

Newsweek

A \$16 Billion Problem

Chevron hires lobbyists to squeeze Ecuador in toxic-dumping case. What an Obama win could mean.

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Few legal battles have been more exotic than the lawsuit tried over the past five years in a steamy jungle courtroom in Ecuador's Amazon rain forest. Brought by a group of U.S. trial lawyers on behalf of thousands of indigenous Indian peasants, the suit accuses Chevron of responsibility for the dumping (allegedly conducted by Texaco, which Chevron bought in 2001) of billions of gallons of toxic oil wastes into the region's rivers and streams. Activists describe the disaster as an Amazon Chernobyl. The plaintiffs—some suffering from cancer and physical deformities—have showed up in court in native garb, with painted faces and half naked. Chevron vigorously contests the charges and has denounced the entire proceeding as a "shakedown."

But this spring, events for Chevron took an ominous turn when a court-appointed expert recommended Chevron be required to pay between \$8 billion and \$16 billion to clean up the rain forest. Although it was not the final verdict, the figures sent shock waves through Chevron's corporate boardroom in San Ramon, Calif., and forced the company for the first time to disclose the issue to its shareholders. It has also now spawned an unusually high-powered battle in Washington between an army of Chevron lobbyists and a group of savvy plaintiff lawyers, one of whom has tapped a potent old schoolmate—Barack Obama.

Chevron is pushing the Bush administration to take the extraordinary step of yanking special trade preferences for Ecuador if the country's leftist government doesn't quash the case. A spokesman for U.S. Trade Representative Susan Schwab confirmed that her office is considering the request. Attorney Steven Donziger, who is coordinating the D.C. opposition to Chevron, says the firm is "trying to get the country to cry uncle." He adds: "It's the crudest form of power politics."

Chevron's powerhouse team includes former Senate majority leader Trent Lott, former Democratic senator John Breaux and Wayne Berman, a top fund-raiser for John McCain—all with access to Washington's top decision makers. (A senior Chevron exec has met with Deputy Secretary of State John Negroponte on the matter.) Chevron argues that it has been victimized by a "corrupt" Ecuadorian court system while the plaintiffs received active support from Ecuador's leftist president, Rafael Correa—an ally of Venezuela's Hugo Chávez. The company says a loss could set a dangerous precedent for other U.S. multinationals. "The ultimate issue here is Ecuador has mistreated a U.S. company," said one Chevron lobbyist who asked not to be identified talking about the firm's arguments to U.S. officials. "We can't let little countries screw around with big companies like this—companies that have made big investments around the world."

But Chevron's foes are not without their own resources. Just recently, Donziger and other trial lawyers in the case retained their own high-profile D.C. superlobbyist, Ben Barnes, a major Democratic fund-raiser. And they have tapped a capital connection that may pay off even more. Roughly two years ago, when Donziger first got wind that Chevron might take its case to Washington, he went to see Obama. The two were basketball buddies at Harvard Law School. In several meetings in Obama's office, Donziger showed his old friend graphic photos of toxic oil pits and runoffs. He also argued strongly that Chevron was trying to subvert the "rule of law" by doing an end run on an Ecuadorian legal case. Obama was "offended by that," said Donziger. Obama vetted the issue with Vermont Sen. Patrick Leahy (who has long worked on Latin American human-rights issues), and in February 2006 the two wrote a letter to the then U.S. Trade Representative Rob Portman urging the administration to permit the Ecuadorian peasants to have "their day in court."

The Obama letter, written before the senator had even announced his run for president, is now the wild card in the Ecuador-Chevron dispute. Donziger said he has had no further discussions with Obama on the issue (although he has co-hosted a New York fund-raiser and, together with his wife, raised between \$40,000 and \$50,000 for Obama's campaign). An Obama spokesman last week said the senator "stands by his position" that the case is a "matter for the Ecuadoran judicial system." So now the prospect of an Obama presidency has given additional urgency to Chevron's plea for help in Washington. Waiting until next year could leave the oil giant at the mercy of a judge in the Amazon jungle.

Clarification (published Aug. 7, 2008): NEWSWEEK's Aug. 4 story "A \$16 Billion Problem" contained an imprecise statement about Chevron's disclosures to shareholders regarding a lawsuit against the company in Ecuador. The story should have said that a recent court recommendation prompted Chevron in May of this year to include details of the suit in a quarterly report, marking the first time the potential liabilities were disclosed to shareholders in a document filed with the SEC. Chevron had previously referenced the suit in proxy statements to shareholders.

Letter From Chevron (published Aug. 7, 2008)

NEWSWEEK's Aug. 4 article, "A \$16 Billion Problem," omits key points highly relevant to Chevron's case in Ecuador.

Most importantly, the comments attributed to an unnamed lobbyist working for Chevron do not reflect our company's views regarding the Ecuador case. They were not approved by the company and will not be tolerated.

The writer also insinuates that Chevron is trying to interfere with the judicial process in Ecuador through the U.S. government. This is not true.

Foreign companies doing business in the U.S. expect and deserve fair treatment by our judicial system. Under the U.S.'s bilateral relationship with Ecuador, U.S. companies including Chevron should be able to expect the same fair treatment. When this does not occur, it is important that the U.S. government and other U.S. companies be made aware of the problem.

Texaco Petroleum performed an environmental remediation and public works program prescribed by, and certified by, the Government of Ecuador.

The Republic of Ecuador's failure to honor its contractual and legal obligations related to Texaco Petroleum's past activities in Ecuador is contrary to the spirit and letter of the trade preferences granted to Ecuador under U.S. law.

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