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10 **THE SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **FOR MARICOPA COUNTY**

CV2008-018396

12 **STATE OF ARIZONA *ex rel.* STEPHEN**
13 **A. OWENS, DIRECTOR, ARIZONA**
14 **DEPARTMENT OF ENVIRONMENTAL**
15 **QUALITY,**

Civil Action No. _____

16 **Plaintiff,**

COMPLAINT

(Non-classified Civil)

17 **v.**

18 **HONEYWELL INTERNATIONAL,**
19 **INC., a Delaware Corporation,**

Defendant.

20 Plaintiff, State of Arizona, acting through Stephen A. Owens, Director, Arizona
21 Department of Environmental Quality, ("ADEQ" or "Plaintiff"), alleges:
22

23 **I. NATURE OF ACTION**

24 1. Plaintiff brings this civil action pursuant to Title 49 of the Arizona Revised
25
26

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

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

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

8 8. Honeywell is an Operator of Underground Storage Tanks as that term is defined
9 in A.R.S. § 49-1001(9).
10

11 9. The Honeywell Underground Storage Tanks contained Regulated Substances as
12 that term is defined in A.R.S. § 49-1001(14).
13

14 **III. JURISDICTION AND VENUE**

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

17 11. Pursuant to A.R.S. §§ 12-401(10) and (17); 49-287(I); 49-924(B), and 49-
18 1013(F), venue is proper in Maricopa County.
19

20 **IV. BACKGROUND**

21 **Facility and Operations Overview**

22 12. Honeywell has Owned and Operated the Facility since at least 1952. The
23 Facility occupies approximately 110 acres, comprises over 100 buildings, employs several
24 thousand persons, and has been, and continues to be used for the manufacture, testing,
25 overhaul, storage and repair of jet engines and aviation-related products.
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 18. Among the deliverables that Honeywell was to submit to ADEQ was a
2 Research Report based upon historical research into the operations at the Facility and which
3 was to detail historical operations at the Facility.
4

5 19. Another deliverable was to be a Focused Remedial Investigation Report that
6 was to document the sources, nature and extent of contamination at the Facility in accordance
7 with US EPA standards for such documents.
8

9 20. All work that was to be performed by Honeywell was to be reviewed and
10 approved by ADEQ prior to commencement of that work. ADEQ had the right to comment
11 on and direct changes to all deliverables under the AOC. Under the AOC, Honeywell was to
12 notify ADEQ at least seven days prior to conducting field events.
13

14 **The Previous Litigation**

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

23 **Environmental Self-Audits**

24 22. Honeywell instituted a program of environmental self-audits in which
25 Honeywell audited thirteen additional Arizona Honeywell facilities for compliance with
26

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

3 23. Honeywell conducted a subsurface structure survey at its Facility in April and
4 May 2007 and took analytical samples of over 170 subsurface structures in September and
5 November 2007. The survey established the existence of 144 subsurface structures, some
6 containing VOCs, some of which had not been previously disclosed to ADEQ as required
7 under the terms of the Administrative Order on Consent. Honeywell voluntarily disclosed its
8 findings of its subsurface structure survey to ADEQ in 2007 and in 2008 in a report entitled
9 *Subsurface Structure Survey, Phase I & II Sampling Report, Honeywell 34th Street Facility*.
10
11

12 24. As part of its disclosures, Honeywell produced analytical results of its sampling
13 of subsurface sumps and interceptors at its Facility conducted in 2001, 2002, 2004 and 2006
14 which revealed elevated levels of VOCs in certain interceptors. Some of these analytical
15 reports had not been timely disclosed to ADEQ as required under the terms of the AOC.
16

17 **V. VIOLATIONS**

18 **Underground Piping**

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

23 **COUNT ONE**

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

1 27. Honeywell violated A.R.S. § 49-1004(A) in that it failed to notify ADEQ that
2 there had been a release or suspected release of a regulated substance from the two
3 underground pipes near Building 211 of the Facility.
4

5 **COUNT TWO**

6 28. Plaintiff re-alleges and incorporates each and every allegation contained in
7 Paragraphs 1 through 27.
8

9 29. Honeywell violated A.R.S. § 49-1004(C) in that it failed to submit a written
10 report to ADEQ that a release or suspected release of a regulated substance from the two
11 underground pipes near Building 211 had been detected.
12

13 **COUNT THREE**

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

16 31. Honeywell violated A.A.C. R18-12-220(b-d) in that the two underground metal
17 pipes were not equipped with cathodic protection.
18

19 **Thermo Fluids, Inc.**

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

1 264 was incorporated, in part, into the Arizona Hazardous Waste Management program by
2 A.A.C. R18-8-264(A). 40 C.F.R. Part 270 was incorporated, in part, into the Arizona
3 Hazardous Waste Management Program by A.A.C. R18-8-270(A). Arizona's incorporation
4 of 40 C.F.R. § 266.101(c)(1) became effective on 6 October 1992.
5

6 52. Owners and Operators of facilities that store or treat hazardous waste that is
7 burned in a boiler or industrial furnace are required to obtain a permit under A.A.C. R18-8-
8 270, and must close the facility in compliance with the closure requirements of A.A.C. R18-
9 8-264.
10

11 53. Between on or about 6 October 1992 and on or about 2 January 1994,
12 Honeywell collected used oil and jet fuel in a series of sumps as part of a routine process of
13 collection of hydrocarbons for final disposition as boiler feed. The used oil and jet fuel were
14 then blended in a boiler fuel tank in Building 202 at the Facility. The mixture of jet fuel and
15 used oil contained VOCs and was used as boiler feed and was burned in on-site boilers to
16 power the large altitude cold chamber in Building 202 and/or related test cells at the Facility.
17

18 **COUNT ELEVEN**

19 54. Plaintiff re-alleges and incorporates each and every allegation contained in
20 Paragraphs 1 through 53.
21

22 55. Honeywell violated A.A.C. R18-8-270 and A.A.C. R18-8-266 in that between 6
23 October 1992 and 2 January 1994 it failed to obtain a permit to treat or dispose of hazardous
24 waste, including used oil, jet fuel and VOCs, in on-site boilers.
25
26

1 COUNT TWELVE

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

4
5 57. Honeywell violated A.A.C. R18-8-264 and R18-8-266 since on or about 2
6 January 1994 by failing to properly close the boiler facility when it discontinued the use of its
7 boilers for the disposal of hazardous wastes.

8 **The Administrative Order on Consent**

9
10 58. On or about 13 September 1999, Honeywell entered into an Administrative
11 Order On Consent (the "AOC") with ADEQ. The AOC was entitled "Focused Remedial
12 Investigation/AlliedSignal Engines Facility/111 South 34th Street, Phoenix, Arizona." The
13 AOC became effective on 19 September 1999.

14
15 The objectives of the AOC were:

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

24
25 59. In order to accomplish the objectives of the AOC, Honeywell was required to
26 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

1 investigative work completed as of the date of the Research Report; recommendations for
2 investigation of potential source areas; and the compilation or format of information in
3 existence regarding dry wells, sumps and any reported incidents, spills or leaks involving the
4 release of hazardous substances. The Research Report was to be certified "under penalty of
5 law" as being "true, accurate, and complete."
6

7 60. In addition to the Research Report, Honeywell was required to submit a
8 "Workplan for Potential Source Areas Investigation" (the "Workplan"). The Workplan was
9 to prescribe a plan for the investigation of soils and groundwater at the Facility, and was to be
10 based on an analysis of all existing data generated in previous investigations and in the
11 Research Report.
12

13 61. Finally Honeywell was to keep ADEQ informed of all activities being
14 conducted at the Facility.
15

16 62. After requesting and being granted an extension, Honeywell timely submitted
17 the Research Report and Workplan on or about 20 December 1999.
18

19 63. The Draft Focused Remedial Investigation Report submitted by Honeywell in
20 September 2004, and the Final Focused Remedial Investigation Report submitted by
21 Honeywell in December 2005, failed to identify or characterize all potential sources at the
22 Facility known or suspected by Honeywell, including contaminated waste oil containing PCE
23 from the Building 503 tank; Stoddard solvent containing elevated levels of PCE from a bulk
24 underground storage tank; interceptor sludge's containing elevated levels of PCE, TCE,
25 TCA, and their degradation byproducts from Buildings 112, 202, 301, 404 and 417; spent
26

1 chlorinated solvent disposals conducted outside Building 301 from approximately 1966
2 through 1979; and potential TCE disposal from the hot wells that received cooling tower
3 water from the Large Altitude Cold Chambers.
4

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

10 COUNT THIRTEEN

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

13 66. By submitting an inadequate and incomplete Workplan that was not based on
14 an analysis of all existing data generated in previous investigations, Honeywell violated
15 Section VII, Paragraph 17 of the AOC. This violation began 17 February 2001.
16

17 **Wastewater Treatment Unit**

18 67. On 1 August 2005, a citizen complaint was received by ADEQ alleging, *inter*
19 *alia*, that the Honeywell WWTU that treats hazardous plating waste at the Facility had
20 experienced an upset resulting in high level of cyanide being discharged into the City of
21 Phoenix sewer system, and cyanide wastewater was being stored in sumps located below acid
22 tanks in the plating shop. ADEQ inspected the WWTU on 2 and 3 August 2005. During this
23 inspection, ADEQ took samples of the cyanide and chrome secondary containment areas.
24 Additionally, the ADEQ inspectors noted several large "Baker" tanks that were labeled as
25
26

1 containing hazardous wastes. Multiple violations of Arizona Hazardous Waste laws were
2 discovered, including: 1) Storage of hazardous waste without a permit; 2) Failure to properly
3 prepare a hazardous waste manifest; 3) Failure to keep written inspection logs; 4) Failure to
4 comply with preparedness and prevention requirements; 5) Failure to comply with personnel
5 training requirements; 6) failure to comply with tank requirements; 7) Failure to furnish
6 information pertaining to hazardous waste as requested by ADEQ; 8) Failure to comply with
7 the required contingency plan and emergency procedures; and, 9) Failure to label containers
8 of hazardous wastes with accumulation dates. As a result of this inspection, ADEQ issued
9 Notice of Violation (NOV) No. 36012 to Honeywell dated 4 October 2005.
10
11

12 68. ADEQ performed a follow-up inspection on 1 February 2006 and uncovered
13 additional Hazardous Waste violations. Pursuant to this inspection, ADEQ issued a second
14 NOV, No. 38813 on 9 May 2006.
15

16 69. ADEQ performed a third inspection of the Honeywell Facility on 20 November
17 2006. ADEQ inspectors took samples of liquid contained in an interceptor located outside
18 Building 112. These samples indicated the presence of hazardous solvents and their
19 degradation byproducts. These solvents were used in degreasing operations at the Facility.
20 Pursuant to this inspection, ADEQ issued a third NOV, No. 77583 on 8 March 2007.
21

22 **COUNT FOURTEEN**

23 70. Plaintiff re-alleges and incorporates each and every allegation contained in
24 Paragraphs 1 through 69.
25
26

1 71. Honeywell violated 40 CFR §262.34(a)(4), as incorporated in A.A.C. R18-8-
2 262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation
3 exemption that requires compliance with the preparedness and prevention requirements of 40
4 CFR 265 Subpart C. This violation stemmed from Honeywell's improper storage of
5 thousands of gallons of plating wastes in secondary containment areas of Buildings 422 and
6 105. Honeywell failed to minimize the possibility of unplanned releases of hazardous wastes
7 by not separating the incompatible chrome and cyanide wastes so that an unplanned release
8 would not result in an uncontrolled reaction. Honeywell received notice of this violation
9 from ADEQ in NOV No. 36012.
10

11
12 **COUNT FIFTEEN**

13 72. Plaintiff re-alleges and incorporates each and every allegation contained in
14 Paragraphs 1 through 71.
15

16 73. Honeywell violated 40 CFR § 262.34(a)(1)(ii), as incorporated in A.A.C. R18-
17 8-262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation
18 exemption that required compliance with the tank requirements in 40 CFR 265 Subpart J.
19 This violation stemmed from Honeywell's use of secondary containment areas to store
20 plating wastes from the chrome and cyanide plating lines when the secondary containment
21 areas failed to meet the hazardous waste tank requirements of 40 CFR Subpart J. Honeywell
22 received notice of this violation from ADEQ in NOV No. 363012
23
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26

1 **COUNT SIXTEEN**

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

4
5 75. Honeywell violated 40 CFR § 262.34(a)(4), as incorporated in A.A.C. R18-8-
6 262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation
7 exemption that requires compliance with personnel training standards in 40 CFR § 265.16.
8 Honeywell training plans did not contain job descriptions or the name of the personnel filling
9 each position and did not describe the initial and continuing training requirements pertaining
10 to hazardous wastes. Honeywell received notice of this violation from ADEQ in NOV No.
11 36012.
12

13 **COUNT SEVENTEEN**

14
15 76. Plaintiff re-alleges and incorporates each and every allegation contained in
16 Paragraphs 1 through 75.

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

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

4
5 79. Honeywell violated 40 CFR § 262.34(a)(4), as incorporated in A.A.C. R18-8-
6 262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day exemption that
7 requires compliance with the contingency plan and emergency procedure requirements of 40
8 CFR Subpart D. This violation stems from Honeywell's failure to implement its contingency
9 plan with respect to an incident involving the chrome plating operations in Building 422 that
10 caused flooding in some secondary containment areas within Building 422. Additionally,
11 Honeywell failed to implement its contingency plan on 3 August 2005 following an acid spill
12 that led to the evacuation of Building 422 and subsequent Honeywell fire response to that
13 building and medical treatment of a Honeywell employee. Because the emergency plan was
14 not implemented, there were no records available during the inspection, and no incident
15 response was submitted to ADEQ as required under 40 CFR § 265.56(g, j). Honeywell
16 received notice of this violation from ADEQ in NOV No. 36012.
17
18
19

20 **COUNT NINETEEN**

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

23 81. Honeywell violated 40 CFR § 262.34(a)(2), as incorporated in A.A.C. R18-8-
24 262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation
25 exemption that requires each container to be marked with the date that accumulation began.
26

1 This violation stems from five 2-gallon containers of cyanide waste that were stored in the
2 hazardous waste storage area that were not marked with accumulation start dates. Honeywell
3 received notice of this violation from ADEQ in NOV #36012.
4

5 **COUNT TWENTY**

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

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

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

24 85. Honeywell violated 40 CFR § 262.20 as incorporated in A.A.C. R18-8-262 in
25 that as a generator, it failed to properly prepare a hazardous waste manifest in that
26

1 approximately 26,000 gallons of hazardous wastes from the chrome and cyanide plating lines
2 did not contain the appropriate F listing code. Honeywell received notice of this violation
3 from ADEQ in NOV No. 36012.
4

5 **COUNT TWENTY-TWO**

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

8 87. Honeywell violated A.A.C. R18-8-262(M) in that it failed to keep a written log
9 of the inspection of container, tank drip pad, and containment building areas for the
10 containers, tanks, and other equipment located outside the WWTU storage areas. Honeywell
11 received notice of this violation from ADEQ in NOV No. 36012.
12

13 **COUNT TWENTY-THREE**

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

16 89. Honeywell violated 40 CFR § 262.34(a)(1)(i), as incorporated in A.A.C. R18-8-
17 262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation
18 exemption requiring the use and management of container requirements of 40 CFR Subpart I
19 in that a one-yard container of F006 hazardous waste was stored for approximately two days
20 and was in poor condition and leaking. Honeywell received notice of this violation from
21 ADEQ in NOV No. 38813.
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1 **COUNT TWENTY-FOUR**

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

4 91. Honeywell violated 40 CFR § 262.34(a)(1)(i), as incorporated in A.A.C. R18-8-
5 262, and A.A.C. R18-8-270(B)(1) in that it failed to comply with the 90 day accumulation
6 exemption requiring the use and management of container requirements of 40 CFR Subpart I
7 in that a one-yard container of hazardous waste clean up debris was stored approximately 12
8 days and was torn and in poor condition. Honeywell received notice of this violation from
9 ADEQ in NOV No. 38813.
10
11

12 **COUNT TWENTY-FIVE**

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

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

23 94. Plaintiff re-alleges and incorporates each and every allegation contained in
24 Paragraphs 1 through 93.
25
26

