1. Claimant: Bodo Community v SPDC
2. Name of Witness: Professor Scott Pegg
3. Exhibits: SP1-10
4. No of Statement: 1
5. Date: 5 November 2014

IN THE HIGH COURT OF JUSTICE
TECHNOLOGY AND CONSTRUCTION COURT
IN THE MATTER OF THE BOMU-BONNY OIL PIPELINE LITIGATION
BEFORE THE HON MR JUSTICE AKENHEAD

CLAIM NOS: HQ11X01280, HQ11X02791, HQ11X04516, HQ12X02373, HQ12X03979, HQ12X03980, HQ12X03981, HQ12X03982, HQ12X04933, HQ13X02539, HQ13X02540, HQ13X03160, HQ13X03161

TCC CASE NOS: HT-13-295, HT-13-340, HT-13-349, HT-13-350, HT-13-347, HT-13-341, HT-13-342, HT-13-343, HT-13-345, HT-13-346, HT-13-339, HT-13-348, HT-13-344

BETWEEN

THE BODO COMMUNITY & OTHERS

Claimants

-and-

THE SHELL PETROLEUM DEVELOPMENT COMPANY OF NIGERIA LIMITED

Defendant

WITNESS STATEMENT OF
PROFESSOR SCOTT PEGG

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1. I Scott Pegg of 5639 Spindrift Lane, Indianapolis, IN 46220 USA will say as follows:

Background

2. I was born in Silver Spring, Maryland, USA on January 6th, 1966. Since 2001 I have lived in Indianapolis, Indiana, USA where I am an Associate Professor and Chair of the Department of Political Science at Indiana University Purdue University Indianapolis (IUPUI). I live in Indianapolis with my wife of over 14

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years, Tijen Demirel-Pegg, our 8 year old son Kerem, and 2 year old daughter Melis.

3. I graduated with a Bachelor of Arts in History and Political Science from the University of Richmond (Virginia, USA) in 1987. I received a Masters of Science in International Relations from the London School of Economics in 1991 and I earned my PhD in Political Science from the University of British Columbia in Vancouver, Canada, in 1997.

4. I started my academic career as an Assistant Professor in the Department of International Relations at Bilkent University in Ankara, Turkey. That is where I met my wife and where her family still lives. I worked at Bilkent University from 1998 to 2001, at which point I was hired by the Department of Political Science at IUPUI where I have worked ever since. I was promoted to the rank of Associate Professor with tenure in 2006.

5. At IUPUI, I regularly teach courses on International Relations, Globalization, War and International Conflict, and US Foreign Policy. I also teach senior seminar classes on African Politics for the Political Science Department and on Global Poverty for the International Studies Program. I am the author of *International Society and the De Facto State* (Ashgate, 1998) and the co-editor of *Transnational Corporations and Human Rights* (Palgrave Macmillan, 2003). My research has been published in a number of academic journals including *African Affairs*, *Community Development Journal, Geoforum, International Studies Perspectives*, *Journal of Cleaner Production*, *Naval War College Review*, *PS: Political Science and Politics* and *The Washington Quarterly*. As of June 2014, my scholarly research had been cited more than 300 times in books and academic journals in a variety of different fields.

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My involvement with the Bodo Community

6. I started doing research on oil production in the Niger Delta after hearing a speech given by Dr Owens Wiwa in October 1996. Dr Wiwa spoke at a community centre in Richmond, British Columbia, Canada about the Ogoni people's non-violent campaign for self-determination a greater share of the benefits from oil production and higher environmental standards; the military repression with which the Nigerian state responded to their demands; and the events that led up to his older brother Ken Saro-Wiwa's hanging in November 1995. I developed a continuing interest in the resource extractive industries in sub-Saharan Africa which now makes up the bulk of my academic research agenda.

7. The first time I visited Nigeria was in April 2000. I attended a memorial service for Ken Saro-Wiwa in his home village of Bane in Rivers State, Nigeria. I stayed in Port Harcourt and travelled extensively throughout the Ogoni part of Rivers State in conjunction with numerous activities in the run-up to Saro-Wiwa's memorial service. During that trip I met Patrick Naagbanton. He was head of the local Nigerian non-governmental organization called the Center for the Environment, Human Rights and Development (CEHRD). CEHRD is based in Eleme, Rivers State, Nigeria and operates throughout the Niger Delta region. CEHRD monitors and reports on human rights violations, advocates on behalf of victims of human rights abuses, and tries to remediate environmental problems in the Niger Delta.

8. Patrick is from Bodo and during my first trip to Nigeria he took me around his home town. He introduced me to Reverend Moses Nyimale Lezor, the director of the Bebor Model Nursery and Primary School in Botor Village, Bodo. Reverend

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Moses asked if he could have my business card and write to me after I returned to Turkey.

9. Subsequently, the Reverend wrote to me asking if I could help raise funds for the school. In January 2001, I returned to the Niger Delta with my wife to present Reverend Moses with US$2,800 **[I refer to the photograph marked Exhibit SP1]**. This money was used to finish roofing and put a cement floor into a 5 classroom primary school building that had been previously started with other funding provided by the Canadian government.

10. During our second visit we stayed in Port Harcourt for about 1 month and commuted out to various Ijaw, Ikwerre and Ogoni villages to conduct survey research on attitudes towards the self-determination claims being advanced by those groups. We visited Bodo numerous times both in the course of the survey research and on specific visits to the Bebor Model Nursery and Primary School to meet with students, teachers, parents and other supporters.

11. I continued to raise money for the school and, in September 2001, we sent a second round of funding of US$4,300 to the school to start construction on a new 6 classroom school building. In March 2002, my work with the school was formally incorporated into the work of a local Indianapolis-based charity then called the Timmy Foundation and now called Timmy Global Health. Both my wife and I have continued to work with them ever since.

12. In June 2002, my wife and I were given the honour of being named honorary chiefs by the Bodo Council of Chiefs in recognition of our contribution to the educational development of Bodo. Subsequently, on my fifth visit to Bodo in

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August 2005, "Chief Prof Scott Pegg Road" was dedicated in Botor Village, Bodo.

13. In 2003, Patrick invited me to serve on the International Advisory Board of CEHRD due to my knowledge and expertise on issues affecting the Niger Delta, my willingness to help local communities and my comfort being around the villagers. I started out as one of 3 members of the International Advisory Board and am now one of 4.

Fishing in Bodo

14. On the many occasions that I visited Bodo before the spills, I always went out in a traditional fishing canoe, leaving from Numuu Foghe, the Foghe waterfront in Bara-Nwezor Village, Bodo **[I refer to the photographs marked Exhibit SP2]**. On a typical trip we were on the water for 1 to 2 hours and on every occasion I was struck by the mangroves. They were a myriad of greens and had complex and winding root structures which I found endlessly fascinating.

15. During our first canoe trip in Bodo, we paddled out for about an hour and visited several of the small islands. This was the first time I had seen the mangroves and trees whilst on the water. They were green and lush **[I refer to the photographs marked Exhibit SP3]** and there was a background chorus of noise from all the birds and insects around us.

16. Whilst on the water we regularly ran into fishing boats. Normally there were 2 fishermen in each boat, one at the back with the oar, the other at the front to throw out the net **[I refer to the photographs marked Exhibit SP4]**. Sometimes a third fisherman was on board to help with processing or storing the catch. I saw fishermen throwing their nets out and returning with their catch.

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Most of the fishermen we saw were men but it was not unusual to see women or children on some of the boats.

17. Over the years I took a few photographs which give an idea of Bodo as I have described it. I have attached a selection of these photographs as evidence **[I refer to the photographs marked Exhibit SP5]**.

18. My sense was that the dominant occupation in Bodo was fishing with farming the second most common source of work. A small number of people were traders, bus or taxi drivers, commuted into Port Harcourt to work, or worked for the government. So while fishing was not the sole occupation for Bodo residents, it was predominant and was for most people, if not a full time activity, at least a supplemental one.

19. The rhythm of the village was to a large extent determined by the fishing schedule – when the boats went out, when they returned, and when fresh fish from that day's catch was available for purchase. There was a cycle that everyone was in tune with. When the boats were out and when they were due back was like the sun coming up and going down.

20. Fishing is a fundamental part of Bodo's culture and identity. People in Bodo told me that they might be poor, but at least they could eat fresh fish every day. Almost everyone we met in Bodo could recognise dozens of different kinds of fish and many of them had personal favourites or would tell us things like this one is better later in the year or why they liked that one in fish pepper soup or that one with rice.

21. The importance of fishing to the community is also represented in their crafts. I have a beautiful traditional carving of 3 fishermen in a boat which was given to

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us by a Bodo artisan. I also have a carving of a fish that was given to me by one of the school's supporters in Bodo **[I refer to the photographs marked Exhibit SP6]**. When I was presented with the second carving, the person who gave it to me explained that he was giving me this fish because Bodo was a fishing community, and that every time I looked at it I would be reminded of Bodo.

The waterfront

22. During our trips to Bodo, we often went down to Numuu Foghe or the Foghe waterfront in Bara-Nwezor Village, Bodo, in the late afternoon and watched the fishermen come in with their boats. This was when the place really came to life. There was a hustle and bustle as the fishermen returned and the traders came to meet them with their baskets and buckets. The waterfront literally buzzed with activity. There were fishermen unloading their catches or tying their boats up, traders buying and selling fish, people coming to purchase fish and many people who were not directly involved in fishing hanging out and socializing with their friends or family members who were. There was a small clearing above the waterfront where we would typically see Bodo youths playing soccer. We regularly encountered numerous children at the waterfront or right near it and frequently took pictures with them. My friend Patrick Naagbanton regularly purchased a variety of different fish and shellfish at the waterfront. Sometimes he would take the fish home for his family's dinner that night and other times we would eat some of the smoked or grilled fish right then and there as a snack. Almost every time he invited me over to his house for dinner, the main dish was fish pepper soup which had obviously been prepared with the various fish and shellfish purchased earlier that day in Bodo.

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Markets

23. On each visit we spent time at the market stalls in the village. On market days, the stalls would be teaming with people, spilling out into the roads. There was a variety of fin fish and shell fish on sale. The majority of it was fresh and unprocessed.

24. I would also see goats tied up for sale as goats are used for traditional ceremonies or celebrations. Fish was clearly the major source of protein in the village though. It also provided a main ancillary source of employment for all of the traders who served as the main nexus of contact between the fishermen and their customers in the local community.

Walking around Bodo

25. My wife and I visited Bodo a number of times between 2000 and 2012 and prior to the 2008 spills we were always struck by the incredibly warm reception we received wherever we went. People regularly invited us into their homes, wanted to buy us soft drinks or take pictures with us, and gave us so much fruit that we regularly had to share it with the hotel staff because we could not possibly eat it all ourselves. Everybody wanted to feed you; there was such incredible generosity.

26. When we returned with further funding in 2002 we commuted out to Bodo almost every day for 2 weeks. We spent much of our time walking around major parts of the village so I could photograph local activities such as fishing, farming, local homes and daily life to create a "Life in Bodo" page on the school's website **[I refer to the photographs marked Exhibit SP7]**. I wanted our supporters who would never visit Bodo in person to have an impression of what life was like there. Given all the subsequent concerns about violence, militia groups and

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political instability in the Niger Delta, it is important to note that I never once felt insecure or threatened walking around the village. I have never carried a weapon in Nigeria and I do not travel with any kind of police, military or private security escort. People regularly shouted "Oyigbo" [literally, "white person" and not used in a derogatory manner] as a greeting to me and everyone was extremely welcoming. A lot of children wanted to take pictures with us and many people would introduce themselves, shake hands or ask where I was from or what brought me to Bodo.

27. During these walks, we encountered countless local residents going about their business, women cleaning cassava before cooking it, artisans in their studios or people sewing and repairing fishing nets, as well as farmers coming back from their fields or students returning home after a day of classes. This greatly furthered our understanding of life in Bodo. The overwhelming majority of villagers, then as now, did not have access to piped drinking water or any or reliable electricity in their homes. Thus, one often sees piles of firewood to be used for cooking and kerosene lamps to provide some light after the sun sets. The poorest residents lived in traditional mud-brick houses with thatched roofs. People slightly better off might live in a mud-brick house with a zinc roof on it. People a bit better off than that might live in a concrete house with a zinc roof on it. In most cases, these homes are smaller than my living room in Indianapolis and they would typically house a mom, dad and 3 to 6 children. Many of the families keep goats and/or chickens so it is not unusual to encounter goats or chickens when walking around the village. The houses are all closely located next to one another and many of the mostly dirt "streets" that run between them are barely passable by a single car. During the rainy season, when the roads are typically at their most damaged, many of them are unpassable by car and I

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have been in vehicles that got stuck in the mud in Bodo and had to be pushed out on a number of occasions.

Bebor Model Nursery and Primary School

28. The Bebor Model Nursery and Primary School started with 1 teacher and 4 children meeting in someone's home in 1995. By the time we first saw the school in 2001, there were about 200 students and they were meeting in St. Andrew's Anglican Church in Bodo.

29. The Bebor School is what, in the US or the UK would be called a private school and in the development literature is often referred to as a community school or a community-based school, meaning that community members formed it after largely giving up on the Nigerian government ever providing their children with any school or with an adequately maintained and well organized school. As various Nigerian state primary schools in the area suffer from leaking roofs and teachers who don't show up because they are months behind in getting paid, many parents opt instead to send their children to community schools like Bebor.

30. Because Bebor is not Nigerian state-supported, it depends primarily on student tuition fees to fund its operations. For at least the first 6 or 7 years that we supported Bebor, the school seemed to be on an upward trajectory. Although we provided our first scholarship funding to the school to help 29 of the poorest children meet these fees as far back as 2002, for most of the time we have supported the schools, the basic division of labour that we have employed is that the school's international donors support capital projects requiring significant expenditures like classroom buildings or boreholes and the school supports its day-to-day operations and pays its teachers' salaries out of the tuition fees it earns from its students.

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31. 2 of the school's 3 buildings are now just a 5 minute drive down the planned Bodo-Bonny Island road (which runs right behind those buildings) from the Patrick Waterfront. My guess is that they are a 30 minute walk from the Foghe Waterfront which is where we typically went out on traditional fishing canoes.

32. The Bebor School has always attracted children from some of the neighbouring villages around Bodo. As most of its students come from Bodo, though, the bulk of them are the children of farmers and/or fishermen.

Oil pollution in Bodo pre-2008

33. The last 2 times I visited Bodo prior to the 2008 spills were in 2005 and 2006 and as far as I could tell there were no signs of stress or trauma to the mangroves, except for the pilot clean-up site I visited. There was just a real sense of this is what this place should look like, with lush, green mangroves everywhere you could see.

34. The only environmental damage from oil pollution I saw in Bodo was in August 2005, when Patrick Naagbanton and other CEHRD employees took me to visit a small pilot bio-remediation or re-vegetation project that they were conducting at Numuu Kiele, the Kiele waterfront (then in Bara-Nwezor Village, now in Kolgba Village). The CEHRD re-vegetation project was in response to the damage caused by an oil spill in 2003.

35. Before this trip I had never seen any damage caused by oil pollution in the Bodo creeks. From what I understand from speaking to people in Bodo however, the damage caused by this spill was very localised, and in fact you could see that

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the mangroves on the other side of the bank were green and healthy **[I refer to the photographs marked Exhibit SP8]**.

Bodo after the 2008 oil spills

36. I first saw the massive damage caused by the 2008 oil spills in July 2009. During that trip, I went out on the water in a canoe to take a look. We left from the Numuu Foghe waterfront and spent about 2 to 3 hours on the water. I would estimate that at our furthest point we were about a 45-minute paddle from where we started and everywhere I saw was affected. The water was a dark grey or greenish colour and there was an oily sheen on it. There were pools of oil residue on the shores we passed and an almost overpowering odour of oil in the air. The smell was unpleasant and very strong.

37. The atmosphere of the place had completely changed. The mangrove forests had been completely destroyed and there was environmental devastation as far as the eye could see **[I refer to the photographs marked Exhibit SP9]**. It was much quieter as there was much less background noise from the local bird and bug life. It had gone from an almost enchanted tropical paradise to a devastated environment. Everything that made it lively and vibrant, the perfect place for an eco-lodge or guesthouse, was gone. And this was all completely apparent to the naked eye. One of the most common things people in Bodo say and do now when you ask them about their home, is take their hand, make a sweeping gesture panning the landscape and simply say, "look around". They don't need to explain what has happened there because it is so patently obvious.

38. There was much less activity on and around the water. No one was swimming in the water or along the waterfront and the fishing boats we had encountered regularly before the spills were absent unless they were bringing back dead

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mangrove trees that had been harvested for firewood. The oil spill had destroyed the roots of the mangrove trees, and as they were ultimately going to collapse anyway, the fishermen were harvesting the dead trees to sell as firewood.

39. All along the riverfront I could see piles and piles of mangrove trees that had been cut down in this way **[I refer to the photographs marked Exhibit SP10]**. When we returned to the shore, various fishermen told me that they had given up on fishing because there were no longer any fish to catch in their traditional grounds.

40. Another result of the spill was that because the local supply of fish and shellfish had plummeted dramatically, the price of the fish that was available had risen dramatically. Many of the Bodo residents I encountered on this trip noted the high price of fish or complained about fish price inflation in their conversations with me. This is consistent with basic economic principles. The increased price of fish combined with the decreased income of the local fishermen naturally led to local families eating less fish. As fish was the leading source of protein in the area, this resulted in worrying nutritional outcomes.

Waterfronts and Markets

41. During my visit to Bodo in 2012, for the first time, I heard local residents talk about frozen fish imported from Asia being sold in local markets. We occasionally saw people selling dried fish at roadside stalls but did not see any fresh fish being sold. In general, I saw much less fish trading than I had seen on earlier pre-spill visits to Bodo with fewer traders and fewer stalls and stands.

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42. From what I have seen of the damage caused by the 2003 and 2008 oil spills it is without question my opinion that the 2008 spills were far, far worse and of a qualitatively and quantitatively different magnitude to the oil spill in 2003.

Bebor Model Nursery and Primary School

43. My wife and I continue to support the Bebor Model Nursery and Primary School today and we continue to work with Timmy Global Health.

44. The financial status of Bebor Model Nursery and Primary School has never been great but it has been especially perilous in recent years. One of the main explanations for this is that percentage of parents who are unable to pay their children's school fees or are months behind in paying them has increased significantly. In previous years, I almost never heard Reverend Moses raise the issue of late or delinquent fee payments. In recent years, that has been a prominent theme of his in many of our conversations or written exchanges.

45. In addition, many parents who either directly lost their incomes from fishing or were indirectly affected as their businesses suffered from declining demand due to diminished purchasing power have pulled their children out of school. In 2005-2006, our school in Bodo had 1,043 students according to the census conducted by its director. In 2012, during my last visit to Nigeria, I counted 346 students in attendance on the day I visited the school. My 346 figure is almost certainly too low as I'm sure there were some students absent for whatever reason on the day I visited. I also do not know the methodology the school director employed in conducting his census so it is possible the 1,043 figure is a bit high. Still, in comparing these figures, there is an undeniable decline in enrolment from the pre-oil spill figure to the post-oil spill figure and that decline

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certainly corresponds to my personal impressions from visiting the school on multiple occasions over the years.

Migration to Port Harcourt

46. With the loss of their traditional source of livelihood many people have had to leave Bodo in search of work elsewhere as few employment opportunities are available in Bodo. The overall depressed levels of income and demand make previous options like going into construction work, manual labour or setting up a small store or market stall increasingly difficult to pull off successfully. Some end up living in the violent and dangerous Port Harcourt waterfront settlements, like Bundum which I visited in 2001 and again in 2006. Such settlements lack basic amenities like water, electricity and sanitation and they have witnessed numerous violent inter-communal conflicts in the past. They are also known centres for militant and criminal group activities and they have been repeatedly slated for demolition by the Rivers State government.

47. Waterfront settlements like Bundum are scary places. As I visited Bundum with Patrick Naagbanton who knows a number of residents there, I was not overly concerned for my own safety but one can clearly feel the tension and insecurity there. The waterfront settlements are seriously overcrowded and very densely populated. Houses of varying degrees of informality or completeness crowd next to each other with narrow walkways between them that you sometimes have to walk single file down because they are not wide enough for 2 or 3 people at the same time. The smell of untreated or unprocessed human sewage is overwhelming. I cannot imagine anyone voluntarily choosing to live in such a place.

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Bodo today

48. The Bodo people are now living in a shell-shocked land. These people's lives have been damaged, their villages have been impoverished and one of their primary ways of life and a centrepiece of their culture has been shattered. It is almost impossible to put into words how this environmental tragedy has brought these proud people to their knees.

49. When I first arrived in Bodo it was vibrant and the people proud and welcoming. This Bodo no longer exists. The 2008-2009 oil spills have devastated its environment, eradicated one of its primary sources of income and caused immense and potentially irreparable damage to a fundamental part of its cultural fabric. The losses are both quantifiable and impossible to measure. They are without question real.

Signed .....

Professor Scott PEGG

Dated 5 November 2014

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