June 6, 2007

Control/Hearing Officer
Maricopa County Air Quality Department (MCAQD)
1001 North Central Avenue
Suite 200
Phoenix, AZ 85004

Re: Comments on Proposed Revisions to Title V Permit No. V97008, Honeywell Engines, Systems and Services Biologically Enhanced Soil Vapor Extraction System, 111 South 34th Street, Phoenix, AZ 85034

Don't Waste Arizona, Inc. (DWAZ) is a non-profit environmental organization dedicated to the protection and preservation of the Arizona environment. DWAZ is especially concerned about environmental justice issues, air pollution, and toxics issues. DWAZ is headquartered at 6205 South 12th Street, Phoenix, AZ 85042, and may be reached at (602) 268-6110. DWAZ has members in the affected area.

On behalf of itself and its affected members, Don't Waste Arizona, Inc. (DWAZ) makes the following comments regarding this proposed permit:

This permit should be categorically denied. This is an illegal permit.

The Maricopa County Air Quality Department (MCAQD) is violating Title VI of the Civil Rights Act of 1964 and the Environmental Protection Agency's ("EPA") implementing regulation, 40 C.F.R. § 7.35, by discriminating on the basis of race in its administration of its air pollution program. The MCAQD has admitted it has no special process or procedure to determine whether there is a disparate or adverse impact to the community adjacent to this facility by the additional air pollution to be emitted by the modification. To determine the risk to the overwhelmingly ethnic minority population in the area, the MCAQD should conduct cumulative modeling of all known air emissions from facilities in the area, including the typical 252,000 to 260,000+ annual emissions already reported by the Honeywell facility, including its HAPs, VOCs, NOx, SOx, and PM10, as well as from the nearby major airport. The MCAQD should have also required the applicant to consider other available technologies to remove these chemicals from the soils and dispose of them far away from this neighborhood, and not just allowed even more toxins to be emitted into the already burdened air there. But the MCAQD did not do this.

EPA's Program to Implement Title VI of the Civil Rights Act of 1964
Title VI of the Civil Rights Act of 1964 is a federal law that prohibits discrimination on the basis of race, color, or national origin in all programs or activities receiving federal financial assistance. Title VI itself prohibits intentional discrimination.

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to

discrimination under any program or activity receiving federal financial assistance. 42 U.S.C. § 2000d. The MCAQD, a direct recipient of federal financial assistance from EPA have violated Title VI as implemented through EPA's regulations by failing to properly administer its air pollution program. In particular, EPA's Title VI regulations provide that an EPA aid recipient "shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex." 40 C.F.R. § 7.35(b).

The effect of MCAQD's administration of its air pollution programs is clear: People of color will bear disproportionate risks and impacts from air pollution, yet the MCAQD will not properly administrate its air pollution program and comply with applicable statutes as mentioned before; and the MCAQD will not provide a means to decrease risks and impacts to this affected community.

The Supreme Court has ruled, however, that Title VI authorizes federal agencies, including EPA, to adopt implementing regulations that prohibit **discriminatory effects** as well as intentional discrimination. Frequently, discrimination results from policies and practices that are neutral on their face, but have the *effect* of discriminating. Facially-neutral policies or practices that result in discriminatory effects violate EPA's Title VI regulations unless it is shown that they are justified and that there is no less discriminatory alternative."

So the MCAQD is ignoring its requirements under the law, and intentionally violating the civil rights of the ethnic minority community adjacent to this facility.

The emissions limits in the proposed permit are set too high. These emissions limits, 9 tons/year of a single HAP and 22.5 tons/year of all HAPs, are many times the expected HAPs emissions from the new soil vapor extraction unit. The emissions limits should be set very close to expected emissions, not a multiple of many times the expected emissions.

The MCAQD tried illegally to prevent testimony and comment at the May 31, 2007 public hearing, which is also a civil rights matter. During the public hearing, which had an agenda that clearly stated a public comment period from 6:30PM to 7:30PM, Mary Moore, representing the Lindon Park Neighborhood Association, which is the predominantly ethnic minority organization awarded the Superfund Technical Assistance Grant for the Superfund Site in the area, walked to the microphone and attempted to make public comments on this proposed Title V permit, which is a specific legal right set forth in the federal Clean Air Act for the public. [redacted], the hearing officer for the hearing, along with [redacted], tried to prevent Ms. Moore from speaking. [redacted], who towers over the diminutive Moore, physically advanced at Ms. Moore as she walked to the microphone, and then [redacted] insisted that she could not read from the papers she had in her hands. He asserted that she should instead just turn them in without speaking. As it turned out, Ms. Moore merely had these papers to review for talking points as the close of public comments is set for June 6,

2007, and she intended to file written comments on that date. Merkow did not physically retreat, and continued to argue with Ms. Moore while she tried to state her positions, and then [redacted] chimed in and stated there was a lack of time.

Ms. Moore did stand her ground and did eventually manage to speak to some of her points despite the threatening behavior and harassment, but only after a long argument and after continued pressure from both men. After all four speakers who spoke that evening had finished, there was still a half hour still left for public comment. When [redacted] was asked about limiting public comment during a Title V hearing, and whether EPA knew that he was doing this, he said it was entirely his option on how to conduct Title V public hearings.

This deliberate intimidation and harassment by [redacted] and [redacted] speak volumes about the MCAQD's attitudes towards the statutory rights of the public to participate in public hearings under the Clean Air Act's Title V, and deserve investigation and enforcement.

DWAZ has a number of substantial concerns with the draft permit revisions in four areas. First, the emission limits and substantive operating requirements set out in the revisions are flawed and inconsistent with applicable law. Second, the revisions create conditions that are not practically enforceable, and thus violate federal law and county regulation. Third, numerous monitoring requirements are deficient, and thus fail to yield reliable data regarding the facility's compliance with the permit terms. Fourth, the triggers for implementing the Alternative Operating Scenarios are vague, and fail to adequately protect air quality and public health. For these reasons, which are discussed in detail below, DWAZ requests that MCAQD amend the draft permit revisions and reissue the amended draft for public comment.

Flawed Emission Limits and Operating Requirements

Emission limits and control equipment operating requirements are the heart of the permit. They constrain the inevitable emission of criteria and 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.

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.

A 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).[1]

Lack of Practical Enforceability

This permit unenforceable as a practical matter because it limits access to the type of evidence that the public and the EPA may rely upon to show that the facility is violating the permit. It is also illegal because it limits the type of evidence that the public may rely upon to show that the facility is violating its air quality permit, and limits or prevents the public from enforcing certain requirements.

A Title V permit must have provisions that allow the public sufficient information to determine whether the facility is in compliance. Among other issues, the record keeping requirements in the proposed permit are such that the records are kept at the facility and there is no provision for public access or inspection. Therefore, **unless** the facility is required to file its records with the custodian of records so that the public may have access to the reports, **the permit must be denied.**

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.

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

Provision	Description	Concern
		O&M Plan as minor permit revisions.) This use of the O&M plan in this manner appears throughout the draft revisions.
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

Provision	Description	Concern
		essentially allows the facility to write its own requirements without agency involvement.

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).

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 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.

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." The PM factor received a rating of "D," indicating that EPA considers its quality to be below average.

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)."	DWAZ was 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

Provision	Description	Concern
		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.
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.

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 ug/l. In AOS-4, the thermal oxidizer(s) and caustic scrubber(s) may be removed when the TPH and benzene levels reach 4,200 ug/l and 9.7 ug/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 the same 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.)

Additional Permit Deficiencies

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. **This is an additional civil rights issue.**

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 was not for new sources and would and could not have the same level of oversight provided by Superfund under CERCLA.

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 Lindon Park Neighborhood Association (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 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 and rescheduled and renoticed for May 31, 2007.

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)."

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.

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.

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.

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.

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

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 start-up 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.

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 immediately report any incidence of non-compliance 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."

More frequent inspections must be required as well as more frequent sampling. 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.

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.

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.

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.

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 connect to wells located on Honeywell property. Wells located on PSHIA property will be phased-in to SVT-12 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 SVT-1 is described as the worst case scenario).

- Evidently Honeywell is proposing that the inlet for the second column (SVT-1 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 that "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 adequately comment.

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 only be 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 weren't additional PTE tables calculated?

Please note that vinyl chloride Maximum PTE after Treatment **only increases from 4.08E-02 to 4.10E-02** <u>when going from SVT-1 only (3,300 scfm) to SVT-1 and SVT-2 (combined 5,300 scfm)</u> 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 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.

DWAZ does not agree with the statement on page 5-14 that "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 we do not believe it represents the worst case scenario. We have an additional concern that worst case is used to reflect total concentration of compounds (% 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 that "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, DWAZ does not believe this represents the worst case scenario under which both SVT-1 and SVT-2 will be operated. DWAZ believes the worst case scenario is having both units operating with the source from the Honeywell Facility. DWAZ 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 age 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, we do not believe this is consistent with other statements the air permit application and does not represent a worst case scenario.

Because the site is not well characterized, DWAZ is concerned about how any of the concentrations used in the modeling can be evaluated. DWAZ has questions about the assumptions and parameters of the model and request an independent evaluation of the model.

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, 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 frequently 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.

A concern 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.

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. Also 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 is published only in the newspaper. It was pointed out that the County must have a process to get permit hearing notices to concerned parties.

Additional Concerns

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 CVOC's should be under Superfund authority. This is not a new source and CVOC contaminants

which are part of a Superfund Site clean-up should 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 court? Would this set any precedent for other responsible parties at Superfund sites to successfully argue 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. Motorola is currently negotiating the possible removal of air emission controls at the North Indian Bend Wash Superfund Site. What assurances do community members have that there will be no legal ramifications that will weaken air emission controls in the future in Maricopa County, in Arizona, 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 contamination, the permit application revision, whether significant or minor, must go to public comment.

Since the site has never been fully characterized there cannot be any projections as far as how long this system will be 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? Could the air injection only phase extend for 10, 15, 20 years? How can this permit be allowed to go forward without better 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?

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.

The soil vapor extraction process is being used to remediate the soil in the vadose zone in addition to removing the hydrocarbon free phase. However, the dissolved contaminant in the groundwater has not been addressed yet. A later technology could be proposed to remediate the groundwater that could increase the vapor concentration in the soil.

Inconsistency of this remedy with the Second Five Year Review of the Operable Unit OU2 for the Motorola 52nd Street Superfund Site developed by LFR, Inc., and ADEQ that cites as a deficiency and concern (and as a subsequent corrective action and recommendation) that the final Superfund remedy must consider and integrate the Honeywell light non-aqueous phase liquid (LNAPL) remedy. Incorporation into the CERCLA process might allow the use of alternative remediation technologies other than the one being proposed.

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 that "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 flowmeters have been calibrated, replaced or repaired and scrubber blowdown is being recorded"' (3) Hard Chromium Electroplating: Monitoring and Record Keeping, Required Records – "all flowmeters have been calibrated, replaced or repaired and scrubber blowdown 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 flowmeters have been calibrated, replaced or repaired and scrubber blowdown 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."

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.

DWAZ would like to reiterate its belief that the permit application submitted by Honeywell is not clearly written and does not present worst case scenarios. We request that Honeywell be required to submit clarifications to its permit application and that

MCAQD amend the draft permit revisions and reissue the amended draft for public comment.

Sincerely,

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