

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

INTERFAITH COMMUNITY)	
ORGANIZATION , et al.,)	
)	
)	
Plaintiffs,)	
)	
v.)	
)	Civil Action No. 95-2097 (DMC)
HONEYWELL INTERNATIONAL INC.,)	
)	
Defendant.)	
_____)	

AMENDED ORDER MODIFYING INJUNCTION

WHEREAS, this Court entered a Final Judgment in *Interfaith Community Organization v. Honeywell International Inc.*, Case No. 95-2097 (“Final Judgment”), on June 30, 2003; and

WHEREAS, paragraph 3(a) of the Final Judgment requires Honeywell International Inc. (“Honeywell”) to “excavate, remove, treat and dispose off-site all COPR [Chromium Ore Processing Residue], soil and other materials at the site known as Study Area 7 (“Site”) containing greater than 240 parts per million (‘ppm’) hexavalent chromium”; and

WHEREAS, paragraph 3(b) of the Final Judgment requires Honeywell to “promptly and completely replace all removed COPR, soil and other materials which are excavated and removed with clean fill”; and

WHEREAS, paragraph 3(c) of the Final Judgment requires Honeywell, “in connection with the excavation and replacement of all COPR, soil and other materials containing greater than 240 ppm hexavalent chromium, promptly to implement such hydraulic controls in the vicinity of the Eastern border of the site as may be necessary to prevent re-contamination of the Site by ground water flow from the area known as ‘Study Area 5’ located to the east of the Site”;

WHEREAS, paragraph 13.B(1) of the Final Judgment establishes an injunction requiring Honeywell to “excavate, remove, treat and dispose off-site all COPR at the ECARG property” and backfill “the ECARG property with clean soil such that the 240 ppm residential soil cleanup level is attained throughout all of the ECARG property” ; and

WHEREAS, paragraph 13.B(2) of the Final Judgment requires Honeywell to “[e]stablish hydraulic controls in the vicinity of the eastern boundary of the Site such that contaminated ground water from Study Area 5 does not re-contaminate the ECARG property”; and

WHEREAS, on April 21, 2008, and December 29, 2008, settlements were reached concerning the land directly adjacent to Study Area 7 to the North (Study Area 6 North) and to the South (Study Area 6 South) in *Hackensack Riverkeeper, Inc. v. Honeywell International Inc.*, D.N.J., Civ. No. 06-22 (DMC-JAD), consolidated with Civ. No. 05-5955 and this case (ECF No. 202 and ECF No. 234, respectively, in Civ. No. 05-5955), which will result in hexavalent chromium contamination in the soil and groundwater remaining contained in place in containment zones directly adjacent to Study Area 7 in perpetuity or until further remediated to a level that permits unrestricted use of the land; and

WHEREAS, during the period from August 2007 to June 2010, Honeywell submitted to the Special Master, and filed with this Court, Excavation Declarations, which documented the successful excavation, removal, and off-site disposal of all COPR on the Site, and the backfilling of the Site with clean soil to achieve the 240 ppm residential soil cleanup level; and

WHEREAS, Honeywell has now completed the requirements of paragraphs 3(a) and (b) and 13.B(1) of the Final Judgment, requiring excavation, off-site removal and backfilling of the Site; and

WHEREAS, the Study Areas 6 North and 6 South settlements include hydraulic controls on all borders of the containment zones, including the borders shared with Study Area 7; and

WHEREAS, the parties consent to the entry of this Order Modifying Injunction;

NOW THEREFORE IT IS ORDERED, ADJUDGED, AND DECREED THAT:

- (1) The Order Modifying Injunction of November 17, 2011, ECF No. 1106 is vacated;
- (2) The Court declares that Honeywell has fulfilled the obligations of paragraphs 3(a) and 3(b) of the Final Judgment;
- (3) That portion of the Injunction contained in paragraph 13.B(1) of the Final Judgment has been fulfilled;
- (4) Paragraph 3(c) of the Final Judgment is vacated and replaced with the following:

“in connection with the excavation and replacement of all COPR, soil, and other materials containing greater than 240 ppm hexavalent chromium, promptly implement such hydraulic controls in the vicinity of the eastern, northern, and southern borders of the site as may be necessary to prevent re-contamination of the Site by ground water flow from the areas known as ‘Study Areas 5, 6 North, and 6 South.’ The Chromium Remedies set forth in the Consent Decree Regarding Remediation and Redevelopment of Study Area 6 North (Civ. No. 05-5955, ECF No. 202) and the Consent Decree Regarding Remediation and Redevelopment of Study Area 6 South (Civ. No. 05-5955, ECF No. 234) are anticipated to satisfy this obligation with

respect to preventing re-contamination of the Site by groundwater flow from the areas known as Study Area 6 North and Study Area 6 South. Plaintiffs in this case shall have the right to enforce the provisions of the respective consent decrees (Civ. No. 05-5955, ECF Nos. 202 and 234) insofar as necessary to satisfy the provisions of this paragraph”; and

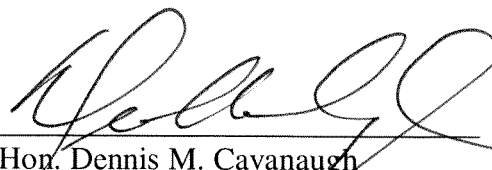
- (5) Paragraph 13.B(2) of the Final Judgment is vacated and replaced with the following:

“Establish hydraulic controls in the vicinity of the boundaries of the Site such that contaminated ground water from Study Areas 5, 6 North, and 6 South does not re-contaminate the ECARG property. The Chromium Remedies set forth in the Consent Decree Regarding Remediation and Redevelopment of Study Area 6 North (Civ. No. 05-5955, ECF No. 202) and the Consent Decree Regarding Remediation and Redevelopment of Study Area 6 South (Civ. No. 05-5955, ECF No. 234) are anticipated to satisfy this obligation with respect to preventing re-contamination of the Site by groundwater flow from the areas known as Study Area 6 North and Study Area 6 South. Plaintiffs in this case shall have the right to enforce the provisions of the respective consent decrees (Civ. No. 05-5955, ECF Nos. 202 and 234) insofar as necessary to satisfy the provisions of this paragraph.”

Consented to and approved for entry:

<p><u>s/ David Sheehan</u> David Sheehan Baker & Hostetler LLP 45 Rockefeller Plaza 11th Floor New York, NY 10111 212-589-4200</p> <p>Michael D. Daneker Arnold & Porter LLP 555 12th Street NW Washington, DC 20004 202-942-5000</p> <p><i>Counsel for Honeywell International Inc.</i></p>	<p><u>s/ Edward Lloyd</u> Edward Lloyd Columbia Law School 435 West 116th Street, Room 831 New York, NY 10027 212-854-4376</p> <p>Bruce J. Terris Kathleen L. Millian Michelle Weaver Terris, Pravlik & Millian LLP 1121 12th Street NW Washington, DC 20005 202-682-2100</p> <p><i>Counsel for the Interfaith Community Organization, Reverend Winston Clarke, Lawrence Baker, Martha Webb Herring, Margarita Navas, and Margaret Webb</i></p>
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APPROVED AND ENTERED as an ORDER of this Court on this 13 day of
Jan, 2012.


Hon. Dennis M. Cavanaugh
United States District Judge