LINDON PARK NEIGHBORHOOD ASSOCIATION

December 10, 2007

Stephen L. Johnson
EPA Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Petition to Object the Proposed Title V Permit No. V97008 for the Construction of a Biologically Enhanced Soil Vapor Extraction (BSVE) System at the Honeywell 34th Street Facility, in Phoenix, Arizona.

Dear Mr. Johnson:

The Lindon Park Neighborhood Association (LPNA) is respectfully submitting this Petition to Object the Proposed Title V Permit No. V97008 for the Construction of a Biologically Enhanced Soil Vapor Extraction (BSVE) System at the Honeywell 34th Street Facility, in Phoenix, Arizona. LPNA believes that the proposed permit is out of compliance with the Clean Air Act and applicable regulations.

Enclosed, you will find the LPNA summary of the objections to this permit as well as the information supporting our objections.

Please do not hesitate to contact LPNA if you have any questions regarding this petition.

Respectfully Submitted,

Mary J. Moore

Mary Moore, Vice President
Lindon Park Neighborhood Association
[redacted]

cc: Wayne Nastri, Regional Administrator, US EPA, Region 9
Kathleen Stewart, Air Division, Permits Office, US EPA, Region 9 (electronic copy)

BEFORE THE ADMINISTRATOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of the Proposed Title V
Operating Permits Submitted by

Honeywell Engines, Systems and Services
for the construction of a Biologically Enhanced
Soil Vapor Extraction (BSVE) System at the
Honeywell 34th Street Facility,
located in Phoenix, Arizona

Revisions to Title V Permit No. V97008

Received by the Maricopa County Air
Quality Department (MCAQD)

PETITION REQUESTING THAT THE ADMINISTRATOR OBJECT TO THE ISSUANCE OF THE PROPOSED TITLE V PERMIT FOR THE HONEYWELL FACILITY IN PHOENIX, AZ

INTRODUCTION

Pursuant to Clean Air Act ("CAA" or "Act") § 505(b)(2) and 40 C.F.R. § 70.8(d), Lindon Park Neighborhood Association ("LPNA") hereby petitions the Administrator of the United States Environmental Protection Agency ("US EPA" or "EPA") to object to issuance of the proposed Title V Operating Permit for the Honeywell 34th Street Facility in Phoenix, AZ.

The Maricopa County Air Quality Department ("MCAQD") submitted the proposed Title V permit for US EPA's review on August 22, 2007.[1] US EPA received the proposed Title V permit on August 23, 2007 and its 45-day review period ended on October 9, 2007. This petition is timely filed within 60 days following the conclusion of US EPA's 45-day review period as required by Clean Air Act § 505(b)(2). Under the CAA, the Administrator must grant or deny this petition within 60 days after it is filed. In compliance with Clean Air Act § 505(b)(2), this petition is based on objections to the proposed Title V permit that were raised during the public comment period.[2]

The Maricopa County Air Quality Department held a permit public hearing for Honeywell – Engines, Systems and Services on May 31, 2007 at 5:30 p.m. at the David Crockett Elementary School cafeteria, 501 N. 36th Street, Phoenix, AZ 85008. This hearing was

[1] See Letter to Ms. Katie Stewart, Environmental Scientist, Air Division, Permits Office, US EPA, Region 9 from Suzanne Kennedy, Interim Permitting Manager, Maricopa County Air Quality Department, August 22, 2007. The proposed permit was previously withdrawn from United States Environmental Protection Agency (USEPA) review on July 27, 2007, following 42 days of review.

[2] Comments submitted by LPNA, Mary Moore, and Rene Chase-Dufault dated June 6, 2007

rescheduled from Thursday, April 19, 2007 because of serious concerns from the community about the posting of the public hearing notices by the MCAQD for the April 19 Public Hearing. In addition, serious complaints were raised by the community regarding the actual public hearing held on May 31, 2007 and the actions taken by the MCAQD prior to the public meeting. Furthermore, the proposed permit was previously withdrawn from United States Environmental Protection Agency (USEPA) review on July 27, 2007, following 42 days of review because of jurisdictional concerns raised by Congressman Ed Pastor.[3] According to Ms. Elisa de la Vara, Congressman Pastor's District Director in Arizona, as of December 10, 2007, neither offices in Washington, DC or Arizona had received an official response to Congressman Pastor's concerns (although ADEQ stated in the meeting minutes that ADEQ had responded on August 20th and that EPA had responded on August 22nd to Congressman Pastor). In addition, during the August 23, 2007 Community Advisory Group (CAG) meeting for the Motorola 52nd Superfund site, ADEQ stated that a signed agreement among EPA, ADEQ and MCAQD would be in place defining each agency's role for the site. LPNA has learned now that no official signed agreement will exist and therefore, the Title V Permit must be objected to until a signed, enforceable agreement is in place.

In addition, no mention was made in the permit application or the draft permit of this site being part of an active federal Superfund Site (Motorola 52nd Street Superfund Site) or that the proposed BSVE system is for clean up of CVOCs commingled with jet fuel that are part of an ongoing Superfund clean-up. This is an important fact about this site and must be required to be disclosed in the Statement of Basis or Project Description. Lack of its disclosure and the subsequent omission of this fact in the draft permit led to all public notices failing to include any mention of the Motorola 52nd Street Superfund Site.

MCAQD was asked to include this fact in the Public Hearing Notice for the May 31, 2007, Public Hearing, but declined, as it was not included in either the permit application or draft permit. This imposed an undue burden on the community to understand the importance of the permit application and public hearing and made it nearly impossible for the community to understand that this significant revision to an existing Title V Permit was not simply part of the ongoing, normal business operations of the Honeywell facility.

The circumstances of this permit revision were unique. MCAQD was not able to find any equivalent Title V permit and instead had to rely on permits issued for new sources. Sufficient information must be provided for the community to have a reasonable ability to understand that this permit for air emissions under a Title V permit is not for new sources and would not have the same level of oversight provided by Superfund under CERCLA. In addition, the 2007-2008 EPA-ADEQ Superfund Multi-Site Support Agency Cooperative Agreement (MSCA) [4] states that the "**USEPA is the lead agency**" for the OU2 Interim Remedy. Because the proposed BSVE will address the CVOCs commingled with the jet fuel, these cleanup activities must be dealt under the EPA Superfund program and not by the State Underground Storage Tanks program or the MCAQD.

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[3] Letter from Congressman Ed Pastor to Mr. Wayne H. Nastri, Regional Administrator, EPA Region IX, July 27, 2007.

[4] 2007-2008 ADEQ-EPA MSCA Work plan for the Motorola 52nd Street Site

Insufficient action was taken to insure participation of residents in the area around the Honeywell 34th Street Facility, an area that meets level 1 screening criteria for an Environmental Justice Area. Unfortunately, efforts to reach out to the community relied significantly on the labor of community members to spread the word. Translation of the Hearing Notice by Maricopa County was accomplished only after the LPNA had provided its own translation to the MCAQD when none was forthcoming. The MCAQD translation was not available until May 16, 2007. Lack of identification of the Honeywell Facility as part of an active Superfund Site and lack of identification of the CVOCs involved as Superfund contaminants put up additional impediments to involving the community in the public process.

The Lindon Park Neighborhood Association ("LPNA") is a non-profit organization that was formed in August, 2001, to work towards the promotion of safety and reduction of crime, the prevention and reduction of blight in the neighborhood, the development of Block Watches in the area, an improvement in communication between neighbors and city officials, departments, and local businesses, to develop awareness of safety issues and solutions, and to generally improve the quality of life in the neighborhood through greater individual participation, pride in and cohesiveness among the community residents. LPNA applied for and was awarded a Technical Assistance Grant (TAG) from the U.S. Environmental Protection Agency. As the TAG recipient LPNA is responsible for conducting community outreach and education for the entire Motorola 52Street Superfund Site as well as representing community concerns. The area served by the LPNA is comprised primarily of low-income residents and mono-lingual Spanish speaking families. The demographics of schoolchildren at the schools reflect that of the surrounding community.

The Title V comments submitted by LPNA[2] (and by concerned residents from the community[2]) to MCAQD on June 6, 2007 demonstrate that the permit is not in compliance with the Clean Air Act and related regulations. These examples of noncompliance are further discussed below. Based on this non-compliance, EPA must object to the permit.

SUMMARY OF OBJECTIONS

Petitioner requests that the Administrator object to the proposed Title V permit because the permit does not comply with the Clean Air Act and applicable requirements. In particular:

A). The emission limits and substantive operating requirements set out in the revisions are flawed and inconsistent with applicable law.

B). The revisions create conditions that are not practically enforceable, and thus violate federal law and county regulation.

C). Numerous monitoring and record keeping requirements are deficient, concerns about insufficient frequency of compliance and inspection, monitoring, recording, record retention, reporting, and procedural deficiencies, lack of presentation of the worst case scenario and worst case scenario calculations, and level of oversight concerns and thus fail to yield reliable data regarding the facility's compliance with the permit terms.

D). The triggers for implementing the Alternative Operating Scenarios are vague, and fail to adequately protect air quality and public health.

E). Procedural Deficiencies: Additional permit deficiencies are delineated including problems with the Project Description/Statement of Basis, Environmental Justice concerns, equipment operating specification concerns, and lack of a detailed O&M plan procedures.

F). Emission Calculations: A concern exists over the lack of adequate site characterization: one of the main concerns is that the Light Non-Aqueous Phase Liquids (LNAPL) site has not been fully characterized and that the concentrations of the Hazardous Air Pollutants (HAPs) used for the modeling may not be the worst case scenario.

G). Applicable Requirements: Concerns about the applicable requirements to address the treatment of the identified CVOCs.

H). Oversight and Enforcement: Additional concerns from the community are presented including concerns over authority to regulate air emissions, length of exposure to air emissions, inconsistency with the Second Five Year Review of the Operable Unit 2, concerns over Honeywell's compliance record, lack of institutional responsiveness to community concerns, and concerns over the effects in Phoenix from greenhouse gases that are presently unregulated but will be emitted.

A). FLAWED EMISSIONS LIMITS AND OPERATING REQUIREMENTS

Emission limits and control equipment operating requirements are the heart of the permit. They constrain the inevitable emission criteria of hazardous pollutants from the BSVE system; all the other monitoring, reporting and recordkeeping provisions are in place to ensure those limits and requirements are honored by the facility. Accordingly, the limits and requirements must be written clearly and carefully so as to accurately capture the applicable requirements and to reflect the expectations of the agency and the public. Regrettably, the emission limits and operating requirements in this revision fail to meet that standard.

The proposed BSVE system is contemplating several Alternate Operating Scenarios (AOS) depending on the system treatment capacity. AOS-1 would consist of only a 3,300-scfm vapor treatment system (SVT-1) which would treat wells located on the Honeywell facility only. Over time, wells located on the Phoenix Sky Harbor International Airport (PSHIA) would be phased in to SVT-1 after start up. AOS-2 would consist of SVT-1 and an additional 2,000-scfm vapor treatment system (SVT-2) as wells are added to the BSVE system.

First, the emission limits for AOS-1 and AOS-2 are identical, despite the fact that both the permit application and the MCAQD's technical support document (TSD) acknowledge that the emissions for AOS-1 will be significantly lower. For example, Table 4-1 in the TSD demonstrates that emission levels for VOCs and total hazardous air pollutants (HAP) are lower in AOS-1 than in AOS-2. VOC emissions are 4.06 tons per year (tpy) for AOS-1 and 6.52 tpy for AOS-2; HAP emissions are 3.74 tpy for AOS-1 and 3.86 tpy for AOS-2. Yet the draft revisions would allow VOC emissions of 6.52 tpy even under AOS-1, almost two and a half more tons than the amount stated in the application and the TSD. The permit limits under AOS-1 must reflect the expected representative performance of the BSVE system as set out in the TSD.

Second, the proposed revisions fail to include assumptions in the TSD regarding operating practices intended to minimize formation of dibenzo-p-dioxin and dibenzofuran (PCDD/PCDF) in the incinerators. The TSD states on page 28:

"The BSVE system is designed to minimize, if not eliminate the potential for dibenzo-p-dioxin and dibenzofuran (PCDD/PCDF) emissions. Design considerations include limiting the potential for carbon monoxide formation in the thermal oxidizer, minimizing the residence time in high temperature exhaust (exhaust quenching), and filtering particulates out of the inlet air."

Our review of the draft revisions revealed no language making these practices an enforceable part of the permit.

Third, the proposed revisions do not incorporate existing MCAQD policy regarding air emission at soil remediation sites. In its *Guidelines for Remediation of Contaminated Soil* (May 18, 1998), MCAQD described the application of the air pollution control regulations to soil remediation projects. The *Guidelines* state that "VOC emissions into the atmosphere greater than three pounds per day may be permitted if an air pollution control device is used which has a control efficiency for VOCs of at least 90% by weight." (P. 2) AOS-5 fails to meet this requirement. Despite the fact that VOC emissions in that operating scenario will exceed three pounds per day, the permit does not establish a minimum control-efficiency for the granulated activated carbon unit(s) of 90%. In fact, the permit application and TSD both assume a control efficiency of 70%. (Application at 2-5; TSD at 21, Table 4-6).[5]

B). PRACTICAL ENFORCEABILITY.

Provisions of a Title V permit must be practicably enforceable. *See* MCAQD Rule 302.1(b) (requiring "enforceable" emission limitations and standards.) To be practicably enforceable a provision must (1) clearly describe how an applicable requirement applies to the particular facility, and (2) provide the means for determining whether the facility is complying with the requirement. The table below sets a numerous instances in which the draft revisions are not practicably enforceable.

[5] The permit application suggests that the carbon units will be removed when the uncontrolled VOC emission rate has decreased below 3 lbs/day. (Application at 2-6). The permit does not provide for removal of the carbon units under any operating scenario, nor should it. Even if it were appropriate to remove the carbon units at that time, the *Guidelines* require that the uncontrolled VOC emissions be monitored once every 30 days through the completion of the remediation. (*Guidelines* at 2.)

Provision	Description	Concern
Throughout	Specifications for the various control units.	The permit fails to identify the technical specifications (including size, capacities, media used) and manufacturer information for the units covered by the permit.
34.A(1)	Install, operate and maintain control equipment in accordance with the manufacturer's specifications	Incorporation of manufacturer specifications by reference is problematic because the public has no opportunity to review and comment upon the specific provisions included in the permit. In fact, it appears that MCAQD itself does not know what is in the specifications or whether the language in those specifications is practicably enforceable. This use of manufacturer specification appears throughout the draft revisions.
34(A)(1)	Install, operate and maintain control equipment in accordance with the most recently approved O&M Plan	Incorporation of O&M plans by reference is likewise problematic because the public has no opportunity to review and comment upon the specific provisions included in the permit. The O&M plan approval process could lead to significant changes in the manner in which units are operated or maintained, yet would ostensibly not be viewed as a permit revision requiring public review and comment. *See* Section 34(K)(3) of the draft revisions (treating changes to O&M Plan as minor permit revisions.) This use of the O&M plan in this manner appears throughout the draft revisions.

Provision	Description	Concern
34(E)(11)	"Compliance with allowable emission limits and standards shall be determined by the performance tests specified in this permit."	This language potentially limits the type of evidence that can be used in determining whether a facility is out of compliance. As such, the language contradicts the "credible evidence rule."
34(F)(2)(a) (and throughout)	Thermal oxidizer must be maintained at a temperature of between 1400 and 1800 degrees.	This language is inconsistent with the performance testing provisions for the thermal oxidizer(s), which provides that the unit must be "operated at or above the combustion chamber set-point temperature used to demonstrate compliance." 34(E)(5)(a). The provisions should be modified to clarify that the set-point temperature must be incorporated into the O&M Plan.
34(F)(3)(a)(and throughout)	The caustic scrubber is to be operated "as otherwise specified by the equipment manufacturer."	This language is vague as it fails to identify how the manufacturer will provide the specification and what the specification will be.
34(F)(3)(a)(and throughout)	The caustic scrubber must be operated within certain specified parameters.	The performance testing provisions call for monitoring and recording of operating parameters during the performance test. It is unclear why these results would not be used as the enforceable operating parameters in 34(F)(3)(a).
34(F)(5)	PPA units operated and maintained in accordance with O&M Plan "most recently submitted to the Control Officer."	This provision raises the same concerns addressed above regarding incorporation of the O&M Plan by reference. It is even more troubling because it incorporates O&M Plans that are submitted to but not yet approved by the MCAQD. This essentially allows the facility to write its own requirements without agency involvement.

C). MONITORING, RECORDKEEPING, AND REPORTING

One of the primary goals of Title V permitting is the implementation of comprehensive, systematic monitoring programs. Prior to Title V, permits often established emission limits and standards without identifying any meaningful monitoring mechanisms. Thus, it was virtually impossible to evaluate whether the facility was complying with the substantive obligations set out in the permits. Title V responded to this pervasive problem by requiring periodic monitoring sufficient to "yield reliable data representative of the source's compliance with the permit." MCAQD Rule 302.1(c)(2).

Periodic monitoring should provide a basis for which a responsible official for a source may certify whether the facility's emissions units are in compliance with all applicable air pollution control requirements. Data from periodic monitoring is also important to permitting authorities and citizens for the purposes of assessing a sources' compliance with applicable requirements. The periodic monitoring in the proposed revisions is inadequate in that it fails to provide reasonable assurance of compliance, as described in detail in the table below. However, the most disturbing deficiency relates to basic monitoring requirements for the BSVE emission limitations.

Hourly and annual emission limits for the BSVE are set out in Table 34-1 of Section 34(B) of the proposed revisions. The last column of that table includes notes on how emissions are to be calculated for compliance determination purposes. The calculation methods have two fatal flaws. First, Section 34(B)(1) provides that "[a]ll hourly emission rates shall be calculated by dividing the annual emission rate by the actual hours of operation of the BSVE system." This method of calculating hourly emission rates is alarming because it allows Honeywell to take a whole year's worth of emissions and average it out to get the hourly emission rates. Thus, Honeywell could consistently exceed the hourly emission limits throughout the year, as long as those exceedances are "smoothed over" by averaging across the year. Methods of monitoring to obtain hourly emission rates should relate to the emission limit. Honeywell must monitor and record its emissions substantially more frequently in order to accurately report hourly emission levels.

Second, the revisions require that the facility calculate emissions by using emission factors—rather than direct measurement or appropriate parametric monitoring—for the following pollutants: NO_x, CO, SO_2, PM_{10}, and VOCs. It appears that the emission factors were drawn from EPA's *Compilation of Air Pollutant Emission Factors AP-42* (AP-42).[6,7] MCAQD cannot rely upon emission factors to measure compliance with the emission limits because emission factors do not reflect actual emissions from the facility. EPA expressly notes this in the introduction to AP-42:

> *Use of these factors as source-specific permit limits and/or emission regulation compliance determinations is not recommended by EPA.* Because emission factors essentially represent an average of a range of

[6] U.S. EPA, Office of Air Quality, Planning & Standards, I Compilation of Air Pollutant Emission Factors AP-42: Stationary Point and Area Sources (5th ed. 1995). Honeywell's Application describes how it calculated emissions for the BSVE, relying upon emission factors drawn from Tables 1.4-1 and 1.4-2. Those emission factors match the factors set out in the draft revisions.

[7] AP-42, Introduction, at p. 2.

emission rates, approximately half of the subject sources will have emission rates greater than the emission factor and the other half will have emission rates less than the factors.[8]

The inherent uncertainty of emission factors is exacerbated in the case of the PM emission factor. In establishing emission factors, EPA rated the factors on a scale of "A" to "E" to provide "an overall assessment of how good a factor is, based on both the quality of the test(s) or information that is the basis for the factor and on how well the factor represents the emission source."[9] The PM factor received a rating of "D," indicating that EPA considers its quality to be below average.[10]

Other concerns regarding monitoring are set out in the following table:

Provision	Description	Concern
34(B)(1), note 6	VOC emissions calculated, in part, on the basis of 'the amount of VOCs entering the BSVE system, as reported in the most recent sampling of the BSVE system inlet(s)."	We were unable to find any provisions requiring sampling of the BSVE system inlets, or establishing a schedule or method for such sampling and analysis. Section 34(C)(4) provides for annual sampling of the vapor extraction wells for benzene, TPH and vinyl chloride. This is insufficient for VOC emission monitoring due to the limited scope of analytes and the failure to monitor on a substantially more frequent basis.
34(C)(5)	Honeywell is required to perform "daily visual stack emission checks" of the BSVE system.	This is impermissibly vague as it fails to establish a monitoring method and fails to include any recordkeeping or reporting obligation. If this refers to the opacity monitoring set out in the existing Title V permit, it should expressly refer to that other section, and must harmonize the two.
34(C)(6)	Honeywell is required to "monitor and record inlet flow to the injection manifold."	This is also impermissibly vague as it fails to establish a monitoring method and frequency.

[8] *Ibid.* at p. 2.

[9] *Ibid.* at p. 9.

[10] *Ibid.* at pp. 9-10.

Provision	Description	Concern
34(D)(3)(a)	This section calls for deviation reporting in the semi-annual report.	Deviations should be reported immediately and corrective action taken. There is a deviation reporting section in the existing permit; that section should be expressly referenced in the draft revisions.
34(F)(4)	Spent carbon to be stored in closed containers.	The draft revisions contain no work practice standards for this requirement, nor any monitoring or reporting provisions.

Additional concerns about monitoring and record keeping are:

1) MCAQD would not consider newer continuous monitoring system technology for dioxin emissions, designed to replace the labor intensive and more expensive manual stack sampling techniques used to quantify dioxins in the flue gas. Continuous monitoring for dioxin and furans emissions must be required. MCAQD must conduct independent testing for dioxins and furans during the scheduled performance tests to demonstrate facility compliance.

2) More frequent monitoring including split sampling and compliance reporting must be required. During start-up or any periods of non-compliance daily or more frequent sampling must be required and must include independent split sampling. Immediate reporting of non-compliance or deviation must be required. Records of all monitoring and sampling must be required to be kept and reported. Record retention requirements must be no less stringent than that required under Superfund. Monthly reporting is requested for normal operating conditions that are in compliance with the permit, and immediate reporting must be required for all other conditions or in any situations of non-compliance.

Honeywell must be required to report immediately any incidence of noncompliance or deviation with no less a requirement than would be required under Superfund. A lag of up 30 days between identification and subsequent reporting, while testing is done and actions taken to bring the situation back into compliance (a requirement verbally described by MCAQD) must not be allowed under the Title V permit. The Title V Permit provision 21(A) is insufficient in requiring that "The Permittee shall identify all instances of deviations from the permit requirements in the semi-annual monitoring report. The Permittee shall include the probable cause of such deviations, and any corrective actions or preventive measures taken."

3) More frequent inspections must be required as well as more frequent sampling. Community concern remains that any inspection must be site-wide at the Honeywell facility for the entire Title V permit. Inspection of all of the Honeywell facility takes at least 4 to 5 days to conduct and as soon as the inspector steps onto the Honeywell property significant prior warning of inspection is provided.

4) Stack testing as proposed is insufficient (every 2 or 5 years after initial test). Semi-annual, if not more frequent, testing must be required with tests to include thermal oxidizer destruction efficiency, total VOC emissions, concentrations of individual VOCs, dioxin/furan emissions testing, and HCl and HF emissions testing at a minimum.

5) Wells and the BSVE system inlets must be monitored for more compounds than benzene, vinyl chloride, and TPH. All compounds listed in the Potential-to-Emit tables must be monitored and reported. The site is not well characterized, must have more frequent monitoring, and must include split sampling performed by MCAQD during these monitoring events.

ADEQ's October 7, 2005, Corrective Action Plan Final Approval letter states under condition 5 that "the vapor-treatment monitoring plan shall include periodic monitoring for dioxins, along with all other chemicals of concern listed in Table 17 of the CAP." All chemicals and contaminants of concern identified under Superfund must be monitored and reported.

6) All thermal oxidizer residence times must be recorded and reported for operation of SVT-1 and SVT-2 along with reporting of the source of the fuel input and CVOC concentrations. The residence time used must be disclosed for all calculations including PTE calculations. All assumptions and parameters for calculations and modeling must be clearly noted. Variance of residence times and the impact on worst case scenario numbers must be included in the permit. The minimum residence time required must be specified to ensure more complete combustion of organic materials, and in particular, the chlorinated VOCs.

7) The input sources for thermal oxidizer "incinerator" units SVT-1 and SVT-2 need to be recorded and reported. The concentrations and characterizations of the fuel and CVOCs that are treated along with the length of time of treatment, temperature, residence time, etc., must be continuously collected, recorded, and reported. Honeywell's permit application presented conflicting source streams into SVT-1 (3,300 scfm unit) and SVT-2 (2,000 scfm unit). Examples of this include:

- Page 1-1 statement reads that SVT-1 "will only be connected to wells located on Honeywell property. Wells located on PSHIA property will be phased-in to SVT-1 after start-up.

- Page 1-2 statement describes SVT-2 as a system that "will be installed, if necessary, to achieve higher flow rates and mass throughput as wells are added to the BSVE system. The decision to install the second system will be based on the progress of remedial activities and how rapidly methane and TPH concentrations decline within the target treatment area, freeing up throughout capacity in SVT-1."

- On Page 4-5, the statement is made that "Emissions have been calculated for SVT-1 operating alone and for both SVT-1 and SVT-2 operating together. Emissions are presented for both situations to accurately reflect expected conditions on the site."

- However, on page 4-3 it is written that "Because the soil vapor concentrations are significantly higher on the Honeywell property (which includes the contaminant source) than on PSHIA property, for the purposes of emissions estimating, it was assumed that SVT-1 treated soil vapor from wells on the Honeywell side only whereas the combined SVT-1/SVT-2 system treated soil vapor from wells located throughout the target treatment area."

- Table 4-3 shows Maximum Potential Emissions After Treatment for SVT-1 and SVT-2 Operating. It appears from the numbers in the Inlet to SVT-2 that the source

would have to be PSHIA. If the sources to SVT-1 and SVT-2 were as described in the air permit, then the annual inlet rates to SVT-1 would decrease from Table 4-2 and the lb/hr of various contaminants at SVT-2 would be proportionate to those seen in Table 4-2 for SVT-1 only (since SVT1 is described as the worst case scenario).

- Evidently, Honeywell is proposing that the inlet for the second column (SVT1 and SVT-2) has a different inlet source for SVT-1 only where the inlet source for SVT-1 and SVT-2 has the inlet source for SVT-1 including 2,000 scfm from PSHIA and SVT-2 will be only from the Honeywell property.

- On page 4-3 Honeywell now states that "Because the soil vapor concentrations are significantly higher on the Honeywell property (which includes the contaminant source) than on PSHIA property, for the purposes of emissions estimating, it was assumed that SVT-1 treated soil vapor from wells on the Honeywell side only whereas the combined SVT-1/SVT-2 system treated soil vapor from wells located throughout the target treatment area." This is not consistent with their earlier description, and again we do not believe it represents a worst case scenario.

- Table 4-3 Notes should disclose information about the sources for SVT-1 and SVT-2. The notes state, "it was assumed that all chlorine and fluorine ions present in the inlet stream to the thermal oxidizer unit were converted to HCL and HF." We have a question about the accuracy of this statement in actual operation. Sampling and testing must be required. How does this assumption represent the worst case scenario that is required to be presented in the application?

These inconsistencies need to be resolved and the permit application rewritten and resubmitted. There should be clear delineation of the input into SVT-1 and SVT-2 and a true worst case scenario needs to be included in the permit application. The public needs for this information to be presented clearly to be able to comment adequately.

D). TRIGGERS FOR ALTERNATIVE OPERATING SCENARIOS

Several of the alternative operating scenarios are triggered by attainment of specified soil vapor concentrations of various pollutants. In AOS-3, the PPA units may be removed if the vinyl chloride level reaches 30 µg/l. In AOS-4, the thermal oxidizer(s) and caustic scrubber(s) may be removed when the TPH and benzene levels reach 4,200 µg/l and 9.7 µg/l, respectively. AOS-5 allows for removal of the PPA units, thermal oxidizer(s) and caustic scrubber(s) upon attainment of the levels identified above. The structure of the triggering mechanism (which is similar in all scenarios) raises several concerns.

First, the proposed revisions require that the "average soil vapor concentration of [the relevant pollutant] in the wells within the influence of the extraction system" be below the relevant trigger level. It is unclear whether the average in question is the average level in each well, or instead the average of the levels in all wells collectively.

Second, the average is to be "based on at least three (3) monitoring events over a period of at least six (6) months." This standard would permit significant gamesmanship by Honeywell. For example, the standard could be met even if the most recent three monitoring events in a six month period were well above the trigger level because those more recent events are discarded

in determining the average. Alternatively, three monitoring events below the trigger level would justify initiation of the alternative operating scenario even if there were spread out of a two year period.

Third, once initiated, an alternative operating scenario may continue so long as the average concentrations of the relevant pollutant remains below the trigger level "for all monitoring events in the most recent twelve (12) month period." It is unclear whether this operates prospectively (i.e., the 12 month period begins with the first month of operation of the AOS), or retrospectively (i.e., the twelve month period looks back to months prior to the initiation of the AOS).

E). PROCEDURAL PERMIT DEFICIENCIES

The LPNA and the community have identified the following as additional deficiencies and concerns with the permit as proposed:

1) No mention is made in the permit application or the draft permit of this site being part of an active federal Superfund Site or that the proposed BSVE system is for clean up of CVOCs commingled with jet fuel that are part of an ongoing Superfund clean-up. This is an important fact about this site and must be required to be disclosed in the Statement of Basis or Project Description.

Lack of its disclosure and the subsequent omission of this fact in the draft permit led to all public notices failing to include any mention of the Motorola 52nd Street Superfund Site. MCAQD was asked to include this fact in the Public Hearing Notice for the May 31, 2007, Public Hearing, but declined, as it was not included in either the permit application or draft permit. This imposed an undue burden on the community to understand the importance of the permit application and public hearing and made it nearly impossible for the community to understand that this significant revision to an existing Title V Permit was not simply part of the ongoing, normal business operations of the Honeywell facility.

The circumstances of this permit revision are unique. MCAQD was not able to find any equivalent Title V permit and instead had to rely on permits issued for new sources. Sufficient information must be provided for the community to have a reasonable ability to understand that this permit for air emissions under a Title V permit is not for new sources and would not have the same level of oversight provided by Superfund under CERCLA.

2) Insufficient action has been taken to insure participation of residents in the area around the Honeywell 34th Street Facility, an area that meets level 1 screening criteria for an Environmental Justice Area. Unfortunately, efforts to reach out to the community relied significantly on the labor of community members to spread the word. Translation of the Hearing Notice by Maricopa County was accomplished only after the LPNA had provided its own translation to the MCAQD when none was forthcoming. The MCAQD translation was not available until May 16, 2007. Lack of identification of the Honeywell Facility as part of an active Superfund Site and lack of identification of the CVOCs involved as Superfund contaminants as noted above in 1) put up additional impediments to involving the community in the public process.

A question was raised to the County about the possibility of mailing the hearing notice to the ADEQ Motorola 52nd Street Superfund Site distribution list and a request was made by the Motorola 52nd Street Facility Superfund Site Community Advisory Group to be put on the MCAQD mailing list of persons who want to receive notice (and contact information was provided to MCAQD by ADEQ).

The original Public Hearing for April 19, 2007, was cancelled due to concerns about the noticing that had been raised by the LPNA, rescheduled, and re-noticed for May 31, 2007.

3) Since the O&M Plan will be finalized after issuance of the Title V Permit, the public will not be given the opportunity for discussion, input or incorporation of concerns into the approved O&M Plan. The community has raised this concern during the approval process for the ADEQ Corrective Action Plan. This concern remains. The community continues to request inclusion in the approval process for the O&M Plan. Changes made in the draft permit must be reflected in an updated draft O&M Plan. Ideally, both drafts would be provided to the public for comment.

An additional concern raised by the community that must addresses is that operational requirements do not ensure system integrity or that emissions limits will be met. Any weaknesses in the system interlock and by-pass must be identified and addressed.

The O&M Plan must include an inspection schedule for the activated carbon to treat the CVOCs and the vinyl chloride that does allow undetected breakthrough especially early on in the running of the system.

4) At the May 31, 2007 Public Hearing statements were made about the site, the design and the permit. The LPNA requests that MCAQD provide the transcript of the Public Hearing and in particular, the introductory statements and the substantiation for each statement made before public comments were taken. Although LPNA spoke to MCAQD personnel and USEPA Superfund well in advance of the first scheduled Public Hearing about the need for LPNA's representative to have enough time to present comments for LPNA, for the TAG, for the CAG, and possibly for the TAG's Technical Advisor who was out of the country on May 31st, the representative was not allowed to make all the comments prepared for the public record and the meeting was adjourned 36 minutes before the suggested end of the meeting. After the meeting was brought to a close, the LPNA representative remarked to [redacted] that it was unfortunate that the USEPA Air Permit group did not have a travel budget that would allow them to attend public hearings. [redacted] replied that USEPA would be "stepping on toes" if they showed up at a public hearing as the County has been delegated the Title V authority.

Community members have asked why aren't the regulating authorities asking for a more thorough site characterization and why is there such a push for this technology at this time in the middle of Phoenix, the fifth largest city in the U.S.? Why would the County cut off public comment at a Public Hearing ending the hearing with 36 minutes remaining? Why was no prior warning given to LPNA so that the necessary logistics could have been accomplished for division of the comments between several individuals so that all comments that were prepared for the Public Hearing would have been presented to the County before the public present at the hearing?

F). EMISSION CALCULATIONS

1) A concern exists over the lack of adequate site characterization: one of the main concerns is that the Light Non-Aqueous Phase Liquids (LNAPL) site has not been fully characterized and that the concentrations of the Hazardous Air Pollutants (HAPs) used for the modeling may not be the worst case scenario. A lower water table has been observed at the site. If the water table rises (and drops) again, more contaminants from the free phase would be left in the soil increasing the soil vapor concentration.

2) Since the site has never been fully characterized, there cannot be any projections as far as how long this system will be in place. Community members have a concern for how long residents will be potentially exposed to these air emissions. MCAQD has indicated that Honeywell estimates this proposed clean-up running 7 to 10 years. Consultants for Honeywell have stated at two public community meetings an estimate than within 18 to 24 months the thermal oxidizers could be removed and the clean up would consist of air injection only. What are the bases for this projection and why is it not included in the application? Is it possible no air emission controls will be in place in as little as 18 months? What is the possibility that the air injection only phase could extend for 10, 15, 20 years? How can this permit be allowed to go forward without fuller site characterization? If concentrations of CVOCs are higher than predicted, how will this affect the design, the potential emissions, the potential for breakthrough, and the potential for non-detection?

Please note that vinyl chloride Maximum PTE after Treatment only increases from 4.08E-02 to 4.10E-02 when going from SVT-1 only (3,300 scfm) to SVT-1 and SVT-2 (combined 5,300 scfm) operating. If the source input into SVT-1 and SVT-2 were both the Honeywell facility this number would be significantly higher. Vinyl chloride is a known carcinogen. The public needs to understand the actual risks that may be involved in the operation of SVT-1 and SVT-2. The Maximum PTE tables must reflect the maximum potential to emit.

If the worst case calculations are allowed to stand, many questions arise. How will the source input into SVT-2 be guaranteed to be only from the Phoenix Sky Harbor International Airport (the model used in the permit for the PTE numbers)? Will input into SVT-2 be allowed from the Honeywell Facility? If so, why are no additional PTE tables calculated?

If the Potential-to-Emit calculations do not represent a worst case scenario, they must be recalculated and perhaps several tables presented representing different combinations of source inputs into SVT-1 and SVT-2. The public must be informed of the worst case and given the opportunity to comment.

Concerns over the assumptions used in the modeling were expressed to the County, which was going to inquire into the possibility of sharing the back and forth commenting and correspondence that arose during evaluation of the model. No additional information was provided to the LPNA.

LPNA does not agree with the statement on page 5-14 "Vinyl chloride with SVT-1 operating alone was the worst case scenario." While that may be true for the model that was presented in this application, again LPNA does not believe it represents the worst case scenario.

LPNA has an additional concern that worst case is used to reflect total concentration of compounds (percentage of composition of compounds in the stack) and not the actual amount of compounds emitted. The stack is restricted when only SVT-1 is in operation. Even if PSHIA lower concentrations are combined with Honeywell concentrations the total raw numbers are higher and in that sense represent the worst case scenario to the public.

On page 4-1, Honeywell writes, "The maximum PTE would occur if SVT-1 and SVT-2 were operating simultaneously. However, because the units will discharge through a single stack, the worst case emissions from an air dispersion modeling standpoint would occur when only SVT-1 is operating. This is due to the lower concentrations expected when wells located on PSHIA are added to the System and the increased air flow rate when SVT-2 is added. Therefore, PTE was calculated for both SVT-1 operating alone and for both SVT-1 and SVT-2 operating together."

As previously noted LPNA does not believe this represents the worst case scenario under which both SVT-1 and SVT-2 will be operated. LPNA believes the worst case scenario is having both units operating with an input source from the Honeywell Facility. LPNA also believes that the calculations presented in Section 4 and Section 5 must be recalculated to reflect the worst case scenario before the air permit application can be appropriately reviewed.

On page 4-4 under "Addition of SVT-2" the application states that "Concentrations of HAPs in the soil vapor from PSHIA wells have generally been lower than those observed on Honeywell property. Because proposed injection/extraction well locations for the PSHIA property have not yet been finalized, a slightly different approach was used to estimate PTE for HAPs associated with the installation of SVT-2 and the incorporation of soil vapor from the PSHIA property. **To be conservative, the maximum concentration of each compound observed anywhere on PSHIA property was assumed to be the concentration that will be treated if SVT-2 is installed."** (bold added) Again, LPNA does not believe this is consistent with other statements in the air permit application and does not represent a worst case scenario.

Because the site is not well characterized, LPNA is concerned about how any of the concentrations used in the modeling can be evaluated. When LPNA spoke with the County engineer (Lorna Lynum at that time) about the model used by Honeywell, she let LPNA know that the County's consultant had looked at it and did not have problems with it. LPNA has questions about the assumptions and parameters of the model and request an independent evaluation of the model.

Staff turnover at MCAQD affected LPNA ability to evaluate this permit as well as the need to start over with each new person.

3) On April 19, 2007, at a joint Community Advisory Group (CAG) and LPNA Technical Assistance Grant (TAG) meeting the Motorola 52nd Street Superfund Site CAG unanimously passed a motion requesting that any permits issued by Maricopa County be reviewed by Superfund regulators under the most stringent current guidelines to be sure that they are met and that air quality permits not be based on manufacturing standards, but the fact that this is a clean-up should be carefully considered in whether or not such a permit is issued. In addition, that in issuing the permit the characterization of the site should be carefully examined to determine if it will have a future impact. A second motion was passed unanimously that the Technical Assistance Grant recipient, the Lindon Park Neighborhood Association, and its technical advisor

represent the CAG at the Air Permit Public Hearing. The CAG also expressed its concern that the County does not send out a mailing with the notice of Public Hearing. The notice was published only in the newspaper. It was pointed out that the County must have a process to get permit hearing notices to concerned parties.

G). APPLICABLE REQUIREMENTS

Other community concerns, which have been identified, including some that may be outside the scope of authority of the MCAQD and this air permit, are listed below:

1) The specification of a temperature operating range for the thermal oxidizers (or "incinerators") that allows operation in the range of 1400°F to 1600°F, where formation of dioxins would be occurring due to the incomplete combustion of organic materials in the vapor when chlorinated hydrocarbons are present, must be re-examined. A higher minimum temperature of at least 1600°F must be designated.

The draft permit specifies an operating range for the thermal oxidizer units from 1400°F to 1800°F. It is possible, please see attachment, that this entire operating range of temperatures is too low and that "if the vapor stream contains halogenated compounds, a temperature of 1100°C (2000°F) and a residence time of one second is needed to achieve a 98% destruction efficiency. . . . The organic destruction efficiency of a thermal oxidizer can be affected by variations in chamber temperature, residence time, inlet organic concentration, compound type, and flow regime (mixing)."

Preliminary EPA comments[11] to the Honeywell permit have expressed concerns about the operating range of temperature being too low:

"It is unclear how the temperature range of 1400 ^{0}F-1800 ^{0}F was decided upon. It is our understanding that dioxin formation levels off at around 1500 ^{0}F, and, after that point, dioxin formation is not expected to increase as a function of increasing temperature. At the same time, VOC destruction efficiency increases as a function of increasing temperature. According to EPA's air pollution control technology fact sheet for thermal incinerators, available on EPA's Clean Air Technology Center website, to achieve a 98% control efficiency for halogenated VOC streams, a combustion temperature of 2000 ^{0}F and a 1 second residence time is recommended, along with an acid gas scrubber on the outlet."

No matter how small the concentration of chlorinated VOCs, the potential for dioxin formation remains. Apart from the thermal oxidizers, there is a second source for the formation of dioxins – from corrosion of the stack (usually related to fly ash).

To verify the effectiveness of the proposed BSVE thermal oxidation process a third-party assessment that is independent from the one proposed by Honeywell must be conducted.

[11] Honeywell Engines, Title V Modification Permit for the BSVE System, Preliminary EPA Comments, September 27, 2007.

2) The elimination by MCAQD of consideration of flameless thermal oxidation technology does not reflect current expertise on destruction of halogenated compounds and the avoidance of formation of dioxins and furans. If thermal oxidation technology is permitted, use of flameless thermal oxidizers must be considered.

3) While there is a concern about the lack of sufficient Operation and Maintenance procedures in general, there is a particular concern about the lack of an adequate the ramp-up schedule for thermal oxidation units SVT-1 and SVT-2. This startup schedule must be no less rigorous than that which would be required under Superfund oversight. Preferably a schedule outlining MCAQD's presence during the first two to three days of starting up the equipment with sampling, then daily visits and sampling for the first week or two with visits and sampling tailoring off to weekly, twice a month, monthly, as the technology performance is demonstrated and documented. We do not share the County's assumption and reliance in the sufficiency of voluntary compliance and reporting.

4) A principle concern is that federal Superfund contaminants at an active Superfund Site should not have air emissions covered under a Title V Permit for new source emissions. Maricopa County has no authority over Superfund air emissions. Superfund CVOCs should be under Superfund authority. This is not a new source and CVOC contaminants, which are part of a Superfund Site clean up, must not be allowed to be transferred from one medium, the soil, and released into another medium, the air.

What potential unintended consequences might arise from allowing Superfund CVOCs to be permitted under a Title V Permit? How might this be used in a court case? Would this set any precedent for other responsible parties at Superfund sites to argue successfully to be allowed to emit higher levels of VOCs or to remove air emission controls totally? In 2003, Motorola proposed removing the carbon canisters at Operable Unit 1 of the Motorola 52nd Street Superfund Site and then voluntarily elected to replace the cracked canisters in the face of stiff public opposition. Until recently Motorola had been in negotiations with EPA on the possible removal of air emission controls at the North Indian Bend Wash Superfund Site. However, EPA ruled on November 14, 2007[12] that the air emission controls were required to meet their emission requirements. In addition, ADEQ, in a letter to EPA on November 14, 2007, indicated that ADEQ does not support the relocation of contaminants from one media to another and that contaminants should be removed from the environment and treated or disposed of appropriately. EPA must not set the precedent of Superfund contaminants under a Title V Permit being permitted to any allowable emission limits. The BSVE system scenario under AOS-5 (air injection without vapor treatment) will result in Superfund contaminants being transferred from one medium to another.

What assurances do community members have that no legal ramifications would occur that would result in weakening air emission controls in the future in Maricopa County, in Arizona or in Region 9? Honeywell has been described as preferring "to litigate than to remediate." Is there a way that Honeywell will be able to take the County or ADEQ to court over the requirements for air emission controls? Might Honeywell apply for another Title V Air Permit modification for this clean up in the future? If Honeywell submits any additional revision to the Title V permit involving the BSVE system or the clean up of the jet fuel and CVOC

[12] Letter from Keith Takata, Director, Superfund Division, US EPA Region IX to Mr. Michael Loch, Motorola, Inc., and Mr. Brian Israel, Arnold and Porter LLP, November 14, 2007.

contamination, the permit application revision, whether significant or minor, must go to public comment.

Honeywell must be required to disclose the worst case and most probable case quantities of jet fuel and other CVOC contaminants in the soil, in the free product plume and dissolved in the groundwater. If worst case and probable case quantities were disclosed for the soil, independent calculations could be made and estimates derived for length of various remediation procedures.

5) ADEQ's legal counsel in the Attorney General's Office informed LPNA of a meeting/teleconference between the MCAQD, ADEQ, ADEQ's counsel, USEPA, and Honeywell held this spring prior to the first scheduled public hearing. It was relayed that during this meeting the County indicated that there would be no removal of air emission controls without the appropriate authorization. In response to LPNA's question about who actually has authority in a situation with Superfund CVOCs it was suggested that LPNA raised that question. So LPNA asks: who has this authority? How has this condition been incorporated into the permit? Might it be argued that these are Superfund CVOCs and the County has no authority to regulate? Might it be argued that USEPA and ADEQ have relinquished their jurisdiction and authority to regulate these Superfund CVOCs in the future by allowing them to be permitted under a Title V Air Permit? LPNA continues to have a concern over any potential legal precedents that may be set and may later affect this or other Superfund Sites in Phoenix, the County, Arizona, EPA Region 9, and the U.S.

6) The July 2004 lawsuit brought by Attorney General Terry Goddard on behalf of ADEQ against Honeywell stated Honeywell entered into an Administrative Order on Consent ("ADEQ Order"), and agreed to undertake a focused remedial investigation of soils and groundwater at the Facility for the purpose of identifying and characterizing potential or known sources of releases of chlorinated volatile organic compounds at the Facility and determining the nature and extent of chlorinated VOC contamination at and emanating from the Facility. Jet fuels have been found directly under the Facility, as a free phased layer floating on top of the ground water (hereinafter referred to as "floating fuel"). This layer of floating fuel is contaminated with chlorinated VOCs.

The groundwater beneath is also contaminated with dissolved jet fuel constituents and chlorinated VOCs. On April 12-15, 1999, on May 18, 1999 and again on June 1, 1999, Honeywell commissioned sampling events for certain monitoring wells. The samples collected during these events showed that the floating fuel under the Facility was a mixture of Jet A, JP-10, and JP-4 fuels. Sampling results that shows that the floating fuel was contaminated with elevated levels of chlorinated VOCs were not disclosed to anyone at ADEQ. A written report of certain sampling data collected in the spring and early summer of 1999 was sent to Honeywell on June 15, 1999 by Hargis + Associates, Inc. The June 1999 report confirmed the presence of chlorinated VOCs in soil and water samples taken from or near Wells ASE-19A and ASE-20A at Facility. These results were also not disclosed to ADEQ at the time. At the same time Honeywell was confirming the presence of the chlorinated VOCs in the floating fuel beneath the Facility, it was negotiating the ADEQ Order.

The purpose of the ADEQ Order was to conduct an investigation into the nature, extent and potential sources of chlorinated VOCs at or emanating from the Facility. During the course of these negotiations, however, Honeywell continued to hide the fact that it had taken samples in

April, May or June, 1999 and that the results of these 3 sampling efforts confirmed the presence of chlorinated VOCs in the floating fuel and ground water beneath the Facility from ADEQ. On September 19, 1999 ADEQ and Honeywell entered into the ADEQ Order. Two days after the ADEQ Order was signed, Honeywell sent a letter to ADEQ, informing ADEQ that although 'hydrocarbon products were not observed during the drilling or construction of two monitoring wells [Well ASE-19A or 20A], the presence of such products were suspected during the drilling due to hydrocarbon odors at ASE-19A and PID readings at both ASE-19 and ASE 20 well cluster sites.'

On February 28, 2000, ADEQ received a report from Honeywell, prepared by Honeywell's contractor Trillium, Inc. This report contained data that only identified the types of jet fuels present in the floating fuel layer beneath the Facility. Although data confirming the presence of chlorinated VOCs was in Honeywell's possession – the results of the samples taken during the April – June 1999 sampling events – this data was not included in the version of the report given to ADEQ. ADEQ learned later that Trillium, Inc. had produced a version of this report containing both types of data – jet fuel and chlorinated VOC analysis – had been produced by Trillium, Inc. for Honeywell as early as September 29, 1999. Further, Honeywell failed to disclose to ADEQ the fact that the critical data documenting the presence of chlorinated VOCs had been removed or redacted from this report. Following a review of the redacted February 18, 2000 Trillium Report supplied to it by Honeywell, ADEQ granted permission to Honeywell to dispose of the floating fuel. Honeywell, however, did not disclose to Thermo Fluids that the recovered fuel was contaminated with chlorinated VOCs, requiring that the fuel be managed as a hazardous waste.

On August 14, 2000, Honeywell submitted its "Conceptual Site Model" to ADEQ. In this Model, Defendant Honeywell, for the first time, disclosed that an analysis of floating fuel had been conducted in 1999. However, Honeywell did not provide ADEQ the actual results of these sampling efforts. Instead, Honeywell represented that the floating fuel contained a 'small amount of dissolved chlorinated VOCs.

The Potential Source Areas Work Plan was required to be submitted in a true, accurate and complete form on December 20, 1999. Honeywell submitted numerous versions of the Potential Sources Areas Investigation Work Plan. ADEQ found each version of the Potential Source Areas Work Plan deficient and unacceptable. On March 1, 2002, ADEQ informed Honeywell that upon preliminary review, the first phase of work required by the ADEQ Order – to investigate potential source areas – remained incomplete. ADEQ and Honeywell soon thereafter reached an impasse regarding what an acceptable Research Report and Potential Source Areas Work Plan would contain. Since ADEQ had little expectation that Honeywell would comply with the ADEQ Order, it took over the work to investigate and characterize potential sources itself."

This past behavior of Honeywell indicates a pattern of unwillingness to comply with applicable requirements at this facility and at other Honeywell facilities. According to Federal law, a Title V permit may be issued only if the conditions of the permit provide for compliance with all applicable requirements. Given the record of Honeywell's actions at other sites, at this site under the Superfund program, and its subsequent violations until the Title V permit issued in January 2006, a Title V permit modification must not be issued to the facility because the permit cannot assure that the facility will comply with the law.

H). OVERSIGHT AND ENFORCEMENT

1) A concern remains that oversight under a Title V Air Permit will not provide the same level of oversight that would be provided under Superfund despite assurance from ADEQ's Director of Tank Programs Division, Phil McNeely, that it does. In a February 27, 2007, conversation in response to this assertion Director McNeely was asked to provide, in writing, what steps would be taken, how this would be accomplished, the frequency and time table for actions, and any other evidence to support the equivalency of oversight provided by the two programs. Director McNeely responded that he would not and that it would be "inappropriate" to do so.

2) Community concerns have been raised about Honeywell's track record as evidenced by the recent $500,000 penalty ADEQ issued to the Honeywell facility outside Kingman, AZ, for violations to the states' hazardous waste laws, violations the ADEQ director called "a recipe for disaster." As reported in the Phoenix Business Journal on February 23, 2007, "ADEQ inspectors discovered in September 2005 that the Honeywell Aircraft Landing Systems facility near Kingman was operating two gas-fired hazardous waste thermal treatment units without the required hazardous waste treatment permit. . . In addition to charges related to operating the waste treatment units without permits, ADEQ charged Honeywell with underreporting its hazardous waste." Waste Age reported, "In addition to operating without a permit, Honeywell Kingman was also cited for failing to submit signed manifests, failing to properly label each container and tank as hazardous waste, failing to inform employees of proper handling and emergency procedures and failing to comply with personnel training requirements."

In Appendix L "Facility Compliance Plan" of the Honeywell 34th Street Facility Title V application for the permit modification, there were 5 instances that shows the current compliance status as "Not in Compliance" or "Out of Compliance" in the Semi Annual Monitoring Report dated August 25, 2006 and 11 NOVs issued on 7/11/06 in the first Semi-Annual Monitoring Report Summary of Deviations from Permit Requirements for the period 1/26/06 – 7/26/06. The instances of "Not in Compliance" or "Out of Compliance" included: (1) Permits and Permit Changes, Amendments, and Revisions – "all permit modification applications submitted by the facility are in compliance with the regulations. Significant Modification Permits are being prepared and will be submitted"; (2) Records Required – "all flow meters have been calibrated, replaced or repaired and scrubber blow down is being recorded"' (3) Hard Chromium Electroplating: Monitoring and Record Keeping, Required Records – "all flow meters have been calibrated, replaced or repaired and scrubber blow down is being recorded"; (4) Thermal Spray Coating: Monitoring and Record Keeping, Process Materials – "Powders weight as used rather than recorded daily"; (5) Plating Operations Other than Chrome Plating: Operational Limitations – "all flow meters have been calibrated, replaced or repaired and scrubber blow down is being recorded". The 11 instances of NOVs issued 7/11/06 included: (1) Rule 201 Section 303.1.a – Failure to submit a complete application; (2) Rule 210 Section 301.4 – Failure to submit a complete equipment list; (3) County Rule 210.302, 305 – Deviations related to ECS parameters not in range were not reported to MCAQD within 2 days of identification; (4) Rule 330 Section 306 – Open paint containers in Building 110 dry lubricant spray booths; (5) Rule 320 Section 302, Rule 331 Section 302.1 – Failure to provide leak-free (open lid) Stoddard solvent container in Building 103; (6) County Rule 210.302, SIP Rule 3 – ECS parameters were not within allowable ranges for entire compliance period; (7) Rule 331 Section 303.1 – Wood brush in Zep solvent tank in Building 222; (8) 40 CFR 63.343, County Rule 370.302 – ECS parameters were

not within allowable ranges for entire compliance period; (9) 40 CFR 63.346, County Rule 370.302 – ECS parameters were not within allowable ranges for entire compliance period; (10) County Rule 210.302, SIP Rule 3 – ECS parameters were not within allowable ranges for entire compliance period; and (11) County Rule 210.302 – ECS parameters were not within allowable ranges (Table 30.1) for entire compliance period. At the Public Hearing MCAQD stated that they were currently in negotiations with Honeywell over settlement of NOVs and could not comment.

The fact sheet for "HB2108 – hazardous substances; disclosure" from the 2006 Arizona State Legislative session stated as background that, "In July 2004, Attorney General Terry Goddard, on behalf of the Arizona Department of Environmental Quality brought a lawsuit against Honeywell International Inc. for 38 violations of the State's environmental laws. At the heart of this lawsuit was the allegation that Honeywell hid – for over 20 years – factual data that showed there were releases of potentially cancer-causing contaminants from Honeywell's 34th Street engine-testing facility. Honeywell defended itself by claiming it could withhold this factual data and information from the State, notwithstanding its promise to provide such information in a 1999 consensual agreement, because it was legally privileged to do so."

It continued that "When the State looked further into Honeywell's activities at the 34th Street Facility, the State discovered that Honeywell repeatedly withheld factual data that tended to show it contributed to the pollution found in the groundwater beneath central Phoenix. Honeywell also hid this data from the citizens living over the plume and its codefendants, most notably Motorola, Inc. (now Freescale)." In answer to the question of why this legislation is important it stated that "A fraudulent misrepresentation or purposeful omission of material information under the guise of a legal privilege, such as attorney client communication, an attorney work product, or a self-critical analysis privilege allows polluters to engage in similar abuses, jeopardizing the public's health and the State's resources."

In a May 21, 2003, decision in *Interfaith Community Organization v. Honeywell International*, U.S. District Judge Dennis Cavanaugh selected "a permanent remedy" for a contaminated Jersey City site "something rarely seen in reported decisions" and "putting an end to what he termed Honeywell's 'dilatory tactics' over a 20-year period."
"In one of the unique features of the decision, Cavanaugh made highly detailed credibility determinations as to the testimony of each expert witness. . . Cavanaugh's credibility determinations ran the gamut from finding plaintiff's human health and ecological risk assessment expert witness to be 'very credible and knowledgeable [] and I therefore gave significant weight to her testimony as forthright and honest' to the virtual complete rejection of Honeywell's human health and ecological risk assessment expert as being of 'little or no credibility,' since the expert had been a Honeywell consultant for approximately 11 years, during which time Honeywell was the source of 40 percent or more of his annual income." The article in the New Jersey Law Journal states, "Honeywell's track record in failing to remediate the site over a 20-year period also came to light during fact testimony. The N.J. Department of Environmental Protection case manager testified at great length about Honeywell's lack of cooperation. The case manager testified that Honeywell had engaged in a pattern of foot-dragging and non cooperation to the point that 'the site is not much closer to final remediation now than it was when the problems were first brought to Honeywell's attention twenty years ago." "In a sharp rebuke to a 20-year pattern of conduct, Cavanaugh wrote, 'After twenty years of studies, debate, negotiation, and delay, there is no permanent remedy for the site. . . . Rather than respond and solve the problems, Honeywell continually took the path of further testing,

further debate and negotiation.' . . . Honeywell has engaged in foot-dragging and regulatory ping-pong with respect to the site and its ultimate cleanup."

CONCLUSION

On February 27, 2007, The Arizona Republic reported that, "The Western Regional Climate Action Initiative agrees to set a regional greenhouse-gas reduction goal within six months. To reach that goal, the governors gave themselves 18 months to craft an approach, such as a cap-and-trade program, to reduce carbon dioxide emissions." An assessment performed by Honeywell's own consultant, CH2M Hill, of the "**emissions from vehicles associated with taking carbon offsite for regeneration (in the scenario without a thermal oxidizer) indicated that the CO_2 emissions from the vehicles are significantly less (i.e., below 5%) than the CO_2 emissions associated with the BSVE process**" (emphasis added). A separate analysis by CH2M Hill shows that for the BSVE process as currently designed (SVT-1), CO_2 emissions are approximately 2,900 tons per year, based on an EPA emission factor for CO_2 associated with natural gas combustion and 1,750 tons per year of CO_2 combustion emissions from SVT-2.

On May 30, 2007, former Vice President Al Gore during an interview on PBS for his new book, "The Assault on Reason," stated that climate change associated with greenhouse gases was "the most serious crisis our civilization has ever faced." Our own governor, Janet Napolitano, has stated "This is something that can't wait. There's now an international, national and local consensus that global warming is occurring. We can't continue not to do anything." **We concur.**

And, finally, LPNA would like to reiterate our belief that the permit application submitted by Honeywell is not clearly written and does not present worst case scenarios. If the Title V Permit is found to be appropriate for the circumstances at this Superfund Site then LPNA requests that Honeywell be required to submit clarifications to its permit application, that MCAQD amend the draft permit revisions and that MCAQD reissue the amended draft for public comment.

In sum, the permit is drastically out of compliance with the Clean Air Act and applicable regulations. Therefore, EPA has no choice but to object to the permit.

Dated: December 10, 2007
Respectfully Submitted,

Mary J. Moore

Mary Moore
Vice President, Lindon Park Neighborhood Association
[redacted]