UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

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**NOTICE OF POTENTIAL LIABILITY AND OFFER TO NEGOTIATE FOR REMOVAL ACTION**
**URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY**
**CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

FEB 12 1991

Mr. Harold Michael
(b) (6)
[redacted]

Re: Rogers Electric, Cheverly, Maryland (the "Site")

Dear Mr. Michael:

This letter serves as notification of potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9607(a), as amended (CERCLA), that the National Gallery of Art (NGA) may incur or may have incurred with respect to the above-referenced site. This letter also notifies NGA of forthcoming removal activities at the site which NGA may be asked to perform or finance at a later date.

**NOTICE OF POTENTIAL LIABILITY**

The United States Environmental Protection Agency (EPA) has documented the release or threatened release of hazardous substances, pollutants, or contaminants at the above-referenced site. EPA has spent, or is considering spending, public funds on actions to investigate and control such releases or threatened releases at the site. Unless EPA reaches an agreement under which a potentially responsible party (PRP) or parties will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA.

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. Sections 9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6973 (RCRA), and other laws, PRPs may be obligated to implement response actions deemed necessary by EPA to protect health, welfare or the environment, and may be liable for all costs incurred by the government in responding to any release or threatened release at the site. Such actions and costs may include, but are not limited to, expenditures for investigations, planning, response, oversight, and enforcement activities. In addition, PRPs may be liable for damages to natural resources. EPA may issue an administrative order pursuant to Section 106(a) of CERCLA to

require PRPs to commence cleanup activities. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to $25,000 per day, under Section 106(b) of CERCLA, or imposition of treble damages, under Section 107(c)(3).

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EPA has evaluated information in connection with the investigation of the site. Based on this information, EPA believes that NGA may be a PRP with respect to this site. PRPs under CERCLA include current owners and operators of the site, owners and operators at the time of disposal, as well as persons who arranged for disposal or treatment of hazardous substances sent to the site, or persons who accepted hazardous substances for transport to the site. By this letter, EPA notifies NGA of its potential liability with regard to this matter and encourages NGA to voluntarily perform or finance those response activities that EPA determines are necessary at the site.

## SITE RESPONSE ACTIVITIES

At present, EPA is planning to conduct the following activities at the site:

1) Dispose of on-site PCB contaminated transformers and welders.

2) Dispose of known on-site PCB contaminated soil and debris.

3) Decontaminate on-site trailers.

4) Test soil and asphalt and remove and dispose of all identified on-site contaminated materials.

## DECISION NOT TO USE SPECIAL NOTICE

Under CERCLA Section 122(e), EPA has the discretionary authority to invoke special notice procedures to negotiate formally the terms of an agreement between EPA and PRPs to conduct or finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities at the site while formal negotiations between EPA and the PRP or PRPs are conducted.

In this case, EPA has decided not to invoke the Section 122(e) special notice procedures. It is EPA's policy not to use the special notice procedures for removals unless there is a 6-month planning lead time after the decision to respond and prior to the initiation of the action. Since the planning lead time prior to the initiation of this response action is less than 6 months, special notice procedures will not be used. Nonetheless, EPA is willing to discuss settlement opportunities without

invoking a moratorium, but will initiate the response action as planned if such discussions do not lead to settlement expeditiously.

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## INFORMATION TO ASSIST RESPONSIBLE PARTIES

EPA would like to encourage good faith negotiations between the PRPs and EPA, and among the PRPs. To assist PRPs in preparing a proposal and in negotiating with EPA concerning this matter, EPA is providing a list of names and addresses of PRPs to whom this notification is being sent as an attachment to this letter. This list represents EPA's preliminary findings on the identities of PRPs. Inclusion on, or exclusion from, the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at the site.

## PRP STEERING COMMITTEE

EPA recommends that all PRPs meet to select a steering committee responsible for representing the group's interests. Establishing a manageable group is critical for successful, expeditious, and efficient negotiations with EPA. Alternatively, we encourage each PRP to select one person from its company or organization who will represent its interests.

## ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. § 9613(k), EPA must establish an administrative record that contains documents that form the basis of EPA's decision on the selection of a response action for a site. The administrative record files, which contain the documents related to the response action selected for this site, will be available to the public for inspection and comment. The primary location is generally the EPA Regional office.

## PRP RESPONSE AND EPA CONTACT

You are encouraged to contact EPA by February 19, 1991 to indicate your willingness to participate in future negotiations at this site. You may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume you do not wish to negotiate a resolution of your liabilities in connection with the response, and that you have declined any involvement in performing the response activities. You may be held liable under Section 107 of CERCLA for the cost of the response activities EPA performs at the site and for any damages to natural resources.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein. Your response to this notice letter should be sent to:

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U.S. Environmental Protection Agency
Terry A. Stilman (3HW33)
Enforcement and Title III Section
841 Chestnut Building
Philadelphia, PA 19107
(215)597-6680

If you or your attorney have any questions pertaining to this matter, please direct them to Mr. Stilman at (215) 597-6680, or Stephen Field, Assistant Regional Counsel, at (215) 597-6178.

Sincerely,

Abraham Ferdas, Acting Director
Office of Superfund
Hazardous Waste Management Division

CC: MDE

Attachment

**Attachment**

**Potentially Responsible Parties**
**Rodger's Electric Site**

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(Red)

(b) (6)

[redacted]