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Testimony of Stephen M. Kretzmann
Executive Director
Oil Change International
www.priceofoil.org

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Tom Lantos Human Rights Commission

*Environmental and Human Rights Concerns
Surrounding Oil Production in the Niger Delta*

Thank you, Mr. Chairman and members of the Tom Lantos Human Rights Commission for the opportunity to testify on the issue of environmental and human rights concerns resulting from oil industry operations in Nigeria. My name is Stephen Kretzmann and I am Executive Director of Oil Change International. Oil Change International campaigns to expose the true costs of oil globally and facilitate the coming transition towards clean energy. We are dedicated to identifying and overcoming political barriers to that transition.

Sixteen years ago, late in 1993, I received a call from Ken Saro-Wiwa. I had heard of this Nigerian author and activist who was organizing non-violently for his community's environmental and social rights in Nigeria, but I wasn't yet familiar with the specifics of the Ogoni and other Niger Delta people's concerns for their environmental and human rights.

I remember listening with some initial skepticism as he told me of the constant gas flares, the oil spills not cleaned up for years, and the collusion between the Nigerian military and the oil companies, in particular, Shell.

Over the next two years, I coordinated what became Saro-Wiwa's final tour of the United States, and helped investigate and confirm virtually all of the environmental and human rights abuses that he had first told me of – and others that happened during the short time we knew each other. When he was hanged in November of 1995, I wasn't skeptical anymore. I was deeply concerned and devoted to exposing the true costs – human and environmental - of oil production. In 1997 and again in 1999 I travelled to the Niger Delta to investigate these issues for myself. The following information is supported by my observations and the sources that I cite.

Gas Flaring in the Niger Delta

Perhaps the most visible impact of the oil industry on the Niger Delta is the constant presence of gas flares. Hundreds of flares higher than buildings, and louder than 747s, burn night and day. In some cases these flares have roared continuously for 50 years since oil was discovered in Nigeria. Many have noted the sad irony of

children in the Niger Delta, growing up without electricity, but who have never known a dark night, living in the shadow of the flames.

Just in Ogoni, which is a very small portion of the Niger Delta, Saro-Wiwa noted that “there are five gas flares that burn 24 hours a day. The noise at night is incredible. The air, the land and the water are all polluted”.¹

Natural gas is a by-product of oil drilling. In much of the world, this gas – called “associated gas”, because of its association with oil, is either used for energy or re-injected into the well. In Nigeria, Shell and other oil companies burn it in a process known as gas flaring. Nigeria flares more gas than any other country except Russia; at least 20 billion cubic meters of gas are burned per year - enough to meet much of the local energy needs of Nigeria and neighboring countries.

Ken Saro-Wiwa wrote in 1992 that: “As a final remark of their genocidal intent and insensitivity to human suffering, Shell and Chevron refuse to obey a Nigerian law which requires all oil companies to re-inject gas into the earth rather than flare it. Shell and Chevron think it cheaper to poison the atmosphere and the Ogoni and pay the paltry penalty imposed by the government of Nigeria than re-inject the gas as stipulated by the regulations.”²

The gas burned in flares is not the clean natural gas used for heating or cooking; the gas is contaminated with toxic compounds and the flares send huge toxic plumes into the air. The chemicals, which end up in local waterways and fields through soot and precipitation, include carcinogens such as benzene, a deadly chemical that can cause convulsions, chromosomal damage and birth defects. Many of the flares are located adjacent to Niger Delta communities.

Although the Nigerian government has repeatedly tried to outlaw gas flaring, industry lobbying keeps weakening the regulations. Oil is responsible for over 90% of government revenue in Nigeria. The Nigerian government first moved to end gas flaring in 1969 when it ordered corporations to set up infrastructure to utilize associated gas. Shell and other oil companies ignored this order. Oil companies were again ordered to stop flaring in 2005 when Nigeria’s Federal High Court declared gas flaring as a gross violation of the neighboring communities’ human rights.

However, Shell and other oil companies continue to make excuses – and repeated deadlines have come and gone. As of December 2008, there were over 100 flare sites still operating in Nigeria, and according to OPEC figures, the volume of gas flared has actually increased over the past decade.³

Current industry sources and World Bank research estimates vary – although most conclude that gas flaring in the Niger Delta emits from 53-60 million tons of CO₂ annually. This is equivalent to 9-10 million cars in the US.

The Nigerian Federal Government is now trying to end gas flaring by 2011; however the oil companies are trying to push the deadline until at least 2013.

Oil Spills

An estimated 1.5 million tons of oil has spilled in the Niger Delta ecosystem over the past 50 years. This amount is equivalent to about one “Exxon Valdez” spill in the Niger Delta each year. Many of the spills have taken place in sensitive habitats for birds, fish and other wildlife, leading to further loss of biodiversity and, in turn, further impoverishment of local communities. The spills pollute local water sources that people depend on for drinking, cooking, bathing, laundering and fishing. They also release dangerous fumes into the air, sometimes rendering villages uninhabitable and causing serious illness for those who are unable to relocate. Many of the oil spills can be attributable to poorly maintained infrastructure such as aging pipelines.

Environmental groups in Nigeria and Europe have filed a lawsuit against Shell in the Netherlands for its history of oil spills and lack of cleanup in Nigeria. According to a wide variety of independent sources, cleanup of oil spills is often very superficial, sometimes involving little more than turning the land so that the oil remains just beneath the surface of the soil.

Spills take place even in areas the oil companies claim to have vacated. Shell claims that they completely pulled out of the Ogoni region in 1993, in response to Saro-Wiwa’s nonviolent campaign that declared the company “persona non grata” in Ogoni. However, Shell continues to ship oil across Ogoni through the Trans-Niger Pipeline (TNP), at a rate of 150,000 barrels per day, and to pipe oil into the TNP through other flow-lines that crisscross Ogoni lands. Spills have continued from these lines over the years. For example, according to Environmental Rights Action, a Nigerian NGO, on March 23, 2006, a Shell well in Ogoni started spewing oil into the air, destroying a large area of cropland as it rained down for three days.⁴ These spills often catch fire as well; in fact, less than three weeks ago, a fire broke out on the TNP in Ogoni, burning oil as it leaked from Shell’s pipeline manifold.⁵ So more than a decade after Shell supposedly pulled out, the Ogoni are still suffering ongoing pollution from oil spills and fires on their land.

Human Rights Concerns

Adding to these environmental crimes was the fact that Shell – and other oil companies - maintained a close relationship with the Nigerian military dictatorship during the 1990s. I will focus on Shell, because I am most familiar with its operations. Shell requested an increase in security and provided monetary and logistical support to the Nigerian police. Shell frequently called upon the Nigerian police for “security operations” that often amounted to raids and terror campaigns against the Ogoni.

In response to growing Ogoni opposition, Shell and the Nigerian government coordinated a public relations campaign to discredit the movement, falsely attributing acts of violence to Ken Saro-Wiwa and MOSOP – the Movement for the Survival of Ogoni People.

Shell was involved in the development of the strategy that resulted in the unlawful execution of nine Ogoni men including Saro-Wiwa. Shell told the Nigerian regime they needed to deal with Ken Saro-Wiwa and MOSOP. Shell monitored Ken Saro-Wiwa, and closely followed the tribunal and his detention. Prior to the trial, Shell Nigeria told its parent companies that Saro-Wiwa would be convicted and told witnesses that Saro-Wiwa was never going free. Shell held meetings with the Nigerian regime to discuss the tribunal, including with the military president Sani Abacha himself. Shell's lawyer attended the trial, which, in Nigeria, is a privilege afforded only to interested parties. Brian Anderson, the Managing Director of Shell's Nigerian subsidiary, met with Owens Wiwa, Saro-Wiwa's brother, and offered to trade Saro-Wiwa's freedom for an end to the protests against the company. At least two witnesses who testified that Saro-Wiwa was involved in the murders of the Ogoni elders - the crime for which he was supposedly tried and executed - later recanted, stating that they had been bribed with money and offers of jobs with Shell to give false testimony – in the presence of Shell's lawyer.

In support of these and related facts, I am submitting a copy of "*All for Shell: a brief history of the struggle for justice in the Niger Delta*" authored by myself, Andrew Rowell, and the Lowenstein Human Rights Clinic at Yale University into the record. In addition, human rights attorneys have sued Shell for human rights violations against the Ogoni. The case, *Wiwa v. Shell*, will go to trial on May 26, 2009 in New York City.

The brutality waged upon the Ogoni, as a result of their campaign to protect their environment, was an early and often overlooked war for oil. Saro-Wiwa and the Ogoni waged a brave non-violent campaign for the enforcement of their environmental and human rights. Their reward was a brutal military crackdown in their communities - and the gallows. Tragically, the message that was delivered loudly and clearly to Niger Delta youth was that nonviolent organizing will get you killed. The way in which Shell and the Nigerian military dealt with the legitimate complaints of Niger Delta communities was undoubtedly a major contributing factor in the creation of the violent situation in the Delta today.

Globally, the World Bank notes that gas flaring in the Niger Delta is sub-Saharan Africa's greatest historical contribution to climate change. The greed for oil that has devastated the Niger Delta also drives the greatest global environmental challenge we face today – climate change.

When he finished his book, *Genocide in Nigeria* in 1992, Ken Saro-Wiwa outlined a ten-point course of action, including "prevail on Shell and Chevron to stop flaring gas in Ogoni and other producing areas". He then wrote: "The situation is tragic. The question is, will the international community fold its arms and allow this twenty-first century genocide?"⁶

The answer, to date, has unfortunately been, yes. I sincerely hope that the members of this Commission can help us answer Saro-Wiwa's question differently.

¹ David Pallister, "Nigerian tribe puts environment on election agenda", The Guardian, May 17, 1993,

² Ken Saro-Wiwa, *Genocide in Nigeria – The Ogoni Tragedy*, Saros International, 1992, p82

³ <http://www.opec.org/library/Annual%20Statistical%20Bulletin/pdf/ASB2007.pdf>

⁴ http://www.eration.org/index.php?option=com_content&view=article&id=4:field-report-147-oil-rain-in-ogoni-land&catid=5.

⁵ <http://allafrica.com/stories/200904130002.html>, and <http://online.wsj.com/article/BT-CO-20090412-702729.html>

⁶ Ken Saro-Wiwa, *Genocide in Nigeria – The Ogoni Tragedy*, Saros International, 1992, p102-103