

http://www.csrwire.com/press_releases/39155-Ecuadorian-Villagers-Take-Steps-to-Protect-Environmental-Judgment-After-Violation-of-Embargo-Order

Ecuadorian Villagers Take Steps to Protect Environmental Judgment After Violation of Embargo Order

Posted: Jul 29, 2016 – 01:49 PM EST

QUITO, Ecuador, Jul. 29 /CSRwire/ - The grass roots organization representing the dozens of rainforest communities that won a historic \$9.5 billion environmental judgment against Chevron announced the appointment of a new Ecuadorian legal team to re-impose an embargo order against the oil giant's assets in Ecuador after a previous order was secretly lifted without proper notice by another lawyer.

The organization, the Frente de Defensa de la Amazonia ("FDA") – known also by its English name Amazon Defense Coalition – strongly criticized Ecuadorian attorney Pablo Fajardo, who last week lifted the embargo order (the same as a lien) against Chevron assets in Ecuador to make it easier for Ecuador's government to make a controversial payment of \$112 million to the company. Fajardo took the action without the permission of the FDA, which would have been entitled to the funds under the lien if the embargo order had remained in place.

Fajardo and any other person involved in the lifting of the lien could be liable for damages or otherwise sanctioned, said Carlos Guaman, the President of the FDA, who released a statement today on behalf of the organization. Guaman also said the FDA leadership had decided to immediately suspend ties to Fajardo pending the outcome of an internal investigation exploring the circumstances surrounding the action and why it happened. The organization named Patricio Salazar, a prominent Ecuadorian lawyer, to lead the investigation and to represent the organization going forward, along with several international lawyers.

"This is an unfortunate situation that appears to reflect a serious error in judgment by Mr. Fajardo, who in our opinion was clearly operating outside the scope of his authority," said Guaman. "Community leaders were living in the dark for days not knowing that a lawyer on our team had compromised our rights to these clean-up funds. Mr. Fajardo's action not only denies the communities any possibility of immediately mitigating the impacts of Chevron's pollution, but potentially undermines asset seizure actions against the company in other countries.

"Our plan is to use our team of lawyers and advisors under Mr. Salazar's leadership to correct this matter and to make sure systems are in place so this type of mistake does not happen again," Guaman added.

The FDA had intended to use the \$112 million paid to Chevron to begin planning a long-awaited clean-up of the environmental damage caused by the company and to provide health care to those affected by the pollution in accordance with the Ecuadorian judgment, said Guaman.

The move by Fajardo to lift the embargo order without the prior approval or even the notification of the FDA (which is the sole fiduciary of the \$9.5 billion Ecuador judgment) stunned the organization and the various communities and organizations that comprise its membership. The action – apparently done at the behest of individuals in Ecuador’s government that wanted to pay Chevron after the company won an arbitral award in an unrelated case -- was first reported by Ecuavisa, a television news outlet in Ecuador, several days after the embargo had been lifted.

Another FDA leader and member of the group’s executive committee, Orlando Guzman, said in response to the lifting of the order: “First and foremost, all lawyers representing the communities must be guided by their professional ethics in service of their clients, even if they have sympathy for the difficult situation that Ecuador’s government was in due to Chevron’s unjustified pressure. What is clear to the FDA is that Mr. Fajardo was not authorized to take such action without getting prior approval from the organization and the communities, which did not happen.

Said approval never would have been granted had we known about this. In fact, Mr. Fajardo himself is potentially liable personally to his own clients for damages caused, including the amount of funds that were lost.”

Salazar said he would explore what new measures might be taken to seize any Chevron assets that might appear in Ecuador. Although Chevron stripped most of its assets from the country during the eight-year trial that resulted in the judgment, the company still has potential assets in the form of future court judgments and payments to its local legal team that could be monetized by the communities as they enforce their judgment, he said. “We must be prepared to take advantage of any opportunity to enforce the judgment in Ecuador and elsewhere against Chevron assets,” Salazar said.

Guaman said it was important to clarify the FDA’s authority over the environmental judgment against Chevron.

The FDA is the sole fiduciary responsible for the collection of the Ecuador pollution judgment, which it is doing with local counsel in Canada and other countries. Chevron has used at least 60 law firms and 2,000 legal personnel to fight the communities and has vowed never to pay the award, even though it had promised to abide by any court ruling in Ecuador when it shifted the trial there in 2001 from U.S. federal court.

“To prevent any confusion going forward, the FDA wants Ecuador’s government and the public to know that Mr. Fajardo does not represent the organization and is not authorized

to speak on its behalf," Guaman added. "With regard to the voluntary lifting of embargo orders against Chevron, only the FDA has the authority to do so and in fact we consider the lifting of the previous order by Mr. Fajardo to be illegal."

When confronted by various media outlets as why he lifted the order with no public announcement, Fajardo claimed he was trying to protect Ecuador's government from pressure being generated by Chevron. Ecuador's government is represented in the matter by a prominent American law firm, Winston & Strawn.

For his part, Salazar said he was "honored" to represent the FDA and that he was recruiting other litigators with significant experience to ensure that the interests of the communities and the FDA were fully protected in Ecuador and elsewhere.

Given that Chevron refuses to pay the Ecuador judgment, Salazar already has been advising the FDA as the organization navigates existing -- and potentially new -- enforcement actions that target Chevron assets. Recently, Salazar played a critical role in helping the FDA secure a private financing of the enforcement action in Canada, where the villagers recently secured a unanimous Supreme Court decision in their favor.

The FDA is the organization that has played a leading role in the two-decade struggle to hold Chevron accountable for the dumping of billions of gallons of toxic waste in Ecuador, as confirmed by various courts in the country.

Several leaders of the FDA, along with dozens of named plaintiffs, initiated the original environmental lawsuit against Chevron in New York in 1993 and then sued the company under Ecuador's Environmental Management Act in 2001 after the venue was shifted (at Chevron's request) to the South American nation. As indicated, the FDA is now the sole fiduciary to implement the Ecuador judgment and is entitled to a separate monetary award which is being used to finance opposition to Chevron's massive campaign to retaliate against the communities.

Guaman emphasized that the FDA will continue to coordinate with all of the affected communities to recover assets from Chevron to that a comprehensive clean-up of the damage can take place, while at the same time protecting the independence of the lawsuit from Ecuador's government.

Salazar emphasized how seriously he takes his new duties.

"I will say that the most important role of a lawyer is to protect the interests of his clients even when powerful forces like governments and wealthy corporations have their own agendas," he said. "While we respect Ecuador's government, we strongly disagree with the payment to Chevron which clearly violated the embargo order that was in place. The fundamental interests of the communities -- specifically, their rights to life, health care,

and a clean environment -- must always remain paramount even when in conflict with the government's economic and political interests."

In the legal case against Chevron, three layers of courts in Ecuador found that the company deliberately dumped billions of gallons of toxic waste in the country when it operated there from 1964 to 1992, decimating indigenous groups and causing an outbreak of cancer that has killed or threatens to kill thousands of people. The judgment against Chevron was confirmed unanimously by Ecuador's highest court in 2013.

For more information, please contact:

There is currently no contact information.

For more from this organization:

Amazon Defense Coalition (ADC)