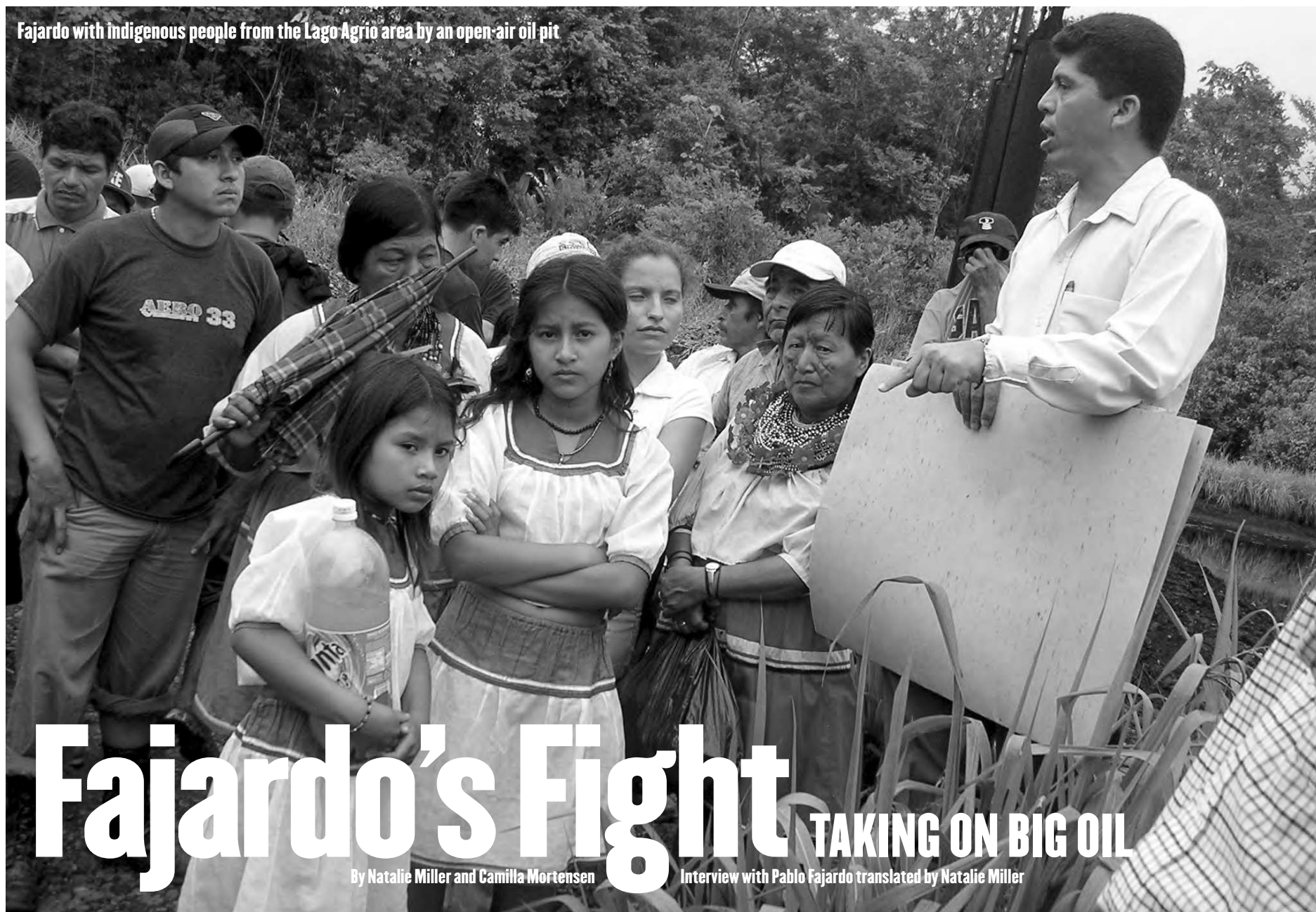


Fajardo with indigenous people from the Lago Agrio area by an open-air oil pit



Fajardo's Fight

TAKING ON BIG OIL

By Natalie Miller and Camilla Mortensen

Interview with Pablo Fajardo translated by Natalie Miller

Ugly pits leaking oil scar the Amazon rainforest of Ecuador, and once pristine streams ooze with sludge.

The photos Pablo Fajardo shows on his laptop sitting in the small and comfortably worn offices of the Environmental Law Alliance Worldwide (ELAW) in Eugene are a slideshow of waste and destruction. The Ecuadorian Amazon contains 5 percent of all the world's plant and animal species and is one of the most biodiverse places in the world, but not near Lago Agrio, where the toxic sludge and wastewater left from years of oil drilling in the once-pristine forest have killed off fish and wildlife and sickened the people who live nearby. The environmental damage to the area around Lake Agrio is so extensive, it's been called the "Amazon Chernobyl." The effects on the people living in the area have been called a humanitarian disaster.

Fajardo, who grew up poor and worked from a young age in the midst of the oil drilling and its pollution, is the David in a David and Goliath-esque case pitting Ecuadorian Indians and mestizos against major American oil companies. Fajardo and two fellow attorneys represent about 30,000 Ecuadorians in this class action suit trying to clean up the oily mess in their part of the Amazon. They're tackling the big money of big oil with guts and determination more than anything else. Their case is lengthy and complex and has generated thousands of documents both in Spanish and in English.

Fajardo came to Eugene via a fellowship through ELAW and the Wayne Morse Center

for Law & Politics in order to study English at the UO's American English Institute. He spoke with *EW* earlier this month.

BIG OIL, SMALL COUNTRY

The legal case, *Aguinda v. Chevron Texaco*, was first filed in 1993, 10 years before Fajardo had his law degree. But the oily tentacles of the case stretch back even farther. In 1964, Texaco Petroleum Company (Texpet) began its oil operations in the once wild and untouched Lake Agrio area with full-scale oil extraction beginning in 1972 — the year Fajardo was born. Before the arrival of oil exploration, the sparsely populated area was home to six or so indigenous tribes whose main contact with North America was missionaries. "Texaco is the face of America," says Andrew Woods, an American attorney working with Fajardo and another American attorney, Steven Donziger, on the case. "It doesn't paint a pretty picture of our country."

The lawsuit alleges that from 1964 until 1990, Texaco deliberately dumped 18.5 billion gallons of "produced water" into the waterways of the Amazon. Produced water is what is brought up along with crude oil during the oil extraction process. According to the Produced Water Society, it can contain dissolved inorganic salts, dispersed oil droplets and dissolved oil; treatment and workover chemicals; dissolved gases, particularly hydrogen sulfide and carbon dioxide; and bacteria and other living organisms. Hydrogen sulfide inhaled in low concentrations can cause irritation to the eyes, nose and throat. In high concentrations,

it can cause death, according to the Agency for Toxic Substances and Disease Registry. The EPA has not yet classified its potential to cause cancer.

The case alleges also that Texaco created open, unlined waste pits and filled them with sludge from the drilling process. According to the lawsuit, sludge and liquids containing chemicals like the cancer-causing chromium 6 were discharged into streams and rivers; waste pits were lit on fire to burn off oil; oil-laden sludge was spread on dirt roads to keep the dirt down and numerous oil spills contributed to the pollution that has caused cancer rates to skyrocket in the region. One study out of the University of London on the town of San Carlos found that cancer rates there exceed the average rate by up to 30 times. The New York-based Center for Economic and Social Rights found that hydrocarbons in the waters around the region at polluted the rivers and streams at rates between 10 and 1,000 times the level allowed by the U.S. EPA for acceptable limits for drinking water.

Woods says Texaco's practices in Ecuador were substandard. "The system was faulty," Woods says. "We think this is fairly simple matter of law. The operator is 100 percent liable for any damage caused by the system." Questions have arisen over whether the oil company tried to cover up some of its damages. An internal memo from Texaco, dated 1972 and referring to oils spills in Ecuador, instructs that "only major events are to be reported" and adds that "no reports are to be kept on a routine basis and all previous reports are to be removed from Field and Division offices

and destroyed."

The case doesn't only involve Texaco, which ran the oil concession in Lago Agrio. In 1974, the Ecuadorian government's oil company, CEPE (now called PetroEcuador) got a 25 percent interest in the oil consortium, which also involved Gulf Oil. Gulf sold its interest in the oil field to CEPE in 1977, and in 1990, management of the consortium was given to PetroEcuador. In 1993, Texaco's concession expired, leaving PetroEcuador in control of the oil field. Texaco merged with Chevron in 2001. According to Chevron, the company is not responsible for the environmental disaster at Lago Agrio and lays culpability at the feet of PetroEcuador. According to Woods and Fajardo, Chevron needs to clean up the toxic mess it became responsible for when it acquired Texaco.

PABLO FAJARDO

Fajardo was fresh from law school in 2003 when he began working as an assistant for two high-profile Ecuadorian lawyers, who at the time were fighting against Chevron. Little did Fajardo know that shortly after starting his law career and with nearly no experience, he would become the lead lawyer in his first lawsuit — a fight costing millions of dollars and dragging on for more than 15 years.

With such little legal experience, how did Fajardo wind up as the Don Quixote of the Lago Agrio oil war? The charismatic 37-year-old mestizo has lived most his life dangerously close to Texaco's oil mess in Lago Agrio. And after years of smelling burning petroleum, drinking contaminated