VIA FACSIMILE TO 202-501-1450, MAIL, and EMAIL

December 11, 2007

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

RE: Appeal of Title V Permit No. V97008, Honeywell Engines, Systems and Services Biologically Enhanced Soil Vapor Extraction (BSVE) System at the Honeywell 34th Street Facility, 111 South 34th Street, Phoenix, Arizona 85034

Dear Mr. Johnson:

I am a resident of Phoenix and reside within the Motorola 52nd Street Superfund Site. I have been attending Community Advisory Group (CAG) meetings since our neighborhood association, the Lindon Park Neighborhood Association (LPNA), formed in August, 2001. I became a member of the CAG after our neighborhood's opposition to the removal of air emission controls by Motorola at Operable Unit 1 in 2003. I am a member of the LPNA; [redacted] At the May 31, 2007, public hearing I made oral comments for myself, the LPNA, and the CAG and submitted written comments on behalf of myself and the LPNA.

The Lindon Park Neighborhood Association represents residents in the area directly to the west of the former Motorola 52nd Street Facility (48th to 50th Streets, McDowell Road to Portland Street). LPNA is the United States Environmental Protection Agency (US EPA) Technical Assistance Grant (TAG) recipient for the Motorola 52nd Street Superfund Site (M52). I serve as LPNA's Vice President and grant administrator for the US EPA TAG.

I am appealing the above referenced permit before the final version is released to the public and the affected community. The Maricopa County Air Quality Department (MCAQD) in Arizona will be issuing a Title V Permit to the Honeywell Engines, Systems and Services Biologically Enhanced Soil Vapor Extraction System, V97-021. I am appealing this Honeywell Title V permit administratively to the US EPA Administrator, for all the reason mentioned in the comments filed in that matter by LPNA, Mary Moore, and Rene Chase-Dufault. I will email these comments in a file titled "Honeywell 6-6-07 Public Hearing Comments" as well as the LPNA Petition to Object in a file titled "LPNA Petition to Object – Honeywell BSVE" separately to save paper, fax time, and hereby incorporate those documents in full by reference in this letter. The attachments to the June 6, 2007 comments and the December 10, 2007 Petition to Object have been previously submitted to EPA and will not be duplicated in this submission.

The reasons for this appeal include, but are not limited to, the violation of the civil rights of residents in the affected area, especially, but not only in relation to the limitation of testimony and comment at the May 31, 2007 public hearing for the permit; lack of practical enforceability; improper monitoring, recordkeeping and reporting requirements; unclear triggers for alternative

operating scenarios; flawed emission limits and operating requirements; and additional permit deficiencies.

I made oral comments at the public hearing and filed written comments on the proposed permit on behalf of myself and LPNA, and these comments made during the public comment period as well as comments made on this permit by Rene Chase-Dufault, and Steve Brittle for Don't Waste Arizona, Inc. (DWAZ), form the basis for the appeal. My comments, the comments made by Rene Chase-Dufault, President of the LPNA, the LPNA comments, and the DWAZ comments may be referenced for more details about the basis for the appeal and are herein incorporated into the appeal.

As the area around the Honeywell 34th Street Facility meets US EPA's level 1 screening criteria for an Environmental Justice Area, one of our Title VI concerns and a basis for the appeal involve actions of MCAQD and statements made by MCAQD in its Responsiveness Summary to this permit in regard to the MCAQD Environmental Justice policy. Early this year I was informed by EPA after discussions involving MCAQD, ADEQ and EPA that the public notice for the public hearing would be translated into Spanish and appear in a Spanish language newspaper in Phoenix. Neither public notices for the public hearing were published in a Spanish language newspaper and the second public hearing notice was translated only after the LPNA provided its own translation.

The following is a brief summary of concerns that underlie the appeal:

The Title V Permit modification is part of a clean-up by a Responsible Party (Honeywell) at an active Superfund site (M52) involving Superfund CVOCs (chlorinated volatile organic compounds) commingled with jet fuel.

The Honeywell 34th Street Facility site has never been fully characterized (CVOC contamination or jet fuel contamination) although required under the September 19, 1999 ADEQ Administrative Order on Consent for the Honeywell 34th Street Facility.

LPNA, the Motorola 52nd Street Superfund Site Community Advisory Group (CAG), and individual CAG members have requested since 2005 that oversight of this clean-up be retained by Superfund or jointly administered with Underground Storage Tank (Arizona Department of Environmental Quality (ADEQ) Tank Programs Division) with authority and oversight of the air emissions remaining under Superfund.

LPNA, the TAG, and the CAG remain committed to the position that contaminants must not be allowed to be transferred between media – from soil to the air, as in this case or from groundwater water to air – as part of the clean-up effort and that <u>no precedent</u> be set where Superfund contaminants are permitted under a Title V Permit and the Superfund contaminants treated as a new source.

The area around the Honeywell 34th Street Facility meets US EPA's level 1 screening criteria for an Environmental Justice Area.

Public participation was constrained by the omission of the BSVE system being part of an active Superfund clean up at the "Motorola 52nd Street Superfund Site." Omission of "Motorola 52nd Street Superfund Site" from the public hearing notice limited public awareness and subsequent participation and public participation was again constrained when the decision was made not to advertise in a Spanish language newspaper.

Public participation was limited at the Public Hearing on May 31, 2007, when comments being made by LPNA Vice-President, Mary Moore, on behalf of the LPNA, the TAG, the CAG, and the TAG's technical advisor were not allowed to be given in their entirety and the public hearing was ended 36 minutes early.

When the EPA 45-day review was begun after MCAQD resubmitted the permit the CAG and the community was told that responses

- Ms. Moore was first informed that the EPA 45-day review was underway and that EPA's review period would end on Monday (July 30, 2007) on Tuesday afternoon, July 24, 2007 during a call Ms. Moore initiated to EPA Superfund.
- The public has had no opportunity to see the MCAQD Responsiveness Summary or evaluate its completeness, appropriateness, or thoroughness. Ms. Moore was informed by e-mail on June 11, 2007, in response to an inquiry to Mr. Riley about the process that, "The EPA will conduct a 45-day review of the responsiveness summary." EPA's comments must include a complete analysis of the Responsiveness Summary. The public expected 45 days to review the Responsiveness Summary before the EPA comments were completed and the EPA review period ended. The 45-day EPA review of the Title V Permit modification ended without the public having access to the public comments or the Maricopa County Responsiveness Summary to the public comments.
- The proposed permit was withdrawn from US EPA review on July 27, 2007, following 42 days of review because of jurisdictional concerns raised by Congressman Ed Pastor. 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 that no official signed agreement exists and no executed, enforceable agreement outlining the roles and responsibilities (in particular of ADEQ Superfund and ADEQ UST) will be put in place. Jurisdictional issues and concerns have not been addressed.

I also appeal the proposed Title V permit to the EPA Administrator 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.

In short, the permit is drastically out of compliance with the Clean Air Act and applicable regulations, forming the basis for the appeal.

Additionally, the 2007-2008 EPA – Arizona Department of Environmental Quality (ADEQ) Superfund Multi-Site Support Agency Cooperative Agreement (MSCA) states that the "USEPA is the lead agency" for the OU2 Interim Remedy. Jurisdiction for the clean up of these Superfund CVOCs is with EPA and not ADEQ. MCAQD does not have the jurisdiction in this matter to issue the Title V air permit.

Because the proposed BSVE will address Superfund CVOCs commingled with the jet fuel, these clean up activities must be dealt with under the EPA Superfund program and not by the Underground Storage Tank (UST) program at ADEQ, which has no authority to regulate or monitor air emissions. This lack of jurisdiction within ADEQ, by a program (the UST program) that does not have delegated authority from EPA, has set up the situation where Superfund CVOCs will be permitted under a Title V Permit and monitoring and enforcement conducted by MCAQD.

If EPA, the lead agency under the MSCA, assumed jurisdiction in this clean up, then normal EPA UST procedures would see oversight for this clean up flow to Superfund due to the more hazardous Superfund CVOC contamination commingled with the jet fuel at this site. **No Title V Permit would be necessary and unintended and unimagined consequences that may arise from setting this precedent would be avoided.**

Sincerely,

Mary J. Moore

Mary Moore
[redacted]

Attachments sent via email only