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THE SUPERIOR COURT OF THE STATE OF ARIZONA
FOR MARICOPA COUNTY

CV2008-018396

STATE OF ARIZONA *ex rel.* STEPHEN A. OWENS, DIRECTOR, ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY, **Plaintiff,** **v.** **HONEYWELL INTERNATIONAL, INC., a Delaware Corporation,** **Defendant.**	Civil Action No. _____ **COMPLAINT** (Non-classified Civil)

Plaintiff, State of Arizona, acting through Stephen A. Owens, Director, Arizona Department of Environmental Quality, ("ADEQ" or "Plaintiff"), alleges:

I. NATURE OF ACTION

1. Plaintiff brings this civil action pursuant to Title 49 of the Arizona Revised

Statutes ("A.R.S."), Chapter 2, Article 5, Chapter 5, and Chapter 6. Defendant Honeywell, Inc., and its predecessors in interest, Allied Signal, Garrett AirResearch and others, (collectively "Defendant" or "Honeywell") owns and operates a jet engine manufacturing, repair and testing facility located at 111 South 34th Street, Phoenix, Arizona ("Facility"). Honeywell's operation of the Facility is continuous and uninterrupted beginning in the early 1950s. During this time, Honeywell released hazardous substances to the environment, violated Arizona law governing hazardous wastes and underground storage tanks, and failed to comply with its obligations under an Administrative Order on Consent ("AOC") entered into between ADEQ and Honeywell on 19 September 1999.

2. ADEQ brings this action under A.R.S. §§ 49-287(I), 49-924(B), and 49-1013(C and D) solely seeking civil penalties.

II. PARTIES

3. Stephen A. Owens is the Director of ADEQ and is authorized to bring this action solely seeking civil penalties pursuant to A.R.S. §§ 49-287(I), 924(B), and 1013(C and D).

4. Defendant Honeywell is a corporation established under the laws of Delaware. Honeywell has been granted authority to transact business within Arizona under the provisions of A.R.S. Title 10, Chapter 15. Honeywell owns and operates a facility located at 111 South 34th Street in Phoenix, Arizona. Honeywell is a Person as defined by A.R.S. §§ 49-201(27), 49-921(8), and 49-1001(11).

5. Honeywell is a party responsible for the release or threatened release of a hazardous substance as that term is defined in A.R.S. § 49-283(A).

6. Honeywell Generated, Treated, Stored and Disposed of Hazardous Wastes as those terms are defined in A.R.S. § 49-921(1, 4, 5, 11, and 9).

7. Honeywell is an Owner of Underground Storage Tanks as that term is defined in A.R.S. § 49-1001.01.

8. Honeywell is an Operator of Underground Storage Tanks as that term is defined in A.R.S. § 49-1001(9).

9. The Honeywell Underground Storage Tanks contained Regulated Substances as that term is defined in A.R.S. § 49-1001(14).

III. JURISDICTION AND VENUE

10. The Court has jurisdiction over the subject matter of this action pursuant to A.R.S. §§ 49-287(I), 49-924(B); and 49-1013(F).

11. Pursuant to A.R.S. §§ 12-401(10) and (17); 49-287(I); 49-924(B), and 49-1013(F), venue is proper in Maricopa County.

IV. BACKGROUND

Facility and Operations Overview

12. Honeywell has Owned and Operated the Facility since at least 1952. The Facility occupies approximately 110 acres, comprises over 100 buildings, employs several thousand persons, and has been, and continues to be used for the manufacture, testing, overhaul, storage and repair of jet engines and aviation-related products.

13. During that time, Honeywell has utilized, treated, stored and disposed of volatile organic compounds ("VOCs") and petroleum products, including jet fuels, at the Facility. The VOCs utilized, treated, stored and disposed of at the Facility include halogenated solvents such as trichloroethene ("TCE"), trichloroethane ("TCA"), tetrachlorethene ("PCE"), and chlorofluorocarbons ("freons").

14. The Facility is located within the boundaries of a larger site known as the Motorola 52nd Street Superfund Site. The Motorola 52nd Street Superfund Site extends generally from 52nd Street to the east, 7th Avenue to the west, Palm Lane to the north and Buckeye Road to the south. The groundwater beneath the entire Motorola 52nd Street Superfund Site is contaminated with VOCs such as TCE and TCA, as well as their degradation byproducts such as dichloroethene, dichloroethane and vinyl chloride. The VOCs contaminating the Motorola 52nd Street Superfund Site originated from Motorola, Inc.'s former facility located at 5005 East McDowell Road, the Honeywell Facility, and other facilities in the area. On 4 October 1989, the United States Environmental Protection Agency ("EPA") placed the Motorola 52nd Street Superfund Site on the National Priorities List of the nation's most polluted sites.

Underground Storage Tanks

15. Additionally, located on the Honeywell Facility are several tank farms and Underground Storage Tanks ("USTs") for storing jet fuel used in the manufacture, repair, and testing of these jet engines. These tanks were connected by various underground fuel lines that were also regulated as part of an Underground Storage Tank. *See* A.R.S. § 49-1001(18).

Jet fuels are Regulated Substances under A.R.S. § 49-1001(14) and have been found directly beneath Honeywell's Facility, as a free phased layer of floating fuel on top of the groundwater. The floating fuel, as well as the groundwater beneath the floating fuel, is contaminated with dissolved jet fuel constituents and VOCs that were utilized, treated, stored and disposed of at the Facility, as well as their degradation byproducts.

Hazardous Wastes

16. Honeywell also generates Hazardous Wastes as that term is defined in A.R.S. § 49-921(5) during the manufacture, repair and testing of its jet engines. A portion of the facility is dedicated to the treatment of various Hazardous Wastes. In particular, Honeywell constructed and currently operates a Wastewater Treatment Unit ("WWTU") that is used to treat liquid Hazardous Wastes generated at the Facility prior to discharge to the City of Phoenix sewer system.

The Administrative Order on Consent

17. As part of an investigation into the sources of contamination at the Motorola 52nd Street Superfund Site, ADEQ entered into an Administrative Order on Consent ("AOC") with Honeywell. This AOC was effective 19 September 1999. One of the purposes of the AOC was to "identify and characterize potential source areas within the Facility in order to mitigate groundwater impact and to focus sampling efforts and increase the efficiency of any Remedial Actions ..."

18. Among the deliverables that Honeywell was to submit to ADEQ was a Research Report based upon historical research into the operations at the Facility and which was to detail historical operations at the Facility.

19. Another deliverable was to be a Focused Remedial Investigation Report that was to document the sources, nature and extent of contamination at the Facility in accordance with US EPA standards for such documents.

20. All work that was to be performed by Honeywell was to be reviewed and approved by ADEQ prior to commencement of that work. ADEQ had the right to comment on and direct changes to all deliverables under the AOC. Under the AOC, Honeywell was to notify ADEQ at least seven days prior to conducting field events.

The Previous Litigation

21. ADEQ filed a complaint in Maricopa County Superior Court on 9 July 2004 (CV2004-013146) against Honeywell alleging multiple violations of Title 49, Arizona Revised Statutes and the AOC. During the course of that litigation, various counts were dismissed on 22 September 2004, and 8 November 2005. ADEQ filed its First Amended Complaint on 15 July 2005. Ultimately, this litigation was concluded when the Court rendered a final judgment on 23 February 2007. ADEQ timely filed its Notice of Appeal on 22 March 2007.

Environmental Self-Audits

22. Honeywell instituted a program of environmental self-audits in which Honeywell audited thirteen additional Arizona Honeywell facilities for compliance with

Arizona environmental laws. These self-audits uncovered multiple potential violations of law. Honeywell voluntarily disclosed the self audit reports to ADEQ in 2007 and 2008.

23. Honeywell conducted a subsurface structure survey at its Facility in April and May 2007 and took analytical samples of over 170 subsurface structures in September and November 2007. The survey established the existence of 144 subsurface structures, some containing VOCs, some of which had not been previously disclosed to ADEQ as required under the terms of the Administrative Order on Consent. Honeywell voluntarily disclosed its findings of its subsurface structure survey to ADEQ in 2007 and in 2008 in a report entitled *Subsurface Structure Survey, Phase I & II Sampling Report, Honeywell 34th Street Facility.*

24. As part of its disclosures, Honeywell produced analytical results of its sampling of subsurface sumps and interceptors at its Facility conducted in 2001, 2002, 2004 and 2006 which revealed elevated levels of VOCs in certain interceptors. Some of these analytical reports had not been timely disclosed to ADEQ as required under the terms of the AOC.

V. VIOLATIONS

Underground Piping

25. On or about 22 August 1988, two underground pipes that were regulated as part of the USTs and that were within the definition of A.R.S. § 49-1001(18) ruptured near Building 211 of the Facility.

COUNT ONE

26. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 25.

27. Honeywell violated A.R.S. § 49-1004(A) in that it failed to notify ADEQ that there had been a release or suspected release of a regulated substance from the two underground pipes near Building 211 of the Facility.

COUNT TWO

28. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 27.

29. Honeywell violated A.R.S. § 49-1004(C) in that it failed to submit a written report to ADEQ that a release or suspected release of a regulated substance from the two underground pipes near Building 211 had been detected.

COUNT THREE

30. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 29.

31. Honeywell violated A.A.C. R18-12-220(b-d) in that the two underground metal pipes were not equipped with cathodic protection.

Thermo Fluids, Inc.

32. As part of an investigation into the contamination of the Facility, Honeywell constructed a number of groundwater monitoring wells. Two of the groundwater monitoring wells, identified as Well ASE-19A and Well ASE-20A, were installed beginning on 29 December 1998 in the vicinity of Buildings 202 and 203 at the Facility. During the construction of these wells, hydrocarbon odors were detected by Honeywell employees and its contractors.

33. On or about 12-15 April 1999; on or about 18 May 1999; and on or about 1 June 1999, Honeywell commissioned a series of sampling events at Wells ASE- 19A and ASE-20A. The samples disclosed the presence of a floating fuel layer beneath the Facility; that the floating fuel contained a mixture of Jet A, JP-10 and JP-4 fuels; and that the floating fuel was heavily contaminated with volatile organic compounds (VOCs). The floating fuel, contaminated by VOCs, is a hazardous waste within the meaning of A.R.S. § 49-921(5).

34. On or about 21 September 1999, Honeywell informed ADEQ that while "hydrocarbon products were not observed during the drilling or construction of either [Well ASE- 19A or Well ASE-20A], . . . the presence of such products was suspected during the drilling due to hydrocarbon odors at ASE-19A and [field instrument] readings at both the ASE-19 and ASE-20 … ." Honeywell did not disclose to ADEQ what it already knew, that the floating fuel was heavily contaminated with VOCs until on or about September 20, 2000.

35. On or about 19 April 2000; on or about 15 May 2000; on or about 7 June 2000; and on or about 27 June 2000, Honeywell arranged for the pick-up and disposal in four shipments of approximately 3,430 gallons of the VOC-contaminated floating fuel with Thermo Fluids, Inc. ("Thermo Fluids") for fuel blending and energy recovery. Honeywell did not disclose to Thermo Fluids what it already knew, that the VOC-contaminated fuel was required to be managed as a hazardous waste.

36. Honeywell's failure to inform Thermo Fluids that the floating fuel was classified as a hazardous waste and subject to regulation under the Arizona hazardous waste

management program resulted in Thermo Fluids paying a penalty of $22,250.00 to ADEQ for improperly managing the hazardous waste.

COUNT FOUR

37. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 36.

38. Honeywell violated 40 C.F.R. § 262.20(a), as incorporated into the Arizona Hazardous Waste program by A.A.C. R18-8-262(A), in that on or about 19 April 2000, 15 May 2000, 7 June 2000, and again on 27 June 2000, Honeywell offered for transportation approximately 3,430 gallons of hazardous waste to Thermo Fluids for offsite treatment or disposal, without preparing a manifest.

COUNT FIVE

39. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 38.

40. Honeywell violated 40 C.F.R. § 262.20(b), as incorporated into the Arizona Hazardous Waste program by A.A.C. R18-8-262(A), in that on or about 19 April 2000, 15 May 2000, 7 June 2000, and again on 27 June 2000, Honeywell failed to designate one facility that was permitted to handle the VOC-contaminated floating fuel.

COUNT SIX

41. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 40.

42. Honeywell violated A.A.C. R18-8-262(I)(l) in that on or about 14 June 2000; on or about 15 July 2000; and on or about 14 August 2000, Honeywell failed to submit to ADEQ a copy of a manifest containing the signature of the generator and transporter, and the signature of the owner or operator of the designated facility, for each shipment of hazardous waste taking place on or about 19 April 2000; on or about 15 May 2000; on or about 7 June 2000; and on or about 27 June 2000, respectively, or an Exception Report.

COUNT SEVEN

43. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 42.

44. Honeywell violated A.A.C. R18-8-262 in that on or about 19 April 2000, 15 May 2000, 7 June 2000, and 27 June 2000 it failed to give copies or a required manifest to Thermo Fluids.

COUNT EIGHT

45. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 44.

46. Honeywell violated 40 C.F.R. § 262.11, as incorporated into the Arizona Hazardous Waste Management program by Arizona Administrative Code R18-8-262(A), in that on or about 19 April 2000; on or about 15 May 2000; on or about 7 June 2000; and on or about 27 June 2000, Honeywell failed to properly determine whether the VOC-contaminated floating fuel was hazardous waste and subject to regulation under the Arizona Hazardous Waste program.

COUNT NINE

47. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 46.

48. Honeywell violated A.R.S. § 49-931(A)(1) in that on or about 19 April 2000; on or about 15 May 2000; on or about 7 June 2000; and on or about 27 June 2000, Honeywell generated approximately 3,430 gallons of hazardous wastes to be shipped off-site without paying the required hazardous waste fees.

COUNT TEN

49. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 48.

50. Honeywell violated A.A.C. R18-8-262(H) in that on or about 1 March 2001, Honeywell failed to include the approximately 3,430 gallons of VOC contaminated floating fuel it generated and shipped off-site on or about 19 April 2000, 15 May 2000, 7 June 2000, and 27 June 2000 in its 2000 Annual Report.

Boiler Rules

51. Under 40 C.F.R. § 266.101(c)(1), as incorporated into the Arizona Hazardous Waste Management program by A.A.C. R18-8-266(A), all Owners and Operators of facilities that store or treat hazardous waste that is burned in a boiler or industrial furnace must comply with certain requirements. Those provisions include portions of 40 C.F.R. Part 264 (Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities), and 40 C.F.R. Part 270 (the Hazardous Waste Permit Program). 40 C.F.R. Part

264 was incorporated, in part, into the Arizona Hazardous Waste Management program by A.A.C. R18-8-264(A). 40 C.F.R. Part 270 was incorporated, in part, into the Arizona Hazardous Waste Management Program by A.A.C. R18-8-270(A). Arizona's incorporation of 40 C.F.R. § 266.101(c)(l) became effective on 6 October 1992.

52. Owners and Operators of facilities that store or treat hazardous waste that is burned in a boiler or industrial furnace are required to obtain a permit under A.A.C. R18-8-270, and must close the facility in compliance with the closure requirements of A.A.C. R18-8-264.

53. Between on or about 6 October 1992 and on or about 2 January 1994, Honeywell collected used oil and jet fuel in a series of sumps as part of a routine process of collection of hydrocarbons for final disposition as boiler feed. The used oil and jet fuel were then blended in a boiler fuel tank in Building 202 at the Facility. The mixture of jet fuel and used oil contained VOCs and was used as boiler feed and was burned in on-site boilers to power the large altitude cold chamber in Building 202 and/or related test cells at the Facility.

COUNT ELEVEN

54. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 53.

55. Honeywell violated A.A.C. R18-8-270 and A.A.C. R18-8-266 in that between 6 October 1992 and 2 January 1994 it failed to obtain a permit to treat or dispose of hazardous waste, including used oil, jet fuel and VOCs, in on-site boilers.

COUNT TWELVE

56. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 55.

57. Honeywell violated A.A.C. R18-8-264 and R18-8-266 since on or about 2 January 1994 by failing to properly close the boiler facility when it discontinued the use of its boilers for the disposal of hazardous wastes.

The Administrative Order on Consent

58. On or about 13 September 1999, Honeywell entered into an Administrative Order On Consent (the "AOC") with ADEQ. The AOC was entitled "Focused Remedial Investigation/AlliedSignal Engines Facility/111 South 34th Street, Phoenix, Arizona." The AOC became effective on 19 September 1999.

The objectives of the AOC were:

> "(a) to conduct additional investigative activities that will comprise a Focused Remedial Investigation to determine the nature and extent of soil and groundwater contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or emanating from the Facility; (b) to identify and characterize potential source areas within the Facility in order to mitigate groundwater impact and to focus sampling efforts and increase the efficiency of any Remedial Action, if necessary; … ." AOC, § III, ¶ 4.

59. In order to accomplish the objectives of the AOC, Honeywell was required to submit two documents within 60 days of the effective date of the AOC. First, Honeywell was to provide a "Research Report" based upon historical research into the operations of the Facility. The Research Report was to include, *inter alia*, a detailed narrative of the

investigative work completed as of the date of the Research Report; recommendations for investigation of potential source areas; and the compilation or format of information in existence regarding dry wells, sumps and any reported incidents, spills or leaks involving the release of hazardous substances. The Research Report was to be certified "under penalty of law" as being "true, accurate, and complete."

60. In addition to the Research Report, Honeywell was required to submit a "Workplan for Potential Source Areas Investigation" (the "Workplan"). The Workplan was to prescribe a plan for the investigation of soils and groundwater at the Facility, and was to be based on an analysis of all existing data generated in previous investigations and in the Research Report.

61. Finally Honeywell was to keep ADEQ informed of all activities being conducted at the Facility.

62. After requesting and being granted an extension, Honeywell timely submitted the Research Report and Workplan on or about 20 December 1999.

63. The Draft Focused Remedial Investigation Report submitted by Honeywell in September 2004, and the Final Focused Remedial Investigation Report submitted by Honeywell in December 2005, failed to identify or characterize all potential sources at the Facility known or suspected by Honeywell, including contaminated waste oil containing PCE from the Building 503 tank; Stoddard solvent containing elevated levels of PCE from a bulk underground storage tank; interceptor sludge's containing elevated levels of PCE, TCE, TCA, and their degradation byproducts from Buildings 112, 202, 301, 404 and 417; spent

chlorinated solvent disposals conducted outside Building 301 from approximately 1966 through 1979; and potential TCE disposal from the hot wells that received cooling tower water from the Large Altitude Cold Chambers.

64. Honeywell failed to notify ADEQ at least seven days prior to conducting analytical sampling of the contents of the following subsurface structures: the Building 503 Tank on March 8, 2001; the Stoddard solvent bulk underground storage tank on March 26, 2002; and interceptors from Buildings 112, 202, 301, 404, and 417 on September 9, 2004.

COUNT THIRTEEN

65. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 64.

66. By submitting an inadequate and incomplete Workplan that was not based on an analysis of all existing data generated in previous investigations, Honeywell violated Section VII, Paragraph 17 of the AOC. This violation began 17 February 2001.

Wastewater Treatment Unit

67. On 1 August 2005, a citizen complaint was received by ADEQ alleging, *inter alia*, that the Honeywell WWTU that treats hazardous plating waste at the Facility had experienced an upset resulting in high level of cyanide being discharged into the City of Phoenix sewer system, and cyanide wastewater was being stored in sumps located below acid tanks in the plating shop. ADEQ inspected the WWTU on 2 and 3 August 2005. During this inspection, ADEQ took samples of the cyanide and chrome secondary containment areas. Additionally, the ADEQ inspectors noted several large "Baker" tanks that were labeled as

containing hazardous wastes. Multiple violations of Arizona Hazardous Waste laws were discovered, including: 1) Storage of hazardous waste without a permit; 2) Failure to properly prepare a hazardous waste manifest; 3) Failure to keep written inspection logs; 4) Failure to comply with preparedness and prevention requirements; 5) Failure to comply with personnel training requirements; 6) failure to comply with tank requirements; 7) Failure to furnish information pertaining to hazardous waste as requested by ADEQ; 8) Failure to comply with the required contingency plan and emergency procedures; and, 9) Failure to label containers of hazardous wastes with accumulation dates. As a result of this inspection, ADEQ issued Notice of Violation (NOV) No. 36012 to Honeywell dated 4 October 2005.

68. ADEQ performed a follow-up inspection on 1 February 2006 and uncovered additional Hazardous Waste violations. Pursuant to this inspection, ADEQ issued a second NOV, No. 38813 on 9 May 2006.

69. ADEQ performed a third inspection of the Honeywell Facility on 20 November 2006. ADEQ inspectors took samples of liquid contained in an interceptor located outside Building 112. These samples indicated the presence of hazardous solvents and their degradation byproducts. These solvents were used in degreasing operations at the Facility. Pursuant to this inspection, ADEQ issued a third NOV, No. 77583 on 8 March 2007.

COUNT FOURTEEN

70. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 69.

71. Honeywell violated 40 CFR §262.34(a)(4), as incorporated in A.A.C. R18-8-262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation exemption that requires compliance with the preparedness and prevention requirements of 40 CFR 265 Subpart C. This violation stemmed from Honeywell's improper storage of thousands of gallons of plating wastes in secondary containment areas of Buildings 422 and 105. Honeywell failed to minimize the possibility of unplanned releases of hazardous wastes by not separating the incompatible chrome and cyanide wastes so that an unplanned release would not result in an uncontrolled reaction. Honeywell received notice of this violation from ADEQ in NOV No. 36012.

COUNT FIFTEEN

72. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 71.

73. Honeywell violated 40 CFR § 262.34(a)(1)(ii), as incorporated in A.A.C. R18-8-262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation exemption that required compliance with the tank requirements in 40 CFR 265 Subpart J. This violation stemmed from Honeywell's use of secondary containment areas to store plating wastes from the chrome and cyanide plating lines when the secondary containment areas failed to meet the hazardous waste tank requirements of 40 CFR Subpart J. Honeywell received notice of this violation from ADEQ in NOV No. 363012

COUNT SIXTEEN

74. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 73.

75. Honeywell violated 40 CFR § 262.34(a)(4), as incorporated in A.A.C. R18-8-262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation exemption that requires compliance with personnel training standards in 40 CFR § 265.16. Honeywell training plans did not contain job descriptions or the name of the personnel filling each position and did not describe the initial and continuing training requirements pertaining to hazardous wastes. Honeywell received notice of this violation from ADEQ in NOV No. 36012.

COUNT SEVENTEEN

76. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 75.

77. Honeywell violated A.A.C. R18-8-280(A) in that it failed to furnish information pertaining to hazardous waste generation, storage, treatment, transportation, disposal, or handling as requested by ADEQ in that during the exit debriefing, ADEQ requested Honeywell to document proper treatment and disposal of the cyanide wastewater that was stored in the Baker tanks. Honeywell received notice of this violation from ADEQ in NOV No. 36012.

COUNT EIGHTEEN

78. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 77.

79. Honeywell violated 40 CFR § 262.34(a)(4), as incorporated in A.A.C. R18-8-262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day exemption that requires compliance with the contingency plan and emergency procedure requirements of 40 CFR Subpart D. This violation stems from Honeywell's failure to implement its contingency plan with respect to an incident involving the chrome plating operations in Building 422 that caused flooding in some secondary containment areas within Building 422. Additionally, Honeywell failed to implement its contingency plan on 3 August 2005 following an acid spill that led to the evacuation of Building 422 and subsequent Honeywell fire response to that building and medical treatment of a Honeywell employee. Because the emergency plan was not implemented, there were no records available during the inspection, and no incident response was submitted to ADEQ as required under 40 CFR § 265.56(g, j). Honeywell received notice of this violation from ADEQ in NOV No. 36012.

COUNT NINETEEN

80. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 79.

81. Honeywell violated 40 CFR § 262.34(a)(2), as incorporated in A.A.C. R18-8-262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation exemption that requires each container to be marked with the date that accumulation began.

This violation stems from five 2-gallon containers of cyanide waste that were stored in the hazardous waste storage area that were not marked with accumulation start dates. Honeywell received notice of this violation from ADEQ in NOV #36012.

COUNT TWENTY

82. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 81.

83. Honeywell violated A.A.C. R18-8-270(B)(1) in that it treated, stored, or disposed of hazardous waste without a permit. This stems from the Honeywell practice of dumping rinse wastes from the chrome and cyanide plating lines into the secondary containment areas of Buildings 422 and 105. These liquid wastes were stored in these secondary containment areas for more than 24 hours and subsequently pumped into Baker tanks for additional storage. Because these hazardous wastes were not discharged under a pretreatment discharge permit, the secondary containment areas did not conform to the requirements of 40 CFR § 265.196(b)(2) and therefore were not exempt from the requirements of 40 CFR § 262.34. Honeywell received notice of this violation from ADEQ in NOV No. 36012.

COUNT TWENTY-ONE

84. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 83.

85. Honeywell violated 40 CFR § 262.20 as incorporated in A.A.C. R18-8-262 in that as a generator, it failed to properly prepare a hazardous waste manifest in that

approximately 26,000 gallons of hazardous wastes from the chrome and cyanide plating lines did not contain the appropriate F listing code. Honeywell received notice of this violation from ADEQ in NOV No. 36012.

COUNT TWENTY-TWO

86. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 85.

87. Honeywell violated A.A.C. R18-8-262(M) in that it failed to keep a written log of the inspection of container, tank drip pad, and containment building areas for the containers, tanks, and other equipment located outside the WWTU storage areas. Honeywell received notice of this violation from ADEQ in NOV No. 36012.

COUNT TWENTY-THREE

88. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 87.

89. Honeywell violated 40 CFR § 262.34(a)(1)(i), as incorporated in A.A.C. R18-8-262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation exemption requiring the use and management of container requirements of 40 CFR Subpart I in that a one-yard container of F006 hazardous waste was stored for approximately two days and was in poor condition and leaking. Honeywell received notice of this violation from ADEQ in NOV No. 38813.

COUNT TWENTY-FOUR

90. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 89.

91. Honeywell violated 40 CFR § 262.34(a)(1)(i), as incorporated in A.A.C. R18-8-262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation exemption requiring the use and management of container requirements of 40 CFR Subpart I in that a one-yard container of hazardous waste clean up debris was stored approximately 12 days and was torn and in poor condition. Honeywell received notice of this violation from ADEQ in NOV No. 38813.

COUNT TWENTY-FIVE

92. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 91.

93. Honeywell violated A.A.C. R18-8-270(B)(1) in that it treated, stored, or disposed of hazardous waste without a permit. This violation stems from a leaking cubic yard container of hazardous wastes that was observed to be leaking and draining to a bermed area and discharging to the environment via evaporation. Honeywell received notice of this violation from ADEQ in NOV No. 38813.

COUNT TWENTY-SIX

94. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 93.

95. Honeywell violated A.A.C. R18-8-270(B)(1) in that it treated, stored, or disposed of hazardous waste without a permit. This violation stems from a 55 gallon container of hazardous waste fixer/developer that was stored for 106 days, more than the maximum permitted time of 90 days. Honeywell received notice of this violation from ADEQ in NOV No. 38813.

COUNT TWENTY-SEVEN

96. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 95.

97. Honeywell violated 40 CFR § 262.34(a)(4), as incorporated in A.A.C. R18-8-262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation exemption that requires compliance with the preparedness prevention requirements in 40 CFR Subpart C. This stems from pipes, pumps, hoses, and storage tanks that were in contact with caustic waste in the ISS 840 containment area which exhibited extensive corrosion. Honeywell received notice of this violation from ADEQ in NOV No. 38813.

COUNT TWENTY-EIGHT

98. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 97.

99. Honeywell violated 40 CFR § 262.34(a)(4), as incorporated in A.A.C. R18-8-262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation exemption that requires compliance with the preparedness and prevention requirements of 40 CFR Subpart C. This stems from a lack of adequate aisle space in the cyanide, chrome/metal

and non-metal 90 day storage areas outside Building 422. Honeywell received notice of this violation from ADEQ in NOV No. 38813.

COUNT TWENTY-NINE

100. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 99.

101. Honeywell violated 40 CFR § 262.34(a)(1)(i), as incorporated in A.A.C. R18-8-262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation exemption that requires compliance with the use and management of containers under 40 CFR 265 Subpart I. This stems from a one cubic yard of hazardous clean up debris not being closed during storage. Honeywell received notice of this violation from ADEQ in NOV No. 38813.

COUNT THIRTY

102. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 101.

103. Honeywell violated 40 CFR § 262.34(a)(2), as incorporated in A.A.C. R18-8-262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation exemption in that a one cubic yard box of F006 hazardous waste and one torn cubic yard box of hazardous waste clean-up debris were not marked with the accumulation start dates. Honeywell received notice of this violation from ADEQ in NOV No. 38813.

COUNT THIRTY-ONE

104. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 103.

105. Honeywell violated A.A.C. R18-8-270(B)(1) in that it disposed of hazardous waste without a permit in that the contents of the Building 112 interceptor were hazardous waste and that the interceptor had been discharging to the City of Phoenix sewer system for more than 30 years. Honeywell received notice of this violation from ADEQ in NOV No. 77583.

COUNT THIRTY-TWO

106. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 105.

107. Honeywell violated A.A.C. R18-8-270(B)(1) in that it treated, stored, or disposed of hazardous waste without a permit in that the contents of the Building 112 interceptor contained hazardous waste solvents used in degreasing operations since at least 1995. Honeywell received notice of this violation from ADEQ in NOV No. 77583.

Underground Storage Tank Violations

108. Under the Arizona UST regulatory scheme, Owners and Operators of leaking USTs are required to perform several actions in the event a UST releases Regulated Substances to the environment. Each release must be reported to ADEQ within 24 hours. *See* A.R.S. § 49-1004(A). A written report must be submitted to ADEQ within 14 days of the

release. *See* A.R.S. § 49-1004(C). A corrective action must be undertaken to remediate that Release. *See* A.R.S. § 49-1005.

109. On 16 March 2005, ADEQ inspected 23 USTs at the Honeywell facility and uncovered six violations. ADEQ issued Honeywell an NOV the same day. ADEQ also issued Compliance Order Docket No. U-23-06 to Honeywell.

COUNT THIRTY-THREE

110. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 109.

111. Honeywell violated A.R.S. § 49-1003 and A.A.C. R18-12-241(B)(1) by failing to provide release detection for UST No. 212 and underground piping of the USTs as required under pursuant to A.A.C. R18-12-241(B)(1) beginning on or before 16 March 2005 through approximately 20 April 2005.

COUNT THIRTY-FOUR

112. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 111.

113. Honeywell violated A.R.S. § 49-1009 and A.A.C. R18-12-221 in that it failed to use petroleum resistant paint to coat its fill pit in the Area 2 fuel farm at the Facility in compliance with the tank performance standards of A.R.S. § 49-1009 and A.A.C. R18-12-221 beginning on or before 16 March 2005 through approximately 28 April 2005.

COUNT THIRTY-FIVE

114. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 113.

115. Honeywell violated A.R.S. § 49-1004 and A.A.C. R18-12-234(A)(1) because it failed to notify ADEQ of a release or suspected release that occurred from a UST system supply line where it was connected to a dispenser in Building 108 of the Facility beginning on or before 16 March 2005.

COUNT THIRTY-SIX

116. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 115.

117. Honeywell violated A.R.S. § 49-1009 and A.A.C. R18-12-221(C) because it failed to cathodically protect piping that was in contact with earthen material in the vicinity of Building 211 and Building 108 at the Facility beginning on or about 16 March 2005 through approximately 30 June 2006.

COUNT THIRTY-SEVEN

118. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 117.

119. Honeywell violated A.R.S. § 49-1003 and A.A.C. R18-12-243(G) by failing to conduct at least monthly monitoring of approximately three Veeder Root monitors at the Facility beginning on or about 16 March 2005 through approximately 28 April 2005.

COUNT THIRTY-EIGHT

120. Plaintiff re-alleges and incorporates each and every allegation contained in Paragraphs 1 through 119.

121. Honeywell violated A.R.S. § 49-1009 and A.A.C. R18-12-221 because it failed to meet tank performance standards for spill and overfill prevention equipment that is associated with the transfer of a regulated substance to the UST system at the Facility on or before 16 March 2005 through approximately 28 April 2005.

RELIEF

122. Under A.R.S. § 49-1013(D), an owner or operator of an underground storage tank who fails to comply with any of the requirements or standards of A.R.S. Title 49, Chapter 6, including the rules adopted thereunder, is subject to a civil penalty of not to exceed ten thousand dollars for each tank for each day of violation. The provisions of A.R.S. § 49-1013(D) apply to each day of each violation for each UST in Counts 1 through 3, and 38 through 43.

123. Under A.R.S. § 49-924(A), any person who violates A.R.S. Title 49, Chapter 5, Article 2, or any permit, rule or order issued or adopted pursuant to A.R.S. Title 49, Chapter 5, Article 2, is subject to a civil penalty not exceeding twenty five thousand dollars for each day of violation. The provisions of A.R.S. § 49-924(A) apply to each day of each violation contained in Counts 4 through 12, 19 through 37.

124. Under A.R.S. § 49-287(I), a responsible party who willfully violates or fails or refuses to comply with an order of the Director of ADEQ, such as the AOC in this case, may

be assessed a civil penalty of not more than five thousand dollars for each day in which the violation occurs or the failure to comply continues. The provisions of A.R.S. § 49-287(I) apply to each day of each violation contained in Counts 13 through 18.

WHEREFORE, Plaintiff, the State of Arizona, requests judgment as follows:

A. For an assessment of a civil penalty of not more than ten thousand dollars for each day of each violation of each underground storage tank in Counts 1 through 3, and 38 through 43, pursuant to A.R.S. § 49-1013(D);

B. For an assessment of a civil penalty of not more than twenty five thousand dollars for each day of each violation contained in Counts 4 through 12, and 19 through 37, pursuant to A.R.S. § 49-924(A);

C. For the payment of the hazardous waste fees that Honeywell failed to pay on or about April 19, 2000; on or about May 15, 2000; on or about June 7, 2000; and on or about June 27, 2000, pursuant to A.R.S. § 49-931(A); as well as interest on the fees at the rate prescribed by A.R.S. § 44-1201, pursuant to A.R.S. § 49-931(D);

D. For an assessment of a civil penalty of not more than five thousand dollars for each day of each violation contained in Counts 13 through 18, pursuant to A.R.S. § 49-287(I);

E. For taxable costs and reasonable attorneys' fees incurred in bringing this action; and

F. For such other relief the Court deems just and proper.

RESPECTFULLY SUBMITTED this 1st day of August, 2008.

TERRY GODDARD
ATTORNEY GENERAL

By: _____
Jeffrey Cantrell
Assistant Attorney General
Attorneys for Plaintiff

#234433v1

VERIFICATION

STATE OF ARIZONA)
)
)ss.
County of Maricopa)

1. I, Amanda E. Stone, am the Waste Programs Division Director of the Arizona Department of Environmental Quality, and have been delegated the authority to verify complaints by the Director of ADEQ.

2. I have read the foregoing Complaint and know the contents thereof, and that it is true of my own knowledge, or from reports that I have received from employees of ADEQ under a duty to report accurately to me, except for the matters stated therein on information and belief, and as to those matters, I believe the Complaint to be true.

3. Pursuant to Rule 80(i) of the Arizona Rules of Civil Procedure, I declare under penalty of perjury that the foregoing is true and accurate.

Amanda E. Stone, Director
Waste Programs Division
Arizona Department of Environmental Quality

#234433v1

VERIFICATION

STATE OF ARIZONA)
)
)ss.
County of Maricopa)

1. I, Philip McNeely, am the Tank Programs Division Director of the Arizona Department of Environmental Quality, and have been delegated the authority to verify complaints by the Director of ADEQ.

2. I have read the foregoing Complaint and know the contents thereof, and that it is true of my own knowledge, or from reports that I have received from employees of ADEQ under a duty to report accurately to me, except for the matters stated therein on information and belief, and as to those matters, I believe the Complaint to be true.

3. Pursuant to Rule 80(i) of the Arizona Rules of Civil Procedure, I declare under penalty of perjury that the foregoing is true and accurate.

Philip McNeely, Director
Tank Programs Division
Arizona Department of Environmental Quality

234433v1

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Firm Bar No. 14000

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THE SUPERIOR COURT OF THE STATE OF ARIZONA

FOR MARICOPA COUNTY

STATE OF ARIZONA, EX REL, STEPHEN A. OWENS, DIRECTOR, ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY, **Plaintiff,** **v.** **HONEYWELL INTERNATIONAL INC., a Delaware Corporation,** **Defendant.**	Civil Action No. _____ CONSENT JUDGMENT (Non-classified Civil)

RECITALS

A. Plaintiff State of Arizona *ex rel.* Stephen A. Owens, Director, Arizona Department of Environmental Quality, ("the State") has filed Complaints alleging that the Defendant Honeywell International Inc., a Delaware corporation, ("Honeywell") violated Arizona Revised Statutes ("A.R.S.") Title 49, Chapter 2, Article 5, and rules promulgated thereunder; A.R.S.

Title 49, Chapter 5, and rules promulgated thereunder; and A.R.S. Title 49, Chapter 6, and rules promulgated thereunder (the "Complaints"). The State brought claims pursuant to A.R.S. §§ 49-287, 49-924, and 49-1013 seeking injunctive relief and civil penalties. The State and Honeywell are collectively referred to in this Consent Judgment as the "Parties."

B. Stephen A. Owens is the Director of the Arizona Department of Environmental Quality ("ADEQ") and has been duly authorized by the State to enter into this Consent Judgment for and on behalf of the State.

C. At all times mentioned herein, Honeywell operated its 34th Street Engines facility at 111 South 34th Street in Phoenix, Arizona ("the 34th Street Facility").

D. On July 9, 2004, the State filed civil complaint no. CV2004-013146 in the Superior Court of Arizona, County of Maricopa against Honeywell ("First Complaint"). The State amended the First Complaint on July 15, 2005. That amended complaint is referred to as the "First Amended Complaint" throughout this Consent Judgment.

E. Some of the State's claims in the First Complaint and the First Amended Complaint were dismissed with prejudice on the basis of motions brought by Honeywell. The remaining claims were dismissed without prejudice by stipulation of the Parties. Final judgment was entered in Civil action no CV2004-013146 on February 27, 2007 (the "Judgment"). The State timely appealed the Judgment on March 22, 2007 (the "Appeal") and the Appeal is pending in the Arizona Court of Appeals.

F. On or about June ____, 2008, the State filed a complaint in Maricopa County Superior Court, Civil Action No. _____ (the "Second Complaint"). Honeywell, which is named as a defendant in the Second Complaint, acknowledges that it has been provided with a copy of the Second Complaint and waives service of process. Honeywell further acknowledges that it has been fully advised of its right to a trial in the matter and waives the same.

G. Honeywell denies the allegations in the First Complaint, the First Amended Complaint, and the Second Complaint (collectively referred to as the " Complaints"), and further denies any liability for any part of the violations, allegations, or claims in the Complaints.

H. The Parties agree that settlement of the violations alleged in the Complaints is in their respective best interests and in the best interest of the public, and that entry of this Consent Judgment without further litigation is the most appropriate means of resolving the allegations in the Complaints.

I. Honeywell admits the jurisdiction of this Court and that venue is proper in Maricopa County.

J. Honeywell acknowledges that the State has made no promise of any kind or nature other than what is set forth in this Consent Judgment, and that Honeywell has entered into this Consent Judgment voluntarily and after due consideration.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I. DEFINITIONS

Throughout this Consent Judgment, terms used shall have the same meanings and definitions given to them in Title 49 of the A.R.S., and rules promulgated thereunder (collectively "Title 49"). In addition, the definitions set forth above in the section titled "Recitals" shall apply throughout this Consent Judgment, as well as the following definitions:

"AOC" shall mean the Administrative Order on Consent dated September 19, 1999, entered into between the Arizona Department of Environmental Quality and Honeywell, as more particularly described in the Complaints.

"Day" shall mean a calendar day. In computing any period under this Consent Judgment, where the last day would fall on a Saturday, Sunday, or a State or Federal holiday, the period shall run until the close of business of the next working day.

"Effective Date" shall be the date that the Consent Judgment is entered by this Court.

"Execution Date" shall be the date that the all of the Parties have signed this Consent Judgment.

"Honeywell" means Honeywell International Inc. and its subsidiaries and divisions, and all of its predecessors in interest at any of Honeywell's facilities in Arizona, including, without limitation, AlliedSignal Inc.

If any term is specifically defined in this Consent Judgment and that definition conflicts with the term's definition in Title 49, the term's definition in this Consent Judgment shall prevail.

II. JURISDICTION AND VENUE

A. The Court has jurisdiction over the subject matter of this action and over the parties pursuant to the Arizona Constitution, Article 6, Section 14, as well as A.R.S. §§ 12-123, 49-287, 49-923, 49-924, and 49-1013.

B. Venue is proper in Maricopa County pursuant to A.R.S. §§ 12-401(17), 49-287(I), 49-924(B), and 49-1013(F).

III. BINDING EFFECT

A. This Consent Judgment shall apply to and be binding upon Honeywell and its officers and directors, successors and assigns, and the State.

B. The Parties consent to the terms and entry of this Consent Judgment, and agree not to contest its validity in any subsequent proceeding.

C. This Consent Judgment constitutes and embodies the full and complete understanding of the parties and supersedes all prior understandings or agreements, whether oral or in writing, that pertain to the subject matter contained in this Consent Judgment.

D. Honeywell shall condition the transfer of ownership or operation, or any other interest in, the 34th Street Facility and any other facilities that are the subject of this Consent Judgment, upon the successful execution of the terms and conditions of this Consent Judgment.

E. Honeywell certifies that its undersigned representative is fully authorized to enter into the terms and conditions of this Consent Judgment, to execute it on behalf of Honeywell and to legally bind Honeywell to its terms.

IV. RESOLUTION OF OUTSTANDING LITIGATION

A. Within three (3) days after the Execution Date, the Parties shall file a stipulation to dismiss the appeal in the Arizona Court of Appeals, which shall also provide that each Party shall bear its own attorneys fees and costs.

B. Within fourteen (14) days after the Arizona Court of Appeals issues a mandate to remand the matter that is the subject of the Appeal to the Superior Court, the Parties shall file a joint motion requesting the Superior Court vacate the Judgment and consolidate the remanded matter with the Second Complaint. The failure of the Superior Court to vacate the Judgment or consolidate these matters shall not in any way affect the validity of this Consent Judgment.

C. The Parties agree that this Consent Judgment may be entered immediately upon signing by the Court.

V. CIVIL PENALTY

A. Honeywell shall pay the State the amount of five million United States dollars ($5,000,000.00) as a civil penalty pursuant to A.R.S. §§ 49-287, 49-924 and 49-1013 within 30 days from the Effective Date.

B. The civil penalty imposed by the State and agreed to by Honeywell constitutes a debt for a fine, penalty or forfeiture payable to and for the benefit of a governmental unit, is not compensation for actual loss, and is specifically non-dischargeable under 11 U.S.C. § 523(a)(7). Upon entry of this Consent Judgment, the State shall be deemed a judgment creditor for purposes of collecting the civil penalty.

C. The State shall have the right to record this Consent Judgment in every Arizona county.

VI. MANNER OF PAYMENT OF CIVIL PENALTY

A. Payment of the Civil Penalty under this Consent Judgment shall be by cashier's check or money order made payable to the "State of Arizona" and shall be delivered or mailed to:

Chief Financial Officer
Arizona Department of Environmental Quality
Attention: Accounts Receivable
1110 W. Washington Street
Phoenix, Arizona 85007

together with a letter tendering the payment. In the alternative, upon prior written notification to the Chief Financial Officer at the above address, payment may be made by wire transfer to "Arizona Department of Environmental Quality", routing #026009593, account #252844527, or by ACH, routing #122101706, account #252844527.

B. ADEQ will forward payment made to the State under this Consent Judgment to the state general fund pursuant to A.R.S. §§ 49-287(I), 49-924(D), and 49-1013(G).

C. All letters regarding payment shall identify this case by the Parties and the court docket numbers. Copies of the letters shall be sent to the Office of the Attorney General at:

Tamara Huddleston
Chief Counsel
Environmental Enforcement Section
Office of the Attorney General
1275 W. Washington
Phoenix, Arizona, 85007

and to ADEQ at:

Michael Clark
Chief Financial Officer
Arizona Department of Environmental Quality
1110 W. Washington Street
Phoenix, Arizona 85007

Henry Darwin
Administrative Counsel
Arizona Department of Environmental Quality
1110 W. Washington Street
Phoenix, Arizona 85007

D. Honeywell shall pay interest on any amount not paid by the due date at the rate established pursuant to A.R.S. § 44-1201 in the same manner permitted under Section VI (A) for the payment of the Civil Penalty. If Honeywell fails to pay the full amount of the Consent Judgment as required, at the election of the State, this Consent Judgment shall become null and void, and the State may take action to seek penalties for any and all violations covered by this Consent Judgment.

VII. SUPPLEMENTAL ENVIRONMENTAL PROJECT

A. Pursuant to A.R.S. §§ 49-923(D) and 49-1013(F), Honeywell shall conduct a Supplemental Environmental Project ("SEP") by paying one million United States dollars ($1,000,000.00) to the Western Governors Association to be earmarked for use in the Western Regional Climate Action Initiative (now known as the Western Climate Initiative) to develop regional strategies for addressing climate change through the identification, evaluation, and implementation of collective and collaborative ways to reduce greenhouse gases in the western region of North America.

B. Honeywell shall pay the SEP money to the Western Governors Association within thirty (30) days after the Effective Date, and shall inform the Western Governors Association that the money must be used for the Western Regional Climate Action Initiative.

C. Honeywell shall have no rights, responsibilities, or obligations regarding the manner in which the SEP money is used by the Western Governors Association or Western Regional Climate Action Initiative.

D. Honeywell shall provide the State proof of the payment of the SEP money within thirty-five (35) days after the Effective Date. All submissions to the State shall be made in the

same manner as provided under Section VI(C).

E. Any written or oral public statements made by Honeywell in connection with the SEP must state that the money was paid in connection with this Consent Judgment.

VIII. MATERIAL BREACH

A. Any failure by Honeywell to pay the monetary judgment within the time specified by Section V, or pay for the SEP within the time specified by Section VII shall constitute a material breach and violation of this Consent Judgment. The State, in its sole discretion, shall have the option of either:

1. Enforcing this Consent Judgment through the Court, in which case Honeywell shall be liable for interest and additional penalties pursuant to the provisions of A.R.S. § 49-113(B) and the State's reasonable costs and attorneys' fees incurred in enforcing this Consent Judgment; or

2. Declaring the Consent Judgment null and void, upon which event the State may pursue the Complaints or refile these actions against Honeywell. In this event, Honeywell shall be barred from alleging the affirmative defenses of estoppel, laches, or the expiration of any statute of limitations. In any future actions for the violations covered by this Consent Judgment, Honeywell shall receive credit for any civil penalties paid to the State pursuant to this Consent Judgment.

IX. RELEASE

A. Upon payment of the full amount of the Civil Penalty set out in Section V and the Supplemental Environmental Project set out in Section VII, Honeywell, its successors and assigns, and all its past, present, and future directors, officers, and shareholders are released from any and all civil liability to the State for violations arising from facts, events, acts, omissions, conduct or other circumstances constituting a violation that occurred before the Effective Date, regarding:

1) Any claims alleged or referenced in the Complaints;

2) Any claims that Honeywell violated Title 49, Chapter 5 of the A.R.S. or the rules adopted thereunder, arising out of or associated with ADEQ's August 2-3, 2005 hazardous waste inspection of the 34th Street Facility or the resulting October 4, 2005 Notice of Violation (ADEQ Case # 36012);

3) Any claims that Honeywell violated Title 49, Chapter 5 of the A.R.S. or the rules adopted thereunder, arising out of or associated with ADEQ's February 1, 2006 hazardous waste inspection of the 34th Street Facility or the resulting May 9, 2006 Notice of Violation (ADEQ Case # 38813);

4) Any claims that Honeywell violated Title 49, Chapter 5 of the A.R.S. or the rules adopted thereunder, arising out of or associated with ADEQ's November 20, 2006 and January 2, 2007 hazardous waste inspections of the 34th Street Facility or the resulting March 8, 2007 Notice of Violation (ADEQ Case # 77583);

5) Any claims regarding the facts, events, acts, omissions, conduct, conditions or other circumstances described in or arising out of or associated with the self-disclosed environmental audit findings for the Facility that were submitted to ADEQ by Honeywell on or around March 6, 2007 and amended on October 19, 2007 and March 13, 2008;

6) Any claims arising out of or associated with the following self-disclosed environmental audit findings for other Arizona Honeywell facilities that Honeywell submitted to ADEQ on or about the dates listed:

a) Sky Harbor – November 22, 2006, amended March 13, 2008

b) Union Hills – January 23, 2007, amended March 13, 2008

c) Kingman Wheel and Brake – March 6, 2007, amended March 13, 2008

d) Deer Valley Facility and Hangar – April 30, 2007, amended June 15, 2007

e) Tempe (Warner Road) – May 14, 2007, amended March 13, 2008

f) Tucson (Oracle Road) – July 31, 2007, amended March 13, 2008

g) Tucson (Drexel Road) – July 31, 2007, amended March 13, 2008

h) Glendale (59th Avenue) – July 31, 2007, amended March 13, 2008

i) Bell Road (Talavi) – September 5, 2007, amended March 13, 2008

j) Kingman Medical Products – September 27, 2007, amended March 13, 2008

k) MROC (27th Street) – December 3, 2007, amended March 13, 2008

l) Phoenix Service Center (12th Avenue) – December 10, 2007, amended March 13, 2008

m) Chandler Electronic Chemicals – February 15, 2007, amended March 13, 2008

7) Any claims that Honeywell violated the AOC, arising out of or associated with:

a) The July 19, 2004 removal of Sump 4-M from former Building 401 at the Facility;

b) The Fall 2004 removal of a degreaser from Building 403 at the Facility; and

c) ADEQ's December 9, 2004 Notice of Violation and Demand for Stipulated Penalties;

8) Any claims that Honeywell violated Title 49, Chapter 5 of the A.R.S. or the rules adopted thereunder or the AOC arising out of or associated with reported analytical results for waste streams and subsurface structures at the 34th Street Facility that that were disclosed to ADEQ by Honeywell in May 2007 and resubmitted to ADEQ on March 6, 2008;

9) Any claims that Honeywell violated Title 49, Chapter 6 of the A.R.S. or the rules adopted thereunder, arising out of or associated with ADEQ's March 16, 2005 UST inspection of the 34th Street Facility or any notice of violation resulting from that inspection (ADEQ Case # 71100); and

10) Any claims that Honeywell violated the AOC or Title 49, Chapter 5 of the A.R.S. and the rules adopted thereunder, arising out of or associated with the reported results of the investigation, subsurface structure survey and soil sampling efforts conducted by Honeywell at the 34th Street Facility between January 1, 2007 and the Effective Date of this Consent Judgment and disclosed to ADEQ in writing prior to the Effective Date of this Consent Judgment in Honeywell's report entitled *Subsurface Structure Survey, Phase I & II Sampling Report, Honeywell 34th Street Facility, Phoenix, Arizona.*

B. This release does not release Honeywell from any criminal liability under any local, state or federal statute or regulation.

C. This Consent Judgment does not release Honeywell from its obligations to characterize and clean up the soil and groundwater contamination at or emanating from the 34th Street Facility. Therefore, except as expressly set forth in this Consent Judgment, Honeywell is not released from any liability it may have for removal, response, remedial, or corrective actions, under:

1) 42 USC § 9601 *et seq.*, (Comprehensive Environmental Response, Compensation, and Liability Act or CERCLA);

2) Title 49, Chapter 2, Article 5 of the Arizona Revised Statutes (WQARF); or

3) Title 49, Chapter 6, of the Arizona Revised Statutes (UST).

D. Honeywell and all present or former parent, sister, or affiliate entities, and each of their directors, officers, employees, agents, servants, attorneys, successors and assigns, release

the State, its agencies, departments, officials, employees or agents from any and all claims, known or unknown, which it may have in relation to the allegations contained in the Complaints.

X. SEVERABILITY

This Consent Judgment is not severable. If any Section of this Consent Judgment is declared invalid or unenforceable by a court of competent jurisdiction, the entire Consent Judgment is rendered invalid and the Parties shall return to the positions they occupied before the execution of this Consent Judgment.

XI. APPLICABLE LAW

The validity, meaning, interpretation, enforcement and effect of this Consent Judgment shall be governed by the laws of the State of Arizona.

XII. MODIFICATIONS

Except as provided for herein, there shall be no modifications of this Consent Judgment without written approval of both parties to this Consent Judgment.

XIII. ATTORNEY FEES AND COSTS

Each party shall bear its own costs and attorney's fees in this action and in the actions covered by the Complaints and the Appeal, except that, as permitted by law, Honeywell shall be liable to the State for any costs and/or attorney's fees incurred by the State to enforce this Consent Judgment.

XIV. RESERVATION OF RIGHTS

A. Entry of this Consent Judgment is solely for the purpose of settling the Complaints, and except as expressly set forth herein, does not preclude the Plaintiff or any other agency or officer of the State of Arizona, or subdivision thereof, from instituting other administrative, civil or criminal proceedings as may be appropriate now or in the future, initiating a civil or criminal action against Honeywell for violations of A.R.S. Title 49,

Chapters 2, 5, or 6, or the rules promulgated thereunder, or any other violation of Arizona state law, occurring after the Effective Date, except as provided in Section IX.

B. This Consent Judgment does not encompass issues regarding violations, sources, operations, facilities or processes of Honeywell not expressly covered by the terms of this Consent Judgment and is without prejudice to the rights or of the State arising under any of the environmental statutes and rules of Arizona with regard to such matters. The State reserves the right to take any and all appropriate legal action against Honeywell for violations that are not covered by this Consent Judgment, as described in Section IX. The State reserves the right to take any and all appropriate action necessary to protect the public health, welfare, or the environment.

C. Nothing in this Consent Judgment shall constitute a permit of any kind, or a modification of any permit of any kind, under federal, state or local law. Nothing in this Consent Judgment shall in any way alter, modify or revoke federal, state or local statutes, regulations, rules or requirements. Nor shall this Consent Judgment affect or relieve Honeywell in any manner of its obligations to apply for, obtain and comply with applicable federal, state and local permits. Compliance with the terms of this Consent Judgment shall be no defense to any action to enforce any such permits or requirements. The State does not by its consent to the entry of this Consent Judgment, warrant or aver that compliance with this Consent Judgment will constitute or result in compliance with Arizona law. Notwithstanding the State's review and approval of any materials submitted pursuant to this Consent Judgment, Honeywell shall remain solely responsible for compliance with any other applicable federal, state or local law or regulation. Any submissions made to the State pursuant to this Consent Judgment shall not be interpreted as a waiver or limitation of the State's authority to enforce any federal, state, or local statute or regulation including permit conditions.

D. The State shall have the right to take enforcement action for any and all violations of this Consent Judgment and reserves the right to pursue all legal and equitable remedies for such violations.

E. This Consent Judgment does not affect any consent orders in effect between the State and Honeywell, except as stated expressly herein.

F. The entry of this Consent Judgment shall not serve as a basis for any defenses of claim splitting, estoppels, laches, res judicata, or waiver challenging the State's legal right to bring an action regarding matters not expressly covered by this Consent Judgment.

G. The State shall have the right to use the alleged violations that are the subject of this Consent Judgment in any future proceedings brought against Honeywell for the sole purpose of determining the appropriate penalties in that future proceeding. Although Honeywell maintains that it is not liable for any part of the allegations or violations that are the subject of this Consent Judgment, the State shall not be required to prove the allegations or violations in such future proceedings.

XV. RETENTION OF JURISDICTION

The Court shall retain jurisdiction for the purposes of interpreting, implementing, modifying and enforcing the terms and conditions of this Consent Judgment, to resolve disputes arising hereunder, and to take any action necessary or appropriate for its construction or execution.

XVI. TERMINATION

The provisions of this Consent Judgment, other than the releases contained in Section IX, shall be satisfied and shall terminate after Honeywell has made the payments required by Sections V and VII of this Consent Judgment.

After satisfaction of this Consent Judgment, upon request by Honeywell or after due course, the State shall execute and file a satisfaction of judgment with this Court and in every County this Judgment was recorded.

CONSENT TO JUDGMENT

Michael S. Robbinson, on behalf of Honeywell International Inc., hereby acknowledges that (s)he (1) is authorized by Honeywell International Inc. to sign this Consent Judgment and to bind Honeywell International Inc. to its terms, (2) has read the foregoing Consent Judgment in its entirety, (3) agrees with the statements made in the Consent Judgment, (4) agrees that Honeywell International Inc. will be bound by the terms of the Consent Judgment, and (5) consents to entry of this Consent Judgment by the Court and agrees that Honeywell International Inc. will abide by the same.

DATED this 8th day of July, 2008.

Philip A. McNeely, Director of the ADEQ Tank Programs Division, and Amanda E. Stone, Director of the ADEQ Waste Programs Division, on behalf of Plaintiff State of Arizona, each hereby acknowledge that he or she (1) is authorized by the Director of ADEQ to sign this Consent Judgment and to bind the State (as defined in the Consent Judgment) to its terms, (2) has read the foregoing Consent Judgment in its entirety, (3) agrees with the statements made in the Consent Judgment, (4) agrees that the State (as defined in this Consent Judgment) will be bound by the terms of the Consent Judgment, and (5) consents to entry of this Consent Judgment by the Court and agrees that the State will abide by the same.

DATED this 15th day of July, 2008.

Philip A McNeely

Philip A. McNeely, Director
Tank Programs Division
Arizona Department of Environmental Quality

Amanda E. Stone, Director
Waste Programs Division
Arizona Department of Environmental Quality

Approved as to form this 15th day of July, 2008:

Assistant Attorney General
Office of the Arizona Attorney General

SO ORDERED this _____ day of _____, _____.

Judge of the Superior Court

234549.2