Spain recommended by Esperanza not realistic. Choose from 3 options: do nothing more other than Champs study; full-blown at every site; some sort of partial. When we opened it up, Fausto said don't do anything more – that we have a statistically sig sample. I lean to doing it all for legal and political reasons, to make it easier for us to prove out claims and easier for the judge to find damages across the entire ecosystem. FP is drawing up budget. A Wray said same – no need, but if we did it would help us. Thus two people said no need. Budget will probably be 500 to 700; clear Havoc no longer wants to work with us, so we need to look for foreign lab. Other issue is Alegato.

**Fernando Reyes and global:** I had one-hour interview with him Friday to do a hard vet. I asked how T could attack him, and he pointed out: worked for DINAPA and DNH; worked for Fugro McClellan as fiscalizador for three months; wrote in book that gov shares some of the responsibility. He also worked for Maxus as an environmental auditor in the famous Block 16 which had caused so much controversy. I told him pointblank that if he did this he likely would never work in the oil industry again in Ecuador, at least for an American company, but that he could be a national hero and have a job the rest of his life being involved in the clean-up. There is a certain level of “desconfianza” in him for these past jobs, for our previous arrangement as veeduría, for the tepid draft report he wrote, etc. I asked if he could be comfortable slamming them with a 10b judgment. He answered yes to tall, but I don't know if he has the internal timber to pull it off but at this point I don't see a Plan B. Bottom line is that he is an “insider”. I see using E-tech to give him cover, but he has to totally play ball with us and let us take the lead while projecting the image that he is working for the court. I think he knows how to do this; I worry that he will use it like Camino to try to get as much money out of us as he can. Remember, he asked Alberto for 30,000 to get all those papers out of PetroEcuador when we were starting the case. And he is still bugging me about the 1,000 he claims we owe him for work he never ended up doing as we cut off that veeduría project early. Seems petty-minded when we need a big thinker, like Charles or Russell. Will a big thinker in Ecuador please stand up?

**Alberto Wray:** We also met with him on Friday to get his opinion on the **global**, among other matters, in the conference room of his office overlooking the park with competition at bicycle jump place. I always love seeing Alberto... I can't explain why, but it is soothing. I just feel like his interest and his involvement makes this real. At the beginning of the case I just couldn't get comfortable around him, but as I have acculturated I just feel like we are friends. We had a great dinner on Monday night with Raul at Zasu and talked up a story for 3-4 hours, getting into some personal shit about racism against Latino's at Raul's law firm. Alberto seems vulnerable to me. Maybe because he has suffered tremendous attacks from Paco Velasco, Tandazo, and the anti-arbitration crowd and he doesn't know how to defend himself. He said the purpose of the global was to prove that the present contamination was a function of the “sistema

operative” de Texaco, and to determine the overall impacted area, whether or not it is remediable, and if so, how much it would cost. He said it was never the idea to do a lot of field work. He said from a juridico pt of view, the more datos the better. Mor e troublesome was the damages: I started to go through categories, such as degraded habitat, and he rejected them (I don’t trust his opinion – he is very cuadrado on Ec law). He said judge can order Tex to pay; for the Frente to do a clean-up (key, so Frente can control money); to do it in tal manera; and 10% additional for the organization.

**Wray affidavit for Winston case:** Ended up APV having to sign because of ‘94 Wray affidavit where he said opposite – that case could not be brought in Ecuador. For Sand matter, trying to show it could have been brought in Ecuador before the ’99 law.

**Lauren:** Blow up when she challenged my authority while questioning Sylvia. Difference between expectations and demands of Americans compared to Ecuadorians – interesting.

**Raul dinner/Cullen problem:** Stayed up to 2:30 a.m. at the Marriott. Lie of Kolis regarding Gulf witness and possible bar complaint.

**Cristobal nephew/clean-up for 45 pits:** We met at Saute on Wed night at bar. Talked about CB tying death of father in 1978 of brain cancer to contamination caused by Texaco – joke in family. Said he had contract with Texaco for clean-up – 5.4m for 45 pits. Need to get more.

**Meeting with Secoya:** Came in to Lago on Monday to sign papers about withdrawal of inspections and CB representation. The group has changed so much since 1993. Mobil shit, Aditas shirt, Reebok sox for elderly man in traditional dress. Elias and Humberto spoke in own language, and translated. Went to court. Secretary who bothered us before (like during Guanta) seemed very taken aback and warm and was flirting with Pablo, who later explained our golpe toward her forced her to step back and change her behavior. **Whenever I see the Indians in court it just reminds me what this is all about -- the historic nature of it. It is touching.**

## **Dec 11**

On plane from Quito to Lago for meeting with Secoya. Had meeting Friday with Asamblea – only 14 of 28 communities showed up. We explained negotiation, issue with politics in Ecuador, how to do negotiation. Nobody wanted to name names. I suggested that they set up a committee of respaldo so people can feel involved. Promised to take it up in next meeting.

The tension between a “professional” negotiation as is done in class actions in the U.S., compared to what this might be, is becoming increasingly apparent. One needs to balance community involvement with the need to have confidentiality among a small group of negotiators so they can have the confidence they need to exchange their views honestly. I think this might blow up in our face if we are not careful. Once we come back with an offer, we will have a lot of enemies: JK and CB for starters, self-interested people in the communities such as they colono President of the Cofan; other lawyers;

people who want some of the money. I could see a situation where everybody who negotiated will be on the heat seat, and they might fire us if we don't handle it well. One thing I am sure of: no matter how many precautionary measures we take, it will be messy – just how messy is the question. They will attack us for selling out, for the lawyers taking too much money, etc.

On Sat, went with film crew: shot the parade in Lago to protect the environment, where mestizo woman dressed up as Indians, plus half-nude woman. Plus we shot two derrames. The first because an 18-wheeler smashed into the pipeline at a curve; the second was sabotage on an African Palm plantation. Good interview with engineer at first derrame – admitted their clean-up methods were inadequate, and said that it happened in April 2005, but they did not get the clean-up contract until June of 2006.

We got word thru the "CIS" (Centro de Inteligencia de la Selva) that Jeff Frazier coming to San Carlos to sign up more clients for CB case. LY went to community Friday morning to put the freeze on that, but you never know what these guys are going to do. Chasing around communities to try to get them to not deal with these people is a monumental expenditure of energy. We need to file the bar complaint.

Things to do this week: finalize PG plan, PG expert; go over Champs settlement proposal; Health action plan; meet with Correa and gov ministers with Raul. Lots to do.

## **Dec 7**

On plane to Quito from LA for AW fundraiser. One-day trip: great speech at fundraiser (Joe filmed); saw Lily and Achuar from Peru, fresh off great victory (need to find out more about it); met with Ari Swiller, one step away from Bing, asked for 1m and felt like too little, he asked for budget; Berlinger covered it, got some great materials and it gave us a chance to catch up; Russ told Berlinger he wants to come to Ecuador in January. Get Lily demands in Peru: 5% of royalties to communities. How to tie to indigenous communities – one-up Judy.

Problem: email from Pablo saying Jeff Frazier coming to San Carlos to sign up more clients for Bonifaz case. We must deal with this. LY and I are going to talk about it tonite.

## **Dec 4 (summarize week of Nov 25)**

**Getting stronger:** Situation: Signs that we are winning, getting stronger, are everywhere. Mother Jones web article indicates Chevron is scared to dismiss Bonifaz case because they are nervous they will lose in Ecuador. Correa won; Vargas Pazos to be Min of Defense, Alberto Acosta Min of Energy, sympathetic people and those we know personally in several key posts directly related to what we are going. Key is to write settlement vision document. That is next step: to sell everybody, the team, the Ec gov, and Chevron, on how we can all win from this. Joe meeting Cullen today – I hope we can just do a basic conversation. RH says AG (Borja) will file formal complaint with U.S. DOJ over. We are getting meetings with people who never used to take our phone calls. Key is to continue to build national political support for a solution that will survive any change of administration in Ecuador, but we have to define the solution to build the support.

**Sand case:** Depositions coming in good – our side is much stronger on both issues. When first started, I thought Bonifaz mistake would kill us on the release. Now, it appears we have turned the tide. On JOA, clear from all witnesses it is not binding although still problems with accepting benefits. Dispositive motions getting ready – Alberto Wray affidavit, drafted by Aaron, excellent – will really help us.

**Conf call with Winston:** Had conference call on Monday (Nov 25) with Neil, Eric, RH, and JK. Neil reiterated that in May/June of 04, Texaco became very close to getting the AG to issue an officio saying he agreed with their interpretation of the '95 release – basically handing them over even more riches. Borja suggested the Pres of PE do it, but Texaco worried it would be unenforceable if it came from him. They insisted and Borja got mad at them. All they wanted was assurance local judge would treat them fairly, and protection from the armed forces (later to haunt them in Guanta). In terms of depositions, he said Texaco never thought 95 JOA was binding... both sides used portions of it as referential material only. There are three documents calling it a referential document. But under federal common law, intent is not necessary – could hurt us bad. If the state knowingly took advantage of the benefits, it could still be bound by arb clause. Neil says Sand appears to have a simplistic view. Has made remarks on various occasions about whether to send parties to arbitration. Our best argument is that we dispute that benefits were accepted, and combine it with provisions of Ec law and NY const law clearly limiting what the state can be bound by absent express provisions. Also, requirement of substantiality – were substantial benefits accepted under the agreement.

Eric's view: "If I were the judge, I would dismiss it as a matter of law. Both parties used it to their advantage when they wanted and did not when they didn't want to. Combine that fact with Ec law, and it is not close to being binding. Court would have to contravene established principles of Ec law that requires it to be in writing (their own version of the anti-deficiency act)." Note that when I first met Eric and he started talking about the anti-deficiency act, I thought he was a little out there. He always seems right on the law but overconfident because he does not take into account the politics of Sand and the damage Bonifaz and Collingsworth did to the case. Eric also said the PP deposition, it came out that there were a series of exchanges where Gulf said nothing binding since the 73 decree by the military government. Eric said the 99 law issue is pure

issue of law, and there should be no trial on that issue. That makes me nervous. He also said looking back on Sand's 88-page decision now, it appears he was being cautious, asking that evidence be heard so as not to take chances. He said Texaco's best shot is that Ec law does not really apply. Two key affidavits: one from drafter of 99 law, and their legal expert. Also mentioned a Bonifaz email to gov saying clean-up would be 30m.

**Technical side:** Got Champs report – good job, but fanciful at 3.1b with 50m just to build a production facility. Asked for a Plan B and a Plan C for less money. He resisted when I asked for betting, but he is getting from Katz and his brother. All these tech people don't want to think practically – always shooting for everything. Had conversation with Ann, Mark, Bill, and Dick – same thing. Mark's comment about water systems. They want to overprove the case, just like Russell did, just like Camino did with his 53 samples at the one site. Ann makes good point that we have to create a story. She talks about extensive examination of a handful of sites, drawing arrow to show how surface water contaminated, show discharge pathways, and that contamination not localized. Not sure that approach is what we need right now, when we want to finish the case asap.

**Other issues:** Asking for PG today; working out new contract with clients. VP wants again to back out on deposition; talked extensively to David DeRothschild.

## Nov 20

**Flying home – great trip** one, of best ever on a number of levels. I feel like we have reached another level; some much to keep up with. Three inspections South of Coca and great press coverage combined with silence of Texaco. Two articles in El Comercio – one on second day, one on Monday after last day. They also ran the AP story the first day. On Sunday, they ran an article on Obama that mentioned his involvement in the case. In addition, we have the ltr to the editor signed by the indigenous communities, dealing with the dual issues of Tex lies: about our money, and about the division of the indigenous communities. There are other signs of Tex weakness: we had multiple press releases this week, starting with the inspections themselves; Texaco's 11<sup>th</sup> hour effort to suspend the inspections; the first day of the inspections; PP's deposition in Washington. Did several radio interviews: Radio Municipio (6:30 a.m. Thursday); CORAPE at 6:30 Monday, then Radio Quito at 7:30 (with Luis) and then Radio Centro at 10 for a tape that will air today. Our interview on Radio Quito was picked up by Ecuador Inmediato. We also went out on television: Gamavision, Teleamazonas, and I think Ecuavisa. Plus report on arbitraje, plus local coverage in zona, and HUGE turnout of locals. The Tex people feel pressure: security guy makes obscene gesture to Joe camera crew, puts hands over lens, etc. Teaches u how to define media coverage: the big article in El Comercio was the inspections end, even though Texaco still has ten left. This is a key turning point in the drama. On way to airport, taxi driver said I was much improved. Same guy who criticized me after my last TV appearance with Andres Carrion, he took us to Radio Quito and said I had improved significantly. I think my Spanish is really kicking in: we are hitting them hard on basic themes: 1) we are winning; 2) the trial is coming to an end;



3) they are lying, trying to rip off the country; 4) this is a huge struggle for all Ecuadorians against an evil foreign company; 5) that Texaco's main defense is delay, and their lawyers are in it for the money. Pending we have Ortiz on Teleamazonas, and Radio Vision – the media establishment for TV and radio, respectively. We actually have built up a huge store of credibility and frankly I think it has a ton to do with the personal integrity of LY, PF, and myself as well as the other members of our team who do interviews, such as Juampa and Julio.

**Great surprise:** Perito dirimente, found thru Reyes, told judge Texaco's sampling was bullshit. Luis and Pablo just found him last Thursday and never told me!

**Three threats: Kimerling, Bonifaz, and Russell/Camino.** Wray sent me email from Jorge Jurado that was very negative about me, and it forwarded an email from Dave Russell encouraging him to sue us. I have no doubt Russell is the one who encouraged Camino to sue us, and he probably found the Philadelphia law firm for him. It was distasteful and reminded me of the stress and disgust I felt so often during those dark days when Camino and Monica were on the team. The big question with Bonifaz is whether to file the bar complaint. And the Kimerling situation is worse: she was at foro in NY, and it appears – based on Atossa's email (she spoke there as well) – that Kimerling's movement to undermine us is gaining strength. Segun AS, she is close to getting the Fecunae (the Kichwa group) behind her. She travels to these international meetings (in this case a U.N. forum) with Moi (made famous by the "Savages" book) and they hold court as celebs and people just eat out of their hands while we do the hard work in the field. As LY says, anybody who buys Moi a plane ticket to an international destination will get his backing.

The Hua are problematic for a number of reasons. They smile a lot, are interested in money and material goods, and love going to the big grocery stores in Quito. Only ones who have visited NY and asked to stay. As Esperanza says, Kimerling is the patrona: "nobody consults with you, nobody listens to you, I am the only one who hears you, I am the only one who cares about you" – with historical origins in feudal agriculture systems of Ecuador. LY said outside the Foro he talked to the Hua and they appeared to be in complete agreement with him; Kimerling then called them on a cell phone and ordered them in to read the letter she had written, where they went in the completely opposite direction. Joseph said they were drunk outside the forum, making fools of themselves, and they drove off in a new \$60,000 SUV. We MUST go visit them. The Frente has been so consumed with the inspections they have lost political power with the Hua, allowing Kimerling the political space to get her "movement" going which put a fancy indigenous name on – part Hua, part Kichwa. She is trying to peel off two of the five indigenous groups from our lawsuit – the most glamorous (the Hua), and the largest (the Kichwa, themselves migrants to the zona). The Kichwa have a base Rumipamba and I am realizing because we have 19 clients there, and Bonifaz neglected it for so many years, this also has given a further opening to Kimerling.

**Had celebratory dinner** (end of inspections) en La Briciola. I saw Carmen Tello kiss LY goodbye, and I knew the vision of connecting the Quito elite with the jungle was coming to fruition. LY made the best toast I ever have heard (get tape from Berlinger).

Had day after staff meeting yesterday. Got lots of suggestions – Joseph on cancer, human issue – need to put face on cancer issue. People feeling pretty jacked. Lauren told me in two years she and Julio would get married, that she had never felt that way. On day of first inspection she quit and blew her top after we wanted to send her back to Quito. Juan was at dinner. They cost a lot, but the dinners are so worth it in terms of building animosity and unity on the team.

**Lupita** has made me realize the importance of management, of taking the time with each person to hear them out, and of setting up structures to people have an opportunity to express their ideas and participate. Lupita told me her nose job (Juan's speculation) actually was Gustavo hitting her; she has been making no money. When I asked what she would need to live independently of Gustavo, she had no answer. Her value is increasing – she knows everybody in the press, and everybody loves her, she is totally loyal, works her ass off, and gets the confianza/movement thing.

**Carmen on Ortiz:** said he is increasingly disillusioned, does not want to be Tex spokesman, thinks they are going down. Callejas the same (although not sure I believe it). She says the more Callejas complains, the more they have to pay him to keep him going. Alberto Wray and Monica used to play us the same way at the beginning of the case. The only people who don't do that are the members of our current legal team.

**Met with Esperanza and Manuel:** they want the Peritaje Global to be focused on the human impact, not the science. Suggested we get a sociologist or somebody else to be the expert, not Fernando Reyes (MP reminded me that he wanted to charge us \$30,000 for some PE documents at the beginning of the case – I had forgotten about that). They had some great ideas, but I am not sure we have time to conduct those studies.

**Talked to E-tech:** starting up the Global, getting PE to fund re-injection wells, etc.

**Meeting with Judge:** on Sat night at Lupe's house. 7 children from six mothers. Had son. Referred to Marx, Lenin, Heidegger, Montasque, Rousseau. Shot 22 times in car – about to lock up Colombian drug dealer. Woman in back of car died. Said Guerra is trying to control the Perfecto de Lago, that Guerra will not be the next president – Novillo will be. A real humanist. Understands Texaco's sampling is full of shit.

**Nov 16**

**Met with Manuel/Frente weak, no want 160,000.** Realizing LY is way behind and the Frente (and therefore the case) risks being left out. Ayer went to Rumipamba and saw Maria Aguinda. After, I gave an emotional interview to Juan Diego where I basically said that in 13 years of work, I can't say we have delivered one tangible benefit to a single person in the region. The case is sucking the air out of the movement. I had not seen Manuel for ages, but I realized we are on the same page: the Frente needs to open up, be less secret, expand its leadership, and reach out to other sectors of Ecuadorian society. Specifically, Manuel's fund just gave 1m to SOLCA to start a cancer center in Lago Agrio; 250,000 to put a water system in Rumipamba; and allocated 160,000 to the Frente to do the five studies for the case. All of this is happening because of the case, yet

the Frente takes no credit. First, segun MP, LY did not want the 160 and has resisted it, not writing the necessary ltr. He does not want the responsibility – this is coming at a time Kimerling is attacking the Frente for not being transparent about how it will spend the recovery in the case and LY does not need an additional problem in this area. To me, this represents a profound lack of vision and courage – take the money, announce it as a victory of all the people, and have a meeting with total transparency. The SOLCA thing really bugs me – the Frente should have a press conference with SOLCA taking credit it for him, and closing out the political space for Texaco to take advantage of the government's sudden munificence. Same with Rumipampa – MP told me they were getting a water system that cost 250,000 because of the case, yet LY in our meeting at Rumipampa never mentioned it, took credit for, etc. These are tangible benefits that can politically strengthen the Frente.

**Inspection on Tuesday:** Get everything from Acta. Overall, these inspections really bother Texaco. They pulled a stunt on Monday – tried to get the judge to suspend the inspection for 60 days on the even of going out to the site. LY got text msg judge was leaving Lago – we had our own intelligence sources. They did this for Guanta, San Carlos, and now Yuca – when we mobilize for press, they try to delay. So they came into the inspection thinking the judge was biased against them. It is incredible how they present the victimization mode. Racines asked Lupita how much we had to pay the journalists to come – the turnout was good. We had three TV stations – Gamavision, Teleamazonas, and a local Lago Station, plus AP, El Comercio, Universo, Expreso, etc. That said, Callejas, Larrea, y Racines slammed us in the last part, and our lawyers were weak. They called me out by name based on the American Lawyer article.

**Things I wanted to say during inspection.** Wed night, after returning to Quito, I had trouble sleeping after thinking of so many things to say during the inspection: helping people, then why carry guns; how much money do you make; give them water to drink; give them food to drink; making tech arguments on fusion because losing the case, etc.; oil doesn't have contaminants.

**Culture – Motorcycle accident.** Yesterday (Thursday) was a crazy day in the office. First, a car hit a motorcycle in the street; a man is bleeding in the street, shaking and about to go into shock, and people are just standing around. The woman who hit him tried to drive off, but a policeman prevented it. There was a medical office on the corner – some people were just watching from the gate, not helping, not even bringing water. Joseph bent down and was helping him. As Joseph said, in Cuba the first car to come by would have taken him to the hospital; in Ecuador, people just stand around and watch. Then, the lights went out because the lady in the other half of the house did not pay her bill. In Ec, the public utility turns off the electricity five days after not paying the bill. Some guy came by and just cut it off. Alexandra said she would come, and never showed up. She drives me crazy; everybody in the office dislikes her. Joseph called on Sunday about his check, and she said to call back during office hours. Then Lupita called an electrician – we paid him \$10, and he turned on the electricity. Joseph, LUpita and I had lunch and talked about how utterly passive Ec culture is. How Sylvia, to get press to turn out, says stuff like, “No seas mailto, ven por favor” -- this sycophantic begging, but as Joseph said, it works. Ec culture drives Joseph crazy. The question how does this

cultural trait translate into politics, and how does it affect or cause. And in many respects, the character of Ecuador as a nation is divided between humility and passivity, between corruption and honesty. And the dichotomy plays out in almost everything we do.

**Our leaders as bureaucrats:** LY puts judge and tech team in different hotel. Secrecy of information. Fear of risk. Fear of taking money from Manuel. Fear of putting our demands front and center in terms of the paros in the Oriente..

**Meeting with Judge in hotel:** On Tuesday night in Hotel Auca. With Lupita, late at night: he said our intelligence is bad; how does Texaco know what we are going to do before we do it (citing our meeting with him several months ago with APV, PF and LY) – he said they told him three days before that we were coming. Said Pablo should have interrupted Texaco, to create an incident, during the pathetic Tuesday inspection. He asked for help on issue of visa for girlfriend to visit New York.

**Nov 10**

On way to St. Louis, then down to Quito.

**Raul still not been paid.** I am convinced, as is APV, that the JMB himself is the one sabotaging the payment. He does not want the next gov to come in and accuse him of financial improprieties.

Press conference yesterday in Quito: First time, team did it without me. Really working well, although nobody showed up because of 3-4 competing press conferences.

Did health annex and graficos for inspection. Joe transferred money. Had conflict with AW about not posting releases.

**Nov 7**

**Election day in US; Bat Mizvah this weekend. American Lawyer article comes out.**

**Kimerling before Sand:** Kimerling in court yesterday before Sand. She was dinged. I felt proud of her in an odd way. Her colleague Vance did most of the argument – they came in in the bottom of the ninth inning expecting to hit a grand slam, when they should have figured out a way to get a single and just get in the game. Her papers were good and I think her argument helped us sensitize Sand. As I told Neil afterwards, he now has two guilt things hanging over his head that should help us: his denial of Kimerling, and his denial of the motion to extend, which eliminated the fraud defense. This backs up my litigation strategy of filing losing motions to create leverage. Get Judy's notes I took in court.

**Kohn meets with Cullen:** On Nov 1, they had conference on another case. Am Lawyer article had come out, where Cullen (stupidly from Tex standpoint) talks about how important the case is. Joe established the contact. Joe said RRV could not be at any discussion, and Cullen said, "The problem with Ricardo is that he knows everything, and he doesn't know when to shut up." He told Joe that "management would like to put an

end” to the litigation for a reasonable price. Said he is dealing with a “Scott” two levels about Ricardo. He said a problem is that there is no business unit in Chevron where the money would come out of... said we need a business person there. When Joe asked why King & Spaulding had never brought up the arbitration claim, he said they were not too smart. As I told Joe, this is important – we need a voice of reason on their team who can push back against Reis Veiga and advise the company in a clear, sound way. Maybe Cullen, obviously a well-liked man of integrity and former partner of Edward Scott, could be this person.

**Conversation with Atossa:** Called me at lunch – had long talk about the Achuar and the Kimerling threat, and the Frente’s lack of leadership. Said Kimerling was really a threat and the transparency issue with the Frente and a potential recovery is a problem. I found the conversation disturbing on a number of levels. We agree she would write an email outlining need to take over oil fields and deal with Kimerling but still no email.

## **Oct 27**

Heading to Jax today for Fla-Ga game – the ultimate escape and boy do I need it.

**Meeting with Alberto:** After the Moscoso presentation, I was beginning to feel resistance from Raul on the possible PE lawsuit. Alberto convinced me otherwise, and reminded me how brilliant he is. We met in conference rm – me, APV, LY, PF, and JP. We asked questions, and he pontificated (“al ver”). Said he saw dangers with either Correa or Noboa – with Correa, he said he would never settle with Chevron for political reasons, and that Noboa might give up too early for the same reasons. He said Texaco is surely calculating that a Noboa victory would make it easier for them, so they are probably going to hold off on doing anything until they can see whether they wiggle out of this under a Noboa administration. On the other hand, he actually thought Noboa’s election might help given that Noboa wants to solve these types of “foreign investment” problems. AW is super-tight with Noboa’s VP, Tayano, and his right-hand person, Angeltia Alban. Amazing how we can now play ball like Texaco does, because we have contacts everywhere. These are AW’s main points:

- He said take advantage of the short window we have with PE before the election is over. We need to get the documents from PE we asked for in the beginning of the case, that they never provided. We can also get PE docs from the discovery from the Sand matter authenticated thru PE, rather than Winston.
- He also said to find out from PE what class of technological changes they introduced when took over concession, such as the raising of the gas flares and the re-injection equipment. And to get informes quejandose about the remediation.

- Moscoso lawsuit, he was thinking out loud: “I see clear advantages” and then runs thru the various issues: contract, actas, contract not executed by PE because never did remediation, validity of actas final could be attacked . Goes through how they never really remediated, they just threw dirt over the pits, and that therefore the release has no value; then says the other way, but more difficult, is to attack the problem thru environmental law principles rather than contract law principles, that persist contamination in the soil and water, and there is no expiration of the SOL, thus ask for “nulidad absoluta” of the actas which released Texaco. Then said it would be “poco viable” if PE pursued case along, that the State (through Borja) would have to do it with him because the State’s hand would immediately be forced. Then he said he did not think it would be worth the risk, as the new government would immediately withdraw it, and that would end up causing more harm than good to our cause.
- Talked about issue of finality on settlement. Alberto said we could use the 1-yr SOL issue after *Aguinda* was dismissed. Therefore, Chevron could effectively invoke SOL as defense to any claim. I asked about SF judge ruling in Cristobal case, and both APV and AW said that was wrong as a matter of Ec law and that that ruling never would be made by an Ec judge. AW said the gov would never offer an indemnification of the type I talked about with Raul (see initial draft settlement proposal), and never indemnify lawsuits against personal damages, which we did not sue for anyway. This bothers me, because they are going to want finality and we are going to want funds to provide our clients for health damages. If Texaco could never get finality on ind claims, we will never be able to negotiate a fund for health damages and our clients will be left to their own meager devices plus the vagaries of the Ecuadorian judicial system. In other words, they would never get a recovery. The idea of the Congress passing a law to provide finality was met with the rolled eyeballs look. Impossible, like so much else in Ecuador. AW made it clear he thought gov would never give an indemnification. While I give deference to that opinion, I find AW analyzes things as they are – not as they could be after lobbying and political work, which seems to never enter his calculus. He has no clue of the extensive relations we have established with PE, for example.
- In terms of gov indemnification, he said contrary to the government providing an indemnification, they should do the exact opposite – make it clear they would fight any action. But he did have a good idea: that we take the 10% that under law was destined to go the Frente, and that the Frente spend that on a health damages fund. The other fascinating idea he had was to create a fund with Texaco’s money, but the State would assume the obligation so Texaco would not have to recognize the rights of the demandantes. Generally, he liked the idea of the gov putting in.

**Noboa – Correa:** Saw Noboa on TV – press just transmits these informal press conferences. First, microcredit with PRIAN on the paper – asks people to fill out. Then people fill out papers for new houses – promises to build 300,000 per year. Carlos Vera had expert on to show utterly impossible, but rest of press just reports with no criticism.

Refuses to debate. Acts like Correa a Commie – shows paper of Communist party endorsing him, and then asks Carlos Vera why he doesn't investigate. The man is not a payado, as LY said – he is highly intelligent, focused, and he knows what he is doing in playing the populist card. My scenario is he will be the tool of a right-wing, army-led repression that the CIA has been hungering for given the incorrigible Ecuador populace that does things like throw out Gutierrez. Correa on TC had 30-minutes interview and I was transfixed: he is immature, emotional, thin-skinned, and not nearly as radical as his opponents paint him or as he appears. Using terms like "savage capitalism" do not help. Dumb questions by periodista, like are you going to cut relations with U.S., are you a communist, why don't u call the FARC communist. Noboa is radical rightist: wants to privatize PE, social security, water, extend Manta, join Uribe in fighting the FARC. He is a U.S. dream. But given what I know of Ecuador's politics, he won't be able to do these things without provoking massive resistance, which could lead to violence. Will he be another in a long list of idiot-Presidents? Why can't Ecuador produce a statesman like Mauricio or Alejandro?

**Meeting with Vargos Pazos and daughter:** B'fast at the Hotel Quito. Humbled by Correa problems, canceled deposition because of campaign (I helped resked it for Dec 1) and still asked for money. For example, he and Alexandra need \$7,500 to broadcast ads to indigenous peoples, hold press conference with Noboa ex-employees, but they don't have it. We did manage to give her a computer. Alexandra, whom I love for some reason – rough around the edges, but smart and principled – told the story of how Noboa exploits small banana producers, of which they are one. Sets official price, then forces you to accept less money if small producer or doesn't buy from you. Then, he has number of options – other buyers offer less, and they either represent him or then sell it to him for a higher price, but still lower than what he was obligated to pay; he loans money to get leverage over a small producer, and then goes to court to get their property directly; rejects product for some illegitimate reason, forcing you to sell for less; gives you a 3,000 check, but then forces you to sign a document where you pay back \$600 of it for whatever reason (like "legal costs"). Tells story of Japanese producer who was exporting to Japan for \$7 a caja. Noboa approached him and said he either had to sell to Noboa, or Norboa was going to flood Japan with Ec bananas, forcing the price down.

**Meeting with LY and PF on last day:** Talked about settlement and Global Peritaje. Trying to empower Pablo Fajardo to totally take over inspections – I am simply out of time, and incapable of doing it from States, plus Pablo did a great job during San Carlos under a lot of pressure. We talked about key issues with settlement: who would be on team (thought that maybe LY should not be there to protect him politically). Then PF said he did not want to be there. While I thought LY not being there was a good idea, upon reflection I cannot imagine being at those meetings without him. The other issue is communicating with the bases. PF suggested we get the Asamblea to approve and authorize the negotiating team, but that should be done NOW. While we have made tremendous progress in getting our team and position together, they seem to have done nothing to prepare their part of selling any acuerdo to the communities when people like "war paint" Kimerling and Bonifaz and others, like Quenama, will be ready to pounce in

order to hold hostage any acuerdo so they can get a piece of the action. (JK wore Huarani war paint to the Foro last weekend.)

**Achuar:** Get AW press release. Won acuerdo in Peru to re-inject. In other words, they accomplished in two weeks what we have not been able to accomplish in 13 years! How frustrating is that. I ran it by Lupita and she said connected it to the Inca mentality, and the Incas and then Peru and now the U.S. had dominated Ecuador, and the people have a “sometido” mentality. It just blows my mind that all the protests in the Oriente, and this never became a demand. It shows a complete lack of vision and leadership. When I brought it up, PF and LY were useless. PF is worried it will hurt our case, because Texaco should pay (Oh My God) and Luis said he never thought those types of acuerdos would ever be complied with. Really, really defeatist. The problem as I told Atossa is that the case has taken on a life of its own, and become an end of itself. It has bueurocratized us to a large degree, and has sucked the energy out of the popular movement. This types of actions mobilize popular movements, and I am worried not doing this type of thing will really come back to haunt us when our “dirigentes” try to sell any acuerdo to the bases.

Achuar, Vargas Pazos (PE resolution open-ended, Bill Powers

**Raul and Borja:** Fascinating how Raul has led his client. Borja an idiot – use argument of APV before the Interamerican Commission as example, or all his twists and turns over the Oxy issue, or the fact he orders for Raul at restaurants and tells him not meet with certain people who can help the case for whatever whimsical reason that he thinks they are “ratones”. One such person was ?, who knows Noboa and is the brother of somebody. Raul was going to meet with him, but then backed off when Borja called him a Raton. The famous “twins” are also an example. Not only have they had extensive plastic surgery, but they get chauffeured around in Daddy’s car with his security and when they got stopped by the police they pulled the “do you know who we are” line. Lauren was in the car, and she said it was completely obnoxious.

## Oct 25

**Raul money:** Spent a lot of time with Raul. His payment is in the Kafkaesque world of Ecuadorian finance. Saw Moscoso. The payment finally got to the Min of Finance, but then they needed to pass a resolution authorizing payment. So the sub-minister of finance at PE talked to the sub minister there... the bottom line is he still has not gotten paid, yet he claims Friday is the absolute deadline or they will withdraw. He wants me to bring back the signed resolution and get it to him by Friday so he can show it to his managing partner. Yet the way Raul is working it does not sound like he plans to withdraw. Culturally, he just gets it. He approaches every interaction with class, optimism, and respect. And the bottom line is he is going to get paid a vast sum of money because of it. He finally got a copy of the famous agreement between the Min of Finance and PE.



**Raul generally:** I marvel at Raul. He got in Sunday night and immediately had dinner with Ivonne Baki and her crowd. She is angling for a Min of Foreign Affairs post under a Noboa administration. God, the sliminess blows my mind. The Gutierrez forces and the Noboa forces are joining together, which means the old Gutierrez crowd will have some cabinet posts. So Baki sticking with Lucio through thick and thin, going to the States after he was deposed, is going to pay off perhaps. The important thing is Raul was working her to protect the Texaco case should Noboa get in. Certainly Chevron will approach them immediately, and they probably have already. I remember I saw her at the Hotel Quito pool after Lucio was deposed, and I felt like laying one on her. I am glad I did not, because now she could be our ally.

**Moscoso:** Finally got to meet him. At first meeting on Monday, asked if we thought PE should come in to the Lago case. Issue arose if they should sue Chevron civilly on the fraud charge. Came back on Tuesday and made presentation. Raul talked to Eric and Neil and not surprisingly they do not like the idea. We LOVE the idea. This is a historic oppty, never before presented, to get PE behind us – to finally turn around the dinosaur beurocracy that had been Texaco's ally for decades firmly to our side. Galo, Vargas Pazzos, Moscoso – our allies are firmly entrenched at the top, and the window is short, as they will all be replaced in the middle of January. Such a lawsuit, to be politically viable, would probably have to be filed before the second round of voting on Nov. 26. Raul is sort of opposed – we set up phone call for Thursday. I am going to get Joe Kohn and Alejandro on the call, and we are going to do our best. The reality is they have the power to kill the idea. In legal team meeting ayer, I explained to the team that their primary interest is the interest of their law firm, not the cause. And that is a difference in our interests and focus. APV says we should do the lawsuit anyway, to force Borja to take a stand in Ecuador that a fraud occurred (the filing in the U.S. has had little impact on the Lago case). Lupita came in with RH because she told me during the Foro over the weekend, where he was a judge in the mock tribunal, he was flirting with her.

**Settlement:** Went over plan with Raul during lunch on Monday with Luis. I really see Raul as our ticket. This is complicated. We need RH for the settlement agreement, which I finally went over with him in detail in trying to stay ahead of the curve.

**Working group:** They had meeting with Galo last Thursday, all the top officials of PE, plus LY, Pablo, and two dirigentes at the community level. They created a GRUPO Mixto, which came from my memo earlier in the week. This needs to be finalized so it is up and running before Noboa comes in. This is the seed that will allow us to work together on a remediation, and allow the government to pitch in. Said Galo actually visited the pits, and said Texaco did a bullshit remediation. This is awesome! The respect LY and our team is getting at the highest levels of government is impressive. Remember, Palacio is the one who finally ordered the Winston bill to be taken care of.

**Legal team meeting:** Planning November inspections. Bringing priest from Spain to testify about indigenous destruction. Misdirection to Texaco – saying we have special witness from government who will testify about fraud during the remediation. Lupita robbery, me pushing the team to see it as something worthy of speaking out about and exploiting, but Lupita had not even made the denuncia. Julio did not think the facts were

worthy. I explained five people lined up and speaking would be very impressive. I said, what do you want to wait until somebody dies? Harassment by army of people who were biking at Forum, German guy who had his tires slashed, Mateo was assaulted by well-dressed guys in camineta, Isabela Figueroa is being followed for her work against the mining company. TALK TO AND INTERVIEW ISABELA FIGUEROA. I asked APV if someone might get killed someday – he said he did not think so. “Not at this point – the case is too well-known.”

**Work:** Feel overwhelmed. I need another lawyer. I have the annexes, the settlement issues, the intervention in Sand and SF, the Bar complaint, Miles and the FCPA complaint, the Fraud memo – we have to get this stuff in.

**Oct 23**

**In Quito.** I was feeling pretty good getting in, the trip was smooth, got in early, and had dinner with Juan, Lupita, and Lauren at the Sushi place where I ran into Steph and Andres.

**Juan's analysis of the election was really distressing.** There was obvious fraud – votes were taken from Correa and Roldos, and given to Noboa and Gutierrez. The Brazilian company that did the electronic counting did not count the last 30% of the vote, and they still haven't revealed it. Around 11 p.m. Noboa was declared the winner. He then got on TV and blasted Correa as a Communist, saying Ecuador did not want Communists, etc. Everybody I know is demoralized... nobody is protesting, people are focusing on the second round, and everybody thinks it is inevitable that Noboa will win. Why do feel the hand of the CIA behind this? How bullshit is this? Calderon, Bush, and now Noboa. They simply will not let a leftist win. It is a raw power game. The Oxy case will end – they will give the oil field back, try to settle Chevron, sign the TLC, etc. As Juan said, geopolitically it just became impossible for Correa to overcome the U.S. They would not allow an ally of Morales and Chavez in Ecuador. Juan says in Bolivia, the military and death squads are starting to do to Morales what they did to Allende.

Met Glen Goode, the gold miner, on plane. Story he told me about the \$7 million fraud, how business is done in Ecuador... need to interview him for book. Talked for three hours. He explained families behind every pot of wealth. Andinatel, Pacifictel and cell phone monopoly. Banking scandal. If I nail both of those, I can capture the corruption and people can understand Ecuador. Also, add in Alexandra Cantu, Ivonne Baki with Miss Universe, Lucio's appointment of brother to Corte Andino... how many examples are there?

The foro was successful, but Judy's letter and stunt was really depressing. Get more details.

Lots to do today. Juan says morale in the office is terrible because of the money issues.

**Oct 20**

Heading to D.C. to meet with Winston and to get updated on discovery. Don't know exactly why I am going, given that we have no staff capacity to absorb and integrate the thousands of pages of documents that Chevron has turned over. The key is to find nuggets, catch up on the deposition testimony, and talk to Raul about settlement terms.

Feeling very dark right now: the fool's errand problem. Ec still has not paid the Winston bill. LY and team were skedded to meet Monday with Min of Finance Rodas, but he resigned that morning. Raul Moscoso told LY he had signed the payment agreement between the Proc and PE before he resigned. Later, Raul found out he had not signed it, and according to Raul, we are back to Ground Zero in terms of trying to get the bill paid. Raul has surely lost all credibility with his partners now; we already have lost the fraud claim, our main leverage. And now that might withdraw altogether. If that happens, I might be out. This is ridiculous. People get the country they deserve, and the people who run Ecuador are largely a bunch of clowns. I sent an "emergency" email about the Winston bill and APV wrote me back saying he was in D.C. litigating the human rights claims and that Jose Maria Borja was defending the state, and he did not even care if the state lost, that he does not take his work seriously. Nobody in Ecuador understands the seriousness of the threat (on our team), and nobody who has the authority to pay the bill in Ecuador cares enough to do so. And can you really blame them – who else there would want to millions to Raul? The image of Noboa in the Bishop's outfit giving out trinkets just makes me feel the entire country is one big joke.

The meeting with Joe early in the week left a bad taste in my mouth... we still have the same money problems, and nobody has been paid. All the elements are in place, and there is nothing we can do about it. Charles Champ is going to be the hero, I feel it. He is the key element. Winston is a key element, but they have been weakened. On our last call Eric read some of the best documents from discovery from Chevron's standpoint and they were bad for us. Their fraud claim is weak. I need to spend significant time in Ecuador, but I am really feeling the pinch with my son and the family. The money issue is killing us. Pablo told me the inspections are now going to finish the week of Nov. 13, which is soon – there is a ton of work to be done before then.

Saw Barack Obama on Wed night (Oct 18) and it was inspirational. Got his new book, and we talked.

Oct 17

**Joe in Philadelphia:** Met with Joe in Phil... still in dire straits. Kathy the money woman said Joe's father never would have refiled the case in Ecuador. "When is it going to end?" she said. Karen Wilson also had the same querying look. I told Joe at lunch what Kathy said, and he said his Dad would have said go to Ecuador so they would never think we would give up. Did not help that Joe had \$2 in his wallet, which he left for a tip, while I paid for lunch for the first time. I presented him memos: debts include 87,000 to me, 117,000 debts in Ecuador, and an estimated 790,000 to finish the case not including

my invoices and expenses going forward, which would bring it up to 1.2m... assuming it all works out. Joe said he needed to wait until Nov to get another fee, and just had another case dropped in his lap that could generate 3m in fees pretty quickly. Contrast with me sitting with Raul with Ecuador's AG trying to collect the 3.3 million bill... and dropping the fraud claim over \$50,000, and give people on our phone call yesterday to listen to moi... and setting sites on 10m in fees, based on what Ecuador paid for the London arbitration. Joe promised to send 10,000 to APV pretty quickly... 10,000 to Quito... and take care of my expenses. Charlie will have to wait until November, although we can do his contract now. I emphasized we have all the elements in place, just that we are waiting to activate when the dollars arrive. Thru it all, I love Joe: in sandwich show, met DA Lynn Abraham and head of Constitutional Center – and Joe joked in introducing me that I was working on the case that he used to talk about in his campaign twelve years ago. Told him I planned to go see Russ in London, so we will see if that works. I ran by the CB bar complaint and he got nervous because he was on phone calls and in paper loop during CB's representation of the government. Said he did want to file the affidavit in San Francisco... will try to do thru Miles Ehrlich, whom we are trying to bring in via the FCPA and SEC stuff.

The Kimerling intervention is delicate. We want Sand to embrace her facts, but deny her motion. Joe said he hopes Chevron sends her a Rule 11 letter, as they should. On the other hand, they might want her case here so they could go to Lago where they are losing and tell the judge the issues are being litigated in New York. The state and us want the opposite: Sand should not touch the issues because they are being litigated in Lago. What a legal mess... totally confusing, and only because Sand has no clue because of the clever presentation by the Chevron lawyers. Joe agrees we should file amicus, signed by Alejandro and Alberto, in the Sand matter, stating these are our claims.

Feeling a little bad about raising issue of possible future conflict in the Winston call yesterday... but I wanted to appear completely up front. I am worried I unnecessarily undermined some of their confidence.

**Oct 16**

**One-hour conf call with Winston: Kimerling doc presents issues – gov cannot slam her, must embrace her facts... but limit it to intervention as amicus on narrow legal question of '99 law. Kimerling put it all in but the kitchen sink... this was her chance to download ten years of frustration from being excluded. Makes her a player... the return date is Nov 6. Chevron will definitely slam her. But, how does she get around Rakoff's FNC decision? Her thing is so overbroad... just like Cristobal's papers in the arbitration case, which led to the waiver of sovereign immunity. I explained that her clients are a tiny sliver of the class we represent, and**

that we arguably represent them... They asked why she would do this, and I explained she was not well. So hard to get people to understand without it seeming personal and thus diminishing all of us. Obvious also she would never be able to fund this litigation, even if Sand granted it. She basically wants to re-create the Lago case before Sand.

Situation with Noboa: it is clear that if we don't get our act together and insinuate ourselves with his campaign, there could be a major risk he will order the new AG to settle the Texaco case in New York and cut us out. I talked to LY today and he is upset about Noboa, said the people have been deceived by his promises of housing, gifts, etc. Neil said why would the government ever change its position given the facts and the legal liability. Neil still doesn't get that we are in a Funny House... as he said, why should you count on anybody in Ecuador being rational. Could lead to conflict between us and Winston.

Work with Winston: help with depositions – Reis Veiga, Perez Pallares upcoming. They are going to send us outlines. Plus hot docs on remediation – must go to D.C. and check out, but our staff so thin. Right now dealing with Kohn meeting on money tomorrow; settlement memo; Bonifaz affidavit for SF; Bonifaz bar complaint; amicus brief for Sand; get our own affidavit.

David du Roth called—said in touch with Jolie and Pitt and wants to come in Feb. Wants to create conversation, not point fingers. Yea, get it buddy.

Talked to legal team. Took hour to set up call via Skype bringing in Aaron from Cairo. Uggh. Frustration – the OCP case is taking precedence over ours, and it blows my mind that Pablo just takes it up the ass again. On top of email I put: Atacamos o estaremos atacado. They just get into their comfort zone and have no regard for Joe – their stupidity, they think it will just go on forever.

Oct 15

The context is very uncertain right now. Noboa took first place in the election, with Correa second. Appears to be fraud. If he wins, we are fucked bigtime.

Kimerling files motion to intervene in Sand. Says Lago plaintiffs do not represent her clients. Poses a number of dangers to us – if he grants it, she suddenly becomes lead attorney asserting our claims. Makes me feel we erred in not intervening ourselves.

Raul said on the phone Friday that the failure to pay led to the withdrawal of the fraud claim. I am still smarting from that.

Oct 5

Key legal move: presenting no divergencia memo to judge, which is our first step toward really convincing the court as to our theory that the parties do not disagree other than the legal interpretation which is purely the province of the court.

Talk to legal team. Julio thinks Tandazo is paid by the CIA or directly by Oxy. I just thought he was stupid, although someone with good intentions.

Oct 4

Cristobal: Cristobal has hearing in SF today. Sent letter to Jones Day SF lawyer dated July 11, begging for settlement and claiming he represents the Lago plaintiffs still because the Frente had no authority to fire him because they are technically not the plaintiffs. How infuriating... we were holding off on the bar complaint... Aaron is working, and I am intent on filing it. The man is nuts. He has nine clients now in SF. Alsup's dismissal of the previous complaint has led to his abandonment of the class action. He is trying to hang on desperately, by a thread, in the event there are settlement discussions so he can be a part of it. But with his nine clients, he won't be a part of it. The more worrisome thing is he is going to use his old contracts as a way to strengthen his fee claim and challenge the Frente's authority to negotiate a settlement on behalf of "his" clients. In response, we are getting letters from each of the 47 firing him. He was an idiot to put his cards on the table. We will now seal the issue so he will have no standing. The man is desperate and pathetic.

Winston: They are now staking their entire case on the legal issues, but Aaron has his doubts and thinks they are overconfident. I agree – remember the conflict of laws issue. (See Aaron email from today.) I told Neil and team to be ready for a Rule 11 motion from Chevron over the withdrawal of the fraud claim. Neil says unlikely; I agree, but I would not put it past them. Had a huge laugh with Raul on phone this morning about 500 protesters outside JMB's office. He thought they were us. I explained we keep it among the dirigentes because it is hard to mobilize the masses to force the gov to pay a multi-million dollar bill for a U.S. law firm when they are making \$1,000 per year. I told Raul we would not abandon him. He just got back from Nicaragua, where he was helping with a canal project.

Luis: Just got off phone with LY. The issue with CB is making him physically ill – he has a headache and feels dizzy. He literally has a physical reaction each time we deal with Cristobal. It is crazy. This is going to be a tremendous amt of work, and a great distraction – which is exactly what loco Cristobal wants. LY explained that Raul Moscoso is now the Procurador of Petroecuador – that guy in the meeting last week, Pinos, is out. This is a huge break for us. I took the oppty to launch into a long talk about the importance of us coming up with settlement plan and lobbying the government and Chevron it. This will never happen unless we pull it together

and lead. I told Luis la “Guerra” can never be an end in itself, that it must be tied to political outcomes and that is where we have fallen short. I am determined to solve this problem soon.

Joseph launching English-language Frente Website today.

Oct. 2, 2006

Had huge talk with Neil and Raul last Thursday (Sept 28), day after I got back from Ecuador and day before the move, over fraud claim. I was all geared up to talk him into maintaining it, but I sensed I was losing ground as the Sept 21 deadline for authorization for them to hire their expert had passed and the reality was . So, the combination of the Ec gov’s inaction in failing to pay the WS bill, combined with WS’s lack of patience as a corporate entity, plus Neils’ fundamental conservatism, was leading to a terrible result by taking out best argument off the table from the Sand litigation.

On the phone call, I asked Neil to explain his position and shockingly I found it persuasive. He basically said he felt very confident on the contract issue, and felt he might win in on summary judgment or at least at trial (I think I remember the same level of confidence around the conflict of laws motion which he got slammed on). He said the hidden pits issue had gone from a potential major positive to a potential major negative. First, the time issue made him very nervous that he would not be able to complete the work by Nov 1, and it would piss off Sand and thereby boomerang back to undermine the one strong law claim they have. Further, he said that they could not find a witness in Ec to testify as to reliance. He was worried if they did all the preparation (even without the time issue), without a witness Sand would really punish them and even sanction them for leading Chevron down this path knowing they did not have a witness. Given the kookiness in Ec, I can understand it. On the other hand, this was their main weapon over Reis Veiga and the company, and it had been reported widely in the trade publications and in Ecuador. But Neil is a very traditional lawyer and does not consider things like press and negative publicity. This could play really bad for us, but we agreed to ameliorate it by WS sending a ltr to Sand saying it was being withdrawn not because it was not valid, but for reasons of stringent scheduling set by Sand.

The limitations of WS are becoming fundamental. We have such different cultures. Here they bill 3.3 million, and they cannot front their expert \$50,000 to cover his initial retainer while waiting for Ecuador to pay the bill. Raul is very clever – his main concern is that the bill get paid. He did the fraud thing and billed the fuck out of the time it took, and now – even though he is going to collect – he is dropping the claim. Amazingly savvy, but something about it really bothers me and gets me down. Lauren told me Manny and crew basically ignored her the rest of the week when she was trying to collect the denuncia document. Why do I feel like Raul is going to screw us in the end of the day via the negotiated settlement issue? His

reaction by email today to my idea to file the FCPA complaint on the day Sand is notified of the withdrawal of the fraud claim is just another example of his utter conservative approach to litigation.

Neil's worry Sand might sanction them is another example of how utterly wimpy they are. Chevron mocks the gov of Ecuador, and they won't fight back! When Chevron threatens sanctions, they fold. Chevron wants to win at all costs, whereas the gov of Ecuador simply has no skin in the game. The people making decisions for the gov do not care. There is no personal price to pay for not acting. For Reis Vega, this is his life and his career, and he has billions of dollars to enforce all of his legal rights. There is just a complete asymmetry and I realize Neal does not get it.

Lauren made a series of charts on the divergencia issue for the dirimente reports. In Lago, this will be Chevron's next line of attack to delay – to insist on expert reports for each inspection. This is a key issue, but I feel pretty good about where things stand.

I often feel, and perhaps now more than ever, that we are being absolutely overwhelmed with events. Aaron checked in today to inform that Cristobal's case in SF is still active, and that he used an email from Luis to blame Callejas for getting in the way of his attorney-client relations. He is truly crazy, and there is no way Chevron is going to settle with us as long as he is around. We are going to file the bar complaint against Cristobal. The money issues are getting terrible – still about 100g in debt in Ecuador, the inspections coming up, needing to pay Champs, file the FCPA comp, pay E-tech for the Global, pay off HAVOC, pay our regular expenses in Quito, pay me... the entire thing is an utter disaster. We can't move the case without money.

I insisted to Winston that they get 5-10 people to sign the law affidavit.

Sept 27, 2006

Two-day emergency trip to deal with Winston bill and the possibly horrendous consequences. Facing grave crisis – if bill not paid, Neil making serious noises about withdrawing the fraud claim, which is the best thing we have going. Expert reports have to be in to Sand by Nov 1, and now there is hardly anytime to factually develop the fraud claim despite all the work we have done. The expert is not even hired because JMB has not authorized a \$50,000 payment while they have an outstanding bill of 3.3 million, 1.1 million of which is gastos. Winston does not want to lay out any more money, and I can't say I blame them totally although I find their attitude aggravating as well. I also think Raul is in an incredibly stressed position in his firm, as this bill is the largest receivable. Further, Raul and his team have gone out of their way to push this fraud claim aggressively, and I admire the way they lead their client over this terrain, when their client would never now how to navigate it alone. When I look back, I am still amazed we actually sold Winston on the fraud claim – and this dates to that pivotal phone call from Quito last April when we confronted them on the disastrous conflict of laws papers and Sand decision. Of



course, at that time they had no idea their bill would not be paid, although given my experience in Ecuador I always thought this would be a problem. They had no experience in Ecuador – they were used to real countries, like Venezuela and Argentina, that actually paid their bills. I always felt RH was a little naïve in this area.

Moving this Friday (Sept 29), so I really did not want to go this week. I went because if I did not go, and they withdrew the fraud claim, I would be kicking myself for not doing all I could do. So I went. LY was preparing over the weekend. We spoke on Sat, and he was organizing “the dirigentes” to come up to Quito. Like so many times in the past, we would have to pull one out of our ass, estilo Ecuatoriano – like the time in the 1990s when the people took over the AG’s office to force the government to take a more assertive position before Rakoff. I took the overnight flight to Guay, so I came in pretty tired when I showed up at 8:30 directly from the airport. Raul had flown in the day before, and we had planned to meet at my office at 9:00 to coordinate strategies. I also called Vargas Pazos over the weekend to set up a Monday meeting, and he of course was happy to receive us. He is a good friend of Galo Chiriboga, and his new position as VP of PE put him in a strategically important position to help us. (VP is, among other things, tight with the Chavez regime and thus is tasked with a negotiation with Venezuela to build a new refinery in Ecuador which would have huge geopolitical implications.)

It was clear we had to meet with Galo Chiriboga, JMB, possibly the Minister of Finanzas, and even the President. Part of the problem was pinpointing where the power was to sign the check, because RH didn’t seem to be able to figure it out himself. One theory was that JMB had the money, but he did not want to spend it without authorization; the other theory was that PE had to spend it, as they were a defendant and client. Yet others said Rodas, the new (and 4<sup>th</sup> in two years) Minister of Finance was the one. And hanging in the shadows was this idea that Jamie Varela, Chevron’s Latin Ameica chief, was now living in Quito and possibly was a dark force in PE trying to make sure Winston’s bill was not paid. When I first suggested this to RH weeks ago in an email, I felt sort of stupid – like he would think I was paranoid. But I have never felt Winston adequately comprehends the nature of hand to hand legal combat with Chevron. Chevron wants to do whatever it takes to win, regardless of cost, and they are willing to cross the ethical line to do if they think they can get away with it. And in Ecuador, they clearly think they can make up the rules and get away with it. But now, RH says he is convinced that this is what Varela is up to despite their charming exchange of hellos a few weeks ago in a Quito restaurant.

LY via a contact (find out who) got us a meeting on Monday at 4:30 with Galo – kept us waiting for 90 minues, tried to shunt us downstairs to meet with the Proc, until I put my foot down and said we are not leaving, and we stood in front of the elevators (I had been dozing when we were told to go away). We knew they were going to a 6 p.m. licitaciones session at FLACSO. When Galo came out, he realized who we were and much to his credit he brought us into the conference room and we all sat down. LY, Robinson, the Siuna leader (get name), the woman from

Shushufindi, Lauren, Julio, Juan Aulestia; Galo had Pinos, his Proc, and a couple of sycophantic aides. Julio started and laid it on him, and that was not a good idea as Julio was very aggressive, impressing upon him the interests of the country, etc. Galo came back and ripped JMB – why should I pay if I did not sign the contract? Why has he not shown the institutional respect to even explain it to me? I have debts of 241 million, and I don't even get my own money. We are not a normal company, all of our money goes to the Ministry of Finance. El Proc gets 1% of the monto of all public contracts, and we sent him 17 million just this year alone based on contracts we signed.” I was surprised that LY did not weigh in, I was kicking him in the leg. I spoke as well, and calmed things down. Julio basically turned up the heat, and I did not think that was the way to go although I admire his guts. It just looked bad to have a 25-year-old tell a 55-year-old minister what he should be doing with that kind of attitude. On the other hand, sometimes I think pushing people to leave their comfort zone can be productive, but not sure this was one of those times. Our idea was to get Galo and JMB together to figure out how to split the pie. The meeting was not good, but it clarified things, and we left with the opening for him to meet with JMB. It looked like this could happen without Rodas' involvement.

We then went to Proc office and met with JMB (LY, Julio, and myself – we downsized the group). I remember the office from a previous meeting years ago – dark, foreboding furniture, bar code labels still on some of the furniture. Raul was in meeting. A couple of young aides kept coming in and out, and a bevy of secretaries and helpers were out in the front room – it looked like a harem almost, and after meeting JMB, it was clear this was a man who liked to be in charge and give orders to people, a person who liked to surround himself with “yes” people. RH even told me when JMB took him out to a restaurant, he insisted on ordering for RH. Classic Ec b'cratic showdown – JMB said Chiriboga should pay, so they were at a standoff, but at least they both recognized that they were obligated to pay, and that it was in the national interest to pay. Julio told him that Galo was resentido, and JMB listened carefully. Amazingly, JMB stood up without saying anything, walked back to his desk piled high with papers, and put a call in to Galo. Galo was not there, but I admired the gumption. JMB is extremely smart and sophisticated in Ec bur politics. He had just sent a ltr that day to Palacio with a kind tone but confronting him on that idiotic ltr that Palacio sent to the arbitration tribunal on Sept 1, that had to come from Tandazo. Supposedly, Alberto Wray had been in the tribunal meeting with them when the letter arrived, and he was mortified he had not been told. Yesterday (the day after our meeting) it was front-page news. Anyway, it was clear that JMB was turned on by the fraud claim and was willing to sign the FCPA complaint. Raul blows my mind – he is the one leading JMB down this path, and it comports with JMB's desire to fight the American company, which works politically in Ecuador and plays to his macho instincts.

Bottom line is that RH told me later that night – I met him at the Marriott for dinner – that after we left, Galo called JMB and they worked out a deal where Galo would pay the expenses and two-thirds of the fees, while JMB would pay one-third

of the fees. The question is when would the checks arrive, and would Winston have the guts in light of these promises (which have been made in the past without fulfillment) to hire the expert and maintain the fraud claim even if the money takes a few more days to arrive. This is where I am right now – I just fired off a quick email to Raul and Neil from the Quito airport, telling them to please get going and to not let the perfect be the enemy of the good. Jesus, putting in a fraud claim that is 75% factually developed is far better than no fraud claim at all. Just do it! And if it does not work, withdraw later rather than now so as to keep the hammer over their head for as long as possible.

On Tuesday, went to see Vargos with Luis, the Siuna guy, the Shushifindi leader, and Lauren in her jeans, jogging shoes, and navel-revealing T-shirt. We are using Vargos to pressure Galo, but it is unclear if even Vargos gets the stakes. He took me aside and again asked me for the camioneta for the close of the campaign. This is starting to stress me. He also makes passing references to fact no “cumple” and cosas asi. It is starting to cross the line from good-natured ribbing to something more serious, and I’m not really liking it nor do I feel I am handling it well. It is clear he expects something serious and material in return for the favors. We bought two meals at Crepes and Waffles for his wife’s raffle yesterday for \$60.

Our case: we are asking for inspections today. Ask for 3, not 4, all in same week, but we still don’t have perito. Woman biologist turned us down. Joe ignoring money memos, and we could be facing serious problems as a result.

September 13, 2006

Ec culture: none of the bank machines worked, none of the machines near airport worked, and almost missed plane as a result. Andres told me that to extend visa, had to pay \$10 in cash – but made people go to bank, do direct deposit, and then show the receipt to get the visa. The government doesn’t trust itself.

Had b’fast and dinner yesterday with Vargos Pazos, who is now a VP of PetroEc working under his old friend Chiriboga. Convinced him to do deposition asked for by Chevron, and he agreed after initially rejecting it. Told me about three tendencies in government re: arbitration: Tandazo (ignore it); Chiriboga, head of PE (show up to defend, but do not participate); and JMB and Alberto Wray (fully participate and defend). The Tandazo position might explain why the Winston bill has not been paid. I need to understand this issue better – how do I know Tandazo is wrong? VP said he would set up a meeting with Chiriboga and Tandazo. Tandazo and others have attacked Alberto for being a traitor. We have to see how this plays out – it certainly is not the image we want when he makes the final argument. On the other hand, it might allow him an oppty to redeem himself. Correa seems to be rising in the polls, and VP thinks he might be the defense

minister if Correa wins. He asked me for a camioneta so he could campaign for Correa and increase his chances of getting the defense ministry post. Incredible! The campaigns here seem to be all about caravans of cars going thru the steets, waving flags and playing music.

PDVSA rep in Ecuador was at dinner meeting – Luis Marquez. Gave him stuff. Got ball rolling. Really nice, humble guy. Interesting PDVSA has rep in Ec. Larger vision is that Venezuela builds a huge refinery in Ecuador on the Pacific Coast, from which it can export to new markets in China and Asia. Love it. If Correa wins, that kind of thing could really happen.

VP's daughter there. Told story of how stole 51 head of cattle. Has 3,500 acre farm in Concordia. Sells African Palm oil, bananas, raises cattle. The guy has wealth even though always crying poor. Wants to sue Noboa.

Legal case: going well with Yanez decision to cancel inspections. Chevron erupts. Big blow. Ironically, a function of other complaints about Yanez that we had nothing to do with, but that her perceives that we are behind. Pablo seemed to really handle it well. We wrote up a complaint against Yanez, but never filed it, while letting him know we might file it if he does not adhere to the law and what we need. The worst part is that after the decision – which was covered in the Ec press and the Oil Daily – he told Luis that we needed to back him now as he fights for survival on the court. So instead of a strong judge who sees the viability of our case, we now might have a weak judge who wants to rule correctly for all the wrong, personal reasons. Need to get going on the inspections (looking for perito) and peritaje global.

It is obvious Ecuador is a country where stuff gets done based on personal relationships. As I develop more of them, the more fuerza we will have. But to do that, I really need to spend more time in Quito – even live in Quito. Then I could know Correa, Maria Paula, etc. Our team couldn't be working better right now. Camino lawsuit against me and Joe in U.S.

Trip last Friday to Coca with Charles Champ. Visited Lago Central and Sacha Central. Champ's impressions. Old saying in East Texas: "It has to look good from the road." Saw clean –up operation by PE in Sacha Central for 300 plus pits. Encouraging, and threatening. Need to look into it more.

**July 25, 2006**

Coming back from a four-day trip. Had press conference yesterday to announce coalition. Went really well, excellent posters, Joseph did great, Lupita not talking to me. Huge breakthrough this week: the government sued Chevron in U.S. court, and the development hit the papers in Ecuador and Reuters. Lehane is working the WSJ. Bonifaz case dismissed yesterday. Discussion with Pablo and Luis at lunch about settlement possibility, and path to get there.

Three potential breakthrough pieces of news: settlement talk with Raul, gov accuses Chevron of fraud, and Bonifaz SF case dismissed. It is like the fog lifted and blue sky appears: I see a path to the end for the first time. Not that it will be easy to get there. But at least one can see how to get there. That is a first.

What Robinson told me about the Bormans showing those films, and then 20 Cofanes were baptized. Pablo shows me that some TPH levels were about 5,000 in the clean-up as reported by Texaco.

Legal taller – Pablo go teary-eyed when I came down hard about changing the structure of how we approach the case, instead of just working within the structure. Luis and Aaron were there – APV on vacation, Julio with broken leg. Our legal team seems to be getting smaller by the day. The upshot is we still have the same old problems. It appears the corruption charges against Yanez which came out in El Comercio two weeks ago have embroiled the entire court in a patricidal war. Yanez then filed a queja against Guerra, who had filed a queja against Novillo. According to Pablo, Guerra wants control of our case. He also said there is the feeling in the court that we are behind the complaints against Yanez and Novillo, which we are not, even though we have much to complain about, which is sort of ironic. I asked if this theory in the court hurt us or helped us, and both Pablo and Luis said it helped us. At which pt I launched into my familiar lecture about how the only way the court will respect us is if they fear us – and that the only way they will fear us is if they think we have come control over their careers, their jobs, their reputations – that is to say, their ability to earn a livelihood. Goes back to what Mateo said months ago, to my Peru analogy about that petty thief being burned at the stake. I have never felt Pablo understood this fundamental issue, even though he is a committed leftist – it's like he really believes in the law as a vehicle for social change. But it also has to do with something he can't control, but I suspect that he realizes privately – his lowly social status in a country where privilege is ingrained and totally tied to power. When Pablo walks into the court, he is one of them, no different from the secretaries and clerks – a punk kid from the Amazon, with nothing to back him up, nothing to fear, no strings to pull. When Callejas walks into the court, he has 500 years of history behind him – plus the awesome power of an international company, unlimited resources, full-page ads, a villa on a military base, and utter arrogance that comes from knowing you are the it man. So when Pablo says he talks to Guerra, or any of the other judges, I just don't know what happens behind those doors. I know he does his best, and what he says is likely excellent. But they don't fear him, and without fear, we are going to lose no matter how strong the evidence. In fact, because there is so little fear of us, Texaco is in the game in a big way despite the fact they are losing overwhelmingly. Luis Alberto was

supposed to come work for us, and help Pablo in Lago by monitoring the court. After accepting the job, he turned it down – to take a job as a teacher, so he could save money to get an LLM in the United States. I don't understand the thinking – if he worked for us, he could more easily get a beca or something. But it amazes me how few Ecuadorian lawyers do not rush to work on this case.

I feel again like the vise we were in in my last trip still exists, despite the flicker of hope when the El Comercio article about Yanez came out. Our issues first and foremost are whether the judge will accept the renuncia of the inspections. If this happens – and Pablo thinks it will, but I and Aaron think he is overoptimistic – then we have to face the prospect of more of the wasteful, time-consuming, and expensive inspections. If it doesn't happen, then we are in all-out war with the judge to get him removed. Hanging in the back is Luis Munoz, who is now a candidate and according to APV as powerful and corrupt as they come. Texaco now realizes their best defense is to ask for as many inspections as possible. In a separate case in the same court, the OCP just asked for 91, while the plaintiffs asked for two. The amicus brief we submitted addresses precisely this issue.

Assuming the renuncia is granted, we want to do four more inspections; Texaco has ten. Ideally, we will march right into the inspections after the judicial vacation and finish our four by the end of August – if Joe puts the money in. But there are still other unresolved issues that could kill us. First is the dirimente issue. Pablo is arguing we go along with Yanez and agree to one perito, to get rid of the dirimente issue. But how can we control this perito? This means putting names before the court, but we have no names – Fausto Penafiel is gone, and he never came up with people anyway. Manuel is pretty much AWOL. And there is a very small pool of technical people who are not “contagiado” (in the words of Luis). So the single perito theory sounds good, but it is all in the execution. And you just know that Texaco will have a slew of available candidates, and will probably pay them on the side to boot, so they can be controlled. So I suggested we stick with two peritos, get rid of the dirimentes because there is no divergence, and draw a line in the sand to pressure the court. I always liked two peritos, because at least we could control our results 100% and then argue the shit out of it at the end. Having one perito concentrates way too much power in one person appointed by the judge, and given Ecuadorian politics, I don't see any one perito really coming through honestly about what is happening. But Pablo never wants to draw a line in the sand, and that is where he got teary. It was probably the stress and loneliness; perhaps his feeling that he did not have my support, in general. Perhaps my arrogant statement that if we cannot resolve these issues, Joe will not put more money in – a true statement, but a veiled threat to a friend, made inelegantly, and no doubt taken by him as a slap in the face. So, I mellowed and agreed at least for the time being for us to pursue the one perito solution, and try to shape it to our favor. This seems implausible with Yanez as judge, but we might just have to eat some problems to finish the last few inspections. As long as he takes out samples where we want them, and doesn't opine on larger issues, we should be fine. But I am not comfortable with this.

So then the issue becomes, should we file the complaint against Yanez with the judicatura, which we were supposed to do on Monday but we held off because the court situation is so unsettled and we thought Yanez might be forced out anyway. Another issue is we need another lawyer for Pablo while Julio is out – and we need another lawyer anyway, somebody to scour the trial record for Texaco’s admissions – a job that in itself could easily take months. There are no obvious names, but Julio is looking. In Lago, Pablo and Luis said there is no lawyer available not “contagiado” by the corrupt system. Just to hire a lawyer is becoming virtually impossible. Then there are the 8 exhortos which Pablo and APV painstakingly prepared and had translated – shit Alberto asked for in the first week of the trial to come from the U.S., but most of which we probably don’t need anymore given how events have transpired. This could take months of additional work – the exhortos have to be certified by the Cancilleria in Ecuador and then sent to the U.S. courts where certified info is sought directly from the judge or the clerk. Alberto also asked for a deposition of Dan King, for what reason I have no clue. And someone in the U.S. would likely have to work extensive hours following up, because the information has to be returned to Ecuador within 90 days. Plus the cost of a deposition. Sure, Joe is really going to be into this. I asked Pablo if we could withdraw the exhortos, and he seemed taken aback. Of course we can, and maybe we will. I need to look at them before we march down this path of further resource suck. But neither Pablo nor APV even ask the question if we need this stuff – since it was asked, they just automatically sprung into action. It seems so much of their litigation philosophy is based on: since this is the way it has always happened, this is the way it must happen in this case as well. I can’t seem to move them off of this.

I went off on Lupita Sunday night. Once again, she is getting in the way by trying too hard. She sent out an aviso Sunday night that said Texaco is accusing the state of fraud, rather than the other way around (actually, the way she wrote it, it could be read both ways). When Pablo pointed it out, she got all arrogant and acted like it was not a problem. She has an incredible level of defensiveness when criticized. But what really pissed me off was not the error, but that she didn’t run it by me before sending it out even though I was in the next room. Then, she refused to admit she made a mistake. She said me and Pablo were being too technical as lawyers the way we were reading it. This follows a serious, serious mistake last week when in a press release that described what Borja was saying, she put quotes around the headling even though he didn’t actually say those words. I told her and Joseph after that that nothing goes out that Lupita writes or edits without me looking at it first. So I started yelling at her, and Kush was there, and the reality is that I mishandled it and it made me look bad. She started crying. This also follows me going off on her Friday morning (my first morning) when, to assess our status with the Monday press conference, I asked her for the press list and she didn’t have one. She just had a bunch of loose sheets of names and numbers. And, she couldn’t produce the email list. The whole thing was not a system – it was Lupita’s way. I had this of both her and Joseph repeatedly. Frankly, I can’t wait for her to leave. She is using our work to fill a gaping whole in her life. While this produces enormous dedication, with positive results, the spillover effect and problems makes it really difficult to deal

with. And where is Joseph? Not asserting himself. I apologize to Kush, sent Lupita an email apologizing, but she did not respond.

About three weeks ago (at the end of June), just when Joe was ready to pull out, I sent to Philadelphia and presented him a plan after having sent him the honesty memo. It was a holding plan, but in reality we have not been in a holding pattern. Joe was pretty cool about it, but I basically said we would be crazy to just close shop given the investment to this point, when so many things (like the Winston case) could move in our favor in the coming weeks. Joe agreed, but now Carol is gone and it is unclear how things are going to go administratively. Amazingly, I called Raul Herrera the week after the 4<sup>th</sup> and caught him in the Miami airport on his way to Spain and Morocco for a family vacation. Raul is a real family man, and he is genuinely happy for me that I have become a father. Anyway, he told me some shocking news: the Jones Day lawyer approached him about a settlement. The number \$150m came up. I insisted he not leave us behind. He was real cool, said at this point his client was not interested in a settlement, but we talked about a three-way. I always felt Raul was the perfect person to broker a three-party agreement. But this will take a lot of work. We talked about a \$1b figure over time. I called Joe immediately, and we are planning to go to D.C. to meet Raul sometime in August.

June 24, 2006

Three day trip. Sent Joe a critical memo Friday of last week on prospects for case, as he had told me he was loaning his law firm money and situation was really grave. This is first time I felt this from him frontally since the case began, but I knew it had to be coming at some point – I knew we were testing him limits, but I never knew how close we were coming. He posed the question of whether we would really get a recovery, and he said he thought it was no greater than a 10% to 20% chance. I thought that was low, but not unrealistic. After hearing that, I realized he was thinking seriously that the case might have to be abandoned. He said he was loaning his law firm money personally to meet payroll, given that several major fees they were expecting had yet to come in, including the one on the Marcos case. So I wrote the long, interesting memo laying out four possible scenarios (see memo). The reality is we are going to put the case in deep freeze legally for two months until the situation clarifies itself. That said, the hard economic reality has forced a rethinking of the strategy. I presented the entire new strategy to the team yesterday, and everybody bought in. I truly feel this is the best move both because of economic necessity (we have no choice) and practical reality. We need to stop



flying steady, and try to nosedive to the end as quickly as possible. Otherwise, we risk becoming extras in what is fact becoming a circus act.

The Winston lawyers were in town all week – Eric, Neal, Manny and Tomas. What an awesome group. This has worked out better, in a faster way, than I ever could have imagined and I am very proud of our team in making it happen. They filed the fraud defense this week, which is going to completely shift the dynamic of both litigations if it plays out how we have planned. The next battles are going to be Chevron's motion for a protective order, and their motion to deny the granting of the motion for leave to amend the complaint. Chevron realizes the cakewalk is not going to happen, and that their aggressive litigation has forced the government to come completely into our corner. I wonder, however, if the Attorney General even realizes what Winston is doing in his name. This is a major, major move by the government for the first time in the litigation.

Meeting with crème de la crème of leaders of social groups on Thursday night. Now have plan to use down time to activate case.

Bonifaz affidavit in San Francisco case, and preparation of Bar complaint.

Talk to Atossa about going forward.

Laying off Fausto, etc.

June 3, 2006

Riding home to Miami. Two straight trips without press. The last night, Maria de la Cruz said I did not seem tired like I usually do at the end of my trips. The reasons is I felt really jazzed at the end of the day because I finally feel we have a competent team in every position – at least we did this week. Having Ann and Mark, with Aaron and Daria, with support from Alejandro and Julio, makes me realize what could be, and what could have been had we had this support from the beginning. The office was a beehive of activity, people meeting in the kitchen, in every available space; we had 15 people working in the office yesterday. Ann's story about case in Denver scared me – all expert witness testimony got tossed out on Daubert grounds. She said you have to have great lawyering and really tight science to win these cases, and of course I am worried we have neither. We have materials together for the WS meeting on Tuesday – they look real good. I just have to get the presentation together on Sunday and Monday, and pull it off at the highest level. I am feeling like I need more cases; I don't want this one case to become my life.

Lupita told us yesterday she was leaving at the end of the month to move back to Colombia. Boy, did she turn out to be a winner.

Texaco files papers asking for two inspections before the judicial vacancia – our inspections, not their inspections. The nerve. Taking a totally hard line. Luis agreed about a significant mobilization the last week of June. That is going to be a lot of work. The amount of work is killing us. We still haven't responded to T's attack on E-tech from April 25. Supposed to meet with Borja, the AG, last night but it got canceled due to traffic.

June 2, 2006

Intense day yesterday. Splitting head ache, dehydrated, did not sleep well. Getting Winston papers together when Pablo gave us a shock which again reminded me nothing in this case goes as planned: Callejas changed mind and rejected our agreement for the next seven inspections, because his jefes in the USA are sticking to their hard line, trying to force us to do all of our inspections, and they want the next group of inspections to be 8:1. I tried calling the judge by cell phone, and he did not know who I was, and he lapsed into canards about my office is always open, I want to be fair, etc. The call was useless, and reminded how weak the judge was, and how he lacks self-confidence, a personal and institutional characteristic that is killing us and helping Texaco. Our 2-year plan to finish the case requires a determined judge willing to make decisions, and that is not this guy. This led to an intense conflict with Luis and Pablo, because it is become even more clear this case has turned them into petty bureaucrats rather than political leaders. Pablo is a lawyer's lawyer, and Luis is exhausted and inherently dark about mobilizing people, and the combination has led to a situation where we have de-mobilized the base communities. I told them we need a massive protest on the court, and only after that should we talk to the judge about what he needs to do. The judge needs to fear us for this to move how it needs to move, and right now there is no fear, no price to pay for not making these key decisions. Luis resisted: "What are we going to protest about?" Oh, maybe the fact we are going to lose the case unless it ends soon? I mean, get off your ass. He just sits up in the office and does nothing. I really think he should go back down to the jungle and live there as an organizer. But if he does that, there will be nobody to run the office. Our lack of leadership and the thinness of our bench is just killing us by limiting our options. I also had an intense argument with Alejandro, blasting him for thinking too much like a lawyer. I argued intensely with him about the issue of the protest and having an American appted as the perito for the peritaje global. Both he and Pablo think within the four walls of lawyering, rather than see lawyering as part of a larger campaign to win justice that requires action in and out of the court.

Had lunch with Fernando Reyes. We ended the arrangement, said it might pick up later. He is perfect example of what is right and wrong with Ecuador technical

people. So weak, so unwilling to out front. But had dinner with Ann and u realize why: there is no market for people willing to do work that holds oil companies accountable. You simply can't make a living doing it. It goes against the flow of the entire economy. Which gets back to my point that we need a foreigner as the expert for the global. No Ec is going to come through and hold them accountable for billions – it is just not going to happen. Not even the most progressive, reliable people in the country who work in any of the related fields is going to do it. Without that insurance, I just don't see how we can go forward with the global peritaje.

The work ethic driving me nuts: Manual never showed up to work with E-tech like he had promised; Fausto bailed on our lunch, without telling me; Luis Villacreces never showed up as promised. Olga had never showed up the day before because of her husband's doctors appt, plus she had an accident; and today, Alejandro has to go to a funeral. There is no management in the office, exacerbated by the constant late payments that probably give people.

As an aside, Daria told me the female interns took offense at my comment on Wed night (when I met with them) suggesting they might want to establish a personal relationship with the judge and lobby him, and that this could help the case. Don't know what this means, but it is clear these people are real young. That was probably a little too much for them to handle. My guess it had more to do with their fear of the level of responsibility it implies.

CB sent email to Alfredo saying because of 2001 Lago court decision we are losing the case. APV sent email showing him SC case (Torres case), saying he shouldn't opine about the law when he doesn't know all of the cases. CB sent email back saying we should send it to Herrera, which of course we already did last week during our 10-hr meeting.

### **May 31, 2006**

Two big events: last week, went to D.C. to meet with the WS lawyers. Like opening the floodgates with Neil and Eric Slocum. Raul was in and out, but he was called out. Biggest issue is whether they will have budget to fund a significant shift in strategy: amend complaint to put fraud issue in, depose Reis Veiga and go to the highest levels of the company, and force them to squeal, force them to ask for a stay. But everything is on such flimsy ground, and I am sure neither Neil nor Eric really understand the things that could stop them from filling their promise as the good litigators they are: the fact Borja has to sign off on it, that Raul is not necessarily the strongest arm-twister to get him to see what has to be done, and the fact Borja himself is so weak now as a result of this role in the Oxy debacle (he first said the contract was illegal, and when he wouldn't keep it up, he became the target of protests).

Yesterday we had a 5-hour taller and it was extremely intense and frustrating. Went through options on Global Peritaje – had Plans A through E, and I realized how difficult this aspect of the case is going to be. Bottom line problem is we will have no control over the perito, who will be appointed by the judge. Pablo and our legal team keep insisting that the solution is for the judge to appoint someone who is favorable to us, but I don't trust this approach given our experience so far. All T has to do is ask for a bunch of sampling, and they will end up paying the person more. Moreover, they could stretch it out tremendously. I feel like the harder we work, the more the horizon recedes. And our legal team is stuck in such a box. Aaron noticed it too. Example is the idea of appointing a foreigner as a perito for the global – this was rejected out of hand by Alejandro and the team. I finally raised by voice and said simply: "Tell me how to do something instead of always telling me it can't be done." I really wonder whether I can tell Joe in good faith this thing is going to turn out all right. We are winning on the proof, but we are losing the larger war because of time. The other thing I noticed is that we have not put in proof for the other main categories of damages: degraded habitat, cultural damages. Why had nobody thought of this? Finally, I made a pretty lengthy speech about the need for a political strategy. We had been asleep on this for 12 months, for a lot of very explainable reasons – mostly exhaustion, lack of resources, the dark nature of Luis, lack of leadership, lack of people to organize. This has to change. We can have the best proof in the world, and if we don't have a political plan we will surely lose. On the other hand, we can mediocre proof and a good political plan and stand a good chance of winning.

The sheer amt of work is overwhelming and there are so many moving pieces I don't know if we can hold it together. Our legal team being on the same page; Alberto Wray sticking with us, when he pays little attention to what we are doing; the WS legal team; Borja, who will be out of office soon; and Joe feeling like he still wants in. Money is a glue that can hold all of these disparate elements together, and we don't have much of that. A corporate hierarchy is another glue, and we don't have that. Yet Texaco has both, and they are able to deftly coordinate their legal strategies here and there. I think it is a miracle how much we have accomplished with so little, but in the end of the day that means nothing if we don't win. Really, what does it get you to claw your way to the finals of a sporting event and not win, knowing your loss will essentially doom the franchise? You are fighting constantly to not let that fire burn out. And then I see my life being consumed by this, and I see no exit anytime soon. You can't do this part-time, and the reality is I should be spending more time here, not less, yet I have a son coming and a marriage to build and enjoy. So I am feeling like my options are shrinking, not expanding. Which is why I can't fault Daria and Aaron for wanting to go to Egypt as opposed to continuing here.

### **May 13, 2006**

This week was first time in many months that there was no inspections, and nothing going on with the press. We had a two-day workshop Monday and Tuesday, and we were able to really reflect on the case and get out of the drug-addicting fast action of the actual trial and actually think about where this thing is heading, or as the case may be, not heading.

One thing that is totally clear now is the absence of CB. We are now on our own; our favorite whipping boy is gone, and while he can still cause problems, the reality is that it is now our responsibility and ours alone – both to finish the case, and to clean up the mess CB left behind for both us and the Ec government. What bothers is the failure of LY and Ecs to take responsibility, to try to close out the case, to see the issues with more clarity and therefore to see the obvious course of action as necessary. They still depend on the gringos, a dependency ingrained for centuries, fostered and exploited by CB, who took on the caudillo role and often exercised it with a combination of oppression, charisma, charm, and manipulation that produced the desired effect in the short term but in the end has led us to edge of disaster. That is why Joe was scared to ditch CB: he always thought he possessed a sorcerer's wand, the person who could fix things in Ecuador with a phone call from his Mass farmhouse. We are now paying a heavy price for the deference given to CB.

***The Sand issue and the crappy WS lawyering:*** The first hurdle we had to deal with was the fiasco of lawyering at Winston & Strawn. In their defense, they parachuted in during Year 13 and just never picked up on the tenor of the litigation, the need to present a worldview of a dishonest corporation trying to avoid its legal and ethical obligations to some of the world's most vulnerable peoples. Instead, they basically accepted Chevron's worldview: that they were the responsible party, they brought benefits to Ecuador, they cleaned up responsibly, and now they are getting screwed by a Banana Republic country and a greedy band of plaintiff's lawyers and their campesino puppets (Aaron and Daria's very smart characterization.) WS accepted without counterargument two of Chevron's key contentions: that the contract was valid, and that the cleanup was adequate. They limited their argument to the single issue of whether the release applied to claims that could be brought by third parties – an argument that provides an extremely narrow reed on which to rest the entire proposition when there was so much more to work with. I asked Raul for a phone call, saying we had some concerns and suggestions, even though I was sickened by the whole thing. I requested he get his other lawyers on it, and on Thursday we had the call – on his end, Neil Mitchell and Karen Manley, two WS lawyers on their team who I have been dying to contact but out of deference to Raul steered clear of; and on our end, Joe and myself with Alejandro, Julio, Aaron and Daria listening in. Before the call I spent another 3 hrs reviewing their papers, this time reading the affidavits, and I realized even more why Sand ruled how he did: Chevron won the battle of the affidavits interpreting what Ecuadorian law means, concluding amazingly we had no legal basis whatsoever to sue Chevron in Ecuador for general environmental damages. They wrote the affidavit simply – 3 pages, and got four prominent lawyers to sign it. In contrast, the Winston affidavits from Crespo and the two other clowns (who charged \$20,000 to write it) were confusing, meandering, long, and off point; they never clearly addressed the fundamental issue that Chevron was raising, which is whether we had a legal basis to sue in light of the contract (shocking that would even be an issue at this point, and testament to Chevron's clever lawyering and the government's crappy defenses up to this point). That is, the Chevron affidavits were exactly what a US judge would need to make sense of a complex foreign law issue, while the Winston affidavits were exactly what he would need to never figure it out. Before the call, I was stewing. I could not believe that they had been so arrogant as to have submitted those papers without running them by us first.

On the call itself, I pushed several issues as diplomatically as I could – for example, I brought up the issue of the affidavits, the fact they had not raised the fraud issue, and the fact they had accepted Chevron's worldview in the statement of facts. Raul was silent on the call; this was a condemnation of his lawyering, and it might have embarrassed him in front of his colleagues, whom I suspect might have been frustrated with him themselves. Neil could not have been more gracious, and Karen did not speak. The end result is that they asked for a 2-day meeting, which we skedded two weeks out. Although AD and the rest of the team seemed relieved at lunch, deep down I know getting a meeting with the WS lawyers will do nothing to change the dynamic in the short term with Sand, even if the WS lawyers are open to our suggestions. The reality is that is way too late for them to change the worldview before Sand, and to raise the fraud issue, which likely cannot be put on the table at this point since it has not been raised. Somebody needs to get the fact that 30,000 human beings are dying before Sand. If u read the papers, it is as if there are no people involved, just legal issues. That leaves only one option – that we file a motion to intervene and we raise the issue ourselves, and thereby change the dynamic of the litigation completely in the short term. Even arguing it and getting it denied could change the dynamic significantly in our favor. The more I think about it, the more I see it as a necessary option although I know Joe at this point is not on board. Way too much power over the lives of these rainforest peoples is now concentrated in the hands of one American judge who appears to have no clue about the context and history of the litigation. The next day I called Raul – I know he feels betrayed by me, and I feel bad about it, because he is a great guy and we get along famously. But he is a transactional lawyer, not a litigator, and I think much of this type of case is new to him. These is not a commercial dispute between large companies; this is a political, historic case for environmental damages that Chevron and probably the entire energy industry has a vested interest in crushing completely and then erasing any memory of anything good happening out of this that might linger

Maybe I could have been more gentle, but if I was, I don't think they would have asked for a two-day meeting or been awakened out of their slumber. The discomfort Raul must feel after that call is a necessary byproduct to break the logjam that prevented open communication between us and the gov's lawyers – something that Raul apparently believed he needed to limit to politically protect Borja, who has higher ambitions and who is famous for not wanting to take responsibility for his actions (see Oxy contract issue as Exhibit One, where he initially said the contract was illegal, then he said the President had to decide, who then said PetroEcuador had to decide, who then said the Minister of Energy has to decide, and now he is subject to ridicule by many sectors of the country). I fear that Raul, who prides himself as a savvy political operator, is just the latest American to get eaten alive by the carnival thicket of Ecuadorian politics. But what does he care? He wants to win, but in his business he knows you win some and you lose some. The good thing is, u always get paid. He wants to win because if you stop winning nobody will hire you, but the consequences of an adverse decision for Raul and the WS lawyers are negligible compared to what they are for our clients and our legal team.

***Back to the trial, trying to keep it moving:*** So while we were dealing with the larger issue before Sand that threatens to destroy everything we have fought for over the last

several years, we still need to deal with the details of the ongoing case and keep that moving as much as possible toward a resolution – both because this is till the case, and if we don't move it forward, then any positive dynamic that could be created on the Sand litigation will be squandered. This is another area where I feel like we are hitting new and vicious obstacles that threaten to sink the enterprise. The big issue at the taller, in Juan Aulestia's beautiful house, was the length of the proceeding as come upon our three-year anniversary of filing the action. It quickly became apparent, as we discussed tactical details, that people are not looking at how Texaco is winning the big war even as we prevail in various skirmishes. I broke down how long it would take to finish the case if all the dirimiente reports and responses are done, and we estimated that it would take about six years beyond where we are now. This seemed to take everybody by surprise; nobody had wanted to think about this, people just charge ahead with a worldview no longer than a few months out, without thinking thru the consequences of decisions – for example, Alberto's disastrous decision to ask for so many inspections, and then accept the appointment of five dirimientes who proceeded to rip us off and not to any work, and who are now holding up the case. PF said Yanez had 14 completed inspections reports to send to the dirimientes. It has become clear to me that the key issue here is that we have to kill the idea that the folly of the dirimientes should continue. The reality is that these guys, like the judges, are completely out of their depth and for economic reasons will not express an opinion, as both sides are sharing their cost and they don't want to anger either side. Luis Vallacreces said Echeverria told him that directly; he also told me Echeverria had a hand in the disastrous Sacha 53 dirimiente report. Thus, any hope I had that he was a different breed of expert has vanished. The other thing that tells the dirimientes are worthless is that G and F have been unable to state a real opinion and they are supposedly on our side! Worse, PF tells me that even if Yanez dispenses with the dirimiente reports, theoretically saving us time, the next judge could then order them anyway, extending the case even longer. Why would Yanez order the reports when he and everyone else knows they are useless? The dangerous combination of not wanting to make a decision, with the fact they this is an American case and who cares, people can just keep making money.

Big remaining issue: have inspections or wait and conserve resources. The money is issue is killing us. Debts at 114,000, people waiting to get paid, they have families, not a good dynamic – moral in the office seems low, and that was confirmed by Lupita. Have to force the issue with Joe, I think I am failing here. CB always said u had to make it appear that u had no money, or the people in Ecuador would eat u alive. He was and is right – look at Alberto and Monica as Exhibit A. We have to keep going, keep pushing, we have to believe we are going to win, we have to create the energy that we are going to win, otherwise this entire thing will wither and die.

Other facts on this trip: Juan Aulestia blasting me and Luis for not tying the case to the larger national debate on oil, as in the Oxy matter; preparing CB complaint to Mass bar association, and the weird feelings it generates: conversation with E-tech yesterday about trip planned for late May, and feeling like they too are overwhelmed with the combination of annexes and field work they have to do; problems with HAVOC lab, the fact that the samples match exactly and that they haven't produced quality and control documents; Fausto P's lack of leadership and administration; Edison Camino case against me is dismissed – it was fucked up that the judge would not let us press a defense, and it

was fucked up that she dismissed it when he arguably had a claim against me. I believe we have, via intimidation, put an end to two lawsuits – the one about the Havoc inspections, and Camino's lawsuit against me.

### **May 7, 2006**

On my way back. Two major events have unfolded in last two weeks: 1) CB filed a second lawsuit in SF, and (2) the utter recklessness, incompetence, and malpractice of CB and Terry Collingsworth have threatened to destroy our case. I have felt sickened this entire week after reading Sand's April 6 order on the conflict of law issue. Basically, our entire case now could be decided by Judge Sand under US law, after Texaco had argued for years that the case should be in Ecuador and heard under EC law. How did this happen? Review CB's utter incompetence. Question as to make out a bar complaint, but that might bring in Skrinick, Joe's friend. Anger at Joe for his enabling of CB for so many years. So clear neither Pablo nor Julio understand the jeopardy we are under – Pablo calling it a "estupidez" that Sand could interpret the 1998 settlement as covering the individual claims of citizens for general environmental remediation. The Winston lawyers papers were incredibly weak compared to Chevron's; they did not allege several key arguments, like fraud, comity, respect for Rakoff's decision. CB commits malpractice, bails out, then files a suit for the only category of damages that not even Chevron believes are covered by the settlement agreement. He is foul, and this has without doubt ended whatever relationship I had with John, who is on the SF papers and still touts on his website his role in starting this landmark litigation with his father. The whole thing is disgusting. CB's recklessness was always a risk, but we happily took the benefits when we could get them. Now, our time is up and that recklessness threatens to destroy us. That is what he always wanted: once he lost control of the case, once it could no longer serve his ego, he consciously or unconsciously engaged in acts that forcing everybody out of the game. If he couldn't be in it, he tried to make sure nobody could. Whether he succeeds with this incredibly destructive is now on us to some degree, but I even wonder.

The main task I have in coming weeks seems gargantuan: whip our legal case into shape for the stretch run, not knowing if any of this is going to matter anyway. I have that depressing, sinking feeling again that the awesome power we are up against keeps growing more daunting the more we litigate, like we just awaken a deeper monster within the volcano, who increases his power to always stay ahead of our own, who always has the power to just crush us with time. I had the same feeling back in early '94, when I went down to take the affidavit from Elias and read Texaco's motions to dismiss on the plane. At the time, our case seemed helpless and hopeless – they either beat you down so bad that by the end the case is worth a fraction of the damages, or you give up. Instructive comparison is a Civil Action, a book I just read on our honeymoon, which had some deep, deep lessons about corporate depravity. Reading that book, seeing what has transpired in recent days, makes me feel naïve for getting involved in this to start with.



Key issue is how to reshape the Sand litigation – motion to intervene, or just work with the Winston boys behind the scenes? It was so clear that Raul is out of his depth – that he has no idea what he is getting into. Their papers were weak, and he never sent them to us for review and comment – I suspect we are not “real” lawyers to them, we are activists, or maybe (like the shareholders) he wanted to keep distance between us because Chevron was trying to claim we had a privity of interests. So in coming weeks need to reshape Sand litigation, influence Winston lawyers, possibly intervene but without the resources, convince Joe to keep putting money in, and win the case – all the while with a new kid on the way.

Houston – shareholder’s meeting. Very little press coverage. Enron trial down the street sucked the oxygen out of the local media. The Chronicle totally ignored us. AP wrote one good story, then screwed us. A real oil town. Yet there was something incredibly powerful about E and Rita going into that meeting and speaking. Rita froze up, and then cried afterwards in the bathroom, thinking she had let us down. Leila organized a protest in front of the old Enron building. About ten people showed up, but it was effective: the dudes inside the glass lobby seemed freaked to see it. And then, as if on cue, some beefy Houston cop stopped Atossa and the two Ecs from walking up because she was holding their hands, he thought it was some kind of protest. Incredible, because it made for a good picture. How could they be so stupid? Quarles spoke; Shelly spoke; but Julie Gresham came down, but did not speak – she said they were aware of her presence, that it had an effect.

Reis Veiga was at the meeting. I am convinced he has used this to become an internal company hero, defending them against the activists who unfairly victimize the company. This is without doubt their highest profile litigation and human rights problem, but I wonder if that makes it harder or easier to get to the endgame. It just seems the more we litigate, the harder we push, the harder it becomes, and the further away the endgame seems. CBS just did a piece on the Valdez – how 17 years after the spill, the litigation over most of the damages continues and few people have collected. This is going to take forever. As long as RV is alive, I believe there will be no end in sight.

I read our legal docs on the plane – the executive summaries of two reports, the observations, and our arguments are all over the map – no structure at all, are we using TULUS or are we using absolute prohibitions?

#### **April 6, 2006**

Yesterday the Guanta inspection finally happened, and again I am getting this creeping feeling that we are not going to make it. There are just too many obstacles – the structure and weakness of the court, the obvious friendly ties of the judge and his staff to the Texaco lawyers, our own disorganization and lack of resources, a lack of fight among the affected communities and indigenous tribes which is a reflection of weakness resulting from the violence Texaco has inflicted on them for so many years.

Our biggest problem right now, and the one that makes me utterly sick to my stomach, is that we are being out-lawyered during the inspections. We are being out-lawyered despite the fact that both Pablo and Julio are incredibly smart, capable, and organized. Why is this happening? They do not have experience in trials. They are young and green, and have no American legal training. The Texaco team, which consisted yesterday of four lawyers, are sharp as tacts and they work every angle all the time: they talk slowly, drag everything out, repeat the same themes constantly (we lack credibility, we are manipulators), make us look like fools. More importantly, they are from the upper class of society. The judge is dark-skinned, trying to struggle in life: he is impressed by them just because of their class background. Pablo and Luis come from the same background as the judge. Psychologically, the judge wants to get away from them and identify with the more powerful, socially important Texaco team. This is what the culture is like during the trial. I feel like we have pushed the other way, especially using me and Alejandro, but the bottom line is they have more social prestige and more power than us and that can be very impressive for a single judge stuck in the jungle. They just out-argue us and my biggest concern is that I don't think Pablo and Julio can do much better than they are doing, given their capacities and lack of understanding of Ecuadorian and international law. The Texas Railroad Commission Law is the example – the corrupt Larea talks about how manipulative we are by using a “railroad” law when it existed to regulate the hydrocarbon industry. Our lawyers have virtually no experience in litigation, in controlling the context, the moment, or the courtroom – even if the court is outside in the jungle. At the end of the inspection, the T lawyers just tag-teamed for 30 minutes and Julio responded for maybe a total of two minutes. They don't have the capacity.

I find almost all Ecuadorian lawyers live in a box. In the meantime, the T lawyers don't live in a box and they are free to roam however they want through the jungle of argument while we are locked in our cages. A perfect example is that we can't call our best witnesses – Rosa in San Carlos, Toribio, Ermelgildo, y Manuel in Guanta, because they are so supposedly “biased” under Ecuadorian law and their testimony will be invalidated. Under this conception, the very people who know the most can't testify. So fucking what. Let them talk, and explain the basis for their knowledge, just as they would in an American court. Let the media and court hear them, and defend the heck out of their credibility and attack T for attacking them. Pablo will hear none of it, and as a result, we only had one witness testify yesterday from the Cofan. Toribio and Ermelgildo were there, but they were not called as witnesses. Go figure.

The racism of the judge and the T lawyers against the Cofan was palpable. As Laura tried to testify, there was a problem with the translation – E translated some questions, but she responded directly to others without waiting for the translation. Pablo did not explain this to the judge, and it was confusing. Further, her testimony was reed-thin and conclusory – T workers raped our woman. OK, any thought of putting a time frame on it? Of providing a basis for her knowledge? Was this oral tradition, or did she witness this? Did she know people who had been raped? What were there names? The whole thing seemed ridiculous, and hearing this, the Judge cut her off and I still don't understand why Pablo did not call other witnesses. Callejas, being the ass that he is, tried to get her testimony delayed until he could get a translator to make sure the translation was accurate. Near the well platform, the military was out in full force – a carro blindado

with eight soldiers in it, with heavy weapons and gear. Why this inspection for that display of intimidating force? Why did Chevron have its fat, steak-bellied security chief down from the states for this inspection? Why did RV and Jeff Moore have bodyguards? Do these assholes believe their own lies? And why did our lawyers not say anything about this intimidating military presence?

And why the FUCK was the judge suddenly wearing a nice jungle outfit that you could get at Paragon in New York City? And why was the court secretary flirting with the T bodyguards who were rubbing bug spray on her belly, and why did she tell the judge that Laura's testimony was illegitimate? Ecuador is cheap. A mil base that accepts 3,000/month from a company pulling in 190 b per year proves that corrupt is cheap. An outfit here, a meal there, a little woman here. All bullshit.

The rules of evidence are bullshit too. Both sides can put in documents without showing them to the other party beforehand. They came up yesterday with a document showing that the population of the Cofan had actually grown since the 1950s, using sources from the Internet. Sure. Put it into evidence, lie some more, none of this stuff really matters – it is all teatro, as I have been saying for some time now, all a vehicle to get the press down to the region and cover this atrocity.

LY and I had words last night at Saute when he tried to rationalize the carro blindado by saying there are problems at the border with Columbia, which is why it was there. Total bullshit. He felt guilty for not saying anything about, for Pablo not even raising the issue, because LY is sometimes beaten down, as he was yesterday at the inspection when he just hung around the well platform and never followed the judge into the jungle.

The vision for concluding the case is clear: finish the inspections now, finish the GP, and focus on the politics.

**March 11, 2006** – I think this was first trip I was so busy I did not have time to keep up with the diary. On AA flight to Miami, meeting Laura and her family tonite. The week surpassed all expectations – Monday two press conferences, Tuesday down to the jungle to reinforce the judge to do the inspection, Wed the inspection, Thursday the Jorge Ortiz interview, and Friday the Andres Carrion interview. We had journalists calling us – that has not happened in a long time. The week was planned and executed perfectly.

**Just before SC inspection.** San Carlos inspection – sharing room in hotel with APV, meeting nite before to go over notes, gringos upstairs and Ecuadorians downstairs. Woke up with phone call from Luis that a state of emergency had been declared – went in shower and just could not believe it. I was again ready for it not to happen. First instinct was that this was another scam by T, only with tracks better covered. But this was also the strike referred to by G and F the previous week. I just couldn't keep up with monitoring all the calls for a national strike. Called Pablo and told him to go to judge's house and drag him to the inspection – roadblocks, violence in Lago, etc. Drive there with LY and APV in van while being filmed. In San Carlos, greet Rosa (who always looks awesome), signs over road, articles on side of road. Incident at gate – I was up front yelling with Esperanza, three lawyers inside, four soldiers and big rifles and tear gas

canisters, locked gate, people being, yelling and screaming, I called them antipatrioticos, begged them to be patriots, had head exchange with Pablo and Alejandro to come to other side of gate, Pablo seemed totally intent on doing inspection no matter what, floated idea of a delegation, then just media, we rejected it, our lawyers would not come on other side of fence, critical moment, luckily all got in after judge intervened on our behalf – Yanez comes thru. Thought they were going to use it to provoke a violent incident and blame it on us. Texaco cars were already inside, waved through. 300-500 people were there, schoolkids, etc. lunch after with judge, he hits on Atossa and two Scandinavian woman. Judge got shot 22 times at car, still has bullet holes in it. Also, studying to convert to Islam. His entire story is interesting, want to learn more about him.

Spending a day at these inspections is like sitting a sauna all day, having to think intensively at a high level without interruption, in another language, in a completely conflictive situation. At the end, you feel completely exhausted, sweated out, depleted.

**The SC inspection.** The actual inspection – excellent choreography by lawyers, but I thought they were weak and not on the offensive enuf. Julio was nervous but good. They let the T lawyers get the last word, talk more, and flat-out lie without calling them on it. They don't understand they are playing to the audience of press and clients, as well as the judge. They tried to minimize the discomfort for the judge, which was entirely inappropriate, rather than risk discomfiting the judge by taking it to a higher level of conflict. Specific examples: argument about two checks, 77 samples with no hydros, the caramels, no clear understanding of the PE/Tex argument, how to compat the aging of the crude issue, a lack of science, and others on memo we are writing. The E-tech team felt the entire inspection was a show, and was a waste of time. Alberto's initial mistake of asking for 122 inspections without any strategy is just coming back to haunt us so deeply, although we are getting good press and we are using the inspections to build political momentum and get our act together, but the process is just time consuming and ridiculous. Mistake with Bill saying he was working for Frente. Wouldn't object to lawyer giving medical evidence at end. T fancy powers with coliform. Total distortion of truth. This is the Big Lie, but we just argue against specific points without sketching out this larger argument. Very worried because we have little chance to improve (I am going home today) and there will be two more weeks of inspections without any interaction with Pablo. Worried trial has become an end in itself for the clients and our lawyers, without the end being figuring out a way to win the trial.

**Texaco on heels in terms of press.** Press worked well for us, with example of how the T is such a big bureaucracy that we can take advantage of certain situations. For example, as a result of the state of emergency, they did not send Jeff Moore and Sara McMillen, who were at the military base, to the inspection. They also kept that large woman away. Thus, we had our way with the media and we have hit 15 straight news cycles starting mid-day Monday with our first press conference. Just having the inspection represented a certain victory for us, given the state of emergency and T's preferences. They don't even try to call us to get us to suspend the inspections, like Sylvia did last July, out of deference to certain issues, etc., at that time the death of the sister of Callejas. Relations have just deteriorated too much for that kind of civil, courteous cooperation between lawyers to take place. When waiting for the Tame flight on Tuesday, Callejas called

APV a bad word (“little dummy” but get the Spanish word); Jeff Moore walked by without looking up at me, and you could just tell they entire T team was descontrolado – that we had really gotten to them, that the press conference on Monday had just really demoralized them. We have succeeded in taking away a lot of their political space, and they seem to have no press strategy. Perez Pallares is the only person who will speak, but he barely gets out. RV doesn’t even come down anymore, so we have neutralized him with all the talk of fraud, etc. Ortiz, segun Carmen, has refused to be their spokesman. Plus, they have nothing left to sell. Their small ad in El Comercio on Monday (about water samples) was just totally ignored – I don’t think people even pay attention to those ads anymore. They seem to have played most or all of their cards – even the TLC lobbying effort seems to have been neutralized with the Obama letter. And we still have some key cards we can play: FCPA, more shareholder pressure, the fact their key people don’t pay taxes, and ramping up the legal arguments, and the AG filing a civil and penal lawsuit against them. And according to Manuel, Sting is coming on April 15 to attend a hayawacsa ceremony for the Secoya. The forward looking panorama looks good for us.

**Two new legal arguments.** Figure out two important arguments: first, the sampling and analysis plan we supposedly agreed to and that Alberto signed without authorization has no legal effect, because peritos are independent and the parties cannot agree to limit their independence. Second, the contract between the government and T for remediation is in si misma illegal, as a criminal cannot contract itself out of a crime. This would be like a young girl getting raped, and the rapist tries to sign a contract with her parents to avoid any liability.

**Meet with judge day before SC inspection.** The day before (Tuesday), met judge in this office – he said inspection would happen “vida o muerte”. Had concern about provision of code about peritos dirimentes, that the whole thing could be declared a nullity by a higher court – the same issue that Alberto had called an “estupidez” in an email some weeks back when Pablo first raised the issue after overhearing Guerra express concern about it. These judges are really not very bright – it is like a vocational job to them, they deal with resolving disputes at a very basic level, there is little or no intellectual component to the law. He cited a code out of the civil code for his concern. Cite code and explain better. I took advantage of the situation to explain our theory of the case. After, Julio simply did not understand the issue of joint and several liability – how Texaco could possibly be responsible for the pollution caused by PE with its old equipment. The concepts of tort law and joint and several liability are acceptable in Ecuador, but nobody uses them, so judges have no exposure to them. That part of our case is a real uphill battle. But I keep thinking of what Mateo told me – the only way we will win this case is if the judge thinks he will be doused with gasoline and burned if he rules against us. Given the morality or immorality of Ecuador’s justice system, that type of comment did not even shock me. It is part of the rules of the game here. I like the judge – in February, I was sure we had lost the court with the perito demento report. But due to some good strateging and some counter-pressure, the court is now in play, up for grabs, and accessible.

**Lunch meeting with judge.** This was second meeting with judge – had lunch with him the previous Friday in the Cangrejo Rojo. I love it – this lobbying. I am good at it. But I

hate it, hate that it is necessary, hate that it is part of the legal culture, APV hates it – I think it runs counter to any good person. The judge brought a young chick in her mid 20s and thought nothing of it. Pablo later suggested she might have been a T spy. She did not say anything the entire lunch. Luis and APV were there. I gave the judge a one-page memo on the law, and showed him the graphs from SA-53, the site where the peritos had derimido supposedly. We talked about the theory, about the need to let the people in San Carlos speak, about the need to not cancel the inspection, to not have another Guanta.

Embassy meeting – more on judge

Bonifax fired.

Tuesday meeting with judge, Pablo, and lunch.

**March 4** – Now I feel like the tide is shifting back our way for several reasons. First, the SC inspection is happening, and there is nothing T can do at this point to stop it. That national paro over Oxy never materialized, at least not on that day. The reason is we both asked for this inspection, whereas at Guanta, only they asked for the inspection. And we have a powerful week – the AW human rights press release on Monday, our own corruption press conference on Monday, the RV boletin on his witness testimony on Tuesday, the inspection Wed, etc. We have called all the press and there seems to be interest, largely because the case has been dormant for so long. I pitched Jorge Ortiz and got traction on the mil contract issue after Lupita said there was no hope and she didn't call him, to which I replied – “You are feeling exactly how T wants you to feel – defeated.” Lupita's energy is increasingly counterproductive – calls during lunch with judge to say I had appt

Flew down all day on Wed (March 1), finished editing Aaron's brilliant FCPA memo and the Ann/Bill thing, and emailed them to Aaron from g'quil. It is finally good to have some competent tech people in the game. First annex presented at the SC inspection.

**Feb 22** -- For first time, really started to press the personal safety issue from my perspective. It dawned on me – the threats against the lawyers really threaten the entire legal team, and since I am an integral part of that team, those threats implicate my personal security and I deserve a say in what happens. I had been way too deferential. So I pressed them on the medidas caut, which they still hadn't moved on even though it has been several weeks since the petition was granted. APV, PF, y LY agreed to at least get a cop out front of our office during business hours. I always felt this would give us

legitimacy in the eyes of many people – that the great lawsuit against the bad American company was deserving of state protection. It is seen one way in Quito, another way in the Oriente. As Paco says, everybody has to make their own decision.

Slept in my dress shirt with memory disk in the pocket.

The Havoc problem continues. Talked to Moreano just before our meeting with GF, and he said two clients had called threatening to pull out. The reality of lab sampling in Ecuador is that if the giant petroleros do not have confidence in the lab, business could dry up and people could be out of work. I asked him pointblank if he is going to continue with us, and oscillated and I think he is definitely searching for a way out. That is why he took advantage of our situation to ask for that 14,000 Camino debt from Camino's idiotic, useless over-sampling. All Ecuadorians think of first is money, not any principles – other than our clients, the humble, honest ones.

Fausto and I met with GF. Talked about national strike on March 8, the day of the much-vaunted San Carlos inspection, over the Oxy theme. Apparently Jose Maria, the AG who I always seem prohibited from meeting (first CB, now Raul have warned me away from him), seems a little more weak in some circles than Raul thinks. Raul talks about how great he is, and he keeps repeating the story of how he stared down these lawyers at a bar association meeting who had complained about his prosecution of a corrupt judge. Well, GF, who are active in the Oxy campaign, think he is paralyzed between pressures from the US embassy and pressures from the street and he keeps putting off his legal opinion of the matter, which he has been promising for weeks. He is also under attack for nepotism, and Raul acknowledges he is feeling alone. Anyway, GF showed an advance copy of their comments on the dirimientes and it basically calls them to account for not fulfilling their role, without getting into any of the underlying issues. They are meeting with the judge next week, and in a good sign, the judge seems to want them involved. I am scared though, because we told them how much the dementos make when they asked, and it is a lot more than they are making, but of course there is the matter of their bonus. I really like Fernando more and more, but I really like them both. I think G is the political bigshot, while F is more the intellect behind the work. But I don't even know what they really think, and who is to say they couldn't go to Chevron and work out some deal with them. They are meeting with judge next week – I suggested they offer themselves up as the dirimientes, and that they could help the judge throughout the process but only dirimir at the end. Explained our legal attack of the dementos – how we are attacking them for violating the law, and attacking the concept that any perito dirimente is needed.

We thought thru the Camino lawsuit and I realized I am fucked. I am fucked by a guy who already fucked me, robbed my equipment, tried to undermine the case, robbed the Ecuadorian government, and robbed the Ecuadorians who were trying to help the case. And now he is trying to extort me further. Called Jaramillo and he walked me thru it, and I realized I am in real trouble. APV never took the time to explain the risks to me when the case was filed, as he only thought of the procedural aspects. There are two issues: one, was he an employee of mine: and two, if so, do I owe him anything. Well if someone is an employee, under the labor laws, you have to go thru some complicated

procedure with the Ministry of Labor before they can be dismissed. Well, I just fired him, and worse, wrote a letter as such to him in May of last year which LY pulled out of the files, which basically proves I regarded him as an employee. That means I will owe him by law wages for three months. Jaramillo said there was little I could do. Will he tell the Chevron team I am worried? So, I am thinking of playing the Camino game – telling him how I will drag him thru the mud via the press, tell the judge how corrupt he is, how he didn't render cuentas, how he asked for kickbacks and commissions, how he asked the court for 300,000 in payments. Or will I be falling into his trap even more? This is a hornet's net, but is Byzantine hornet's nest. You think you solve one problem, yet another one crops up and on and on. I am really even more pissed at Alberto Wray for dumping all this on me. God, he is such an arrogant, self-interested jerk. He should have explained these basics to me and gotten us a lawyer who could handle the administrative end, which LY is doing now.

Talked about firing CB, and timing – need to contact editor of El Comercio, and will do after his conference. Sent human rts boletin to Atossa, she liked it; anti-corruption guy came in, but LY said that commission is known to be corrupt and won't help us. Met with tech team in afternoon, explained this was a communications challenge, not a technical challenge. That our tech work was good, but our communication was bad, while their tech work was bad, and their communication excellent. Read Luis and Jose executive summaries and quote them, how torpe they were.

Planned San Carlos at night... more later.

**Feb 21** – Might have been my most intense day yet at trial. Pressures swirling all around of corruption, death threats, etc. Camino's lawsuit is going forward against me on March 9 and I am starting to freak out. This is part of what they want – I am getting paranoid, thinking that everyone who I have a problem with or who is threatening our plan in any way is being paid by Chevron when they may or may not be. Talked to Ramiro Bonillo about explosive film yesterday, then I realized our phones are probably tapped so now Chevron knows about it. They will call him and just pay him 1,000 and he will give them the film, which they will promptly destroy just like they have other evidence. If those fuckers could vacuum up the 18 b gallons to make it appear like it never happened, they would in an instant.

Human rts abuses – we taking this out based on Daria's ICJ letter, simeon is drafting release. Sent to Lehane, Kohn, Amnesty International – no response. Sent to shareholders, no response. Does anyone hear us? I am truly scared for the first time. I put bolt on my door last night. I jumped with a start when the wind knocked my balcony door against the railing. I want to talk to Hotel Quito security. I remember Will Harrell story about people being set up in Hotel Quito on drug charges and then spending years in prison with no trial, in utter hell. I keep thinking I am going to go into court on March



9 and never come out, becoming one of those people. I keep wondering if should prevail on Barack, but I don't want to bug him. I think I should, however.

Day of incredible meetings. Started with judge in HAVOC inspection case. Went to busy Quito court. APV kisses everyone, everyone recognizes him. Walk in no security down long hall filled with small judge's off. Go in office of Gonzalez – took him by surprise. APV stood up, I sat down in chair directly in front of him where he could smell my breath. He looked old, weak, nervous, elegantly dressed. APV explained legal arguments, then I came in with the emotion, explaining history of case, that Texaco is trying to corrupt it. Very effective: talk about corruption, talk about how to try use innocent and good people as vehicles for their own corruption, without accusing the people directly, even though they might be corrupt. I think the issue of corruption with this guy was institutional and personal weakness, not necessarily that he had been paid, but again, this is that unknown factor.

Met with Paco Velasco. He had his police outside protecting him, which again made me raise the issue with Luis, who said he believes the police are a “molestia” more than anything. I want the cop with his truck in front of the office. Paco seemed bored, but we got commitment to cover the San Carlos inspection live and on the morning show from Coca. Could be huge, but we need to produce for him and I have so little confidence in our communications team right now.

Lupita is an awesome person but so out of her league, like everybody else in Ecuador who does communications. They just don't get it. They don't know how to write a press release. She spent an hour on the HAVOC release but it was not what we wanted at all, a total waste, so I had to re-write it. We haven't kept up at all with the news – we haven't even put out the military report on the Guanta inspection which was a disaster for them. We put a great release out yesterday about how their lab is not credentialed. Champagne to Callejas, the idiots don't put the card in an envelope, Ben delivers it, and of course he gets kicked out by them and it backfires. Like Leila's email to Russell, how can people lack such basic common sense? Lupita can't remember shit I tell her for five minutes, like drop off a press boletin at the hotel so I can take it to the judge.

WSJ Paul Davies and John Wilke seem to have gone cold. Unbelievable, how Davies was so jacked on phone, talked to him for 40 minutes at Blue Smoke last week on my last day (Thursday), sent him all sorts of shit, and he never called me back. Still working on Forero. I know CVX is working furiously to kill all these stories.

Had lunch with Pablo and Luis. They expressed some concern about APV not following thru with stuff, had exhortos for four months. APV has great ideas, no time for follow thru. With papers for HAVOC judge he said Julio was doing, and when I got to office Julio was not doing. He forgets, he is so busy. We discussed options, including reducing pay. Looking for new lawyer, Jaramillo rec'd this man but then I find out he had rep'd Kimerling. Meeting with Crespo today. I love Pablo, his clarity, emotional consistency, and sense of humor. He is getting passport to come to my wedding, and Mauricio is helping him.

Never been so busy. Worked yesterday from 5 a.m. to midnight straight thru with meetings, except for a run in the morning. Asked Juan in pool to write down number for the two men. Waking up one hour before dawn, my mind about to burst, writing three pages of ideas on little Hotel Quito stationary. Need assistant here and in US.

After lunch, went to office and had meeting with tech team. Laid out all these little incidents of corruption that I did not know about, which we need to get into Aaron's FCPA memo and which again wake me up to this sad and disturbing reality, and which simultaneously quita el animo and motivate the hell out of me. Writing memos – Olga in the library, and pages ripped out of newspapers, not able to scan the thesis reports, the box of key documents about oil spills missing in Lago after Luis and Maria Bellen had gone there. This team has been so neglected, I don't think I have read one of their reports for months. They complain about a lack of support from the lawyers, and I totally agree with me, I am sure the other side is right there with each line and we just quickly skim and throw back arguments. Pablo said they blame everything on the lawyers.

Beaurocracy: the agenda that Fuasto made up. Starts with "saludo" de Donziger, then "saludo" de Yanza, then "verification of quorum" for both lawyers and tech team, then nomination of secretary ad hoc who will write down the formal resolutions proposed and passed.

Went with Grandes. God what a lying fucking freak. Talked about his pedido at HAVOC which came right out of T's playbook. First thought he was paid, but now I believe he is just going with the power flow like so many other Ecuadorians. Said he has had no contact with neither Camino nor Chevron, but these coincidences are just too strong – I believe Texaco's planning meeting over the holidays has led to a whole host of changes, and then are turning corrupt. He just repeated their fucking questions and sent it to HAVOC because he knows we hate him and in the long run his work is with the oil companies. He is snarling little shit and I felt like jumping across the table and beating the shit out of him. Pablo was great, he kept saying how he was falling into Texaco's trap without realizing it. I think the meeting had no effect.

Then had legal meeting. I laid out my tri-partite anti corruption plan about the peritos dirimentes, ending the inspections, and attacking Callejas personally. Pablo took me on, but I gained his support. The plan to get the "loco" (APV) to cry fraud at every oppty in San Carlos was accepted. Now I just have to be sure it happens. Talked a lot about Camino lawsuit. Lot of work to do with Joe, I don't trust APV with his scattered, last-minute approach so I am going to try to take this matter into my own hands. I don't think I can ask MM to be a witness. Just not fair to him and how he has constructed his career. Then met Weilbauer – the most elegant, nice rich man ever. Old but hasn't slowed down at all, still major leader, called that doctor who we are meeting Friday to see about coming to San Carlos as a witness.

Dinner with Raul Herrera, his associate Manuel, and this Argentine who reps Phillip Morris in Quito at SanTelmo. Culture: how owner told him he knows me to make me look good in front of my guests, how sent over free cocktail shrimp, to try to make me look good!!! And I had never met this guy or talked to him before!!! Love that shit.

Raul was slobbering about the FCPA memo being put out by the government, we definitely have to move in that direction. We are essentially doing a good portion of his work – the fraud issue and memo by me, the nullification of the contract memo by Julio (which I forgot to bring up – how much more things will I forget because my head is so crammed?), the FCPA memo by Aaron, the FCPA investigation which they will do and I am totally excited about. I love Raul, big hug, this guy could be a good friend. He talked about Evo's inauguration and meeting Tom Hayden. Breakthrough – their contacts with Chavez, work directly with his AG, when Pat Robertson said that bullshit about having him killed, they were down there and worked out that argument for extradition of Robertson by the Venezuelan government. I said, "You know the best way to get Chevron off the back of your client? Chavez." Their jaws dropped – they know it as well, I said let's get a confidential meeting in Caracas with his people and see what the possibilities are. I used to think just Chavez raising the issue with Chevron would make the difference, but I no longer think that now that I see how Chevron is reacting. Talked about bitch US ambassador, who told him at a lunch meeting not to let the Texaco case "escalate" – I told Raul to get that meeting with the embassy, take it, it would really help for them to hear another pt of view. Manuel told me about his Guatemala case. These guys do great work. About resistance in his firm to taking this case. Meeting again the next day, wants to keep distance but we can really make this happen. Said his client not that interested in discovery – I need to move them on this.

Called Laura at night, she said she was worried for me. I love her for that.

**Feb 20 --** Havoc controversy today. Incredible. Last Friday Tex showed up with Quito judge and press, not let in. They are so sucio. Talked to Fausto Moreano today, I felt like Mafioso. When left I said to Luis, I hate it but I love it, fighting this monster. Fausto was clearly shaken, and I told him he had no moral or legal obligation to continue working with us, but that now he had no choice because they would attack the lab no matter what to get rid of our evidence. I felt like a Mafiosa, saying once he was in he couldn't get out. Then met with ?, head of accrediting organization, she reassured us, made me feel like there are good, honest beauracrats in Ecuador. IN the same large gov building where met Chiriboga. Will meet judge tomorrow.

Alejandro – incredible in this situation. Breaks it down immediately into a three-pronged strategy. God I don't know what we would do without him. The comparison with Alberto the "giant" is just incredible. Alberto simply did not know how to litigate this case. Another mistake: he turned in our inspection request 10 minutes after Texaco did, which means they go first in inspections we share. This is going to hurt us in San Carlos.

Dave Russell prepare new report problem. See his letter.

Cristobal fired last Friday. Such a non-event at this point.

Chess game with Texaco. Notice change in strategy with last two attacking releases. Pablo email today saying we have to attack, not to get diverted. I am realizing how Pablo has a very intelligent long view of things. He recognizes there attacking is a sign of desperation and weakness. What demoralizes us is when we are not on the attack; we get energy from being on the attack.

Always something – Manuel told me the Proc had not paid Winston yet b/c the Finance Minister quit the day before he was supposed to sign the check. He was checking with Esperanza.

Luis and I went on radio ? with b'ful Colombian woman as host. Luis questioned the oil industry, and I got him off of it. God he has improved since the beginning; now we just wing interviews, hitting on our nationalist themes.

I am totally slammed with work. My lists are getting longer. One I made last night when I came home late was a full legal page.

Talked to AW today on conference call. They took Russell doc off website. ICJ ltr – under stress, my voice cracked a bit. Talked thru the Russell thing, the Penafiel document, etc.

Did press release tonite about Texaco not having its lab certified – I loved writing the release, and I hate that I had to write it b/c Lupita's draft was terrible. We are sending it out at 5 am tomorrow.

So excited about the FCPA thing Aaron prepared. We must figure out how to do it.

**Feb 14 – Talked to APV this am from his house in near frustration. Read his Sacha 65 observation last night, and it seems that no matter what we say and do, no matter how strong our arguments, we are going to be fucked because the structure of the court is so fucked up. He said we need to get rid of the judge, and that MP is going to work on it. I feel like this case will last 20 more years or longer, I just feel it, they have the power and they are going to exercise it.**

**Dave Russell materialized last night saying he disavowed his report. OK, figures. Question – did Chevron get to him?**

**Met with Atossa all day. Very positive, I accepted her limitations. Real breakthrough. We worked on the SEC ltr. Talked to Joe, he was very supportive.**

**Feb 12 -- This has grown so big you simply can't control anything. Use Julio's meetings with AG as example. I think of this every minute of every day; fell asleep during Joe's movie last night. Don't want to stay with Laura, don't want to be disconnected from being connected.**

**Feb 10 – Many things happening – fabulous, tough week.**

**Today, talked by speaker phone to Lago to AP, PF, LY. Key things happened: CB fired; PF named Proc Com del caso; judge sets new dates starting March 8 for San Carlos, and 6 inspections. Agree put out release taking on court on Monday. They are buying into idea we must take on the court. Tex is influencing the court. Pablo told me the judge is womanizer, drinker, and vago – just the perfect psychological profile for blackmail and corruption. Tex must be loving it.**

**Met ABC reporter in Law and Justice unit last night, Sylvie Rottman. Her questions were so idiotic – they don't want to talk to lawyers. Fuck off then.**

**Hitting stride with Lehane. Turned around stories in Oil Daily, BN America this week. Set up Wilke for new SEC ltr AW will send. Fortune mag, he is coming in March. Announce Lehane and Fabiani.**

**AW retreat this week. Idiots. Leila goes to hot springs while letter from SEC waiting in office, everybody took the day off.**

**May days are 7 to midnight, I never stop. I wore my phone headset into the shower. Make lists all night. Have to discipline myself to stop. Daria letter to USTR awesome. A and D are vital to this whole thing.**

**SEC letter – saying investigations are confidential. Gave copy to Alex at party.**

**Feb 6 -- Talked to Gustavo this morning about perito dir report. I keep thinking we pay them so little, and they know the court's peritos make so much, why will they want to keep doing this for us? This was my one bargain with the devil, but we can't win with the devil b/c they can always pay more. Really frustrating, feel really boxed in.**

**We must do something dramatic. Raise corruption issue publicly. Need NGOs**

**Jan 27 – Last day of trip was yesterday (Thursday), and my emotions were all over the gamut. So much to do, so little time. In morning, cancelled meeting with Mali at Ecociencia for lack of time. Lupita came to my room with radio, and I called in to Paco Velasco to do a quick interview about the Corporate Irresponsibility Award. At b'fast, Raul Herrera called and we skedded lunch, which surprised me he still around. At 10 a.m., Fausto and I met G and F, and I explained the need for witnesses for the arbitration. Had lunch with Raul, while LY had lunch with the judge. In afternoon, met with Aaron and Daria about work, got APM to write to motions for court (get rid of Zambrano and lower perito pay), and then we had a communications strategy meeting. Finally, met MM at his house and then had dinner with LY.**

**Key points:**

Meeting with GF – really upset me. Said Zambrano was nervous when he met with them, and did not ask for help. Then, they indicated he and his group (other than the untrustworthy Jurado) worked with a Prof Melo at the Politecnico. Melo is known to be corrupt, and he was a perito in a judicial proceeding against Oxy where he offered to change his conclusions for money, and he did. He is the asesor of JZ. Given our suspicions about JZ all along – MP said he was known to be corrupt – the picture has now come together. We know how Jurado got there on Aug 18 – the question is how these other four suddenly materialized. Obviously, Texaco got them there and again, Alberto was just totally clueless and acted like it was no big deal. Was he covering for his inability to engage in hand to hand combat, or was he so disengaged that he actually believed Texaco would not exercise its own influence on this matter? I have no doubt. And this was confirmed by GF, who said the peritos chosen by the judge were second and third rate and had no reputations in Ecuador. And I also found out that both GF had their resumes before the judge, and despite being some of the best in Ecuador, were passed up. I came back furious to the office, told LY, we decided to ask for him to be fired based on the card we had held back – his participation in the Contraloria report, where the conclusions were against Texaco. Remember JZ's insistence on money for the months the inspections were suspended due to Lucio's sacking? It all makes sense now. And Jurado, supposedly our friend, has turned out to be completely unreliable. We are basically screwed, but rather than getting freaked out, I see it as an obstacle that can be overcome. The decision to ask for his firing was made quickly, then I started to have doubts on the way home as maybe the GF influence will be enough to at least keep him neutral. But why take a chance? If we complaint afterwards, it will look like sour groups. Had big argument with AP over whether to attached the Vistazo article as an annex to the motion – he said the Ec judge will not like it, I insisted, but he prevailed. He said judges are very narrow in Ec, and all they need is JZ's name in the controlaria report. Note GF had a huge office with a conference table, and had a pic of Che on his bookshelf.

Luis lunch with Yanez: When I came back from GF meeting, told LY and I said we had to act. This just mixed in with their delaying over the inspections site and got me furious again. Within minutes, LY had called the judge and they were meeting for lunch at 1 – in an hour. Gave him \$40 out of my pocket. Took him thru all inspections sked, Tex delays, problem with perito dirimentes, wanted payment for not working. LY says judge gets it. I still doubt it.

SRD lunch with Herrera: Met at Troncos. He was 25 minutes late, did not realize traffic. I was anxious for an update. He looked elegant in blue suit, tie, white shirt, cuff links. He plays the role to the hilt. First tells me about Sand hearing, how it went really well; he was already getting affidavit from Ricardo Crespo about legislative history of Ley de Gestion Ambiental, to prove that it was not created for the express purpose of the state going around its settlement agreement; affidavits from other individuals on question of the JOA, including ex-PE officials; he was lunching with the US ambassador on Friday; went with AG to meeting of bar association of Pinchincha, talked about the case and tied it to the Oxy issue. Said we should just keep doing what we are doing. Came from Evo inauguration, saw Asst

Sec of State Shannon there, told him what he was doing. He is giving our case enormous credibility, just by his web of relationships throughout Latin America and in the US government. I felt I did something foolish by asking him for the CB ltr asking to be co-counsel, which he turned down. We also agreed it was too early to talk about a global settlement. I think he could be a godsend, but I think he must be treated warily. Was his opposition to a settlement a function of his need to churn fees? Actually, I think he realizes the time is not ripe yet. They need to strengthen the gov's hand at arbitration, and we need to keep kicking ass at trial and we need to get the cost assessment completed.

MM: said Jose Maria was a total opportunist, and stupid; the ambassador to Caracas was a "bestia" and total opportunist. Defined legal work (see Document) with Aaron and Daria; got APM to write petition to get rid of Zambrano.

Jan 25 – Struggle with inspections continued yesterday. PF was leaving for the airport at 9:30. I got there at 9 to talk to him. I hadn't sat down for two minutes before Callejas called his cell and said "mis jefes" had rejected the proposal. He instructed PF to negotiate Thursday in Lago with the two local lawyers. I am getting frustrated with PF – I told him it is increasingly obvious T has no intention of coming to an agreement, and that there strategy of delay is becoming almost totally unmasked. When Alejandro came later in the day – he instinctually goes to the correct position – he said PF should cease negotiating with Callejas or anybody here and insist on talking to those in T who have the authority to negotiate, or just go to the judge. PF looked at that idea, which I had suggested earlier, as too dangerous because it would threaten his personal relationship to Callejas which he felt was all-important. I see it as weakness and naivete, and it reminds me of MONICA. He is also worried that the back and forth would delay the beginning of the inspections, no matter what the plan the judge approves. PF wanted to present our "compromise" plan as our plan, why T would present its extreme plan, so I told him to either present our extreme plan or our compromise plan with a long explanation as to how it represented a balancing of interests. I wrote on a sheet of paper, and gave it to Pablo, the numbers 120 billion and 13.4 billion – their gross and profits in 2004, the last year reported at that time, so he could explain to the judge how insane their argument is that their tech team is not ready. Put Ponce email here.

I see this as a key strategic point in case, and I for the first time I feel like PF is not up to the task and that they are running him around. He and LY came from the Callejas meeting too happy and giddy for my taste, like they are both working on something important as insiders – the typical Ecuadorian weakness. I told them they have to give me something to give to Joe so we can get the money for the Global, and that is a clear position of shortening the inspections. But I am not sure I am going to get it, even though PF has moved a long way from his position of wanting to do 36 more inspections just on our side. We need to publicly chastise T for the delay, create pressure, take control of the litigation, and continue our policy of attacking. I find PF conservative and cuadrado at times – too much a lawyer, too inexperienced to know when to take risks.

On the press front, I wrote out a new communications plan for the next several weeks that includes a release on precisely this pt, the SEC ltr that AW will release next week, Davos (which happened yesterday), an inspections update, the first inspections, fraud, the sick tour which we have been talking about for years, need to hire a new person, makes lists of the top 100 people, give out more press kits. Feb 1 is key day for first perito dirimente report.

Finished RV questions with Aaron. He seems slow and out of it, much less productive than Julio. Emotionally, he wants to be on the inside and when he has to work alone he slows down and becomes less productive. Met with Ivan Narvaez – love the guy. Gave us several names to help with JOA issue in arbitration. Super intelligent, also suggested we take advantage of the presidential campaign – package Texaco and Oxy together as one national issue. This is guy who said we couldn't win when we last met with him – “what judge is going to withstand the pressure – I don't see it.”

Odd lunch with Vargos Pazzos at Troncos – vive was awesome. Had Argentine beef, glass of red wine. Came casually in a leather jacket and slacks. Gave us the star table right up front without reservation. Showed me his loan application to get 260,000 out of his apartment, wants to buy a 4-wheel drive vehicle to impress Correa when they meet next Wed about VP slot, said he had been on radio Turquia slamming Chevron about its TLC position. He wanted me to loan him 50,000 until he could get the money out of his Miami apt. Worried in campaign they would bring it up and use it against him. Wants to get clean before campaign. Asked if US was like Ec, where you could pay fewer taxes (sell for 500,000, report sold for 200,000). Frank Pazos worked under Bucaram, set out table from 4 to 6 am to receive people – considered crazy. I didn't say I couldn't do it, but I cannot do it – how can I, in my position, get involved with him like this? This could kill me and hurt our case. As VP says, “I want to live well. I worked for 50 years, earned four stars, diputado, Senator. I deserved to be treated well.” He is worth 3m, but has no cash. Says once his African Palm gets up and running, that will generate 30,000 per month. Says only sells 1,000 boxes of bananas, rather than 3,000, because of the sequia. I feel like I one of the Ecuador inside people – like Andrew Rasej at USC. Noboa is “maricon” who ripped him off 1m by paying him less for bananas than he deserved by the market. Also called him “Capone” and “torpe”. Brags about wife, champion bowler. Says Ec loses 4m daily -- market price of oil is 70 per barrel, Ec gets 43.

LY was weak about CB. Drafted ltr to Oreilly, made us look stupid. I had the idea, then I called it off. We have to get rid of him. Had conversation with LY again about it, said he scared it will come back on him if CB fights back. Does not want to be out front. Weak, weak.

Cristobal – LY weak side



Jan 24 -- Ruptura de 25 in morning at Hotel Quito. Maria Paolo is awesome, said work thru presidential campaign to get msg out this year. These are young, idealistic people in their 20s. Could lead country someday, or could just be playing important. They want to form political party. Want to do good. Will power corrupt them? Valentina y Malki were there.

Key issue is inspections sked. PF presents, T rejects; T presents, we reject. LY y PF meet with Callejas today for two hours. Came back with a "compromise" that was 80% our inspections, 20% T's inspections. This was disappointing – wanted opposite proportion, so it seemed initially like a capitulation. The advantages for us were that it would allow us to do Guanta and San Carlos, two places T was terrorized to show up at (Guanta they canceled, and San Carlos was suspended by the paro last August – and these are our two biggest inspections in terms of people and media). It would also allow us to inspect two wells in the Aguarico field, where we have not been, and two additional wells on the other side of the Lago field. This is all designed to allow us to cover evidence from every field, which will strengthen our ultimate extrapolation to every well Texaco built. However, I still don't think necessary. Since T used all the same methods everywhere, and they admit to such, I just don't think we need to keep doing inspections in every field and in fact even under our own plan we are going to avoid to small, isolated fields. I don't think these inspections advance the case – in many respects, they slow it down and play into T's hands. But T rejected even this. Part of their complaint which I find utterly ridiculous is that their tech team is not ready for the next wells on the list they should inspect, because it is in the south – south of Coca. Then we analyzed, and Pablo changed again on my and APM's advice. We are going to withdraw inspections publicly – a big breakthrough for PF since our first discussion about this last Wed. Those withdrawn will be Shushu y all of Sacha Central (look at map and explain) – a total of 26. This reduces the number left from 87 to 51, while T has 10 left. We want to consume their 10 quickly, and then quit at our convenience. They want to drag it out, so they propose the 80-20 formula. T prefers delay. Run numbers. Make at least 300m per year, pay lawyers 10m a year – with this rate of return they want to keep it going forever.

I feel like PF listens to me and respects me, but never acts on my advice unless APM tells him how to do something.

Walk into evening discussion between Ermil, PF, LY – they had yellowed the part of the lawsuit demanda that says 10% goes to Frente. Judy K and Quenema was using it to say 100% of the money would go to the Frente, and the communities would get nothing. They were drafting a precautionary statement explaining the reality, that the money would go to all of the communities. Most interestingly LY said AW never consulted them on the writing of the complaint, and they never had a chance to revise it. This goes back to Alberto's errors: suing the wrong party in the complaint, then asking for too many inspections rather than controlling the process, capitulating on the field lab at the first complaint, letting work visa slide at first inspection, signing the Plan of Analysis – most all of these a function of his inability to take on the TEX lawyers and take control of the litigation.

AW receives 12 page letter. Leila says she is nervous.

Davos award today to Chevron for “corporate irresponsibility”

Anita in – Lupita invents: Caso Texaco/Ecuador en la lucha. So lucky to have Lou and Kayana pics to choose from the pics on the front of the carpeta.

Jan 23 -- Had six meetings yesterday, most with film crew. Interview with Manul P and doc crew. meeting with Telesistama – Lucy Peralta and Ala were there. Joe proposed relationship to look at footage. Classic Ec meeting. Ala’s huge boobs hanging out; she suggested her husband was available to be hired, as he is a biologist, and she said she would like to work for the film, until she laughed coquettishly. Lucy is awesome, she told me to call her in G’quil to see Salinas. As I said after, that meeting was all about sex. They agreed to help, but we have to send letter to Munoz, the head of the station. Then, Esperanza came by to discuss arbitraje. I just can’t vibe with her, even though we are getting along much better now. LY and MP always seem smaller to me when they are in her presence. LY always has been scared to go beyond her. She and MP discussed analyzing the JOA for information. I just think they don’t get it at some level. After, LY and I met with Manuel Chiriboga. Went to Madison, studied in Belgium, very soft-spoken. LY opened, deferred to me. Gave Roll Call article, our press release, translation, carpeta; Joe and crew outside. He said the case was a judicial issue that would not enter into the discussions. Then met with Sebastian Bustamante, the gen mgr of Gamavision – went to U Chicago, speaks English, young, knows Rodrigo Perez Pallares – had wide-ranging discussion of Ec corruption. Then interviewed Vargas Pazzos, but I believe his story is excellent, very charismatic, but to an extent it breaks down on issue of why Ec gov did not stop it. This is great way to explore that issue. These meetings with Chiriboga, Bustamante, and the Telesistema chicas convince me even further that we need to do these meetings constantly with imp Ecuadorians.

Jan 22 – On Sat, saw Lago AGrio #1 –well produced 1600 bpd in late 1960s, now down to 150 bpd. Sign about protecting the environment. Gook around well, pump like u see in LA. Went down new road around LA, paved since paro in August which produced real, tangible results. Now, paving Shushu road. Went to pit outside Shshu on way to San Pablo – huge unbelievable. At launching pt for San Pablo, it was long dusty ride past African Palms that used to be Secoya land. Each time I come here, less land. Had 2 million hecatares, now down to 40,000. dry season, can only fish from Jan to March when river is not raging. Colon Piaguaje was drunk at the launching pt, and he road with us to the town. Motorcycle in town, blue plastic barrels to get rainwater, solar panels, all new. Internet connection. Segun LY, Oxy gave them about 800.000 and they have blown the money already on who knows what, including a house in Quito they bought that has fallen into disrepair. Elias is now cura, and he has brought back the SIL. Guy named Elias Johannson was the first SIL person there. They have a campaign against Don Cesare, the shaman, who they have forced to move out of the village because the Christians claim he is a witch. I think this is happening in other villages

as well. Say Luke Weiss, the American, there with father. Richard's story about all the gringos hanging around Don Cesario. Elias has become so destructive a force since I took that affidavit from him in 1993.

On Sunday, a breakthrough day for me at the Sacha station. We were heading to San Carlos, Donald said stop here. Went around back fence and saw complete complex that Texaco designed to dump probably 2 billion gallons directly into stream which went into the San Carlos river. Woman's story, oil in creek, her inability to get anybody to pay attention to her, the ridiculous liners they put to "stop" pollution from flowing into river, the incessant smell of oil which I still have in my sinuses the next day, the kid shoveling up at the creek bed and finding sludge underneath the sand, the vegetation that is black, the loss of her life's assets of two pigs, only got 500 when should have gotten 600 dollars, plus the pigs were pregnant, the trees are dying, chemicals are running into her land, pigs are in mud pits contaminated by oil, can't leave because does not have plata. Then saw this massive "remediation" project that looked like a crime scene at one of Saddam's mass graves – digging mud, mounds, detergent, hoses, workers working without protection, the locals from San Carlos getting paid 400 month for the clean-up. The entire thing was a well-designed cover-up, this time by PE of T's old operations. But the stepped down pipes from pit to pit was so well designed I can only conclude it is pre-meditated murder.

Later, meeting doctor in San Carlos who is ignorant, had never seen studies, but was so articulate and such a good person. Wanted to work in small community to help people. Took him to pit, and he is getting jacked but I am sure he had no idea that the dumping we saw at the Sacha station goes into the river that has caused so much hardship in his town. Rosa not there, tired of meeting with journalists. Brother of town leader had stomach cancer, thinks he is going to die soon.

Intense male bonding with film crew. Everybody spilling their guts about their marriages.

Jan 20 -- Yesterday (Friday) traveled to Lago with Joe, Richard, Eddie. Sat with Pablo on the plane. He looked at La Hora on the plane and it had a picture of a rocket going into space from Cape Canaveral. He said, "With all the hunger in the world, and they spend money on this." I told him my initial euphoria from the previous day about the Sand hearing had faded as I had reflected. The danger was real, this could kill the entire thing if the Gov goes down. While I had confidence the gov could hold off Tex – partic with Paolo and Raul at the helm, and with our joint cooperation agreement -- that confidence was only as good as the Gov's resolve to do so. And given the instability of the gov and the upcoming pres elections, I suggested – not, let's say insisted – that a plan be developed to make sure no AG present or future could feel he could change the gov's position on this without destroying himself politically. A mobilization must occur. I always felt it was an error to let Bonifaz run this without making it public, but there was a good reason

to keep it low profile so attention could be focused on the Lago trial in Ecuador. Also, the more attention heaped on the arb issue in New York, the more scared the judge might get in the Lago trial that he would be responsible for damaging the national interest by letting the case go forward.

We analyzed how much had changed in the last 6 months. Monica had been brava, but not with Texaco – just with about everyone she dealt with but the Texaco people. We agreed the press conference in August and the entrance of Pablo as the lawyer had completely shifted the dynamic in our favor. Last April, Novillo told Pablo essentially that we were losing – that he liked the Tex reports, they were the more responsible party. We were in disarray with Camino, who was more concerned about putting “gernencia” on a bathroom door in the conference room that getting the technical reports in on time and done well. They change for me was the Syliva phone call to me last July, after Tex found out Monica was out of the case. She said Monica had told her I was running the case, and could they get a delay until late August to resume the inspections because of a death in Callejas family. I said I couldn’t make that decision – let local counsel decide. And Pablo and Luis went to meet with Callejas directly for the first time, and this was not only a breakthrough for them personally (partic Luis who always “hated” the Tex people and was nervous when I was shooting the shit with RV and Sylvia at the second inspection) to deal directly like this and not personalize their anger, but also for the trial itself – for Tex to understand it was not the elites (their preference, Alberto and Monica, or after that, me) that would be running the show (with both sides about money, according to their perception and the Tex cosmovision), but the locals who are the most affected. That is, people who operate on principle, who do not adhere to the Tex cosmovision that everything can be bought and sold for the right price. And I remember how exhilarated and smiling Luis was upon returning from that first meeting – like a child in a candy store. And that was the beginning of some major empowerment on our side, and disempowerment on the other side.

Since then, Tex has acted curiously. For days they had no response to the August press conference where we announced they were proving our case, and the response they came up with was lame (get it) They still have not responded to Atossa’s letter. The Guanta fiasco was in away their last gasp on the political front. RV and Jeff Moore were here, and they knew we were gearing up with our press release the week before announcing indigenous people would be testifying for the first time. They ran full-page ads on Wed, the day of the canceled inspection. RV fled town surrounding by 20 soliders. And the backlash has been fierce. Callejas has been rumored to be tired, and wants to quit. He told Pablo he is not only litigating the case, he is litigating the case in his own house. We specifically targed press trips to Ambato, his hometown, as a form of psych ops. Their reaction to me at the last inspection was desperate. In the last meeting with Callejas on Thursday of this week, he told Pablo that they had reviewed a lot of what they said over the last year, and that they had made mistakes that needed to be corrected. (We speculated what this might be.) He told Pablo he is going to Houston to meet with his jefes about what to do this year, and we are going to use that information to slam them with a couple of releases in the states and in Ecuador just before that meeting (thanks for

the info, dude). He told Pablo I was the “mentalizador” of the press attacks in Ec, and he expressed frustration with his own press team, saying they were like a little cat being pummeled by a stick. Then, we have invade what historically has been their exclusive terrain – the Ortiz interview, Vistazo, and the national news channels. Plus Paco Velasco, the most famous reporter in Ecuador, has been pushing the case hard on the line that local Ec who work on the case are selling out the national interest. Their initial propaganda effort, based on their polling, to claim this was a case of gringos and money has been turned around completely, even though it was successful at first and I played into their hands until Dec 3 2004 at the last press conference I spoke at.

Had Selva Viva shareholder meeting in the morning.

Jan 18 – Our all-day legal retreat ended up not starting until 3 and not ending until 9 and I am really exhausted after 6 straight days of work without a weekend from the previous work week in the states. Manuel didn’t show up, and didn’t call. As Luis says, he is a Mandarina and surely Cristina had something for him to do. Alejandro said he would be there at 2, and did not arrive until 3 with no explanation. Sometimes I feel like the sheer weight and workload of this case is eating us alive, like the toxics are eating the jungle. In fact, I am more and more like the jungle – struggling to survive professionally and personally in my own context, with the final outcome uncertain. This case is both exhilarating and exhausting. Thinking and talking in my native language about so many issues is intense enuf, by doing it in Spanish after so many days and sleepless nights plus the occasional glass of wine and trying to understand Pablo’s accent has become an incredible challenge. Without intending to I glance at myself in the mirror as I pound away at my computer and I look so much older than I remember, so much less handsome. Everyday, a thousand questions and to do possibilities swirl thru my mind as I look toward the future, and the list of things that could help the case that are not getting done is growing longer, just like the list of things that are getting done is growing longer. Then I think: is this case accelerating my aging, propelling me on the fast track to death like Beau Friedlander said at lunch two weeks ago, when he said (in response to me saying how fast time was going by) that I am dying? I used to be the young guy looking up to the more experienced lawyers; now I am the more experienced lawyer looking down at the young people, like Aaron and Daria. And soon I might just float right out of the case into another life, with a young me become the me of the never-ending case like the heavy metals in the soil will never bio-degrade and will still be there 1,000 years from now. This type of litigation is a young man’s sport. I need to hone my body and mind into a lean, mean, fighting machine and not eat dinners at midnight anymore.

I made my list of issues for the lawyer’s meeting and it ran to more than 50 items, which would have taken us three days to fully discuss and analyze. These meetings are productive, and have evolved from me telling them what I think should happen to a real exchange of ideas. In meetings with the comite in the jungle, I used to sit at

the had of the table and now I sit away from the table and only talk when they give me the floor. It make them feel their power, and frankly, I much prefer it as it takes stress off of me. I still feel like I am often way ahead of the team and I have to slow down. This is a function of them not being in physical position to understand all the activities in the usa, or how events in the usa and ec affect each other, and also a lack of experience in US-style litigation – the same lack of experience that led Alberto to make his bone-head mistakes in designing the proof part of the case, and signing Texaco's Analysis Plan. For example, the contradiction between Alejandro's affidavit for the Jan 19 Sand hearing and our need to cut short the inspections. As I told Bill last night at dinner, they have no clue that my work on this case – the intense hours, the travel, being away from home, the giving up of other income – actually represents a sacrifice for me personally because compared to what they have to deal with I still lead a life of utter privilege in one-bedroom apartment in Manhattan. Or that Joe and the law firm spending 1m per year in what could easily be described as an economically irrational move for a law firm is an incredibly opportunity, or even a privilege, for them, while they just expect the money to just flow like they are giving us the opportunity instead of us giving it to them. The fact is, as close as I feel to Luis and as much as I feel he appreciates me as a friend and colleague, I know his first loyalty is to his people and that they could dump me on my ass at anytime. And while this is as it should be, it is still unsettling. Given how I feel right now, I almost wouldn't mind it. But we all have become prisoners of our own creation, and we cannot get out, so I don't think will dump me just like we won't stop funding the case, because we all have too much invested to stop. So we soldier on.

The day started with me explaining to Luis the film crew coming on Friday (with Richard and Joe). Richard and Joe are totally jacked, but have no idea the number of film crews that have come through here and left nothing behind for the people. How total fatigue has set in here when it comes to journalists. While this could be our very best shot at a real film, but to them it is just another bunch of gringos coming to do their own project and exploit the situation. I asked LY if Toribio could wear traditional dress in the Friday accionista meeting in Lago, and he said no – not with any resentment, just resigning himself to the fact the Cofan were in upheaval because Jose Quenema was up to his old tricks, was taking over the village federation, and that Luis Narvaez (currently the Cofan President, but like Randy Borman, not a Cofan – explain what this means about cultural damage) was being manipulated by Quenema, that the case had not helped them, and LY said there is a possibility the Cofan might vote to pull out of the case. Our allies Toribio (who moved to the town on border) and Ermegildo are simply too humble to fight Quenema, who is having his way with the village. One of Quenema's main puntos de lanza in his campaign is that the Frente uses the indigenous people and their images in the press to promote the profile of the case with no return for them, so now would not be the time to ask Toribio to put on his traditional dress for the journalists. Maybe Humberto will do it Saturday when we go to San Carlos, but hell, why should I ask him? It is exploitation, because absent me asking him he wouldn't do it. And, I suspect it makes him feel like he is being photographed like

some animal in the jungle, which is maybe how an American audience would see him rather than the incredible human being that I know he is.

We never really got past the basic case issues in the legal meeting, and had no time to address broader strategic questions, which is why we can't seem to control the track we are on and move it another direction. The key sticking points were my analysis of how legal strategy needed to be tied to our ability to fund the case, rather than have a life of its own, which is sort of how they see it. Negotiations with Callejas and the judge about the sked for inspections in the coming months are about to start. I asked pf when he thought the inspections would end, and he said December which just flabbergasted me, as we had agreed on a time frame for July. His thinking was that since Texaco had 11 separation stations (which take 2 days) and two wells, they needed a total of 12 weeks for inspections. Thus we would also get 12 weeks, so we would do 24 additional inspections to even it out. And by his calculation these 37 additional inspections would take us to the end of the year. In the old the times, I would have yelled at him. I would have been a griton. But we talked it through. First, I got him to agree to the idea that we would do 12 additional inspections, rather than 12 weeks of inspections, which would cut 6 weeks off. Then, I got him to agree that in the next phase of 14 inspections that would start in Feb and run to May, that we let Texaco take the majority of those inspections rather than alternate week by week, which will cut another month off (they got rid of one our stations and two well sites in the Lago field, where I had been in that previous inspection in December of last year, and replaced them with Texaco separation stations). Finally, I floated the idea that we go into the negotiations with the position of giving up the rest of our inspections totally, and flat out blame Texaco for delaying the case and go after them. Do something to change the dynamic. As PF pointed out the danger here is that we won't have enuf time to prepare all the evidence (the 7 annexes we had discussed), as you cannot put in more evidence after the inspections end. I am still going to push this, because this case will never end and I need to explain this to Joe. But at this stage, we should be done by July and I told PF with a strict deadline we will get our annexes done in time, and that the reason the annexes were not done in time is simply because there was no deadline. I am also going to ask LY that we only do one inspection per week to save money. They wanted to go to the Auca and Guanta fields for political reasons, because the people there want to see the case happen. A valid point to be sure, but again, they don't seem to balance it against wanting to push to the end as fast as possible. Add PF's analysis of reports of reports of reports, that basically will take us 18 months out after the last inspection is completed (have him run this thru for me). Depressing. For them it is a job, for me it is my career. They can't imagine a life without the lucha, even if we win; I can imagine a better life after we win.

Their conversations with judge, concern about complexity, Issue of 30m, Tex opposing resolutions, not understanding joint coop agreement, medidas, payment of judge's peritos, bill meeting with GF. About complexity, I got on PF, emphasized need to simplify how we talk about case. He said for the judge to think it was complex, as opposed to T winning as he thought last April, was a major

advancement for us. Tex has hit AW and shareholders with opposition to resolutions.

Jan 17 – Monday and Tuesday in the office have been really encouraging. On Monday, reviewed docs in library, met extensively with Fausto and went over arguments for both sides, history of Ec laws, etc. Did outlines for three most imp annexes that we have been needing for ages -- bad remediation, bad science in trial, health impacts, plus what Pablo suggested, indigenous rights, historical standards of technology in early 1970s. Seem to be getting along well with Luis and Pablo.

On Tuesday, MP made an awesome presentation with ARCO software and we talked about his global plan. Left where Ann would write terms of reference, maybe Stratus would bid on project, while Ann and Bill will work for us. MP was really sophisticated, but also dream – wants to do chrom study, have internet based info fed by gov ministries (politically difficult), but what most concerns most is the 30m sent to the municipalities with no coordinated plan, technical help, or real oversight. If this money not spent well, how can clean-up from Chevron be justified and how can the 5% come year after year?

Had party at Lupita's last night, played Joan Baez. Always a bit of awkwardness with gringo visitors and Luis and Pablo. I really don't think they like socializing with new visitors, they would rather hang with themselves and make their jokes, but they force themselves to enjoy it out of respect for the project. I called Lupita and told her they were coming, to treat them like the kings that they are, and she of course said that would always be the case. Lupita is awesome at night, like a den mother of the project, but she drives me crazy during the day, forgets the most simple things, like calling the ambassador to make an appt, or make media lists.

Ann and Dick left this morning. Couldn't extend Ann's tix. She is such a geek, but she really has charisma and has a ton of work from various state governments. Must get back to do work for New Mexico trying to settle with Phelps Dodge. These guys are like sleuths, detectives – brilliant. I always have been fascinated by the work, dating from my days in Iraq, how science can be used in this way.

I realized several weaknesses going thru issues with Etech – missing documents in library, tech reports going out without review by lawyers, Alberto signing that idiotic sampling and analysis plan.

Jan 14 – Drove with Jorge from Lago to Coca to catch the early-morning flight. LY met me at airport – always goes above and beyond to make sure I am ok. Jorge told me story about having robbed his woman from her parents when he was 24 from the highlands where he came to the Oriente to search for work. Went 8 yrs without seeing her parents or his. Wants to buy new car, but interest rate 12.5%. Put 6k, down, 6.8k loan, 589 per month. LY wants to build a house, needs 9,000, but can't afford interest rate. Lack of access to capital keeps people poor. Stopped to on side



of road as 18-wheeler wrecked in the rain, I had to go to the bathroom, and there was just this general odor of aceite along the side of the road – all of which used to be dirt with oil on top.

Jorge works a lot with oil companies – to get intel, always says bad things about the case to see where people stand. Pass town – San Pedro de los Cofanes, but no Cofanes live there. Used to be Cofan territory. Orellena, people ask how stupid – why name a province after a guy who never lived here or owned land here? Said mil took photo of Jorge as part of Texaco's contraintel operation.

Ermil went to jail for driving without a license. Spent 5 days in jail in the chofer's cell, built especially by them. Irony – assassins kill with impunity, while he gets thrown in the slammer for driving without a licence.

Mike Levine conversation. Said nothing we can do about the spying. Said they would kill if had to. Treat it as defensive driving. Get quotes...

Jan 13 -- Conceptual breakthrough today with Ann Maest, who has a PhD in chemistry from Princeton. She basically took all of Texaco's scientific manipulations, which we had seen as disparate strands, and molded them together into a coherent conceptual model that cleanly gets at their "scientific" defense. This model has the following elements: (1) red clay is the perfect sealant; (2) heavy metals don't move through pores of clay (API #9); 3) the red clay in the area where Texaco operated is homogenous, or that it does not vary; 4) the red clay is omnipresent; 5) there is no connection between sources and streams; 6) the lighter fractions are gone; and, 6) DRO/GRO represents the appropriate measuring standard. Importantly, they do not test this model in the inspections. In split samples, they are using TCLP test.

When went to plane in morning, for first time had to put bags on ground while dog tested for drugs. But black German Shepherd wouldn't do it. Two soldiers with bullets in their ears to keep out plane noise. Used tennis ball, but dog wouldn't only go after the ball and wouldn't sniff the bags. As I told Ann, ever vez en cuando the military has to prove to the gringos that it is doing something on the war on drugs. Flew to Coca, the weather perfect and seeing Cotopaxi was just incredible, as well as the two volcanoes in the distance.

Stopped by immigration. Took us from airport to immigration office in our car. Bunch of young, nice guys. Sat us on couch. Were suspicious. They don't like Americans coming on tourist visas and working, and they said a lot of oil industry guys do that. Explained what we were doing, that the afectados were taking us around as part of legal case, and they seemed to get happy. "Your work is social," the head guy said. Reminds me of time about a year ago when I was rude and they basically arrested me, until Luis and the crew came over to get me out.

Went to various sites in Shushifundi. Raul Arevalo house, which was built directly over a "remediated" waste pit. He is auto mechanic. Took sample at side of his

house, was terrible. LY said he stayed there because he had bought the land, and had no option, as the owner never told him about the pit. His well was at the side of his house. All kids walking barefoot. He had figured out an ingenious system to run the water of the well up to barrels, where he would wash it thru sand and gravel to get some of the contaminants out. Luis sort of laughed at it, but Dick Kamp said doing that is much better than doing nothing. Raul seemed frustrated when I asked if he had “reclamado” to anybody. He said no, said in this country that doesn’t work. Really incredible – have to go back here.

Also went back to huge waste pits where we had filed Bianca in Oct 2003 on her first trip when she was in the black PJs. This is interview in AW video. Since they started re-injected, the pit with the gas flare was totally drained though the flare was still going, while the other pit had just a little water in it. The pits and the road I were overgrown on sides by vegetation that didn’t exist last time. Sort of made me depressed – seemed to emphasize how long this case was taking. And taking the three around, I had little of the enthusiasm I used to have.

Drilling well, guy working on platform from 6 am to 8 pm putting tubes in makes 400/month. Bill said flares are very dangerous for health, they are burning all over. Guys venting gas without flares – got nervous when we took pictures. Had picnic at side of waste pit, pig came over. Visited one other remediated site, then went down and saw stream 200 meters away. Visited Pablo in hospital with IV in arm with brother. I explained how that really well-ordered town was a murderfest underneath. Nice stores, gardens, etc.

Came to Gran Hotel de Lago, in room 70, again brought back memories of when case started and how long this is taking. But finally, I feel like our team really has its shit together. What the etech people have to do is help bring the case home – buttress our proof on the liability issue, and figure out the damages issue based on modeling. I really feel like ann is going to be our key link to bring it home.

Jan. 12 – First day back after five weeks away, found out Laura pregnant and it feels completely different to come here knowing that.

50 k came today – meet on roof to plan payment of GF. Luis has his doubts; I explained we are not paying for time, but for value. Juan came later to collect the plata.

Bill Powers came today. Having him come in and introduce himself made me realize how far we have come. Pablo y Luis called me out at lunch to be sure I was not going to impose another gringo on them – I said they would have to decide. I really like Bill – he wants to do fish assays, but he has to talk less about Peru. He seems to be getting along well with Fausto.

LY told me story about how he was robbed of 110 dollars to buy eyeglasses for his daughter, so now he has to wait another month. I offered to pay it back, he refused,

but I am going to give him the money anyway. He also paid out of his own pocket the rent at the Frente house after the money ran out. And our phone was cut off because the money ran out.

LY told about Ermil's problems. First time LY opened up to me about that. I think he is frustrated with E, he is disorganized, in conflict with a lot of people, he he has neglected the base communities and the Frente has its convention in May and LY is worried not enuf pepes will come, so he and Pablo called a meeting for Monday to deal with Ermil. They always sneak off to tend to the base communities.

Got angry about lousy press kit Lupita and ben gave me today. Have to redo.

Raul, Mike Levine, SEC ltr, LY no vacation, Alejandro in ARgentina

Strategic shifts – Pablo in July, and to the more political today.

Nov. 27 – Flew in on overnight flight – Pablo went two straight nights sleeping on bus when he missed his flight back on Monday for Wed inspection. So can't complain.

Met with Luis on CB situation. Did not fire him. Give him chance to explain himself by Jan 15. I told LY I was very disappointed. He and PF explained it to me and AP and it seemed to make more sense, but they still don't appreciate the damage he is doing. For example, it limits by ability to see Procurador. LY said he couldn't push, or people would suspect someone was behind it. Interesting, and at some level impressive, notion of justice they have – want to give a guy who is totally fucking them over a chance to be heard. LY knows CB will use his "caprichos" to try to manipulate his way back in the good graces of the clients, and he is worried about it. Get letter. Helped him with letter and contract –I think all this is going to make CB crazy. Starting to have questions about LY's leadership faults, but as I told AP, they need a strong administrator, not a strong leader because of all the disparate interests that comprise the base communities. LY fits the role perfectly, and he understands it well, even though his lack of action on the CB thing drives me crazy.

Had legal meeting with PF, AP, LY. Pablo reported some incredible facts that lead me to believe the Texaco camp is very demoralized right now. He said Callejas has confided in him that his own friends and family are "giving him the finger" over his participation in the case. Said the Tex camp super-scared of the locals (temor de gente barbaro). My own analysis confirms this – we have been pounding them in

the press, and they have been almost completely silent as the emperor is being exposed. The Guanta follow up is still going strong two months later and Perez Pallares must feel very lonely, as he is only spokesman. He canceled the event at San Francisco, so we dominated that; they seem to be getting kicked off the military base; Benjamin Ortiz refused to be their spokesman. Carmen said Ortiz was offered three times the money to be their spokesman, and he turned them down because his prestige was more important. I am sure PP is made at RV, leaving him alone like this. I would not be surprised if PP quits – who would want this, at his age, to be left alone to take all the bullets for Texaco, at the end of his life when he should be retired and enjoying all the money he made for screwing over his fellow citizens?

Legally, we have pushed them back. They no longer use Annex J. We have attacked their reports as illegitimate, because their peritos have no work permit (a technicality, but why not?). We have forced them to use Ecuadorian standards. They are on the defensive over Guanta and their ties to the army. We have probably screwed up their relationship with the armed forces. RV does not come here anymore. We have legitimately raised the issue of fraud. He might be worried about an arrest. Lehane gives another dimension – Herbert, Roll Call, AP story on the petition. They don't know what is coming next, and we still have so many cards we haven't played – the criminal case, the contralaria informe, annex from our own experts, the money from the global, etc.

But I worry as so much legal work is not getting done because of our thin resources – the fusion stuff, various annexes, all the stuff on the integrated document list. We have a long way to go, and we are hanging so much of this on two recent law grads (Aaron and Julio).

In USA, Roll Call article appears on “inappropriate” lobbying of Congress by Chevron. I get invited in Paco's show to discuss TLC with four campesinos from Colombia, Peru, Venezuela, Brasil. I am starting to attack PP for making millions from Texaco in exchange for damaging the interests of his fellow citizens. I did it twice on Paco's show – once on Oct. 19, when Guanta was canceled, and again on Tuesday morning. The first attack provoked an angry reaction in front of the judge. I want him to personally feel heat.

We had press meeting later in day and mapped out December campaign: Thomas letter yesterday, Thursday the revealing of the secret contract, Monday attacking their peritos with no work permits, the next Thursday Jarrin testimony, later the riqueza boletin. I talked about philosophy – we must always be on the attack; we must pick one theme a day, or week, a la Jim Baker; we must always be credible. Gaby and Lupy have their limitations. Did not follow up to the Thomas letter, just send out mass email, then made no calls by 1:30 in the afternoon. I yelled at Gaby when she challenged my edits to the Thomas letter – said exaggerated, where support for statement they are spending thousands to lobby congress.

Had dinner with Pablo Tuesday night in Lago. We talked about how much damage Camino caused us. We still have significant residual problems with the reports of Davila and Grandes. Pablo said he thinks Camino was paid by Texaco, was working for Texaco. I said I felt he was just flat-out corrupt, that his only goal was to get money after I rejected his proposal to take a portion of the settlement. Camino believed (mistakenly, like Monica and CB) that he was indispensable and he overplayed his hand big-time. I said Davila and Grandes, being weak, just fell into his dominant, corrupt ethic – remember, Camino asked for 100,000 as severance, and then asked for 25,000 per perito report. We agreed that Texaco did not fear us back then, but now they fear us.

Talked to LY on plane over about fear. Said he was not fearful, only for daughter. It seems almost arrogant, but I understand it. PF still lives alone in house, he turned out lights, locked gate, we went to dinner. I insisted again they get somebody and pay them 300/month, but they said they could not find anybody.

Talked to AW on conference call. Moving on SEC ltr, ad, number of fronts. Leila said she talked to LY, and he was actually scared. Maybe she is hearing something I am not, or maybe he is telling her something that he is not telling me.

Nov. 18 – Luis came back yesterday afternoon from Lago looking harried, unshaven, and stressed out. Ink stain on shirt. It was his daughter's birthday and what should have been a joyous day, a rare day off for him to take her to a mariscos lunch in Lato, was a tragedy. Handed a human rights complaint about attempted kidnapping of daughter two days before – the phone call at St. Elmo. Given the hesitation in filing official complaints two weeks ago for the human rights petition, it surprised me how quickly this complaint was filed with the local human rights group. One's child – this is a whole other level. There are just too many coincidences now for this not to be orchestrated. They caught the woman, who is not talking; the man escaped. AP said he started to think of his kids, should he tell his Dad. The courage is amazing, it just increases the resolve. AP did note security guards outside talking to the military guys across the street. We all assume the house is bugged, the phones are bugged. These guys would let anybody in to place a bug, yet if we do not have them, how can we get any level of physical protection?

We can no longer talk about sensitive info in the office. How did T suddenly hire a botanist, who showed up in the first inspection where our botanist was. How did

**Perez Pallares know to cancel the foro at the San Fran on Wed? Is this just coincidence, or are we all crazy. This is what Gato meant by sicotizar.**

**Press release mocking Perez Pallares for not wanting to debate in public. I predicted he would quit within three months if we kept up the pressure.**

**Letter to Rep. Thomas. Lehane all over it. Re-wrote Daria letter.**

**Meet with Gaby father, Fabian Jaramillo. Must interview him. Explanation of social history of Ecuador. What we are paying peritos is way too much.**

**Deal with Gustavo Pinto – feel like I have gone over to the dark side. First meeting like that I was not eaten alive. Made modest offer, plus bonus. Agreed to keep it between us, no written agreement. Independent monitoring.**

**Always feel behind, but in good way. Look at legal document for docs that need to be written – unbelievable the amt of work, and unbelievable that a recent law grad will play so critical a role.**

**Nov. 17 --** The security issue is putting everybody on edge, including me. Luis and I were eating two nights ago with Ermel at St. Elmo and he got a call on cell and left, visibly upset. His ex-wife called and said two people tried to enter the house and harm his 9-yr-old daughter when she was home alone. Amazing, the girl stays home alone from 4 p.m. until her mother comes home. He sent Pablo over and it appears they were trying to steal clothes hanging on the clothesline. Seems like an odd explanation. Then, last night met Michelle, Pilar's French police husband, who said the "loss" of my computers was not a coincidence in light of the theft of AP's computer. Finally, LY said Donald was awakened at his house outside Lago the other night, and he went outside and found a group of about 20 armed men in the darkness. They asked him where Sushufindi was – they believe they were FARC, going to "clean up" the common "sicarias" (paid killer) who are acting in their name in the Sushufindi area. Gato taught me a new word: "sicoziar" which basically means to make psychic, make crazy, to get in one's head and fuck it up. Michelle says there is definitely a "perro" following me, they want to know what we are doing, so we can be controlled, but he doubts they want us killed. Says for a big company, no big cost or big deal to put a couple of perros on us and monitor our behavior. The idea he would even think of such an option is chilling.

**Pilar corruption story – unstoppable here. Really demoralizing. Get her informe.**

**Met with Archie and team at Catholic U. clinic about caso penal against RV, with students. Loved the ambiente. AP and Archie were scouring the penal code to find any provision that could be used against Reis Veiga and really could find none other than one had to do with a public functionary, were all about changing actual documents, not a general scienster like we have in the U.S. Thus, would have to accuse RV of complicity with a public functionary, rather than bringing the case against him directly. It is unbelievable to me that the country that is so high on the list of corrupt places has no**

basic fraud law. The penal code was written in 1932. Archie was joking about it. Next step – we can work up case and give to fiscal, and explore civil case as well. Esperanza there, we seem to be connecting better.

So much going on – just look at dozens of documents we need. Sat with Aaron so he can take over supervision of legal work. Unbelievable that a kid just out of law school is going to take this on, but he is capable legally but we will see managerially. It is shocking how much there is to do, with so few resources. Julio, new lawyer at 500/month, is starting. Want to get student from clinic in to have more ties with Archie.

Indigenas people movilizing today against the TLC; Joe didn't get back to me. He obviously feels guilty. Messaging – need to open front that Texaco is corrupting the process, and is a corrupt company. Gustavo Pinto spoke at book event, very formal, we need to get to these people. Met with Aulestia over plan, must convince Luis. Will call Pilar to try to bring her into case.

**Nov. 16** -- Called Joe to seek copy of ltr, left msg, never got back to me. Laura's reaction is that this is a total betrayal of me. There is no doubt this is hurtful. This raises all sorts of questions for Joe. My biggest fear is that his name is going to be on the bottom of that letter, and if it is, what do I do. I must tell LY not to rest the "Caso Cristobal" (as he now says) on the issue of the letter, but more on the Procurador, so we can protect Joe if he was stupid enough to get sucked into this letter by CB. My other fear – and I think this would be CB's last and possibly only effective card he could play – would be Joe would buckle to pressure from Cristobal not to fund case (under threat of a suit) if the clients fire him. If Joe feels allied with CB, this might be a challenge for me, particularly after he betrayed me. This also tells me Cristobal has had Joe's ear more than I realized, and that Joe is not as smart as I thought he was. Joe is taking a typical plaintiff's lawyer approach, that the clients can be controlled and manipulated, and CB is encouraging this no doubt, but Joe has not been here for years and has no concept of how things have changed. Joe is probably thinking he is playing all angles in his favor – seeking a settlement with CB without telling me, and encouraging me to pummel the company with the campaign without telling CB. His general instinct – that the pummeling is the best way to get them to talk – is correct and the basis of this entire strategy we have designed, but the timing is way off and as always the communication is off between the lawyers, leading to this massive problem. In addition to fighting 500 yrs of Ecuadorian history, as AP says, we are fighting the entrenched and elite customs of the plaintiff's bar in the U.S. CB also has him convinced he is the only one capable of working the "magic" with the EC gov, but now CB is clueless because he hasn't been here in three years either. As LY said, those who think they know the most usually know the least.

What really pisses me off is six months ago I told Luis to write this letter imposing restrictions and a process on the American lawyers equal to the one I already was observing, just to be sure CB never did something like this. But he never sent it. It got delayed by the contract and paralysis over whether to fire CB for offenses committed even before this letter came out. LY is really straitjacketed in his freedom of movement. Manuel set up this governing structure, and I think this is another example of Manuel's crazy brilliance. While this keeps the bases unified, it also slows down and limits

freedom of movement of the decisionmakers. LY needs more authority but his brilliance is in not going mas alla than the bases, always aware of that fine line. But LY is always thinking 12 steps ahead. But instead of thinking of how he can shape those 12 steps, I think he thinks too much about how the 12 steps will affect him if he chooses a certain course of action, often leading to inaction. His main concern in firing CB is that he will call the press and claim he and I are in a “complot”, y/o that CB will call Elias who will cause his typical trouble. On the other hand, I see LY making progress in his initimable way – systematic, slow, respectful of all.

Legal meeting last night over fusion and retroactivity. In English, with AP, Aaron, Daria, Luis Alberto – not Pablo and Luis. It was much more efficient w/o Pablo because of the language issue. Aaron did awesome memo on fusion, feeling much more confident on the issue. Same with retroactivity. Supervising the legal work is a fulltime job, and I am spending 20% of my time on it. AP is not doing it, and AW is not doing it. We hired a young lawyer – Julio – at 500/m to strengthen the team. I haven’t read an informe for months. Need to read the observations. Need to provide argument nuggests to Pablo, outline for the alegato – just an incredible amount of work that I might have AP oversee, even though he barely speaks the language.

AP got phone call at 5 am last sat – is your alarm activated?

Problem with Aulestia – pair him with a person from the zone. need it – saw indigo leader from patch on TV blasting Oxy, not mentioning Texaco case. Still trying to get it thru LY. Talked at lunch about taller in January over negotiation. Taller with Luis Munoz and judges, with CB wasting money on his legal conference.

**Nov. 15** – Extremely difficult week for me emotionally. Facts are Callejas mentioned at inspection just after Guanta that CB had sent ltr to Chevron asking for settlement and it had been rejected, and that CB had threatened “violent” reprisals. Callejas mocked us: said if we were saying we were winning the case, why were we seeking a settlement? This of course is the ultimate betrayal of our strategy the past three years, and the ultimate betrayel of the clients and fellow lawyers. I am convinced this man is truly nutso, totally ego-driven, and desperate after his firing by the AG to try to put himself back in the middle of the action and appear like he is the big cock among the chickens involved in this case. Worse, Callejas appears to think I am his little tool down here, carrying out his wishes, when the opposite is the truth. I guess this is what happens among lawyers in high-stakes litigation, because as much as it pisses me off, JK doesn’t seem terribly flustered by it.

On Friday, I found this out by chance when Pablo mentioned it to me at lunch. I don’t even think he knew what it meant when it happened three weeks ago, which scares me about his lack of sophisication. For him not to pick up on it is just unbelievable to me. As LY said, this is worth of a death sentence but he said he did not want to press it until he had “proof” – and he did not want to send CB a ltr asking for it without “consulting” with the comite. This sent me into a funk. I was more upset at LY for not reacting than at CB, who emotionally and as a matter of self-protection I have erased from yy inside grid. Called Joe on Monday, and he was prevaricating, saying he knew something about



because CB had sent him a draft of a letter seeking settlement a few weeks ago, but JK claims he has no knowledge CB sent it, something I don't believe. I fear Joe's name is on the bottom of that letter. Regardless, Joe promised to go get the letter.

With LY, the issue is not what CB's explanation is – he will of course say in his demagogic way that he was trying to help the clients, that the case is weak, this is our only chance. The issue is the principle – not respecting the clients, not consulting, being the dangerous and anthrax-laden unguided missile without any command structure overseeing or checking his actions.

Luis weak leadership is really coming into focus. Hesitation with Juan Aulestia because it will piss off Manuel and Esperanza. Fear Cristobal will call Elias and that will cause him problems. As AP said, it is the old colonial image of the “jefe” they are scared of. Fausto said he did not think the Frente was providing any leadership to this case.

Met last Friday with all the human rights groups, writing a joint ltr to President Palacio to protect the Frente on the petition. Trying to get meeting with President aide for Friday for press event. SRD spoke, Ermil undermined me on “death threat” issue saying we shouldn't exaggerate what really happened. Sorry, but I call a phone call threatening “limpieza” a death threat. Ermil, Pablo, and Ermelgildo called me out in a meeting – Ermil is roundabout, repetitive away, saying everybody should have their role, etc. I apologized, but I am not sure for what. They agreed not to back off a statement that already was put out there by CEJIL, AW, etc. Again, lack of sophistication, victimized fear of really recognizing the threat you live under, and need to exercise “control” over lawyers.

Met with Aaron and Daria to work out plan, and call them out for going to Dureto without my permission. Said using up too much “gringo capital”. Suddenly, they worked with far more enthusiasm.

Did new media plan today – issues of bringing kids with cancer up to Quito for press event around Christmas, potential problems with that. Idea is keep attacking, keep pressure on, etc.

**Nov. 9 (Wed)** – Arrived on Monday. Laura comes tonite T's earlier mistake at Guanta is giving us amazing traction.

First, we filed the petition before the Inter-American Commission on Tuesday to protect AP, LY, PF, and Ermel. AP did a story. We sent a boletin today to EC press, and the response was good – four newspapers covering, and Franklin Veiga is in story for El Comercio. Had AP call all reporters so he could be quoted. AI involved, Bianca mad could not sign petition, wrote release, AW put on PR wire and posted on their website. Tomorrow, write another boletin to advance story, put pressure on Chevron over its ties to the military, keep advancing the ball to put pressure on the company. Release with Alexis Ponce, which would be a coup for us. Fight with Carlos Andrade de Reuters, said a gringo entered and tried to intimidate them for not covering case. Think it was Benjamin.

Luis went to Aguarico inspection today. 50 Secoyas, some unable to enter the station due to security bullshit. Will get details later.

Clear we are not taking care of nuts and bolts from legal case. Aaron has grand plans for human rights, but has yet to complete fusion issue. But I love his creativity.

T is telling reporters that we filed the petition because we are losing the case. They are such fucking idiots, it is maddening.

Worried Novillo is an idiot – comments in AP story about how he does not understand the press, appeared after

Oct 19 (Wed) -- T pulled their most clever move yet, and our job is to make it backfire. They had the judge cancel the inspection of Guanta at the 11<sup>th</sup> hour, claiming the Indians who were coming to their ancestral lands were a security threat to them and the judge. They based in a report from military intelligence from the very base where the Texaco lawyers make their home. Learned from AP at hotel; never informed Pablo. Judge felt he had no out. We were naïve, but only because they are more evil and corrupt that we could admit to ourselves. My biggest fear is that there can be an unholy alliance between the army, Texaco, and PE to make sure we do not win the case.

Pablo talking to judge on cell, trying to save inspection, and seeing his thin body collapse as he told me no way; how to tell out team; what to do. Went to new hotel and countered. Luis was on way to Coca, so we did not have him. The plan we came up was clear – divert all the Cofanes from Guanta to the court to to into the judge's office and demand the inspection take place, taking all the media, and then going to Guanta to do the inspection anyway. Stayed up to 1 a.m. writing one-page press release. Next morning, worked phones from Frente office. Did La Luna. Went to judge's office. AP got in his face. Moved all the Cofan in – woman, children, sure they are violent. Judge made decision in two minutes. Judge was sweating, finally left, promising to make a decision on another day by tomorrow.

Took everybody to Guanta. The site was gated; 30 private security guards were "protecting" it from the Indians. Normally, they had 6 security. Walked thru mud, over a barbed wire fence, to area where Texaco left two pits, flame, and pantano full of oil with grass growing on top. Pablo spoke and explained. The smell was overpowering, and it was raining. Colonos, indios, living 100 meters away. I had a splitting headache, and my plants split as well. Then went to mil base, talked to commander, claimed he didn't know, young woman from Guanta spoke, AP spoke, all taped in the rain, with armed soldiers standing around. The cmdr said the mil intel guy was in Quito, but a journalist said he saw him come in, they were drunk, they start taping us (Tex sapos) from behind the fence, we take pics of them, they run like cowards. Cmdr admitted Callejas is close

personal friend, the tex people stay on the base, and they have an agreement with Texaco. He also made the right pol noises. Later at night, when LY and I eating, he called luis to say he had conducted an investigation. LY said he was nice, humble, and apologetic. We agreed there was a 60% chance he was telling the truth, but this is his story:

Said the report never should have gone it and been taken to the judge

Oct. 17 (Monday) – Week of Guanta inspection. Arrived Sunday night after missing my connection in Miami, 12 hour trip, came to hotel for meeting with ly, pf, and ap. T tried to make this inspection about a separation station; we have turned it in to a showdown on Cofan territory. We have cast it as the first inspection of indigenous land. About 50 Cofan tribesman will attend, with Cofan leaders testifying.

The key issue we needed to resolve was whether we were read to bring up the bombshell “crimes against humanity” issue. The idea is to take this to a new level, both with the press here and there, underscoring the magnitude of what they did, and also to give the judge the opportunity to be a Garzon. To do this, we needed two things: powerful oral testimony during the inspection, and a solid argument for what was a novel area of law. This was about our strategy of always taking the offensive, and always trying to do things to keep T off its game. PF said he was planning to call two witnesses -- a colono who married a Cofan woman, and Sylvio Chapman, a Cofan. (People like Toribio and Ermelgildo were not considered good witnesses because they are public leaders – something that to this day just confounds the hell out of me – Alberto’s reaction to Dave Russell putting out report, canceling his ability to be a witness comes to mind.) I insisted we needed more than one witness, preferably three or four, and that they should talk in rich detail about their culture (cosmovision – the myth of the underground gods with the big penis), their land, their population, lack of food, health issues (particular spontaneous abortions), the Teotetes, and their fear of disappearing. Pablo left Monday morning to work on it. Supposedly, Emergildo’s wife is going to be a witness. I remember her from the press conference when we filed the lawsuit – she said she only had been to Quito twice.

The other issue Aaron was working on. His earlier memo was good, but not good enough. We re-framed the issue as a question, and he wrote a brilliant page of material for the press. The issue of intent was a stumbling block, but we got around it by focusing on intent to pollute wit predictable genocidal consequences, not intent to commit genocide itself. I am sure Texaco will react furiously, but I am also confident they won’t know how to react. This is surely foreign legal territory for them – exactly where we want them treading. If they argue against it, it will help us tremendously, as the debate will be on our terms.

Peter Maas came – did personal interview with me, Luis, Manuel. Said T was “bombarding” him with information. They sent Jeff Moore here. Lupita and Gaby working their asses off to get press on our bus, but the Gutierrez arrival last Friday has almost stalled the press. Found out late in day organizing press breakfast at Marriott tomorrow morning. This is mostly about Jeff Moore and Ortiz justifying their existence and payments to the corporate higher ups.

Our main advantage is that they are a corp and their decision making is slow. This killed them in Oct 03 when we had our with the press. They got wise and got in the game, and I would say they even had the initiative for a year while we suffered thru our internal problems, but no more.

More on Alicia – we want to talk to her, destroy her.

Oct 6 (Thurs) -- Spent several hours hashing out legal strategy with PF, AP, LY – Manuel and Aaron were in for part of the time. We are clearly adopting a more aggressive strategy, with a delicious tray of options to nail them on a host of minor issues. Once PF and AP got involved, the dynamic totally shifted. MP did virtually no legal work except the bare minimum. Her attitude was the tech team was separate, she wanted no contact with them. PF showed me an escrito that Callejas made on Sept. 21 complaining that the judge let us take samples at hidden pits during their inspection. The judge ruled in our favor. Then have 3 days to respond, and PF was planning a strong response to give the judge cover. MP never responded to things like this. The more aggressive litigation seems to be making the judge more responsive to us; it gives him confidence to resist Texaco.

Key issue was RV as witness. I argued for. AP, usually creative and totally on same wavelength, was skeptical. This would give RV a platform to expound, AP said. T lawyers would ask questions; no cross-x. I described it as a win-win for us. We craft 15-25 questions based on the fraud memo. Most yes or no questions (although he could still expound). Put it in on Monday before the Guanta inspection. This would drive them nuts, and get them off their game just before this incredibly important inspection. That’s the idea – keep them off their game. We did it with the hidden pits: with PF as the lawyer from the jungle who is incredibly capable; withdrawing the Americans from the front lines, thus depriving them of their main argument; with the motion requiring them to adhere to Ec law; with AP’s incredibly sharp observations, that highlight their lack of respect for Ec law, etc. PF also was skeptical. I said this will help us in a number of ways. If he comes, great, he will be on the hot seat. If he doesn’t come, he looks like he is guilty. If it keeps him away, that cuts off the leadership of their legal team. It deprives them of their main spokesperson in Ecuador. It sharpens the arguments of the shareholders that there is a conflict of interest. It focuses the judge’s attention on the fraud, which undermines their main defense. Finally, it gives us several bites at the apple in terms of the press, both in Ec and the US. Just submitting the request will be a big story – and the question of whether he will show up or not will keep the story alive and give us several other oppties. AP kept saying what happens if the judge denies it, or if RV does not show up. I said the goal was not to get RV to actually testify, but to the

contrary, to portray him in the frame of the case as a fact witness, so the judge and his bosses in T could more clearly see the conflict of interest. I am going to draft the questions and send them in. The fraud memo is key here – this gives us the oppty to frame the questions. Then, RV does come and expounds, we put in the fraud memo to counter. The only open question is whether we can get the fraud memo to be adopted by an independent entity, such as the Congress, so it can then be used as evidence.

Contrast this discussion with my suggestion last February to Alberto that RV had a conflict of interest, and that we should highlight it by calling AV as a witness for at least the purpose of getting him to admit he signed the documents. Alberto said he would think about it. When I raised it again two weeks later, he dismissed it out of hand.

After a year in the desert, the ideas are starting to flow like like never before. Feast or famine. Catharsis. The best ideas flow to the top, all ideas were encouraged. Between all our minds, we are confident we will come to the best decision. No individual is making decisions; nobody is indispensable, yet all make vital contributions. This is about being alive, about exercising the human will against all odds for something you believe in. In these meetings, I feel like I sometimes feel like I am in a law school seminar, or part of a revolutionary cell. I never feel like I am in a law firm. Everything is on the table. The old top-down control exercised by CB has been totally extirpated. He has become irrelevant. Nobody is intimidated by him. The deference given to Alberto, which so constricted us, is no longer part of the dynamic. The false abyss between the tech work and the legal work, due to the misconceptions of MP and Edison, has completely disappeared. So did the traditional separation between lawyer and client. First, PF is the lawyer, but he is also a client. LY is in all the meetings, and could probably be a pretty effective lawyer himself by now. And I have grown tremendously in that I really feel this is not my property, not my case; I am just part of a larger legal team, and bigger than that, part of a larger political struggle involving thousands of people with hundreds of things happening on a daily basis, many of which I never know about.

So we put everything we could on the table. They have several problems – using American labs. Their experts are not certified by Ec professional associations, so we theoretically could get all their expert reports canceled (on the other hand, their reports help us). Their experts don't have work permits. Using King and Spalding for the famous Annex J, when the same firm represented them in the previous litigation. The judge's key expert, Johnny Zambrano, was used in the work of the Controlaria report, so he could be sacked if we want to go down that road. RV as witness. So many options. As AP said, "I think we should get more aggressive." You bet, bro.

The key issue is criminal case. Can we get that going? What does it mean? I really want to consolidate control with contract before going down a road that I think could force them to the table for a possible settlement. I don't want CB anywhere near it. Need follow up with Archie.

We are also gaining ground tremendously with some of the key organs of Ecuadorian society. Today is PF's historic interview with Jorge Ortiz. Lupita spent two hours yesterday with him and his producer. He has two officcs, and he sent her to the wrong one. She called him, he said just leave it at the door. She said no, I am under instructions (from me) to hand it over to him personally. She finally got to him. He has been trying to avoid us for weeks, since the Aug press conference. First he said not during the August paro. Then he had a host of other excuses, including an illness. I

know his game; Perez Pallares has appeared on his show regularly, and we have not had a single appearance other than something I did several years ago. PP was there as recently as July declaring Judge Sands's ruling a major victory. She met with him, and he was skeptical – but T remediated and the gov released them. Can this guy speak, she asked about PF. I had talked to him in the morning to confirm. Spent an hour updating the press release, creating a press packet, and and five key points about the case. Chose ten good photos; exluded those of indigenous, only used contamination and children because of Ec elites racism against Indians, and our efforts to portray this as defending the national interest.

Preparation of Pablo was interesting and challenging. He is an incredibly composed and natural speaker – I really noticed this at the August press conference, and in the lecture before AP's class earlier in the week. I prepared Pablo at lunch at San Elmo – pointed to a tabl

We are operating totally at capacity. We worked, easily, 14 hrs per day all week. So much to do. AP has another job. PF has to be at five inspections this month, starting next week.

On other hand, Texaco seems to have played all their cards. Ortiz won't be quoted as their spokesman, and he told Carmen when she confronted him that he didn't necessarily believe in the case, just that Tex was a client. Julio Oleas described him as one of the most clever "vendepatrias" en Ecuador. He negotiated the Manta base agreement. Everthing is on Reis Veiga and Pallares, but RV likely will be knocked out of the box by the criminal investigation and being called as a witness. There is word they are buying ads on local radio stations in the region, but we are solid down there that the impact on our base of support would be minimal at worst in our assessment. Full-page ads – well, the psychological shock of that has worn off, and there is not much they can say that they already have not put out there. Perhaps that helps explain why they have been strangely silent since our August press conference. We are outthinking, outstrategizing, and outworking Texaco. Callejas told PF we have them on the run.

Oct 5 (Wed) -- Things are moving in our favor legally. Legal developments: PF showed me judge's decision on T's move to limit inspections they ask for only to items they want to inspect. We embarrassed them terribly at a recent inspection when we asked to take samples from some of the hidden pits. This is the third victory for us in recent weeks: the other two were the judge ruled against T on what materials the judge's peritos could review (T wanted to limit it), and the judge ruled in our favor on our request that T be required to compare their results to Ec law. I think the judge is increasingly with us – when Callejas resisted the inspection of the hidden pit, PF said "get ready" and the judge said "I will get ready too." The judge has a good relationship with Pablo, seems to like him, and did not like Monica. Judge took press kit in that meeting in August in our office with the judge's peritos.

Issue of next judge: Manuel effort to get Alberto Guerra apptd President again in Dec so he can take over case. He has told PF he wants to impose the sentence in the this case. This means he will push it along and we will end in two years. Herman Yanez is other possible judge. LY knows him, likes him – but we are not sure we want learning

curve. Other possibility is SC could name 4<sup>th</sup> judge by December, and this unknown person could become President of the court

Dilemma with Vistazo: clear if I don't allow my name to be mentioned, possibly no article. But if name out there alleging fraud, puts me in the line of fire for T and might obstruct a possible settlement.

They are paying Alicia for last month of work. Luis and Pablo seem hurt, but relatively unaffected. They are laughing it off.

Seems Zembrano is making noise about wanting to come back. But also threatening not to attend inspection until we work it out. LY and PF meeting with Callejas today. Callejas was ordered to betray us on the previous agreement with had to present a joint proposal to the court.

Talked to AP's class – they seemed shock. Shocking to me is that this is the top law school in Quito and they knew so little about it.

Gearing up major press for Guanta.

Met Randy Borman's brother. Interviewed him. Said Cofan pop dropped in 1930s, not because of Texaco – undercutting one of our main arguments. Was good on issue of cultural impact, how lands have decreased. He said not sure if Cofan would be around in large future. But didn't want to be a witness. Speaks poor Spanish, English, and probably good Cofan. Born in Quito, but lived with Cofan until age 18, and then again from 1990 to 2002. Missionary, gives me the creeps. Seems very unsophisticated. Oddity of history from Summer Institute of Linguistics.

Legal meeting late in day. Fusion issue is driving me nuts. Aaron is waffling, seems very young as a lawyer and does not know how to be an advocate and just get the information together. LY said he became frightened just listening to his analysis in extremely awkward Spanish. I think Aaron is a lot less than I thought – he needs tremendous supervision and strict deadlines. Plus he left early forcing us to cut short the meeting, which I thought was very selfish. LY says my mistake is I am too optimistic about the abilities of people, I overestimate them (Russell, Camino) and it comes back to haunt us. Hopefully, I am not doing that with Powers.

Oct. 4 (Tuesday)--

Alicia Vaca: Luis told Lupita at my suggestion, after she told me she had talked to Alicia and Alicia had told her she might return. I did not know LY had talked to Lupita when I saw Lupita late in the afternoon with a really sad look on her face. She said Luis told her what happened, and it felt like a dagger went thru her heart. Here is this woman who had lost her sister under the most monstrous of circumstances, had finally returned to work, had developed a good relationship, and was totally betrayed. As Lupita said, AV betrayed everybody. All the journalists who relied on her as a representative of the Frente. Lupita said she felt really said to see Luis have to tell her. She said AV had always told her she was too efficient, she shouldn't be so efficient.. I keep wondering what was in that girl's head, what pressure she must have been under. As Lupita said,

how was she sleeping at night? What about all those times I saw Ermil and Pablo with their arms around her, smiling? Their smiles seemed genuine, while her smile – or something about her – always seemed a little off to me. When her father died recently LY went out of his way for her, she even brought her brother down to Lago for a while, and I met him.

Archie: Had lunch with Archie at Pobre Diablo. He is a force of nature when he walked in with his smile, energy, hugs, glasses, curly long hair – a cross between che Guevara, Malcolm X, Carlos Fonseca, with an awesome sense of humor. He just had a second daughter, he said his kids are first priority, and that he is always home by 3 p.m. We pitched the criminal case to him. Idea to pressure the company, get major press in U.S. via LeHane, and compel the Ec gov to act against the company legally to nullify the remediation contract. He was initially hesitant, but started to come around when we talked about a coalition of groups bringing it forth with a team of lawyers. AP was there he was great, he has our back, I could never do this as an American without him on the flank or walking point. AP and Archie both get so excited about intl human rights – they eyes light up, this is their connection to the outside important world, their way to be cutting edge even ahead of us. Mention all human rights cases they worked on – Putamayo and Restrepo. They are creative fighters, great people. AP and Archie are going to do a memo to see where things are going.

Julio Oleas -- Went from Archie to a second lunch at La Choza with Julio, editor of Gestion and economics consultant. Interesting guy – seems a real leftist, but operates in the real world, makes a good income. We had an intense discussion that pushed me to a deep analysis. He said we can't win – all they need to do is buy the judge. I explained to him why in this particular case, that was not necessarily so (vigilance, intl attention, changed political context in Ecuador with Palacio, paro) and he seemed genuinely moved by what I said. He is a real economist – he said what Texaco did is externalize some of its costs. He said how will the judge, who can't be that sophisticated, understand this? I said he will understand it, just through a different framework – as legal violations. We then went to FLACSO, very prestigious academic institution. Forum set for Nov. 22. I should speak, but not sure if I will for usual reasons. Big discussion on whether Texaco will show up.

Other: Orlando Gomez, journalist from La Hora came, and he asked the same question as Julio – how are you going to win when all they have to do is buy the judge? We arranged for him to come to Guanta inspection on Oct. 19, and he will write something for La Hora and La Semana, the leading newsweekly in Colombia. We were selling him on the Colombia connection.

Fraud memo – added seventh fraud from Controlaria report. Still translating, taking forever.

Press meeting – designed 4-week pres strategy for Oct – Texaco costs of trial this week, trial update next week, then RV as witness beginning week of Guanta, then Guanta with emphasis on Cofan, then Texaco riches as a company.



Oct. 3 (Monday) – Turns out LY had called Alicia and said he had something to talk to her about the next morning. She never showed up. Without him even saying anything, he called her and she told him she was sick and would return to Lago next week and give back all the materials. She knew what they knew. She saw it coming. I can only imagine the stress. All those cold sores she always had on her lips. Very strange. One the one hand I have sympathy for her, but on the other, I want to grab her by the neck and squeeze.

Talked to Alberto. Major development is that I realized today that the AG here is not going to hire CB and TC to represent it in the arbitration. I raised the issue with MP because I was concerned about pushing CB out of the case and destabilizing the representation in the arbitration. MP said CB and TC had sent a proposal to the AG for 600,000, but had 100/hr for a translator. The AG got pissed off for a lot of reasons. So we talked and thru with LY and realized quickly we needed to hook up the AG with a real firm in the US that specialized in arbitration and could work with Alberto, who has the confidence of the AG and previously had been asked by the AG to handle the case (AW demurred). I called AW and he said he already was pursuing this strategy, that he had a proposal from Winston and Strom before the AG to handle the case, and there has been a 90-day delay until this can be sorted out. He said the AG did not want to hire CB because he had not been honest with him, saying he could do the case for free initially, and then trying to charge. MP said CB had lied to him, claiming he had nothing to do with the proposal sent by TC when his fingerprints were all over it. He said he did not know the translator in the proposal, but that the same person had called MP and identified her as someone working for CB.

Bottom line: nobody is left to defend CB, or defer to him thru intimidation. The last straw for MP was that email CB sent responding to MP's idea for settlement, excluding me and including the AG and Martha, the AG's assistant. This was humiliating for MP. I felt a great sense of relief as LY and I went over budget at the Red Crab. I realized that there was no longer any need for CB. LY agrees. It is just a matter of time. Things feel like they are falling into place.

Long meeting with Carlos Gutierrez of Vistazo. Issue of not quoting me, but nobody else around. Finally interviewed Ponce in the afternoon and agreed he could name us both, but me second. Basing it on the controlaria report. Could be a breakthrough. Tex is feeling it from a lot of sides.

Legal victory: Judge ruled that they must read all the technical reports and responses, rejecting T's attempt to limit what the peritos could consider. This is a direct response to T's anxiety over our responses that expose their reports, that Ponce is writing. They are awesome. Follows earlier judge's ruling (done by Pablo without any knowledge from me) requiring Tex to compare its samples to Ec law. Two major victories.

LY: image of perfect accounting. Totally organized.

APage: Cofan issue. Borman coming in on WED.

Set up meeting with Archie Avila today with Ponce to get him to do penal case.  
Ponce talked to class and coming to Guanta inspection.

Oct 2 06 (Sunday) – LY told me tonite that Alicia was a police agent, confirmed through two sources. The first was a friend whose wife works there and saw her name on a list as a police informant. The second was a source in the police department itself. He said she entered with the specific purpose of spying on the Frente. He thinks it might have extended to her previous tenure as a local journalist. This complicates the question of her friend Isabel, who made the video and wants to build the new website.

Luis didn't want to tell her directly. He wants to tell her they no longer have money to pay her. Very Ecuadorian – don't confront things directly. I suggested he tell her directly, that he "burn" her as a spy at least in Lago so she can't continue working as a double agent.

Alicia always seemed a little rara to me. Never at peace with herself. I feel really stupid now, in that in our August press conference I was extremely demanding, and took her aside after in private and apologized to her and told her she had great promise, etc. No wonder she disappeared the day after our press conference. She was definitely the most talented press person every to come out of the Frente – really, the only person other than Luis who could write a coherent press release from beginning to end. She was very close to Lupita – we have to tell Lupita.

Luis told her they needed to talk. My guess is she won't show up tomorrow. I told Luis to follow her around the country, making sure whatever employer she has knows she works for the police. I also suggested they tell the local press in Lago – Luis said he didn't want to destroy her.

Oct 1 (Sat) – Aaron and Daria have party in their new apartment in the Centro Historico. Settling in. Want to indigenous issue. They clearly are staying put, so I am encouraged they will stay a long time and really help because we are so short of lawyers.

Sept 30 (Friday) -- Went to Lago. Hungover. Dry retched on street outside Jorge's truck. Went to Pablo's house for meeting with Comité de Afectados over 2 key issues: new contract that I would sign, and whether we should fire Cristobal given that he is representing the state. Ironically, that very day El Comercio had an article about the arbitration that quoted Cristobal saying he represented the government. Also needed to give a case update.

Saw Pablo's office. Humble business card. Plastic chairs. A little Che bandera with P. Fajardo, "Abogado de todos." Lots of books on the floor. The record of the case in the second bedroom with no book cases. Living there along, with all the inspections equipment, hardhats, drills, etc., jammed in a corner of the kitchen. We looked over the answer to one of Texaco's informes (find out which one) that he was turning into the court that day. It was good – had lots of Alejandro's arguments about how pollution can't be relative, as Texaco is trying to portray it.

I made three interventions: 1) explain case, using 130b in profits, 10k for every man woman and child; profits of 13b; could pay for a clean without affecting them, but

resist because carry the flag for all multinationals. What they are most scared of is people doing this again, of realizing they might have the right to do this again and again all over the world. 2) in the afternoon, intervened about the contract to explain the business, the 3m, could go up to 10m, that this is a business for those financing the case, that they expect a big rate of return because it is risky and they lose a lot of cases, and because there are 20 or more partners making this sacrifice. It was hard for them to understand. HP suggested 15% max – I agreed with him privately, but I stuck to the guns for Joe and because he needs that option if the settlement is small. Secoya rep suggested we leave it open, to be negotiated with clients at time of settlement – recipe for disaster. They finally accepted it. But, not all Presidents there, so we have to wait a few more weeks to get their signatures. Joe's name first, then mine, then Cristobal's. The power dynamic has shifted for the better.

Plane back to Quito. Shaky. Lots of German tourists and US embassy official sitting behind me. Really wanted to take to him, but held off.

Sept 29 (Thursday) – Meeting of legal team well into the evening. AP said we must stay aggressive. Love that about him. And Pablo is down with it too. Considering the following: trying to disqualify Texaco's informed because don't have work permits, and not members of Ec professional associations. Attack them for not paying taxes. Make RV a witness. Penal case. Closing in on them little by little. Big question is whether to disqualify Zembrano or not. We are really split. Issue of pay for May and June, which would be total rip-off.