

Law Office of Jack Silver

P.O. Box 5469 Santa Rosa, California 95402
Phone 707-528-8175 Fax 707-528-8675
lhm28843@sbcglobal.net



**VIA REGISTERED MAIL -
RETURN RECEIPT REQUESTED**

October 1, 2010

Owner/Managing Agent
Honeywell Aerospace, a division of
Honeywell International, Inc.
2525 West 190th Street
Torrance, CA 90504

Purex Industries, Inc.
c/o United States Corporation Company,
Registered Agent
2711 Centerville Road, Suite 400
Wilmington, DE 19808

**Re: Notice of Violations and Intent to File Suit under the Resource
Conservation and Recovery Act**

To Whom It May Concern:

NOTICE

On behalf of Northern California River Watch and its members ("River Watch"), I am providing statutory notification to Honeywell Aerospace and Purex Industries, Inc. ("Honeywell,") of continuing and ongoing violations of the Federal Resource Conservation and Recovery Act ("RCRA") 42 U.S.C. § 6901 *et seq.*, at the facilities and site located at 551 O'Neill Avenue in the City of Belmont, San Mateo County, California (the "Site").

RCRA requires that 60 days prior to the initiation of an action for violation of a permit, standard, regulation, condition, requirement, prohibition or order effective under RCRA, a private party must give notice of the violation to the alleged violator, the

Administrator of the Environmental Protection Agency and the State in which the violation is alleged to have occurred. If the alleged violator is a State or local agency, service of notice shall be accomplished by registered mail, return receipt requested, addressed to, or by personal service upon, the head of that agency. However, such an action may be brought immediately after such notification when a violation of Subtitle C of RCRA is alleged (subchapter III, 42 U.S.C. § 6921 *et seq.*)

RCRA also requires that a private party provide 90 days prior notice to the alleged violator, the Administrator of the Environmental Protection Agency and the State in which the violation is alleged to have occurred before initiating an action which alleges violations resulting in imminent and substantial endangerment to human health or the environment. However, such an action may be brought immediately after such notification when a violation of Subtitle C of RCRA is alleged (subchapter III, 42 U.S.C. § 6921 *et seq.*)

Subchapter C of RCRA requires hazardous waste to be tracked from the time of its generation to the time of its disposal, and further requires that such waste not be disposed of in a manner which may create a danger to human health or to the environment.

As discussed below, Honeywell operated a non-permitted, hazardous waste treatment, storage and disposal site. Honeywell has either failed to properly label, track and/or report the type, quantity or disposition of waste from the Site, or has failed to use a manifest system to ensure the waste generated is properly handled, stored, treated or disposed of. Honeywell is disposing wastes off-site without compliance with either the various requirements under RCRA, or with the State of California's hazardous waste requirements authorized under RCRA. Honeywell's mishandling of wastes in violation of Subchapter C of RCRA has created and is creating an imminent and substantial endangerment to human health or the environment. River Watch alleges violations of Subchapter C with regard to both a violation of a permit, standard, regulation, condition, requirement, prohibition or order effective under RCRA, as well as for violations which create an imminent and substantial endangerment to human health or the environment.

River Watch hereby notifies Honeywell that at the expiration of the appropriate notice periods under RCRA, River Watch intends to commence a civil action against Honeywell on the following grounds:

1. Honeywell's use and storage of solvents at the Site has violated and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to RCRA regarding storage of solvent in above and under ground storage tanks - 42 U.S.C. § 6972(a)(1)(A);

2. Honeywell's operations at the Site have caused solvent contamination of soil and groundwater which presents an imminent and substantial endangerment to human health and the environment - 42 U.S.C. § 6972(a)(1)(B);
3. Honeywell's past and current operations at the Site violate the provisions of subchapter III of RCRA, specifically 42 U.S.C. § 6924, which governs the mishandling of hazardous wastes. River Watch contends Honeywell has inadequately maintained records with respect to the manner in which its hazardous wastes have been treated, stored and/or disposed of; inadequately monitored, reported and/or complied with existing regulations concerning its wastes; inadequately provided storage facilities for its wastes; and in the past has not developed adequate contingency plans for effective action to minimize damage from the unauthorized releases of hazardous contaminants – all of which has presented a substantial endangerment to human health and to the environment.

Under RCRA, notice to a violator regarding an alleged violation of a permit, standard, regulation, condition, requirement, or order which has become effective under RCRA shall include sufficient information to permit the recipient of the notice to identify the permit, standard, regulation, condition, requirement, or order which has allegedly been violated, the activity alleged to constitute a violation, the person or persons responsible for the alleged violation, the date or dates of the violation (or reasonable range), and the full name, address, and telephone number of the person or entity giving notice. River Watch therefore provides the following information:

1. The standard, limitation, or order alleged to have been violated.

RCRA, enacted in 1976, is a Federal law of the United States contained in 42 U.S.C. §§ 6901-6992k. Its goals are: to protect the public from harm caused by waste disposal; to encourage reuse, reduction, and recycling; and, to clean up spilled or improperly stored wastes. The Environmental Protection Agency's ("EPA") waste management regulations are codified at 40 C.F.R. §§ 239-282. Regulations regarding management of hazardous waste begin at 40 C.F.R. § 260. Pursuant to RCRA, the State of California has enacted laws and promulgated regulations that are at least as stringent as the federal regulations.

Honeywell's use and storage of waste at the Site, and the disposal of those wastes as described in this Notice, has violated and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to RCRA regarding

hazardous waste. (42 U.S.C. § 6972(a)(1)(A)). The contamination at the Site stems from Honeywell's violations of 42 U.S.C. § 6972(a)(1)(A) and Honeywell has a continuing obligation to investigate and remediate the Site.

Honeywell's operations at the Site have caused or threaten to cause contamination of soil, groundwater, surface waters and residential areas, which contamination presents an imminent and substantial endangerment to human health and the environment. Honeywell owns or operates discreet conveyances, preferential pathways or wells which have contributed to the transportation, treatment, storage, or disposal of the wastes at the Site. (42 U.S.C. § 6972(a)(1)(B)).

2. The Activity Alleged to Constitute a Violation

Narratives are set forth below describing with particularity the activities leading to the violations alleged in this Notice. In summary, RCRA requires that the environment and public be protected from the hazardous wastes generated by Honeywell. Pollutants found at the Site as described herein constitute solid and hazardous waste under RCRA, and are required to be managed so as to not cause endangerment to the public or the environment. RCRA specifically protects groundwater.

The liability of Honeywell stems from its former ownership and operation of the Site and activities conducted on the Site by Honeywell which violate RCRA and have contributed to the past or present handling, storage, treatment, transportation, or disposal of any hazardous waste which may present an imminent and substantial endangerment to health or the environment. River Watch also alleges Honeywell to be in violation of a permit, standard, regulation, condition, requirement, prohibition, or order which has become effective pursuant to RCRA.

Honeywell is guilty of open dumping, as that term is used in RCRA, by discharging pollutants to the open ground, thereby allowing these pollutants to discharge to both groundwater and surface waters. The Site does not qualify as a landfill under 42 U.S.C. § 6944, and does not qualify as a facility for the disposal of hazardous waste. Honeywell has no RCRA-authorized permit for disposal, storage or treatment of solid or hazardous waste of the type currently and historically discharged at the Site.

The liability of Honeywell also stems from its past ownership or operation of discrete conveyances, preferential pathways or wells which have caused pollutants to be discharged to groundwater and surface waters via Honeywell's conduits such as pipes, sewer lines, storm drains, utilities and the like, facilitating pollutant migration and discharge to waters of the State of California and waters of the United States, and contributing to the past or present

handling, storage, treatment, transportation, or disposal of any hazardous waste which may present an imminent and substantial endangerment to health or the environment.

Honeywell's past and current operations at the Site violate provisions of RCRA, 42 U.S.C. § 6924, which govern the mishandling of hazardous wastes.

River Watch contends Honeywell has inadequately maintained records of the manner in which its hazardous wastes have been treated, stored and/or disposed of; inadequately monitored, reported and/or complied with existing regulations concerning its wastes; inadequately provided storage facilities for its wastes; and in the past has not developed adequate contingency plans for effective action to minimize damage from the unauthorized releases of hazardous contaminants – all of which has presented a substantial endangerment to human health and to the environment.

3. The discharger responsible for the alleged violation.

The discharger(s) responsible for the alleged violations are Honeywell Aerospace and Purex Industries Inc.

4. The date or dates of violation or a reasonable range of dates during which the alleged activities occurred.

RCRA is a strict liability statute with a statute of limitations of 5 years; therefore, although violations of RCRA by Honeywell have occurred for more than 5 years, the range of dates covered by this Notice is October 1, 2005 through the date of this Notice. River Watch will from time to time update and supplement this Notice to include all violations by Honeywell which occur after the date of this Notice.

The majority of the violations identified in this Notice such as: threatening to and discharging pollutants to groundwater and surface waters; failure to obtain RCRA-authorized permits; failure to implement the requirements of RCRA; failure to properly label, track or report the type, quantity or disposition of waste; failure to use a manifest system to ensure waste generated is properly handled, stored, treated or disposed of; and, failure to meet water quality objectives, are continuous. Therefore each day is a violation.

River Watch believes all violations set forth in this Notice are continuing in nature or will likely continue after the filing of a lawsuit. Specific dates of the other violations are evidenced in Honeywell's own records (or lack thereof) or files and records of other regulatory agencies including the Regional Water Quality Control Board ("RWQCB"), GeoTracker, San Mateo County Health and local police and fire departments.

5. The full name, address, and telephone number of the person giving notice.

The entity giving notice is Northern California River Watch, identified throughout this Notice as "River Watch". River Watch is a non-profit corporation organized under the laws of the State of California, located at 500 North Main Street, Suite 110, Sebastopol, CA, 95472 - telephone (707) 824-4372. River Watch is dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California.

The violations of Honeywell as set forth in this Notice affect the economic stability, physical health and aesthetic enjoyment of members of River Watch who reside and recreate in the affected watershed areas. The members of River Watch use the watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shellfish harvesting, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource are conditions specifically impaired by these violations of the RCRA by Honeywell.

River Watch has retained legal counsel to represent it and its members in this matter. All communications should be addressed to:

Jack Silver
Law Office of Jack Silver
P.O. Box 5469
Santa Rosa, CA 95402-5469
Tel: (707) 528-8175
Fax: (707) 528-8675
Email: lhm28843@sbcglobal.net

BACKGROUND HISTORY

The Site is located in a mixed use area of Belmont, and consists of approximately 0.4 acres. It is located one mile west of the San Francisco Bay. The current owners of the property are W. Howard Jones and Catherine Jones.

The Currier Company opened the Site in 1960 and later with Baron-Blakeslee, Inc. operated a solvent sales and recycling company until 1972. On June 30, 1970 Baron-Blakeslee, Inc. merged with Purex Corporation, later acquired by Purex Industries, Inc. In 1985, all assets and liabilities of Baron-Blakeslee, Inc. were sold to Allied Corporation (AlliedSignal) which merged with Honeywell Inc.

The Site is at a surveyed elevation of approximately 10 feet above mean sea level (msl), and is relatively flat. Sediments of the Site are mapped as unconsolidated, alluvial sediments with interbedded sands and gravel underlain by bedrock. On-site groundwater is 2-12 feet below ground surface. The groundwater flow is east northeast toward Belmont Creek and Redwood Shore Lagoon. Groundwater flow is affected by a bedrock channel, tidal action in Belmont Creek and the saltwater interface. Belmont Creek is a water of the United States which drains to San Francisco Bay.

Beneficial uses of the groundwater include municipal and domestic water supply, industrial process water supply, industrial service water supply, agricultural water supply, and freshwater replenishment to surface water. Beneficial uses of Belmont Creek include water contact and non-contact recreation, wildlife habitat, cold freshwater and warm freshwater habitat and estuarine habitat.

In 1990, volatile organic compounds (“VOCs”) were detected in the groundwater at the Site, and were also detected in adjacent sites. The primary chemicals of concern are TCE (trichloroethylene), cis-1,2-DCE (a breakdown product of TCE), and vinyl chloride. TCE is in the soil in levels up to 81 mg/kg and in the groundwater at levels of 740,000 µg/L. Off-site TCE levels are as high as 380,000 µg/L. The high concentration of TCE suggests a dense non-aqueous phase liquid in the soils. The TCE plume is approximately 2,400 feet long and 1,000 feet wide. Cis-1,2-DCE is in the groundwater at levels of 13,000 µg/L. Vinyl chloride is in the groundwater at levels of 8,100 µg/L.

TCE dissolves little in water but can remain in groundwater and soils for a long time. TCE can cause headaches, lung irritation, dizziness, poor coordination, difficulty concentrating, impair heart function, cause an increase in cancer, cause nerve, kidney and liver damage and death. The California primary maximum contaminant level of 5 µg/L. The maximum contaminant level for cis-1,2-DCE is 6 µg/L. Vinyl chloride can cause headaches, dizziness, drowsiness, loss of consciousness, liver degeneration and is a known carcinogen. The maximum contaminant level for vinyl chloride is 0.5 µg/L.

The Site remains a threat to the human population and the local area environment. No estimates of the residual contaminant plume mass have been found, and no estimate of the length of time to remediate the site to below California’s Maximum Contaminant levels or Water Quality Objectives have been done. River Watch believes Honeywell must work much more proactively to remediate the soil and groundwater beneath and around this Site by employing best available technology as required by the RWQCB’s Water Quality Control Plan or Basin Plan.

River Watch seeks engineering assurances that the underlying aquifers are not at risk; and, that residual contamination at the Site is not migrating to outlying groundwater and potentially to surface waters in the area. Proactive remediation using “best available technology” must be implemented, and some efforts to estimate the residual plume mass and the amount of time necessary to remediate the Site must be accomplished in keeping with standard cleanup protocols in the industry.

REGULATORY STANDARDS

RCRA of 1976 is a Federal law of the United States, the goals of which are protection of the public and the environment from harm caused by waste storage and disposal, and to mandate the proper remediation of soil and groundwater which has been contaminated by hazardous waste and hazardous products, including VOCs and vinyl chloride. RCRA is a strict liability statute with a statute of limitations of 5 years. Pursuant to RCRA, California has enacted laws and regulations which must be observed in conjunction with provisions of RCRA.

California’s WQOs exist to ensure protection of the beneficial uses of water. Several beneficial uses of water exist. The most stringent WQOs for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions need to be considered which evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels.

The RWQCB has adopted a Water Quality Control Plan or Basin Plan which designates all surface and groundwater within the North Coast Region as capable of supporting domestic water supply.

VIOLATIONS

1. Permits, Standards and Regulations - (42 U.S.C. § 6972(a)(1)(A))

Specifically, with respect to the Site, River Watch contends Honeywell is responsible for the following statutory violations:

1. Failure to prevent a release, in violation of 40 CFR §§280.30, 280.31 and California Health & Safety Code §§25292.1(a) - (c), 25292.3(a) and (b);
2. Failure to properly detect and monitor releases, in violation of 40 CFR §§ 280.40 -280.44 and California Health & Safety Code §25292;

3. Failure to properly report and keep records of the release, in violation of 40 CFR §§280.34, 280.50, 280.52, 280.53, 280.63(b) and California Health & Safety Code §§25289, 25293 and 25295(a)(1); and,
4. Failure to take proper corrective action, in violation of 40 CFR §§280.53, 280.60 -280.66 and California Health & Safety Code §25295(a)(1).

2. Imminent and Substantial Endangerment - (42 U.S.C. §6972(a)(1)(B))

Between October 1, 2005 and October 1, 2010, Honeywell used and stored solvents at the Site in a manner which has allowed significant quantities of hazardous solvent constituents to be discharged to soil and groundwater beneath the Site and beneath adjacent properties. The contaminant levels of TCE, cis-1,2-DCE and vinyl chloride in groundwater at the Site are significantly greater than the allowable MCLs and/or WQOs for said constituents. TCE and vinyl chloride are known or suspected carcinogens. All are known to harm both plants and animals. In their concentration at the Site, these pollutants are creating an imminent and substantial endangerment to public health and the environment.

3. Mishandling of Hazardous Waste - (42 U.S.C. § 6924 *et seq.*)

Between October 1, 2005 and October 1, 2010, Honeywell has caused and/or allowed significant quantities of hazardous constituents as identified in this Notice to be discharged to soil and groundwater beneath the Site and beneath adjacent properties.

River Watch alleges Honeywell has at all times material, engaged in the following activities or omissions in violation of RCRA's waste handling provisions:

1. Failed to adequately maintain records of hazardous wastes as described in this Notice which were treated, stored or otherwise disposed of on or offsite - 42 U.S.C. §6924(a)(1);
2. Failed to satisfactorily monitor, inspect, or report in accordance with the provisions of the RCRA - 42 U.S.C. §6924(a)(2);
3. Failed to adequately treat, store, or properly dispose of hazardous wastes found at the Site - 42 U.S.C. § 6924(a)(3);
4. Failed to adequately locate, design and construct hazardous waste treatment, storage or disposal facilities - 42 U.S.C. § 6924(a)(4); and,

5. Failed to properly implement contingency plans for effective action to minimize unanticipated damage from treatment, storage or disposal of hazardous waste found at the Site - 42 U.S.C. § 6924(a)(5).

These pollutants in their concentration at the Site have continued to cause an imminent and substantial endangerment to public health and the environment.

The violations alleged in this Notice are knowing and intentional in that Honeywell has used, stored and sold solvent products the Site which are known to contain hazardous substances; and, has intended that such products will be sold to and used by the public. Honeywell has known of the contamination at the Site for numerous years and has also known that failing to promptly remediate the pollution allows the contamination to migrate through soil and groundwater at and adjacent to the Site and to continually contaminate and re-contaminate actual and potential sources of drinking water as well as surface waters.

In addition to the violations set forth above, this Notice is intended to cover all violations of RCRA by Honeywell as evidenced by information which becomes available to River Watch after the date of this Notice.

Violations of RCRA of the type alleged herein are a major cause of the continuing decline in water quality and pose a continuing threat to existing and future drinking water supplies of Northern California. With every discharge, groundwater supplies are contaminated. These discharges can and must be controlled in order for the groundwater supply to be returned to a safe source of drinking water.

CONCLUSION

As stated in the NOTICE section above, RCRA requires a private party to give notice of the violation 60 days prior to the initiation of an action for violation of a permit, standard, regulation, condition, requirement, prohibition or order effective under RCRA. (42 U.S.C. § 6972(b)(1)(A)), and 90 days prior notice when the violation is alleged to have occurred before initiating an action for an imminent and substantial endangerment to human health or the environment. (42 U.S.C. §6972(b)(2)(A)).

However, actions that allege violations of Subtitle C, including the mishandling of hazardous waste, can be brought without observing the 60/90 day notice waiting periods which are applicable to 42 U.S.C. §6972(a)(1)(A) and 42 U.S.C. § 6972(a)(1)(B) claims; and, when Subtitle C claims are brought in conjunction with 42 U.S.C. § 6972(a)(1)(A) or 42 U.S.C. §6972(a)(1)(B) claims, none of the claims require a waiting period before a lawsuit under the provisions of RCRA may be filed.

River Watch believes this Notice sufficiently states grounds for filing a lawsuit under the statutory and regulatory provisions of RCRA as to the Site. Within 30 days of service of this Notice letter alleging violations of RCRA Subtitle C, subchapter III, River Watch intends to file suit against Honeywell under the provisions of RCRA with respect to each of the violations as alleged herein, and the existing conditions at the Site.

However, River Watch is willing to discuss effective remedies for the violations referenced in this Notice. If Honeywell wishes to pursue such discussions in the absence of litigation, you are encouraged to initiate such discussions within 10 days of receipt of this Notice. River Watch will not delay the filing of a lawsuit if discussions have not commenced within that period of time.

Very truly yours,


Jack Silver

JS:lhv

cc: Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Regional Administrator
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-0100

Executive Director
Calif. Integrated Waste Mgmt. Board
1001 "I" Street
Sacramento, CA 95814

California Department of Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812-0806

California Attorney General's Office
California Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

California Environmental Protection Agency
P.O. Box 2815
Sacramento, CA 95812-2815

Honeywell International, Inc.
c/o Lawyers Incorporating Service, Reg. Agent
2730 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

Mr. W. Howard Jones
Mrs. Catherine Jones
1471 Woodberry Avenue
San Mateo, CA 94403