



# CLEAN IT UP

Shell's false claims about oil spill response in the Niger Delta



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Cover photo: Oil contamination at Barabeedom swamp, Kegbara Dere, September 2015,  
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## EXECUTIVE SUMMARY

Every year there are hundreds of oil spills in the Niger Delta, caused by old and poorly maintained pipelines or criminal activity such as oil theft. These spills have a devastating impact on the fields, forests and fisheries that the majority of the people in the region depend on for their food and livelihoods. Oil spills also contaminate drinking water and expose people to serious health risks.

Preventing oil spills must be a priority, but once they occur, swift and effective clean-up and rehabilitation of pollution and environmental damage is critical to the protection of human rights. If pollution and environmental damage persist, then so, frequently, does the associated violation of human rights, driving people deeper into poverty through long-term damage to livelihoods and health.

This report examines the adequacy and effectiveness of oil spill clean-up by the Shell Petroleum Development Company of Nigeria. It is part of ongoing work by Amnesty International and the Centre for the Environment, Human Rights and Development (CEHRD) to expose and challenge the human rights impacts of oil pollution in the Niger Delta.

In Nigeria the company that operates the pipeline or well from which the oil is spilled is responsible, under the law, to start the clean-up within 24 hours. It must rehabilitate and restore the affected area as much as possible to its original state, a process known as remediation. New research by Amnesty International and CEHRD shows that Shell is failing to do this. Sites that Shell claims it has cleaned up are still visibly polluted.

Confirming that oil-affected sites are properly cleaned up is the responsibility of the government regulators. However, Amnesty International and CEHRD also found serious shortcomings in this regard.

Nigeria's National Oil Spill Detection and Response Agency (NOSDRA) has certified as clean sites that are visibly contaminated.

The findings of this report are based on field research conducted by Amnesty International and CEHRD in Ogoniland in the Niger Delta in July to September 2015. Researchers also studied government and Shell documents, including reports produced by clean-up contractors, remediation certificates and maps, as well as court documents, video footage, media reports and satellite images. The field work focused on four sites at which major oil spills had occurred: Boobanabe, Bomu Manifold, Barabeedom swamp and Okuluebu. The spills date back several years or in the case of Boobanabe, several decades. These sites were previously examined by the United Nations Environment Programme (UNEP).

In 2011 UNEP published the most comprehensive study to date of the impact that oil pollution has had on the communities living in the Niger Delta. Focusing on just one region, Ogoniland, UNEP exposed an appalling level of pollution, including the contamination of agricultural land and fisheries, the contamination of drinking water, and the exposure of hundreds of thousands of people to serious health risks. UNEP documented serious pollution and Shell's failure to properly clean up oil spills at more than 60 locations, including the four examined in this report. Shell has publically said that, since 2011, it has addressed the pollution documented by UNEP. The evidence gathered by Amnesty International and CEHRD contradicts Shell's claims.

The main observations made by researchers at the four sites examined are as follows

- 45 years after a fire and spill at Shell's Bomu Well 11 at Boobanabe, researchers saw water-logged areas with an oily sheen, and soil was black and encrusted with oil. Shell said it had cleaned-up and remediated the site in 1975 and in 2012. According to Nigerian government regulations, there should be no oil in water 60 days after a spill.

- Outside the perimeter of the Bomu Manifold at Kegbara Dere (K. Dere) which Shell said it had cleaned in 2012, researchers saw soil soaked with crude oil. The pollution dates back at least to 2009 when a large fire and spill occurred at the Bomu Manifold, an area where several Shell pipelines meet.
- The Barabeedom swamp, south of the Bomu Manifold, is visibly contaminated with crude oil a year after the government regulator certified it as clean.
- At Okuluebu, Ogale, researchers saw patches of oil-blackened soil at several locations. The government regulator certified the area as clean in 2012.

Researchers investigated alternative explanations for the pollution they observed at each of the four sites. Using data from Shell's own website, researchers mapped all recent spills close to the sites. These spills were either too small or too far away to have re-contaminated the sites, or had already been cleaned-up, according to Shell and NOSDRA. Based on all of the available evidence, Shell's public claims to have cleaned up and remediated specific sites, and the company's broader claims that it has addressed the pollution documented by UNEP, are false.

Shell has also claimed that it has addressed two other issues raised by UNEP in its 2011 report. UNEP identified flaws in Shell's approach to oil spill clean-up and remediation and made recommendations for how it should improve its methodology. Although Shell has said that it has overhauled how it tackles oil spills, the company has not provided any details of the changes made, or how they are being implemented.

UNEP also raised concerns about the local contractor companies that Shell uses to do most of the clean-up and remediation work. Shell responded by re-training its contractors. However, evidence from the field demonstrates that contractors are still failing to adequately clean up oil pollution, and that many of the flaws exposed by UNEP have still not been

addressed. For example, researchers saw that pollution was spreading into neighbouring land and waterways at three of the sites they investigated. UNEP clearly stated that this should be prevented.

Amnesty International sought meetings with and wrote to Shell and to NOSDRA, asking for specific information regarding the four sites examined in this report, as well as more general information about how they manage remediation. Shell said that no one was available for a meeting, and in a letter sent in September 2015, directed researchers to look at its website. The Shell Nigeria website provides limited information about the company's approach to tackling spills in the Niger Delta, and no detailed information about clean-up and remediation of specific locations.

NOSDRA also directed researchers to look at its website, although this too provides little information on clean-up and remediation. NOSDRA invited researchers for a meeting, but the date they proposed was after this report went for printing. Amnesty International proposed an earlier date, but did not hear back.

Amnesty International wrote to Shell prior to publication seeking the company's comment on the findings contained in this report, specifically that the company is still failing to clean up oil spills properly and that it has made false statements about clean-up and remediation of oil spills. In a one-page letter dated 24 October 2015, Shell said that it disagreed with these findings, but did not provide any details to support its statements (see Appendix). The company said that it had consistently reported publicly on its implementation of UNEP's recommendations and the ongoing problems of oil theft and illegal refining which affect the Niger Delta.

In responding to public criticism of its record in the Niger Delta, Shell frequently refers to the impact of illegal activity. While oil theft and illegal refining are genuine challenges, the extent of these problems are misrepresented by Shell to deflect criticism and divert public and media attention away from the company's failures to deal with old and leaking pipelines and

failure to carry out proper clean-up and remediation. Moreover, illegal activity does not explain poorly executed clean-up. All oil companies are obliged to clean up oil spills, no matter what the cause.

## WHAT NEEDS TO CHANGE

The recently elected Nigerian president, Muhammadu Buhari, has committed his administration to protecting the environment of the Niger Delta. In August 2015 he announced an important first step in this direction, stating that his government would set up a body to oversee the clean-up and remediation of Ogoniland, as recommended by UNEP.

But for this to work Shell must heed the advice of the UN's experts, by changing its approach to oil spill remediation, and begin to clean-up properly. The government must substantially strengthen the capacity of NOSDRA to regulate Shell and the activities of Shell's contractors. The government must also ensure that the regulatory agency is properly accountable so that it can fulfil its mandate.

The government of Nigeria is currently failing to fulfil its duty to protect the human rights of people living in the Niger Delta, including by ensuring that they enjoy their human right to a remedy and proper clean-up. Shell has a responsibility to ensure that its actions do not cause or contribute to human rights violations. People also have a right to know what kinds of pollutants they are exposed to.

To fulfil these obligations and expectations, the government and Shell should publish information relating to the clean-up and remediation of oil spill sites. This should include the names of contractors, results of soil and water sampling before and after the work is conducted, maps of the contamination, a detailed work plan, how the work was completed, and photographs.

## KEY RECOMMENDATIONS

### FOR THE GOVERNMENT OF NIGERIA:

- Undertake an independent audit of how NOSDRA certified the sites that Amnesty International and CEHRD investigated, and publish this audit along with recommendations for addressing weaknesses in NOSDRA. Seek support from UNEP to do this.
- Publish all oil spill clean-up and remediation certificates and other documents relating to remediation. Create a dedicated website, similar to the "Nigerian Oil Spill Monitor" website, which carries information on spills, to host this information. Until this is available, make all documents freely available to anyone who requests them.
- Substantially strengthen the capacity of NOSDRA to ensure that it functions to a high professional standard, including by providing an increased budget for its operations, so that it is able to hire qualified staff, and conduct independent assessments of oil spills sites and remediation.
- Implement in full the recommendations of the UNEP environmental assessment report for Ogoniland, 2011.

### FOR SHELL:

- Carry out effective clean-up and remediation operations at the oil spill sites at the Bonu Manifold, Barabeedom swamp, Okuluebu, and Boobanabe, in consultation with the local communities, as a matter of urgency.
- Ensure that all communities affected by failed or delayed clean-up of oil spills receive adequate compensation for their losses.
- Immediately publish the clean-up and remediation reports and certificates for all sites in the Niger Delta on the company's website, in the same way that Shell has published all oil spill investigation reports since 2011.
- Overhaul Shell's remediation methodology in line with the recommendations of UNEP, and publish details of how it has changed.

## METHODOLOGY

This report investigates the failure of Shell, the largest onshore oil operator in Nigeria, to remediate damage caused by oil spills in line with the recommendations of the United Nations Environment Programme (UNEP).<sup>1</sup>

The report is based on research conducted by Amnesty International and the Centre for the Environment, Human Rights and Development (CEHRD) in Ogoniland, a region of Rivers state in the Niger Delta, from July to September 2015.<sup>2</sup>

The report presents case studies of four locations that have been affected by one or more oil spills. Each of these sites was investigated by UNEP when it assessed environmental damage in Ogoniland in 2009-11. UNEP's experts took multiple soil and groundwater sample in each location, and mapped the

contamination. They also provided detailed recommendations for Shell to follow to remediate the sites and prevent the further contamination of neighbouring areas. Amnesty International and CEHRD researchers compared what UNEP found at each location with what Shell has actually done since to tackle the pollution. Amnesty International and CEHRD chose to focus on these four sites as they presented a range of different scenarios, and were practical to visit.

Researchers chose to investigate the situation at the Bomu Manifold because it was one of the cases that UNEP reported on in most detail. Oil has spread from there to the neighbouring Barabeedom swamp, so the researchers also studied the situation there. They examined Okuluebu in Ogale because it was one of the most polluted sites identified by UNEP. They investigated conditions at Boobanabe because it was one of the oldest cases highlighted by UNEP. The pollution there dates back more than forty years. Researchers also tried to investigate conditions at Ejama Ebubu, but were prevented from doing so by the police guarding the site.



Taagaalo Christina Dimkpa Nkoo says that oil pollution from a Shell pipeline has damaged her farmland at Barabeedom swamp in K. Dere, Rivers state, Nigeria. August 2015, © Amnesty International.

1. United Nations Environment Programme *Environmental Assessment of Ogoniland*, UNEP, 2011, available at: [www.unep.org/disastersandconflicts/CountryOperations/Nigeria/EnvironmentalAssessmentofOgonilandreport/tabid/54419/Default.aspx](http://www.unep.org/disastersandconflicts/CountryOperations/Nigeria/EnvironmentalAssessmentofOgonilandreport/tabid/54419/Default.aspx) (hereafter, UNEP, 2011)
2. Ogoniland covers about 1,000 km<sup>2</sup> in the south east of the Niger Delta. It falls within Rivers state. Its population in 2006 was close to 832,000, according to the national census. Cited in UNEP, 2011, p22.

Researchers interviewed members of the local communities, including their leaders, local environmental activists, and people living close to the polluted sites. They reviewed historic satellite images of each site. They reviewed a range of documents, including government and company documents, such as contractor reports, clean-up and certification reports, oil spill investigation reports and maps. They reviewed photographs, videos, and court documents relating to the Bomu Manifold.

A consultant, who headed the UNEP team that assessed the contaminated land sites for the 2011 report, reviewed the researchers' observations and findings. DigitalGlobe provided independent analysis of the satellite images of the Bomu Manifold and Barabeedom swamp.

Amnesty International requested detailed information on each of the spill sites from Shell and the Nigerian government regulator NOSDRA, as well as broader information regarding their approach to remediation, but they did not provide any. Shell representatives in Port Harcourt, the capital of Rivers state said they were not available for meetings. A subsequent letter from the company, sent in September 2015, suggested researchers look at information on Shell's website.

The head of the Port Harcourt office of NOSDRA agreed to meet researchers but referred all requests for information to the agency's head office in Abuja. In a letter sent in October 2015, NOSDRA directed researchers to look at its website. This has little information on clean up and remediation.

This report builds on past research by Amnesty International and CEHRD examining oil pollution in the Niger Delta, including: *No Progress* (2014),<sup>3</sup> *Bad Information* (2013),<sup>4</sup> *Another Bodo Oil Spill*,<sup>5</sup> *True Tragedy* (2011)<sup>6</sup> and *Petroleum, Pollution and Poverty in the Niger Delta* (2009).<sup>7</sup>

#### Acknowledgements:

Amnesty International and CEHRD would like to thank the communities of Ebubu, Kegbara Dere (K. Dere) and Ogale in Ogoniland, Rivers state, Nigeria, for their assistance in researching this report.

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3. Environmental Rights Action, CEHRD, Friends of the Earth Europe, Platform, Amnesty International, *No Progress: An Evaluation of the Implementation of UNEP's Environmental Assessment Of Ogoniland, Three Years On*, (Index: AFR 44/013/2014), available at: [www.amnesty.org/en/documents/afr44/013/2014/en/](http://www.amnesty.org/en/documents/afr44/013/2014/en/)
  4. Amnesty International and CEHRD *Bad Information, Oil Spill Investigations in the Niger Delta*, (Index: AFR 44/028/2013), available at: [www.amnesty.org/en/documents/AFR44/028/2013/en/](http://www.amnesty.org/en/documents/AFR44/028/2013/en/)
  5. Amnesty International and CEHRD *Another Bodo Oil Spill*, (Index: AFR 44/037/2012), available at: [www.amnesty.org/en/documents/afr44/037/2012/en/](http://www.amnesty.org/en/documents/afr44/037/2012/en/)
  6. Amnesty International and CEHRD *The True 'Tragedy': Delays And Failures in Tackling Oil Spills in the Niger Delta*, (Index: AFR 44/018/2011) available at [www.amnesty.org/en/documents/AFR44/018/2011/en/](http://www.amnesty.org/en/documents/AFR44/018/2011/en/)
  7. Amnesty International *Petroleum, Pollution and Poverty in the Niger Delta*, (Index: AFR 44/017/2009), available at: [www.amnesty.org/en/documents/AFR44/017/2009/en/](http://www.amnesty.org/en/documents/AFR44/017/2009/en/)



Map of the Niger Delta region in Nigeria



# 1. BACKGROUND

## HUNDREDS OF SPILLS EVERY YEAR

The issue of how polluted land is remediated in the Niger Delta matters because spills are so frequent, and have been occurring for such a long time. Every year there are hundreds of oil spills from the pipelines, wells and other facilities that Shell operates. The

company has been pumping oil from the Niger Delta since 1958, when Nigeria was still a British colony, and it remains the largest multinational oil company operating there.<sup>8</sup>

Even according to the figures on Shell's own website, the amount of oil that is spilled is staggering. Between 2007 and 2014, Shell estimates that 1,693 separate spills led to more than 350,000 barrels of crude oil being lost.<sup>9</sup> Yet however big they seem, previous research by Amnesty International and CEHRD has shown that Shell's figures understate the full extent of the problem.<sup>10</sup>

**TABLE: DETAILS OF RECENT OIL SPILLS AS REPORTED BY SHELL**

Year	2007	2008	2009	2010	2011	2012	2013	2014	Total
Total number of spills	320	210	190	170	207	192	200	204	1693
Approx total volume in barrels	26,000	100,000	120,000	23,000	18,000	22,000	20,000	22,000	351,000

The company's facts and figures emerge from a flawed process for identifying the volume, cause and impact of oil spills. Furthermore, this process often lacks both independence and oversight, partly because the government regulators are so weak, and as a result, its findings cannot be trusted. For example, the company's report for a spill in the Bodo area of Ogoniland in 2008 claimed that only 1,640 barrels of oil were spilled. However, based on an independent assessment published by US firm Accufacts Inc., Amnesty International calculated that the total actually exceeded 100,000 barrels.<sup>11</sup> For years, Shell defended its far lower figure, but in November

2014 during a court case in the UK, Shell was finally forced to admit that the amount was indeed larger than it had previously stated.<sup>12</sup>

Similarly, recent research has undermined Shell's claims regarding the cause of oil spills. The company claims that since 2010, fewer than 30% of spills were caused by corrosion, human error and equipment failure, and most were caused by "sabotage" or "theft".<sup>13</sup> But an Amnesty International and CEHRD investigation revealed that spills have been incorrectly labelled as "sabotage".<sup>14</sup>

8. Shell's Nigerian subsidiary, the Shell Petroleum Development Corporation (SDPC), is the operator of a joint venture (the SPDC JV) that produces most of Nigeria's on-shore oil. Through this joint venture, Shell operates around 50 producing oil fields and a network of approximately 5,000 km of oil and gas pipelines. Shell owns 30% of this joint venture. The rest is owned by the state-owned Nigerian National Petroleum Corporation (55%) and subsidiaries of the French company Total (10%) and the Italian firm ENI (5%). See Shell Nigeria, *Shell in Nigeria Portfolio*, April 2015, <http://s08.static-shell.com/content/dam/shell-new/local/country/nga/downloads/pdf/portfolio.pdf> (accessed 16 October 2015)
9. Shell's figures can be found on its website, for 2007-2013 at: [www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2013.html](http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2013.html), and for 2014 are available at: [www.shell.com.ng/environment-society/environment-tpkg/oil-spills/monthly-data.html](http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills/monthly-data.html) (both accessed 16 October 2009).
10. Amnesty International and CEHRD Bad Information, *Oil Spill Investigations in the Niger Delta*, November 2013 p15-44 (Index: AFR 44/028/2013), available at [www.amnesty.org/en/documents/AFR44/028/2013/en/](http://www.amnesty.org/en/documents/AFR44/028/2013/en/), (Amnesty International, Bad Information)
11. Amnesty International and CEHRD, *Bad Information*, pp49-53,
12. Amnesty International news story: "Court documents expose Shell's false claims on Nigeria oil spills" [www.amnesty.org/en/latest/news/2014/11/court-documents-expose-shell-s-false-claims-nigeria-oil-spills/](http://www.amnesty.org/en/latest/news/2014/11/court-documents-expose-shell-s-false-claims-nigeria-oil-spills/)
13. Shell, *Oil Spills Data*, [www.shell.com.ng/environment-society/environment-tpkg/oil-spills.html](http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills.html)
14. Amnesty International and CEHRD *Bad Information*, p19-23.

Regardless, under Nigerian law, Shell, like other oil operators, is responsible for the containment, clean-up and remediation of all oil spills along its pipelines and infrastructure, whatever the cause.<sup>15</sup> It is obliged to start the clean-up within 24 hours of the spill and meet standards laid out by the Nigerian government.<sup>16</sup> These make clear that it is Shell's responsibility to

“restore to as much as possible the original state of any impacted environment.” For all waters, “there shall be no visible oil sheen after the first 30 days;” for swamps, “there shall not be any sign of oil stain within the first 60 days.” The guidelines also stipulate that Shell should prevent spills from spreading into neighbouring land, waterways and groundwater.<sup>17</sup>



Shell's pipelines in Ogoniland are old and poorly maintained. There have been several spills and in 2009 there was a huge fire, at the Bomu Manifold, at K. Dere, Rivers state. September 2015, © Michael Uwemedimo/cmapping.net

15. Department of Petroleum Resources, *Environmental Guidelines and Standards for the Petroleum Industry in Nigeria* (EGASPIN), revised edition 2002, p 148, para 2.6.3.
16. Department of Petroleum Resources, *EGASPIN*, revised edition 2002, p 148, section 2.6
17. Department of Petroleum Resources, *EGASPIN*, revised edition 2002, p 148, para 2.6.3.
18. For a full discussion on the human rights impact of oil pollution in the Niger Delta, see Amnesty International's report, *Petroleum, Pollution and Poverty in the Niger Delta*, June 2009, (Index: AFR/44/017/2009), available at [www.amnesty.org/en/documents/AFR44/017/2009/en/](http://www.amnesty.org/en/documents/AFR44/017/2009/en/)

## HUMAN RIGHTS IMPACT OF OIL POLLUTION<sup>18</sup>

The livelihoods, health and access to food and clean water of hundreds of thousands of people in the Niger Delta is closely linked to the land and environmental quality. Oil spills damage both the soil and water system.<sup>19</sup> Women, men and children living in the Niger Delta have to drink, cook with, and wash in polluted water; they eat fish contaminated with oil and other toxins (if they are lucky enough to still be able to find fish); the land they use for farming has been contaminated. After oil spills the air they breathe reeks of oil, gas and other pollutants; they complain of breathing problems, skin lesions and other health problems, but their concerns are not taken seriously and the Nigerian government and oil companies provide them with almost no information on the impacts of pollution. The main human rights impacts documented by Amnesty International and CEHRD include:<sup>20</sup>

- Violations of the right to an adequate standard of living, including the right to food – as a consequence of the impact of oil-related pollution and environmental damage on agriculture and fisheries.
- Violations of the right to water – which occur when oil spills pollute water used for drinking and other domestic purposes.
- Violations of the right to health – which arise from failure to secure the underlying determinants of health, including a healthy environment, and failure to enforce laws to protect the environment and prevent pollution.
- Failure to ensure access to effective remedy for people whose human rights have been violated.
- Failure to provide affected communities with information relating to oil spills and clean-up.

The abuses and violations are, primarily, the result of the operations of the oil companies including Shell, and the almost complete failure of the Nigerian government to regulate the oil industry and protect the rights of the people of the Niger Delta.

## KEN SARO-WIWA AND THE OGO NI STRUGGLE FOR JUSTICE

The Niger Delta has not only seen decades of environmental harm, but also conflict and political upheaval. Many communities have protested against the negative aspects of the oil industry, corruption and the failure of oil wealth to translate into better living conditions for all.<sup>21</sup>

One of the most important dates in the region's history was twenty years ago, 10 November 1995. The

writer and human rights campaigner, Ken Saro-Wiwa, was executed after a trial that Amnesty International described at the time as “politically-motivated and grossly unfair.”<sup>22</sup> His death, alongside eight others, alerted the world to the devastating impact of the oil industry in the Niger Delta.

Ken Saro-Wiwa had led a mass movement against Nigeria's then military rulers, challenging them to grant his home region, Ogoniland, with political autonomy and a greater share of the oil wealth. The Movement for the Survival of the Ogoni People (MOSOP) argued that pollution had “led to the

19. See UNEP, 2011, Ch 4.

20. See: Amnesty International, *Petroleum, Pollution and Poverty in the Niger Delta*, June 2009 (Index: AFR/44/017/2009); and Amnesty International and CEHRD, *The True Tragedy: Delays and Failures in Tackling Oil Spills in the Niger Delta*, November 2011, AFR/44/018/2011, available at [www.amnesty.org/en/documents/AFR44/018/2011/en/](http://www.amnesty.org/en/documents/AFR44/018/2011/en/)

21. Amnesty International *Petroleum, Pollution and Poverty in the Niger Delta*, p13.

22. Amnesty International statement, (Index: AFR 44/032/1995), available at [www.amnesty.org/en/documents/af44/032/1995/en/](http://www.amnesty.org/en/documents/af44/032/1995/en/).



complete degradation of the Ogoni environment, turning our homeland into an ecological disaster.”<sup>23</sup>

In 1993, amid huge protests and a worsening security situation, Shell withdrew from Ogoniland. The company has not been able to pump oil from most its wells there since, although its pipelines continue to run through it carrying oil from other regions.

In an attempt to end the stand-off, the by-then democratically-elected Federal Government of Nigeria commissioned the United Nations Environment Programme (UNEP) to carry out an environmental assessment of Ogoniland in 2006. Shell funded the work, based on the “polluter pays” principle. UNEP commenced operations in Ogoniland in 2009 and published its report in August 2011.<sup>24</sup>

## UNEP’S RECOMMENDATIONS

The UNEP report is the most comprehensive study yet on the impacts of oil pollution in the Niger Delta. It demonstrates the failure of Shell and the Nigerian government to respect their national and international

legal obligations. While it provides a detailed assessment of the impact of oil pollution on Ogoniland, its conclusions and recommendations are valid for the whole oil-producing region.

The study exposed an appalling level of pollution, including the contamination of agricultural land and fisheries, the contamination of drinking water, and the exposure of hundreds of thousands of people to serious health risks.<sup>25</sup> The UNEP report concluded that:

“The Ogoni people live with this pollution every minute of every day, 365 days a year. Since average life expectancy in Nigeria is less than 50 years, it is a fair assumption that most members of the current Ogoniland community have lived with chronic oil pollution throughout their lives. Children born in Ogoniland soon sense oil pollution as the odour of hydrocarbons pervades the air day in, day out.”<sup>26</sup>

UNEP estimated it could take up to 30 years and six billion dollars to clean up the region. The organization made detailed recommendations to Shell and the Nigerian government.<sup>27</sup> Five years later, most of these recommendations have not been met, and Ogoniland remains heavily polluted.<sup>28</sup>

23. The Ogoni Bill of Rights, article 16, the Movement for the Survival of the Ogoni People, 1990.

24. UNEP, 2011.

25. UNEP, 2011, p10-11.

26. UNEP, 2011, p204.

27. UNEP, 2011, Chapter 6.

28. For a detailed assessment of this see the 2014 report, *Nigeria: No progress: An evaluation of the implementation of UNEP's environmental assessment of Ogoniland, three years on*, by Amnesty International and other NGOs, (Index AFR 44/013/2014), available at [www.amnesty.org/en/documents/afr44/013/2014/en/](http://www.amnesty.org/en/documents/afr44/013/2014/en/).

## 2. WHY REMEDIATION FAILS

Oil spill clean-up and remediation are the responsibility of oil companies, to pay for and to organize.<sup>29</sup> Shell contracts this work out to Nigerian companies, and also sometimes to foreign companies in the Niger Delta.<sup>30</sup> Shell supervises its contractors, and issues them with instructions on how to conduct the work.<sup>31</sup> Once the contractors and Shell assess that they have successfully remediated the site (meaning that the oil content in the soil and water has dropped below a certain “close out” level),<sup>32</sup> they report back to the government regulator, the National Oil Spill Detection and Response Agency (NOSDRA). If NOSDRA is satisfied that Shell has restored the land “to as much as possible the original state”, it then issues a clean-up and remediation certificate, declaring that work at the site is complete.<sup>33</sup>

This chapter examines flaws at each step of this process: Shell’s technique for approaching oil spills in the Niger Delta, how Shell selects and supervises its contractors, and finally, how NOSDRA certifies sites.

It is not only Amnesty International and CEHRD who have identified sites that have been inadequately remediated. UNEP also found a number of sites

which Shell said were remediated, but which were in fact still contaminated. It investigated 15 locations in Ogoniland that Shell had classified as “remediation completed,” and found that 13 of these were still contaminated, in some cases to a depth of at least five metres.<sup>34</sup> These sites are different to those investigated by Amnesty International and CEHRD.

The oil company challenged these findings and retested the sites using a consulting company called Fugro.<sup>35</sup> According to Shell, these tests showed that only six were still contaminated. It blamed this on re-contamination caused by subsequent spills since 2011.<sup>36</sup> In 2014, the company said it had remediated all the sites again and the government had certified them as clean. It then said it had hired a team to conduct a “monitoring programme of independent verification” of these sites.<sup>37</sup> This team consisted of two academics, two consultants from the company Bureau Veritas and two NGO representatives. Shell has never published the findings of this “independent verification” team, and has not answered Amnesty International’s request to see a copy.

However, one member of the “independent verification” team told Amnesty International that it had found that most sites were still contaminated, despite Shell’s clear assurances to have remediated them. According to Father Edward Obi, who chairs the National Coalition on Gas Flaring and Oil Spills in the Niger Delta (NACGOND) eight of the 12 sites the team tested contained hydrocarbons above the Nigerian government’s regulatory level.<sup>38</sup>

29. Department of Petroleum Resources *Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN)*, revised edition 2002, p 148, para 2.6.3.

30. Such as in the case of the Bomu Manifold, see below.

31. UNEP, 2011, p148.

32. Since 2010 Shell has used 3,000 mg/kg total petroleum hydrocarbons (TPH) as its close out level. This is higher than the government’s “target level” of 50 mg/kg, but lower than its “intervention level” of 5,000 mg/kg TPH. However, there is an internal contradiction within the EGASPIN regulations. Section 2.11.3 of Part VIII states that to be considered successful, remediation needs to bring the hydrocarbon level down to the target level. But section 6.6 of Part VIII states that the goal for a successful remediation should be the intervention level. UNEP concluded that this confusion allows Shell “to legally close down the remediation process well before contamination has been fully eliminated and soil quality has been restored to achieve full functionality for human, animal and plant life”. See UNEP, 2011, p141-2.

33. Department of Petroleum Resources *EGASPIN*, revised edition 2002, , p 148, section 2.6.

34. UNEP, 2011, O135.

35. Shell Nigeria statement: “SPDC action on matters addressed in the UNEP report” July 2012, available at [www.shell.com.ng/environment-society/our-response/unep-july-2012.html](http://www.shell.com.ng/environment-society/our-response/unep-july-2012.html)

36. Shell, *RDS Report on the SPDC commitments towards the UNEP report*, September 2013, file://intsec.amnesty.org/data/users/mark.dummett/Downloads/final\_statement\_shell\_in\_the\_niger\_delta\_ii-web.pdf

37. Letter from Mutiu Sunmuno, Chair, Shell Nigeria, to Amnesty International, 10 June, 2014.

38. Amnesty International interview with Father Edward Obi, Port Harcourt, 4 August 2015.

## SHELL'S FLAWED APPROACH TO REMEDIATION

UNEP found that Shell's main technique for tackling land-based oil pollution, which Shell calls remediation by enhanced natural attenuation (RENA), or bio-remediation by land-farming, "has not proven effective" and should be overhauled.<sup>39</sup>

The principle of bio-remediation is to enhance the natural processes by which hydrocarbons (the organic compounds that make up crude oil) are broken down or dispersed, such as through evaporation or microbial degradation. When an oil spill occurs, oil companies send people – usually local contractors – to the site to deal with the spill. These contractors start by collecting as much of the spilled crude as they can.<sup>40</sup> Sometimes they then add fertilizers, which can supplement the nutrient requirements of bacteria as they break down the pollutants. The soil is then ploughed into windrows (ridges) to enhance evaporation.<sup>41</sup>

According to UNEP such an approach is inappropriate for Ogoniland, an area of high rainfall, with many waterways and swamps. As the contaminated land is left exposed to the rain, oil is washed away into surrounding land and water, increasing the spread of the pollution. UNEP found that no measures are taken to prevent this, such as by covering the contaminated land, or collecting and treating the runoff, which would be the legally required standard in Europe.<sup>42</sup>

Additionally, not all hydrocarbons are "amenable to bacterial biodegradation," for example where they are present in "too high a concentration" or where there has been a fire and oil has been burnt into a crust.<sup>43</sup> UNEP also found that bio-remediation would not work below one metre, yet oil was sinking much deeper than that into the subsoil and contaminating the groundwater.<sup>44</sup>

In response to these criticisms, Shell stated online that it had revised bio-remediation, but it has not explained what these revisions have been. It has said that this technique remains its main method for addressing oil pollution in the Niger Delta.<sup>45</sup>

## COMPETENCE OF SHELL'S CONTRACTORS

Shell hires contractor companies to conduct the clean-up and remediation of all oil spill sites, but it retains control of what they do. It provides them with training and instructions.<sup>46</sup> It obliges them to comply with its corporate Code of Conduct.<sup>47</sup> In response to the UNEP report, Shell said it had re-trained contractors on clean-up and remediation and assigned Shell supervisors "to ensure effective oversight and compliance."<sup>48</sup> According to Father Edward Obi, chair of NACGOND, who has studied in detail the clean-up of 12 oil spill sites in Ogoniland as part of a verification team set up by Shell, many contractors are not doing their job properly and are failing to remediate sites.<sup>49</sup>

39. UNEP, 2011, p12.

40. Shell refers to this stage of the process as the "clean-up." Shell, "How we respond to oil spills," [www.shell.com.ng/environment-society/environment-tpkg/oil-spills.html](http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills.html) (accessed 11 October 2015).

41. UNEP, 2011, p144-5.

42. UNEP, 2011, p145.

43. UNEP, 2011, p145.

44. UNEP, 2011, p135.

45. Shell, "Frequently asked questions on the UNEP environmental assessment of Ogoniland," available at: [www.shell.com.ng/environment-society/our-response/unep-faq.html](http://www.shell.com.ng/environment-society/our-response/unep-faq.html) (accessed 12 October 2015).

46. UNEP, 2011, p148.

47. Shell, *Code of Conduct*, 2010, available at: <http://s06.static-shell.com/content/dam/shell-new/local/corporate/corporate/downloads/pdf/codeofconduct-english-2010.pdf>

48. Shell Nigeria statement, "Frequently asked questions on the UNEP environmental assessment of Ogoniland," available at: [www.shell.com.ng/environment-society/our-response/unep-faq.html](http://www.shell.com.ng/environment-society/our-response/unep-faq.html) (accessed 12 October 2015).

49. Amnesty International interview with Father Edward Obi, Port Harcourt, 4 August 2015.

One problem highlighted by UNEP is the way in which Shell selects its contractors. It published a Shell document that revealed that the company considered the contractors' technical and managerial competence to be less important than their past record of achieving government "regulatory certification".<sup>50</sup> The problem with this criteria is that it overlooks the flaws in how

the system of "regulatory certification" works (see the following sub-section on NOSDRA).

Amnesty International sought interviews with several remediation contractors working in Ogoniland, however they all refused to meet. Shell also did not answer any questions regarding its contractors.<sup>51</sup>

### SHELL NIGERIA'S SELECTION CRITERIA FOR APPOINTING REMEDIATION CONTRACTORS<sup>52</sup>

Past performance	maximum score (%)	minimum score (%)
Regulatory certification is completed	10	6
HSE performance or (HSE plan in case of new vendors)	6	3
Managerial competence	4	2
Nigerian content development	5	3
<b>HSE record</b>		
Leadership and commitment	8	5
Toolbox documentation	5	3
Manpower resources & competence assurance	7	4
Hazards & effects management	10	6
<b>Timely service delivery</b>		
Adequate manpower	10	6
Financial capability	8	6
Technical competence	5	2
<b>Timely service delivery</b>		
Evidence of previous work in the community/a community	5	3
Knowledge of community sensitivities	7	4
Evidence of successful completion	10	7
<b>TOTAL</b>	<b>100</b>	<b>60</b>

50. UNEP, 2011, p147.

51. Letter from Shell to Amnesty International, 18 September 2015.

52. UNEP, 2011, p147.



## FAILURE OF REGULATORS

The National Oil Spill Detection and Response Agency (NOSDRA) was set up in 2006 to “constantly monitor and evaluate all clean-up activities, to ensure that they remain appropriate as circumstances change and shall immediately terminate any operation that has been shown to be ineffective or unacceptable.”<sup>53</sup> Remediation at a site only officially ends after NOSDRA personnel certify the work as being complete. This is based on soil sample results and a report prepared by the oil company.<sup>54</sup>

In its 2011 study, UNEP highlighted serious flaws within NOSDRA that are preventing it from fulfilling its mandate.<sup>55</sup> Research by Amnesty International and CEHRD in 2013 confirmed that the agency is unable to conduct rigorous and independent investigations, when they examined NOSDRA's role in oil spill investigations.<sup>56</sup>

The main problem is that the organization, which falls under the Ministry of the Environment, lacks the capacity and expertise to properly monitor the hundreds of oil spills that occur every year across the Niger Delta, a vast area, much of which is hard to access. According to UNEP, NOSDRA's lack of funding meant that, “the agency has no proactive capacity for oil-spill detection and has to rely on reports from oil companies or civil society concerning the incidence of a spill. It also have very little reactive capacity – even to send staff to a spill location, once

an incident is reported.” Because of a lack of vehicles, and no access to the boats and helicopters that are essential to reach many spill locations, “the regulatory authority is wholly reliant on the oil company. Such an arrangement is inherently inappropriate.”<sup>57</sup>

NOSDRA's reliance on oil companies was confirmed to Amnesty International during an interview on 7 May 2013 with the Director of NOSDRA's Rivers state office. During the interview, the director received a text message from the Nigerian Agip Oil Company informing him of a spill. The text message stated when a spill investigation would take place (a date several days later) and notified the director that his staff members should be ready to join the team at a given time. The director confirmed that this is the usual procedure for a spill investigation. NOSDRA is told when it will be done by the oil companies, either by text or a letter.<sup>58</sup> Investigations are often only done days (and sometimes weeks) after an oil spill is reported.

NOSDRA also sometimes sends unqualified staff on missions to investigate spills, or assess if remediation is complete, research by Amnesty International and CEHRD demonstrated.<sup>59</sup> As UNEP states, the agency suffers “from a shortage of senior and experienced staff who understand the oil industry and can exercise effective technical oversight.”<sup>60</sup>

NOSDRA did not reply to Amnesty International's letter requesting information on these matters.

53. National Oil Spill Detection and Response Agency (No 15 of 2006), *Oil Spill Recovery, Clean-up, Remediation And Damage Assessment Regulations*, 2011, Section 17, p6.

54. National Oil Spill Detection and Response Agency (No 15 of 2006), *Oil Spill Recovery, Clean-up, Remediation And Damage Assessment Regulations*, 2011, Section 52, p14.

55. UNEP, 2011, p138-142.

56. Amnesty International, *Bad Information*, p15.

57. UNEP, 2011, p139.

58. Amnesty International, *Bad Information*, p15.

59. Amnesty International, *Bad Information*, p15.

60. UNEP, 2011, p139.

### 3. CASE STUDIES

The case studies that follow highlight Shell's failure to remediate oil spills from its pipelines and facilities in the Niger Delta. Amnesty International and CEHRD chose to focus on four locations featured in detail in the UNEP report: Bomu Manifold, Barabeedom, Okuluebu, and Boobanabe.

In 2010, UNEP experts took multiple soil and groundwater samples, mapped the spread of pollution, and gathered data on historic spills at each of the four sites. UNEP then made specific recommendations to Shell on how to clean up each site. Five years later, these sites are still contaminated.

The Amnesty International and CEHRD researchers who visited them are not environmental scientists, and did not conduct any sampling themselves. This was not necessary since the evidence of ongoing and serious pollution was clearly visible. Both before and after visiting these sites, the researchers consulted environmental scientists with expertise of oil spill investigations in the Niger Delta. The leader of the UNEP team that conducted the sampling in 2010 reviewed photographs taken by Amnesty International researchers at each site.<sup>61</sup>

Additionally, the researchers mapped the spills that Shell reported had occurred close to each site since the UNEP report came out in 2011. This was done in order to check if it was possible that the company had remediated each site following UNEP's recommendations, but subsequent oil spills had then re-contaminated them.



The land surrounding Shell pipelines at the Bomu Manifold, K. Dere is visibly contaminated with oil, despite attempts by the company to clean it up, August 2015, © Amnesty International

61. Amnesty International telephone interview with Thorsten Kallnischkies, 14 September 2015.



## CASE STUDY 1: THE BOMU MANIFOLD, KEGBARA DERE

The Bomu Manifold is a Shell facility in the community of Kegbara Dere (K. Dere) in Ogoniland. It is the equivalent of a junction, where several pipelines meet. The manifold is surrounded by a fence and is guarded by the Nigerian military. Although Shell has not pumped anything from its wells in Ogoniland since 1993, its pipelines carry oil through the region to its export terminal at Bonny Island on the coast. These pipelines are ageing and poorly maintained, according to internal Shell documents.<sup>62</sup>

The manifold and surrounding areas have been affected by numerous oil spills dating back to at least 1990.<sup>63</sup> The most significant recent incident was a fire in April 2009, which burned for 36 hours and led to a major spill.<sup>64</sup>

UNEP visited the site more than a year later, in August and December 2010 and found high levels of pollution. It concluded that “still nothing appears to have been done, enabling the contamination to spread further.”<sup>65</sup>

Pipes within the manifold were leaking oil when UNEP visited, and a trench leading south of the manifold towards a stream and the Barabeedom swamp was heavily contaminated with oil.<sup>66</sup>



The Bomu Manifold, site of numerous oil spills and failed remediation attempts. Below the Kegbara Dere-Kpor road are the Barabeedom swamp and fishponds. Satellite image taken in 2015. © DigitalGlobe



A large mound of blackened, contaminated soil, at the south side of the Bomu Manifold. Unprotected from the rain, it leaches oil into the pool. This polluted pool feeds a trench that leads towards the Barabeedom swamp. Researchers saw signs of contamination the length of the trench. August 2015, © Amnesty International

62. These documents were released as part of a court case in London in September 2015. According to an internal email, dated 10 December 2008, the company acknowledged that the pipelines in Ogoniland, “have not been maintained properly or integrity assessed in over 15 years.” See “Court documents expose Shell’s false claims on Nigeria oil spills,” Amnesty International, see news story 13 November 2014, available at: [www.amnesty.org/en/latest/news/2014/11/court-documents-expose-shell-s-false-claims-nigeria-oil-spills](http://www.amnesty.org/en/latest/news/2014/11/court-documents-expose-shell-s-false-claims-nigeria-oil-spills)

63. UNEP, 2011, p116.

64. SPDC Events Log of Emergency Response Team (ERT) activities, 6 April – 13 April 2009.

65. UNEP, 2011, p116.

66. UNEP, 2011, p116.

Soil and groundwater sampling by UNEP confirmed these observations. Both were massively contaminated. UNEP found that the amount of hydrocarbons in the groundwater was almost seventy times higher than the level at which the Nigerian government demands remediation takes place. The highest level of soil contamination by hydrocarbons was more than 12 times above this level.<sup>67</sup>

The spread of pollution from the contaminated Bomu Manifold site into the wider K. Dere environment led UNEP to recommend that the site should be “reworked to prevent runoff into downstream areas.”<sup>68</sup>

Shell subsequently employed two contractors to remediate the contaminated land surrounding the manifold. These contractors said they finished their work in 2012, and NOSDRA certified their work as successful (see below).<sup>69</sup>

### TIMELINE: BOMU MANIFOLD SPILLS, K. DERE

<b>1990-2008</b>	Several spills reported by Shell
<b>12 April 2009</b>	Massive fire and spill
<b>August – December 2010</b>	UNEP sampling shows massive contamination. It concludes that since the fire, “nothing appears to have been done, enabling the contamination to spread further.” <sup>70</sup>
<b>23 October 2011</b>	Government certifies as complete the remediation work of one contractor company, relating to pollution caused by the 2009 spill and fire. <sup>71</sup>
<b>1 February 2012</b>	Government certifies the remediation work of a second contractor as complete, relating to pollution caused by the 2009 spill and fire. <sup>72</sup>
<b>19 April 2012</b>	The most recent spill at the Bomu Manifold. Only 5.8 barrels lost, according to Shell. <sup>73</sup>
<b>20 July 2012</b>	Shell statement on its response to the UNEP report mentions that remediation of Bomu Manifold is complete. <sup>74</sup>
<b>2 November 2012</b>	Clean-up of the April 2012 spill is complete, according to Shell. <sup>75</sup>
<b>August and September 2015</b>	Amnesty International and CEHRD observe contamination and continued remediation work at Bomu Manifold.

Four years after UNEP’s report, and despite the remediation attempts carried out by Shell, a wide area around the manifold remains contaminated.

On the south side of the manifold, an excavated mound of burnt oil and contaminated soil was leaching directly into a large pit filled with water, which itself had an oily sheen. The mound of contaminated soil was not covered, meaning that it was exposed to rainfall. The area had not been isolated, and water from the pool was running directly downhill, into the trench that leads to Barabeedom swamp. Researchers observed an oily sheen in water along the length of the trench.

67. UNEP, 2011, p117.

68. UNEP, 2011, p117.

69. NOSDRA, “Joint Federal and States Environmental Regulatory Agencies, Clean Up and Remediation Certificate, incident no. 2009\_350359”, 1 February 2012, and “Joint Federal and States Environmental Regulatory Agencies, Clean Up and Remediation Certificate, incident no. 2009\_350360” and “2009\_350359”, 23 October 2009, on file with Amnesty International.

70. UNEP, 2011, p116.

71. NOSDRA, “Joint Federal and States Environmental Regulatory Agencies, Clean Up and Remediation Certificate, incident no. 2009\_350360” and “2009\_350359”, 23 October 2009, on file with Amnesty International.

72. NOSDRA, “Joint Federal and States Environmental Regulatory Agencies, Clean Up and Remediation Certificate, incident no. 2009\_350359”, 1 February 2012, on file with Amnesty International.

73. Shell, “Joint Investigation Report for Incident 0038/807260,” 7 May 2012, [http://s02.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/807260\\_Bomu\\_Manifold\\_at\\_K-Dere\\_JIV.pdf](http://s02.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/807260_Bomu_Manifold_at_K-Dere_JIV.pdf)

74. Shell statement “SPDC action on matters addressed in the UNEP report,” 20 July 2012. [www.shell.com.ng/environment-society/our-response/unep-july-2012.html](http://www.shell.com.ng/environment-society/our-response/unep-july-2012.html) (accessed 7 October 2015).

75. Shell, “Spills data for April 2012,” [www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2012/april.html](http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2012/april.html) (accessed 20 October 2015).



On the north-eastern side of the manifold, Amnesty International saw evidence that some remediation work has been carried out. The soil has been turned and ploughed into ridges. Nevertheless, it remains heavily polluted, with oil residue clearly visible on the underside of the surface soil, and even some small pools of crude oil on the surface of the soil. A stream leading from this area directly downhill into a forest to the northeast of the manifold was also visibly contaminated with oil, but there were no measures in place to control the water runoff.

Researchers who visited the site in September observed that an excavator had dug up more soil from near the manifold since August and piled it onto a large mound. This mound was uncovered. The mound contained soil that was caked with oil. The fact that remediation work appears to be continuing suggests that the company is aware that the area is still contaminated – years after it claimed to have cleaned it up.

Shell itself has reported that no other spills have taken place since the UNEP visit that could have caused the contamination witnessed by Amnesty International and CEHRD researchers. There was only a small spill there after UNEP's report came out, in May 2012, in which less than 6 barrels of oil was spilled, and contained in a trench, the company reported.<sup>76</sup> Therefore the contamination that researchers saw in August and September 2015 has to date back at least to the fire in 2009 and possibly earlier.

Amnesty International wrote to Shell, asking it to provide details of its remediation attempts at Bomu, but the company did not provide any information.<sup>77</sup>



Shell claims that the area around the Bomu Manifold is clean, but the soil remains encrusted with oil. August 2015, © Amnesty International

76. The company said that there has been only one spill at the manifold since the UNEP report. This took place on 7 May 2012. Shell said the spill, caused by an operational fault, had begun almost three weeks earlier. Shell reported that only 5.8 barrels of crude had flowed out of the manifold into the trench heading south towards the Barabeedom swamp. Because of its size and location it could not have caused the contamination around the manifold. See "Joint Investigation Report for Incident 0038/807260", 7 May 2012, available at [http://s02.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/807260\\_Bomu\\_Manifold\\_at\\_K-Dere\\_JIV.pdf](http://s02.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/807260_Bomu_Manifold_at_K-Dere_JIV.pdf)
77. Letter from Shell, 18 September 2015.

## FLAWED CERTIFICATION PROCESS AT BOMU MANIFOLD

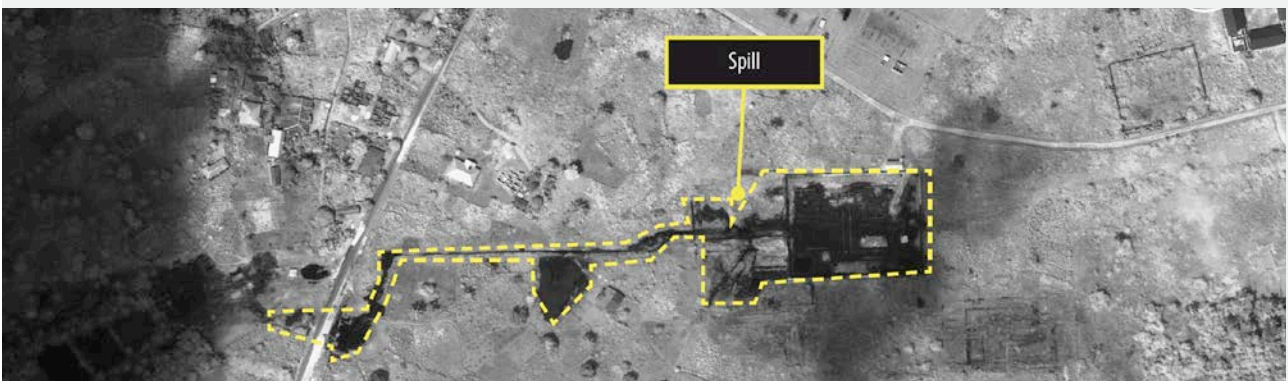
Amnesty International has reviewed two certification forms, both signed by NOSDRA staff, relating to the two separate remediation operations at the Bomu Manifold and surrounding areas that followed the 2009 fire and spill. These have a number of inconsistencies.

One certificate, signed on 23 October 2011, relates to the activities of an unnamed company which Shell hired to remediate an unspecified area of land.<sup>78</sup> A second certificate, signed on 1 February 2012, relates to the activities of Canadian firm, FITON Technology, which Shell hired to remediate the manifold and some surrounding land, totalling 2.6 hectares.<sup>79</sup>

Even though NOSDRA certified their work, neither contractor successfully managed to get the oil content below the target level specified by government regulations. This is 50 mg/kg TPH. According to the certificate, FITON Technology managed to achieve a final TPH level of 254.07 mg/kg.<sup>80</sup> A company document, entitled “Remediation Success Stories,” said the final TPH level ranged “from about 13mg/kg to about 5000 mg/kg.” 5000 mg/kg is one hundred times higher than the regulatory standard.

The October 2011 certificate given to the unnamed company states that the remediation work it conducted achieved a much lower TPH level of 67.885 mg/kg.<sup>81</sup> The certificate provides no details about sampling methodology, location of sampling points, the qualification of the laboratory, and other standard information relevant to quality control. It also misses out several crucial pieces of information: it fails to mention the level of contamination before remediation; the approximate volume of soil that was treated; or the amount of land covered by the operation. It also stated that the spill was caused by sabotage, contradicting the earlier assessment of the joint investigation team which said it was caused by “possible equipment failure.”<sup>82</sup>

Additionally, NOSDRA signed both certificates without taking into account surrounding areas that were also contaminated. A satellite image of the area taken on 26 November 2009 indicates that oil spread through a culvert under the K.Dere-Kpor road and contaminated the Barabeedom swamp.<sup>83</sup>



Satellite images reveal the spread of the oil from the 2009 fire and spill. © DigitalGlobe Panchromatic Imagery, November 26, 2009, 4.6629°, 7.2773°

78. Joint Federal and States Environmental Regulatory Agencies, Clean Up and Remediation Certificate, incident no. 2009\_350360 and 2009\_350359, NOSDRA, 23 October 2009, on file with Amnesty International.
79. Joint Federal and States Environmental Regulatory Agencies, Clean Up and Remediation Certificate, incident no. 2009\_350359, NOSDRA, 1 February 2012, on file with Amnesty International.
80. Joint Federal and States Environmental Regulatory Agencies, Clean Up and Remediation Certificate, incident no. 2009\_350359, NOSDRA, 1 February 2012, on file with Amnesty International.
81. Joint Federal and States Environmental Regulatory Agencies, Clean Up and Remediation Certificate, incident no. 2009\_350360 and 2009\_350359, NOSDRA, 23 October 2009, on file with Amnesty International.
82. Shell, *Oil Spill Joint Investigation Report: Bomu Manifold*, 12 April 2009, on file with Amnesty International.
83. Digital Globe, *Oil Spills In Kegbara Dere Area, Nigeria*, 8 September 2015.



DigitalGlobe found that “the spill passed under the road through a culvert”, and “expanded towards the swamp”.<sup>84</sup> Barabeedom was not a part of the clean-up and remediation operation that was later carried out.

Shell denies that the oil reached that far. In a deposition to an ongoing Nigerian court case, a junior staff member of Shell’s Geomatics Department, who took part in the joint investigation of the spill, stated that “the spill certainly did not even get to the motorable road”.<sup>85</sup>

Amnesty International wrote to Shell asking it to clarify what measures it has taken to remediate the land around the Bomu Manifold, but it did not provide any information. In a statement on 22 July 2012, listing the company’s response to the UNEP report, Shell named the Bomu Manifold as a site it had been able to access and remediate.<sup>86</sup>

Amnesty International wrote to NOSDRA asking it to explain the basis for its certification of the remediation of the Bomu Manifold after the 2009 fire, but the agency did not provide information.



Oil contaminated land outside the Bomu Manifold, K. Dere, August 2015, © Amnesty International.

84. Digital Globe, *Oil Spills In Kegbara Dere Area, Nigeria*, 8 September 2015.

85. SPDC statement of defence, 30 September 2014, re: case in Federal High Court of Nigeria between members of Kegbara Dere community and Shell Petroleum Development Company of Nigeria, suit no FHC/PH/133/2012.

86. Shell statement, “SPDC action on matters addressed in the UNEP report,” 20 July 2012. [www.shell.com.ng/environment-society/our-response/unep-july-2012.html](http://www.shell.com.ng/environment-society/our-response/unep-july-2012.html) (accessed 7 October 2015).



## CASE STUDY 2: BARABEEDOM, K. DERE

Barabeedom swamp lies 400 metres downhill from the Bomu Manifold. It is a low-lying, waterlogged area, which contains farmland, forest and three large fish ponds. The area has been affected by numerous spills, with oil flowing down into it from the manifold as well as from other spills. A wide path, under which Shell pipelines are buried (known as a Shell Right of Way), runs through the swamp.

Barabeedom swamp is clearly polluted. Researchers visited the area three times in August and September 2015. They observed how water containing oil gathers at the bottom of the hill and then flows along the path of the Shell pipelines. At places there are pools of oil. Some soil is black and hard. The three fish ponds, owned by a local family, are covered in a thick oily sheen, and show no signs of life.

When UNEP investigated Barabeedom swamp in 2010, it found high levels of soil contamination, penetrating to as deep as five metres. The maximum level of soil contamination discovered by UNEP was more than eight times the level at which the Nigerian government requires intervention.<sup>87</sup>



Stream at Barabeedom swamp is visibly contaminated with oil. August 2015 © Amnesty International

87. UNEP, *Environmental Assessment of Ogoniland site specific fact sheet* code 019-009, available at [postconflict.unep.ch/publications/OEA/site\\_sheets/files/pdf/qc\\_019-009.pdf](http://postconflict.unep.ch/publications/OEA/site_sheets/files/pdf/qc_019-009.pdf) (accessed on 20 October 2015).





Shell has not named Barabeedom as one of the sites it remediated following the UNEP report, although it did say it had tackled unspecified spills within the K.Dere area, including at the Bomu Manifold.<sup>88</sup> However, Shell said it had responded to the subsequent spills that occurred at Barabeedom swamp after 2011.

On 11 March 2011, Shell reported that sabotage to one of its pipelines at Barabeedom swamp had caused the loss of 144.6 barrels of oil.<sup>89</sup> An accompanying photograph showed the oil filling three pits that a contractor had dug in the field above the fish ponds.<sup>90</sup> These pits were in the same place that UNEP photographed in 2010. The company said that clean-up was completed on 13 July 2011, but claimed that communal clashes in the area delayed final certification by the regulators until September 2014.<sup>91</sup>

### TIMELINE: BARABEEDOM SPILLS, K-DERE

<b>2005-2008</b>	Four spills reported by Shell
<b>12 April 2009</b>	Fire and spill at Bomu Manifold causes oil to flow into the swamp. Shell denies the swamp is affected and contractors do not remediate it.
<b>2010</b>	UNEP sampling shows contamination. Photographs show pits containing oil. <sup>92</sup>
<b>11 March 2011</b>	Spill causes the loss of 144.6 barrels of oil, Shell reports. <sup>93</sup>
<b>13 July 2011</b>	Shell says clean-up complete. <sup>94</sup>
<b>7 May 2012</b>	Spill causing loss of at least ten barrels, Shell reports. Affects same area as previous spill. <sup>95</sup>
<b>May 2012</b>	Shell says it has recovered all lost oil but remediation not possible for security and other reasons. <sup>96</sup>
<b>20 July 2012</b>	Shell statement on its response to the UNEP report mentions that remediation of the neighbouring Bomu Manifold is complete. <sup>97</sup>
<b>September 2014</b>	NOSDRA certifies remediation of March 2011 spill. <sup>98</sup>
<b>August-September 2015</b>	Amnesty International and CEHRD observe ongoing contamination at Barabeedom.

88. Shell, "SPDC action on matters addressed in the UNEP report" 20 July 2012.

89. Shell, *Joint Investigation Report for Incident 633111* 11 March 2011, [http://s07.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/633111\\_24\\_Bomu-Bonny\\_Pipeline\\_at\\_K-Dere\\_JIV.pdf](http://s07.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/633111_24_Bomu-Bonny_Pipeline_at_K-Dere_JIV.pdf)

90. Shell, Photos showing extent of the spill incident impact at 24' Bomu-Bonny Pipeline at K-Dere, available at: [http://s05.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/633111\\_24\\_Bomu-Bonny\\_Pipeline\\_at\\_K-Dere\\_Photos.pdf](http://s05.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/633111_24_Bomu-Bonny_Pipeline_at_K-Dere_Photos.pdf)

91. Shell, "Spills data for March 2011", available at: [www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2011/march.html](http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2011/march.html) (accessed 11 October 2015).

92. UNEP, *Environmental Assessment of Ogoniland site specific fact sheet* code 019-009, available at [postconflict.unep.ch/publications/OEA/site\\_sheets/files/pdf/qc\\_019-009.pdf](http://postconflict.unep.ch/publications/OEA/site_sheets/files/pdf/qc_019-009.pdf) (accessed on 20 October 2015).

93. Shell, "Joint Investigation Report for Incident 633111," 11 March 2011, available at: [http://s07.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/633111\\_24\\_Bomu-Bonny\\_Pipeline\\_at\\_K-Dere\\_JIV.pdf](http://s07.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/633111_24_Bomu-Bonny_Pipeline_at_K-Dere_JIV.pdf).

94. Shell, "Spills data for March 2011", available at: <http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2011/march.html> (accessed 11 October 2015).

95. Shell, "Joint Investigation Report for Incident 0038/807260," 7 May 2012, available at: [http://s02.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/807260\\_Bomu\\_Manifold\\_at\\_K-Dere\\_JIV.pdf](http://s02.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/807260_Bomu_Manifold_at_K-Dere_JIV.pdf)

96. Shell, "Spills Data for May 2012," available at: <http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2012/may.html> (accessed 11 October 2015).

97. Shell statement, "SPDC action on matters addressed in the UNEP report", 20 July 2012, available at: [www.shell.com.ng/environment-society/our-response/unep-july-2012.html](http://www.shell.com.ng/environment-society/our-response/unep-july-2012.html) (accessed 7 October 2015).

98. Shell, "Spills data for March 2011", available at: <http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2011/march.html> (accessed 11 October 2015).

A further spill took place on 7 May, 2012, above the K.Dere-Kpor road that crosses the Shell pipeline. Investigators for the company claimed that just over 10 barrels of oil were spilt.<sup>99</sup> Shell said that this oil flowed down the trench through the culvert under the road, and was collected in the same three containment pits in Barabeedom. Shell reported that all lost oil was recovered in May 2012, but it had not remediated the site because of the communal clashes and unspecified problems with community contractors and “difficulty of the work terrain.”<sup>100</sup>

This statement is problematic for three reasons.

Firstly, there were major clashes between K.Dere and a neighbouring community in 2010, but these ended that year with a government-sponsored mediation process and an increase in security of the area.<sup>101</sup> Throughout 2012, Shell contractors continued to clean up a spill at the Bomu Manifold, 400m away, according to the contractor’s report.<sup>102</sup> If security had been a problem in K.Dere in 2012 for Shell contractors, they would not have been able to work there. Secondly, some remediation work has certainly occurred after this spill. The three pits which were dug to contain the spill have been filled in, Amnesty International and CEHRD researchers observed.

Finally, how was it possible for the government regulator to certify the remediation of the March 2011 spill in September 2014, while the remediation of the May 2012 spill had not yet taken place? Both spills affected exactly the same place.

The only reasonable conclusion is that some clean up and remediation activities have taken place since 2012. This is confirmed by local residents. But these activities were a failure and have not addressed the high level of pollution that continues to exist in Barabeedom. NOSDRA was wrong to certify it as clean.

Amnesty International has written to Shell and NOSDRA asking to explain what measures have been taken to clean-up the oil pollution at Barabeedom swamp. Neither Shell nor NOSDRA provided any details.



Oil contamination at Barabeedom swamp, K. Dere, September 2015, © Michael Uwemedimo/cmapping.net.

99. Shell, “Joint Investigation Report for Incident 0038/807260,” 7 May 2012, available at: [http://s02.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/807260\\_Bomu\\_Manifold\\_at\\_K-Dere\\_JIV.pdf](http://s02.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/807260_Bomu_Manifold_at_K-Dere_JIV.pdf)

100. Shell, “Spills Data for May 2012”, available at: [www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2012/may.html](http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2012/may.html) (accessed 11 October 2015).

101. *The Vanguard* website, “Rivers Govt deploys more security in B Dere, K Dere communities”, 30 December 2010, available at: [www.vanguardngr.com/2010/12/rivers-govt-deploys-more-security-in-b-dere-k-dere-communities/](http://www.vanguardngr.com/2010/12/rivers-govt-deploys-more-security-in-b-dere-k-dere-communities/)

102. “Final Report of Clean-Up Activities @ Bomu by Alpha Drilling Services”, 2 November 2012. On file with Amnesty International.

## CASE STUDY 3: OKULUEBU – OGALE



There is a strong smell of oil at Okuluebu where it has been left to soak into the ground, close to farmland and a stream. August 2015, © Amnesty International.

Okuluebu is an area of farmland, forest and swamp, about four kms north-east of Ogale town in Ogoniland. The swamp leads into a stream which flows down into the community. Pipelines belonging to Shell and the Nigerian National Petroleum Corporation (NNPC) run through the area in parallel. UNEP reported that a spill in 2009 had flowed more than 300m downhill from the Shell pipeline into the swamp at the head of the stream. There is a major risk therefore that the contamination spread downstream towards the community.<sup>103</sup>

The pollution that UNEP found at Okuluebu in 2010 was not only on the surface. The groundwater was the most polluted of anywhere it sampled in the entire Ogoniland region.<sup>104</sup> It was more than 450 times the level at which the government insists remediation takes place, and the contamination had infiltrated more than 3m deep. Considering its depth and spread, the 2009 spill was large. UNEP photographed pools of crude lying on the surface of the swamp.

Amnesty International and CEHRD researchers visited Okuluebu in August 2015 and observed that a wide area was still visibly polluted and had a strong smell of oil. They saw patches of black oil covering the ground at several different locations: next to farmland by the Shell pipeline; at the NNPC pipeline; along a path which connects the two pipeline rights of way; and down towards a swamp.

103. UNEP *Environmental Assessment of Ogoniland Site Specific Fact Sheets: Okuluebu-Ogale*, 2011, available at: [postconflict.unep.ch/publications/OEA/site\\_sheets/files/pdf/qc\\_002-009.pdf](http://postconflict.unep.ch/publications/OEA/site_sheets/files/pdf/qc_002-009.pdf)

104. UNEP *Environmental Assessment of Ogoniland Site Specific Fact Sheets: Okuluebu-Ogale*, 2011 available at: [http://postconflict.unep.ch/publications/OEA/site\\_sheets/files/pdf/qc\\_002-009.pdf](http://postconflict.unep.ch/publications/OEA/site_sheets/files/pdf/qc_002-009.pdf)





Next to the swamp, they observed an area of about 50m<sup>2</sup> which had no vegetation growing on it, and a thin layer of sand covering the oil-blackened soil.

Amnesty International and CEHRD researchers did not see any of the signs of clean-up that they had observed elsewhere, such as mounds of contaminated soil or excavated pits. Satellite images of the site taken in 2011 and 2013 also do not show any signs of remediation taking place.<sup>105</sup>

UNEP had information that Shell had attempted bio-remediation at two locations at Okuluebu in 2010, the consultant who led the teams that conducted its soil sampling said. One area was 2,500 m<sup>2</sup> and the other was 5,000 m<sup>2</sup>.<sup>106</sup> Locals said that some contractors had also come to the site after the UNEP report was published and had dumped sand on the oil, but it was not possible to verify this information. If this did happen, it would certainly not have constituted proper remediation of the site, as defined by the Nigerian government and UNEP.

According to Shell's own documents, two oil spills have happened in the area since the UNEP report was published. But according to the company, the spills were relatively small, it had remediated both of them and NOSDRA had certified them.<sup>107</sup>

Therefore it is likely that some of the pollution dates back to the 2009 spill, and that Shell has not remediated it adequately, or at all. It is also possible some of the pollution was caused by the two later spills, despite its claims to have remediated them, and despite receiving government certification. Shell and NOSDRA did not answer questions from Amnesty International about the contamination at Okuleubu.

105. See GoogleEarth.

106. Thorsten Kallnischkies, 20 October, 2015.

107. Shell, "Spills data for November 2011," [www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2011/november.html](http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2011/november.html), and also, "Spills data for February 2012" [www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2012/february.html](http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2012/february.html)

## TIMELINE: OKULUEBU SPILLS, OGALE

19 June 2009	Spill from Shell pipeline, quantity unknown.
2010	UNEP investigates pollution caused by the 2009 spill, finds contamination spread over a large area, and no sign of any remediation having taken place. <sup>108</sup>
9 November 2011	Shell reports spill of approximately 25 barrels. <sup>109</sup>
24 Jan 2012	NOSDRA certifies Shell remediation of this spill. <sup>110</sup>
11 Feb 2012	Shell reports new spill, losing just over one barrel. <sup>111</sup>
21 December 2012	NOSDRA certifies Shell remediation of this spill. <sup>112</sup>
August 2015	Amnesty International and CEHRD visit site, observe oil in multiple locations.



Oil has been left to soak into the ground next to a cassava field by the Shell pipeline at Okuluebu, Ogale. There is no sign of any attempt to clean it up. August 2015, © Amnesty International.

108. UNEP, *Environmental Assessment of Ogoniland Site Specific Fact Sheets: Okuluebu-Ogale*, 2011 [http://postconflict.unep.ch/publications/OEA/site\\_sheets/files/pdf/qc\\_002-009.pdf](http://postconflict.unep.ch/publications/OEA/site_sheets/files/pdf/qc_002-009.pdf)

109. Shell, "Joint Investigation Report 738282," 12 November 2011, available at: [http://s04.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/738282\\_6in\\_ObigboNorth\\_pipeline\\_at\\_Ogale\\_JIV.pdf](http://s04.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/738282_6in_ObigboNorth_pipeline_at_Ogale_JIV.pdf)

110. Shell, "Spills data for November 2011," available at: [www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2011/november.html](http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2011/november.html)

111. Shell, "Joint Investigation Report 775841," 15 February 2012, available at: [http://s06.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/775841\\_6in\\_ObigboNorth-Ogale\\_pipeline\\_JIV.pdf](http://s06.static-shell.com/content/dam/shell/static/nga/downloads/pdfs/oil-spills/775841_6in_ObigboNorth-Ogale_pipeline_JIV.pdf)

112. Shell, "Spills data for February 2012," available at: [www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2012/february.html](http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2012/february.html)



## CASE STUDY 4: BOOBANABE – K. DERE



Area of oil contaminated soil, Boobanabe, August 2015, © Amnesty International

The pollution at Boobanabe dates back to 1970. A fire and spill at Shell's Bomu Well 11 led to severe and widespread damage to surrounding land, which was used by local people for farming and hunting. The company took several days to bring the fire under control.<sup>113</sup> UNEP's experts found that the soil and groundwater at the site were extremely contaminated, more than 40 years later. There were no spills between 1970 and UNEP's testing, it reported.<sup>114</sup> In August 2015, researchers from Amnesty International and CEHRD saw that pollution caused by this fire and spill was still visible. The area is still not being used for farming.

Amnesty International and CEHRD researchers observed that there is an oily sheen on the water of a swampy area close to the trees at one side of the site, which is mainly a large open field of grass. Researchers also saw several sandy patches and areas with blackened, oil encrusted soil, where little grass was growing.

113. Frynas, J.G., *Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities*, Hamburg: Lit, 2010, p168.

114. UNEP Environmental Assessment of Ogoniland Site Specific Fact Sheets: Boobanabe-K.Dere, 2011 [postconflict.unep.ch/publications/OEA/site\\_sheets/files/pdf/qc\\_019-012.pdf](http://postconflict.unep.ch/publications/OEA/site_sheets/files/pdf/qc_019-012.pdf).

## TIMELINE: BOOBANEBE, BOMU WELL 11

1970	Fire and spill at Bomu Well 11. <sup>115</sup>
1975	Shell claims it remediated the site by this date. <sup>116</sup>
1989	Community takes Shell to court for compensation.
1994	Shell loses case on appeal. <sup>117</sup>
2010	UNEP investigates site and discovers massive contamination dating back to 1970. <sup>118</sup>
July 2012	Shell statement on its response to the UNEP report names Bomu Well 11 as one of the sites it has remediated. <sup>119</sup>
August 2015	Amnesty International and CEHRD visit site, observe contamination.

In 1989, the community took Shell to court, complaining that they could still not use the land as it was so contaminated.<sup>120</sup> During the subsequent trial, Shell called as expert witness Professor C.T.I. Odu, who was supposedly in charge of the remediation efforts there.<sup>121</sup> The professor told the court that Shell had completed remediation of the site as long ago as 1975.<sup>122</sup> Any poor crop performance since then was the fault of the farmers and that rather than damage the land, crude oil pollution could actually “be beneficial for crop production,” he claimed.<sup>123</sup>

The court disagreed and ruled in the community’s favour, ordering Shell to compensate it for loss of income, valued at 4.6 million Naira (US\$210,000). The company appealed the ruling, but in 1994 the Appeal Court affirmed the judgement of the lower court.<sup>124</sup>



This image, taken in December 2013 shows vehicle tracks at Boobanabe, indicating that remediation activities were still taking place. © Google Earth and DigitalGlobe (2015)

Shell once again said it had remediated the site followed the publication of the UNEP findings in 2011.<sup>125</sup> Satellite images indicate that some remediation activities did indeed take place in Boobanabe after that time. A Google Earth image, dated 17 December 2013, shows vehicle tracks and piles of exposed soil, indicating that remediation was not yet complete at this point.

But according to one of the men involved in this clean-up, the work was only done superficially. He believed that the clean-up had failed to remove most of the oil that had permeated the ground. Bulldozers piled the contaminated soil into large heaps, to allow the oil to evaporate. After only five to six days, the bulldozers then levelled the soil again. No attempts were made to protect the exposed and contaminated soil from the rain, so as to prevent leaching, he said.

115. Frynas, J.G., *Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities*, Hamburg: Lit, 2010, p168.

116. See Frynas, J.G., *Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities*, Hamburg: Lit, 2010, p168.

117. See Frynas, J.G., *Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities*, Hamburg: Lit, 2010, p168.

118. UNEP, *Environmental Assessment of Ogoniland Site Specific Fact Sheets: Boobanabe-K.Dere*, 2011 available at: [postconflict.unep.ch/publications/OEA/site\\_sheets/files/pdf/qc\\_019-012.pdf](http://postconflict.unep.ch/publications/OEA/site_sheets/files/pdf/qc_019-012.pdf).

119. Shell Nigeria statement, “SPDC action on matters addressed in the UNEP report”, 20 July 2012. [www.shell.com.ng/environment-society/our-response/unep-july-2012.html](http://www.shell.com.ng/environment-society/our-response/unep-july-2012.html) (accessed 7 October 2015).

120. Frynas, J.G., *Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities*, Hamburg: Lit, 2010, p168.

121. Professor Odu later became the “Shell Professor of Environmental Studies” at Rivers State University of Science and Technology, Port Harcourt. See “Shell Nigeria: Research and Development Projects,” [www.shell.com.ng/environment-society/shell-in-the-society/education-programmes/education-support/research-programmes.html](http://www.shell.com.ng/environment-society/shell-in-the-society/education-programmes/education-support/research-programmes.html) (accessed 7 October, 2015).

122. See Frynas, J.G., *Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities*, Hamburg: Lit, 2010, p168.

123. Frynas, J.G., *Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities*, Hamburg: Lit, 2010, p168.

124. See Frynas, J.G., *Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities*, Hamburg: Lit, 2010, p168.

125. Shell Nigeria statement “SPDC action on matters addressed in the UNEP report”, 20 July 2012. Available at <http://www.shell.com.ng/environment-society/our-response/unep-july-2012.html> (accessed 7 October 2015).



“This is just a cover up,” the Shell contractor said. “If you just dig down a few metres you find oil. We just excavated, then shifted the soil away, then covered it all up again.”<sup>126</sup>

Amnesty International mapped all spills that Shell has reported in the area since 2011 to make sure that this site could not have been contaminated by some other, more recent incident. But none occurred close to this location. The only possible explanation for the continued existence of contaminated soil and water at Boobanabe is that Shell and its contractors have not remediated it adequately.

As with the other cases, Amnesty International has requested information from Shell and NOSDRA regarding this site, but did not receive any.



Oily sheen in the swamp at Boobanabe, August 2015. According to Nigerian government regulations, there should be no oil in water after 60 days. The spill at Boobanabe took place in 1970. © Amnesty International.

126. Amnesty International interview with Shell contractor, date and location of interview withheld.

## 4. CONCLUSIONS AND RECOMMENDATIONS

The people of the Niger Delta are suffering from the harmful impact of decades of oil pollution. There are hundreds of oil spills every year. Shell, the largest oil operator in the region, is responsible, under Nigerian law, for the timely clean-up and remediation of all spills from its pipelines, wells and other infrastructure, whatever the cause. Yet the company is failing to do this.

Amnesty International sought meetings with and wrote to both Shell and the regulator, the National Oil Spill Detection and Response Agency (NOSDRA), seeking an explanation for the pollution observed at the four sites featured in this report. NOSDRA and Shell directed researchers to refer to their websites, but these provide little information on clean-up.<sup>127</sup>

In the absence of any meaningful response from either Shell or NOSDRA, it is worth outlining the only plausible explanations for why the sites investigated by Amnesty International and CEHRD researchers could still be polluted, four years after UNEP found high levels of contamination at each of them. These are:

1. No remediation was carried out.
2. Remediation was carried out but was ineffective.
3. The sites were successfully remediated by Shell's contractors following the UNEP report, but other spills have occurred since then.

In two of the four cases (the Bomu Manifold and Boobanabe), explanation one is ruled out by Shell itself. The company has publically stated that the sites were cleaned up.<sup>128</sup> In those two locations, explanation three (that there was subsequent re-contamination from spills after 2011) is also not possible unless

the company failed to report such spills. All the sites were investigated by UNEP in 2010. Since 2011, Shell has published details of all spills in the Niger Delta, including dates and locations, on its website. Researchers mapped the locations of all reported spills, and none could have affected the Bomu Manifold and Boobanabe sites.

Therefore in these two cases, only explanation two (that remediation was carried out but was ineffective) is plausible.

In the cases of Barabeedom swamp and Okuluebu, Shell has not stated whether there was any remediation following the UNEP report. This is in itself a problem, as the communities have a right to information regarding pollution that affects them. But, in both cases, the company has reported spills after 2011 and said that these were remediated.<sup>129</sup> These spills occurred in the same locations that were featured in the UNEP report. Therefore, in these two cases, only explanation two, is also possible.

Amnesty International wrote to Shell prior to publication seeking the company's comment on the findings contained in this report, specifically that the company is still failing to clean up oil spills properly and that it has made false statements about clean-up and remediation of oil spills. In a one-page letter dated 24 October 2015, Shell said that it disagreed with these findings, but did not provide any details to support its statements (see appendix).

The contamination at all four locations is harming people in each of the local communities. The spills at the Bomu Manifold have contaminated fields and a neighbouring forest and have spread down into the Barabeedom swamp. There, researchers observed that fields and fish ponds have been contaminated. At Okuluebu, oil has spread into a swamp that feeds a stream that flows into the community. There are oily patches next to agricultural fields. At Boobanabe,

127. Letter from Shell to Amnesty International, 18 September 2015.

128. Letter from Shell to Amnesty International, 18 September 2015, and from NOSDRA, 20 October, 2015.

129. For Bomu Manifold and Boobanabe (Bomu Well 11): "SPDC action on matters addressed in the UNEP report," Shell, 20 July 2012, [www.shell.com.ng/environment-society/our-response/unep-july-2012.html](http://www.shell.com.ng/environment-society/our-response/unep-july-2012.html) (accessed 7 October 2015).



the spill at Bomu Well 11 impacted farmland and a hunting area, according to a Nigerian court ruling.<sup>130</sup>

The Nigerian government has a duty to protect the human rights of the people whose livelihoods and health might be affected by this pollution. People also have a right to know what kinds of pollutants they are exposed to. Shell has a responsibility to ensure that its business operations do not cause or contribute to human rights violations or abuses. Both are failing and must take decisive action to address the issues raised in this report. Amnesty International and CEHRD are making the following recommendations to the government of Nigeria and Shell.

## RECOMMENDATIONS TO THE GOVERNMENT OF NIGERIA:

- Undertake an independent audit of how NOSDRA certified as clean the sites that Amnesty International and CEHRD investigated and publish this audit along with recommendations for addressing weaknesses in NOSDRA. Seek UNEP support to do this.
- Publish all oil spill clean-up and remediation certificates and other documents relating to remediation. Create a dedicated website, similar to the “Nigerian Oil Spill Monitor” website, which carries information on spills, to host this information. Until this is available, make all documents freely available to anyone who requests them. Information should include the names of contractors, results of soil and water sampling before and after the remediation work is conducted, maps of the contamination, a detailed work plan, how the work was completed, and photographs.
- Substantially strengthen the capacity of NOSDRA to ensure that it functions to a high professional standard and that staff are held accountable. Provide an increased budget for its operations, so that it is able to hire qualified staff, and conduct independent assessments of oil spills sites and remediation.
- Implement in full the recommendations of the UNEP environmental assessment report for Ogoniland, 2011.
- Ensure that representatives of the Ogoni people have a proper say in how the recommendations are implemented.
- Use the UNEP report recommendations as a template for responding to the harm caused by decades of oil pollution across the all of the oil producing areas Niger Delta, and not just Ogoniland.

## RECOMMENDATIONS TO SHELL

- Carry out effective clean-up and remediation operations at the oil spill sites at the Bomu Manifold, Barabeedom swamp, Okuluebu, and Boobanabe, in consultation with the local communities, as a matter of urgency.
- Ensure that all communities affected by failed or delayed in the clean-up of oil spills receive adequate compensation for their losses.
- Immediately publish the clean-up and remediation reports and certificates for all sites in the Niger Delta on the company’s website, in the same way that Shell has published all oil spill investigation reports since 2011.
- Overhaul Shell’s remediation methodology in line with the recommendations of UNEP, and publish details of how it has changed.
- Immediately publish the independent verification report of the 15 sites identified by UNEP that was conducted in Ogoniland in 2014.
- Publish the data that underpins Shell’s claims that it cleaned up and remediated sites named in the UNEP report. State which sites, identified by UNEP as in need of clean up, Shell has not yet cleaned up and why.
- Publish the criteria by which Shell selects clean-up and remediation contractors, including the weight now given to different criteria, as well as quality control measures. Publish the names of all companies used by Shell.

130. For Barabeedom: “Spills data for March 2011, Shell, [www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2011/march.html](http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills/data-2011/march.html) (accessed 11 October 2015).

# APPENDIX

Letter from Shell



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24 October, 2015

Dear Ms Joshi,

**RE: TC AFR 44/2015.002**

Thank you for your letter of 20 October 2015. As stated in our previous response, SPDC is committed to the implementation of the UNEP report and has initiated action on all the recommendations addressed directly to it as operator of the SPDC JV.

We disagree with the assertions made with regard to implementation of the actions directed to SPDC and would like to reiterate that we have consistently and publicly reported our actions in this regard as well as highlighted ongoing challenges of crude oil theft and illegal refining.

SPDC publishes extensive information on its remediation procedures online. In addition to complying with Nigerian regulation, we are in regular dialogue and consultation with Niger Delta NGOs and community representatives aimed at driving continuous improvement. Along with our joint venture partners, we also continue to work closely with the Federal Government of Nigeria, UNEP and the Ogoni communities on taking implementation of the UNEP report forward. President Buhari has identified UNEP implementation as a key priority and we are greatly encouraged by the positive and constructive spirit in which early discussions have been approached by representatives of the community, local NGOs and civil society.

As the UNEP report stated, it is crucial to put an end to the widespread theft and illegal refining of crude oil, which continue to cause new spills and impact on the environment. Ensuring long-term sustainability remains a challenge – one that will require coordinated and collaborative action from all stakeholders to put an end to the widespread pipeline sabotage, crude oil theft and illegal refining that are the main causes of environmental damage in Ogoniland and the wider Niger Delta today.

(Incorporated in Nigeria)

Registration Number  
NO RC 892

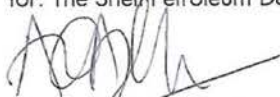
Managing Director: Osagie Okunbor

Directors: Ubaka Emelumadu, Toyin Olagunju, Charles Gbandi, Bayo Ojulari, Jani Van Bunnik, Simbi Kesiye Wabote

Secretary: Nike Oyindola Olafimihan



Yours sincerely,  
for: The Shell Petroleum Development Company of Nigeria Limited,

A handwritten signature in black ink, appearing to read 'Alice Ajeh', written over a horizontal line.

Alice Ajeh  
Stakeholder Relations Manager

cc: Mark Dummett, Business and Human Rights Researcher, Amnesty International



Contaminated waters at the Barabeedom swamp, September 2015." © Michael Uwemedimo/cmapping.net.



# CLEAN IT UP

## SHELL'S FALSE CLAIMS ABOUT OIL SPILL RESPONSE IN THE NIGER DELTA

In 1970 a fire and spill at Shell's 'Bomu Oil Well 11' in the Niger Delta led to widespread damage of the surrounding land. To this day, some 45 years later, pollution from the spill is still visible in the area, despite Shell's insistence that they have made efforts to clean up the site.

Bomu is one of four locations visited by researchers from Amnesty International and the Centre for Environment, Human Rights and Development in 2015 which continue to display signs of severe ongoing pollution caused by historic oil spills. Researchers found that Shell has made false claims about cleaning up the oil spills, and that Nigerian regulators continue to certify sites as clean which are visibly contaminated.

As a consequence thousands of people are exposed long-term pollution, which damages their livelihoods, contaminates crops and drinking water and puts their health at risk.

**The Nigerian government and Shell must take decisive and effective action to overhaul oil spill clean-up processes and ensure that decades of damage to the environment of the Niger Delta is properly addressed.**

