MARYLAND DEPARTMENT OF THE ENVIRONMENT	*	**BEFORE THE DIRECTOR OF THE WASTE MANAGEMENT ADMINISTRATION**
v.	*	
HONEYWELL INTERNATIONAL, INC.	*	**RE: SWANN PARK**
MAYOR AND CITY COUNCIL OF BALTIMORE	*	

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DEPARTMENT'S ORDER
REQUIRING ENVIRONMENTAL RESPONSE PURSUANT TO
THE MARYLAND HAZARDOUS SUBSTANCE RESPONSE PLAN

STATEMENT OF FACTS

WHEREAS, the State of Maryland, Department of the Environment ("Department" or "MDE"), Waste Management Administration, pursuant to the powers, duties and responsibilities vested in the Secretary of the Environment by Environment Article, Sections 1-301, 7-201 through 7-268, Annotated Code of Maryland, and the Maryland Hazardous Response Plan, Code of Maryland Regulations ("COMAR") 26.13 and 26.14.01 and .02, and delegated to the Director, Waste Management Administration ("WAS" or "Administration"), has reasonable grounds to believe that the City of Baltimore owns property on which there has been a release of Controlled Hazardous Substances ("CHS" or "hazardous waste"); and

WHEREAS, the City owns the property designated as "Swann Park" (the Site), located in Baltimore, Maryland. The Site consists of approximately 11 acres of open land and athletic fields with a vegetative cover, and with open access to the public; and

WHEREAS for decades Allied Chemical, Inc., a predecessor of Honeywell International, Inc. operated a pesticide manufacturing facility at 2000 Race Street, immediately adjacent to the Site; and

WHEREAS, samples obtained from the Site in 1976 by Allied revealed that significant concentrations of arsenic and other contaminants were present in Site soils; specifically, arsenic concentrations ranged from 12 – 6,600 ppm.

WHEREAS, on April 3, 2007, MDE received from Honeywell a 1976 report describing the results of the sampling event cited above; and

WHEREAS, pursuant to a directive by MDE, Honeywell conducted a sampling event at the Site on April 16, 2007; and

WHEREAS, analyses of samples obtained by Honeywell indicated that significant concentrations of arsenic still exist in Site soils at some locations; and

WHEREAS, MDE obtained samples from sediments in the Middle Branch near the discharge point of a stormdrain located under the Park; and

WHEREAS, significant concentrations of arsenic were identified in the sampled sediment; and

WHEREAS, MDE has determined that the maximum arsenic concentrations and 95% upper confidence limit concentrations of arsenic observed in the recent sampling events at the Park exceed the EPA carcinogenic emergency removal concentration levels for both industrial and residential properties and may pose an imminent and substantial danger to human health and the environment; and

WHEREAS, the Department has reasonable grounds to believe that the contamination of the Site resulted from releases of arsenic-contained compounds from the 2000 Race Street pesticide manufacturing facility and from arsenic disposed at that facility.

ORDER

NOW THEREFORE it is **ORDERED** by the Director of the Waste Management Administration that the following actions be taken by the City and Honeywell ("Respondents").

1. Within 30 calendar days from the date of receipt of this Order, Respondents shall make available for inspection and copying all records relating to the Site. This requirement specifically includes, but is not limited to all records of environmental investigation of soil or groundwater contamination, and all records concerning the release of hazardous substances into the Site.

2. Within 30 calendar days from the date of receipt of this Order, Respondents shall submit to the Department, for review and approval, a detailed work plan and time schedule for performance of a comprehensive investigation to study and assess the extent of contamination of soils and groundwater on the Site. This investigation work plan shall be sufficient in scope to provide, at a minimum, the following information:

a. Characterization of the physical features on the Site;

b. Description of the site specific geology and hydrogeology;

c. Identification of contaminants present on the Site, with soil and groundwater sampling, at a minimum, to determine the presence of heavy metals, pesticides, VOCs and SVOCs;

d. Determination of waste characteristics including quantity, toxicity, persistence, propensity to bioaccumulate, and mobility;

e. Description of the full horizontal and vertical extent of each immiscible or dissolved plume(s) originating from the Site;

f. Horizontal and vertical direction of contaminant movement;

g. Velocity and direction of contaminant movement in groundwater;

h. Evaluation of factors influencing the plume movement;

i. Extrapolation of future contaminant movement;

j. Description of the full vertical and horizontal extent of the soil contamination;

k. Description of the soil chemical properties within the contaminant source areas and plumes, including factors that might effect contaminant transformation;

l. Specific contaminant concentrations;

m. Identification of environmental pathways and exposure routes;

n. Identification of the nature and threat posed by CHS by the means of risk evaluation, utilizing EPA risk assessment guidance documents for the Superfund Program;

o. Provision that the Department will be notified within five (5) days of any sampling event, so that the Department can make arrangements for split sampling;

p. The report shall document the procedures used to characterize contaminant plume(s).

The report on soil and groundwater information shall be due 30 calendar days after MDE approval of the workplan.

3. Within thirty (30) days of the Departments acceptance of the report referenced in the proceeding paragraph, Respondents shall submit to the Department a written evaluation of remedial alternatives including a time schedule for implementation of each remedial alternative. For each remedial alternative considered, Respondents shall address the following information;

a. Plans and specifications for proposed alternative remedial measures equipment and systems to be utilized by Respondents to control, contain, remove, treat and/or otherwise effectively remediate contaminated groundwater and soils at the Site;

b. Compliance with Cleanup standards and State or federal laws, regulations and other requirements;

c. Short-term effectiveness

d. Long-term effectiveness and permanence;

e. Reduction of toxicity, mobility, or volume through treatment;

f. Implementability; and

g. Costs, as follows:

(1) Capital costs, including both direct and indirect costs;

(2) Annual operating and maintenance costs; and

(3) Net present value of capital and annual operating and maintenance costs.

4. The Department shall evaluate the remedial alternatives submitted by Respondents, and shall select the remedy.

5. Upon selection of the remedy Respondents shall complete the design and implementation of the remedial action subject to the oversight, monitoring and

enforcement of the Department. The Department may issue further and additional Orders governing the implementation of the remedial action, and/or Respondents and the Department may enter into a Consent Order governing the implementation.

6. Under § 7-221 of the Environment Article, responsible persons are liable for all costs incurred by the State in responding to any release of hazardous substances, including oversight, enforcement and investigation. Consequently, the Department will be submitting quarterly invoices related to the oversight of this project by Department staff.

7. In accordance with COMAR 26.14.01.01 E, the Maryland Substance Response Plan is not intended to create any rights to contested case hearings and therefore this Order is not subject to an administrative appeal.

8. Failure of Respondents to timely comply with this Order may result in any or all of the following actions:

a. The Department may determine that Respondents are in violation of this Order and issue a Complaint and Order assessing administrative penalties (up to $25,000.00 per day for each violation, but not exceeding $100,000.00 total) in accordance with Md. Code Ann., Envir. §§ 7-258(a)(3) and 7-266(b);

b. The Department may determine that Respondents are in violation of this Order and file a civil action seeking a civil penalty not exceeding $25,000.00, with each day a violation occurs being a separate violation, in accordance with Md. Code Ann., Envir. § 7-266(a);

c. The Department may bring an action for injunction pursuant to Md. Code Ann., Envir. §§ 7-222(a)(2)(iii) and 7-263(a); and /or

d. The Department may remove or arrange for the removal of and provide for remedial action relating to the hazardous substances on the Site, and seek reimbursement or sue for cost recovery pursuant to the provisions of Md. Code Envir. §§ 7-221 and 7-222(a)(2)(i).

IT IS SO ORDERED ON THIS 24th DAY OF April, 2007

Horacio Tablada
Director, Waste Management Administration

Approved as to form and legal
Sufficiency on this 24 day
of April, 2007

Matthew Zimmerman
Assistant Attorney General