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14 **THE SUPERIOR COURT OF THE STATE OF ARIZONA**
15 **FOR MARICOPA COUNTY**

CV2008-018396

16 **STATE OF ARIZONA *ex rel.* STEPHEN**
17 **A. OWENS, DIRECTOR, ARIZONA**
18 **DEPARTMENT OF ENVIRONMENTAL**
19 **QUALITY,**

20 **Plaintiff,**

21 **v.**

22 **HONEYWELL INTERNATIONAL,**
23 **INC., a Delaware Corporation,**

24 **Defendant.**

Civil Action No. _____

COMPLAINT

(Non-classified Civil)

25 Plaintiff, State of Arizona, acting through Stephen A. Owens, Director, Arizona

26 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

1 Statutes ("A.R.S."), Chapter 2, Article 5, Chapter 5, and Chapter 6. Defendant Honeywell,
2 Inc., and its predecessors in interest, Allied Signal, Garrett AirResearch and others,
3 (collectively "Defendant" or "Honeywell") owns and operates a jet engine manufacturing,
4 repair and testing facility located at 111 South 34th Street, Phoenix, Arizona ("Facility").
5
6 Honeywell's operation of the Facility is continuous and uninterrupted beginning in the early
7 1950s. During this time, Honeywell released hazardous substances to the environment,
8 violated Arizona law governing hazardous wastes and underground storage tanks, and failed
9 to comply with its obligations under an Administrative Order on Consent ("AOC") entered
10 into between ADEQ and Honeywell on 19 September 1999.
11

12 2. ADEQ brings this action under A.R.S. §§ 49-287(I), 49-924(B), and 49-1013(C
13 and D) solely seeking civil penalties.
14

15 **II. PARTIES**

16 3. Stephen A. Owens is the Director of ADEQ and is authorized to bring this
17 action solely seeking civil penalties pursuant to A.R.S. §§ 49-287(I), 924(B), and 1013(C and
18 D).
19

20 4. Defendant Honeywell is a corporation established under the laws of Delaware.
21 Honeywell has been granted authority to transact business within Arizona under the
22 provisions of A.R.S. Title 10, Chapter 15. Honeywell owns and operates a facility located at
23 111 South 34th Street in Phoenix, Arizona. Honeywell is a Person as defined by A.R.S. §§
24 49-201(27), 49-921(8), and 49-1001(11).
25
26

1 Jet fuels are Regulated Substances under A.R.S. § 49-1001(14) and have been found directly
2 beneath Honeywell's Facility, as a free phased layer of floating fuel on top of the
3 groundwater. The floating fuel, as well as the groundwater beneath the floating fuel, is
4 contaminated with dissolved jet fuel constituents and VOCs that were utilized, treated, stored
5 and disposed of at the Facility, as well as their degradation byproducts.
6

7 **Hazardous Wastes**

8 16. Honeywell also generates Hazardous Wastes as that term is defined in A.R.S.
9 § 49-921(5) during the manufacture, repair and testing of its jet engines. A portion of the
10 facility is dedicated to the treatment of various Hazardous Wastes. In particular, Honeywell
11 constructed and currently operates a Wastewater Treatment Unit ("WWTU") that is used to
12 treat liquid Hazardous Wastes generated at the Facility prior to discharge to the City of
13 Phoenix sewer system.
14
15

16 **The Administrative Order on Consent**

17 17. As part of an investigation into the sources of contamination at the Motorola
18 52nd Street Superfund Site, ADEQ entered into an Administrative Order on Consent ("AOC")
19 with Honeywell. This AOC was effective 19 September 1999. One of the purposes of the
20 AOC was to "identify and characterize potential source areas within the Facility in order to
21 mitigate groundwater impact and to focus sampling efforts and increase the efficiency of any
22 Remedial Actions ..."
23
24
25
26

1 33. On or about 12-15 April 1999; on or about 18 May 1999; and on or about
2 1 June 1999, Honeywell commissioned a series of sampling events at Wells ASE- 19A and
3 ASE-20A. The samples disclosed the presence of a floating fuel layer beneath the Facility;
4 that the floating fuel contained a mixture of Jet A, JP-10 and JP-4 fuels; and that the floating
5 fuel was heavily contaminated with volatile organic compounds (VOCs). The floating fuel,
6 contaminated by VOCs, is a hazardous waste within the meaning of A.R.S. § 49-921(5).
7

8 34. On or about 21 September 1999, Honeywell informed ADEQ that while
9 "hydrocarbon products were not observed during the drilling or construction of either
10 [Well ASE- 19A or Well ASE-20A], . . . the presence of such products was suspected during
11 the drilling due to hydrocarbon odors at ASE-19A and [field instrument] readings at both the
12 ASE-19 and ASE-20" Honeywell did not disclose to ADEQ what it already knew, that
13 the floating fuel was heavily contaminated with VOCs until on or about September 20, 2000.
14
15

16 35. On or about 19 April 2000; on or about 15 May 2000; on or about 7 June
17 2000; and on or about 27 June 2000, Honeywell arranged for the pick-up and disposal in four
18 shipments of approximately 3,430 gallons of the VOC-contaminated floating fuel with
19 Thermo Fluids, Inc. ("Thermo Fluids") for fuel blending and energy recovery. Honeywell did
20 not disclose to Thermo Fluids what it already knew, that the VOC-contaminated fuel was
21 required to be managed as a hazardous waste.
22

23 36. Honeywell's failure to inform Thermo Fluids that the floating fuel was
24 classified as a hazardous waste and subject to regulation under the Arizona hazardous waste
25
26

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

3
4 **COUNT FOUR**

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

7 38. Honeywell violated 40 C.F.R. § 262.20(a), as incorporated into the Arizona
8 Hazardous Waste program by A.A.C. R18-8-262(A), in that on or about 19 April 2000, 15
9 May 2000, 7 June 2000, and again on 27 June 2000, Honeywell offered for transportation
10 approximately 3,430 gallons of hazardous waste to Thermo Fluids for offsite treatment or
11 disposal, without preparing a manifest.
12

13
14 **COUNT FIVE**

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

17 40. Honeywell violated 40 C.F.R. § 262.20(b), as incorporated into the Arizona
18 Hazardous Waste program by A.A.C. R18-8-262(A), in that on or about 19 April 2000, 15
19 May 2000, 7 June 2000, and again on 27 June 2000, Honeywell failed to designate one
20 facility that was permitted to handle the VOC-contaminated floating fuel.
21

22
23 **COUNT SIX**

24 41. Plaintiff re-alleges and incorporates each and every allegation contained in
25 Paragraphs 1 through 40.
26

1 **COUNT NINE**

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

4 48. Honeywell violated A.R.S. § 49-931(A)(1) in that on or about 19 April 2000;
5 on or about 15 May 2000; on or about 7 June 2000; and on or about 27 June 2000, Honeywell
6 generated approximately 3,430 gallons of hazardous wastes to be shipped off-site without
7 paying the required hazardous waste fees.
8

9 **COUNT TEN**

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

12 50. Honeywell violated A.A.C. R18-8-262(H) in that on or about 1 March 2001,
13 Honeywell failed to include the approximately 3,430 gallons of VOC contaminated floating
14 fuel it generated and shipped off-site on or about 19 April 2000, 15 May 2000, 7 June 2000,
15 and 27 June 2000 in its 2000 Annual Report.
16
17

18 **Boiler Rules**

19 51. Under 40 C.F.R. § 266.101(c)(1), as incorporated into the Arizona Hazardous
20 Waste Management program by A.A.C. R18-8-266(A), all Owners and Operators of facilities
21 that store or treat hazardous waste that is burned in a boiler or industrial furnace must comply
22 with certain requirements. Those provisions include portions of 40 C.F.R. Part 264
23 (Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal
24 Facilities), and 40 C.F.R. Part 270 (the Hazardous Waste Permit Program). 40 C.F.R. Part
25
26