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

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

Mr. Wayne D. Franklin
C/O Channing Martin, Esq.
Williams, Mullen, Christian and Dobbins
1021 E. Cary Street
Two James Center
Richmond, VA 23210-1320

OCT 7 1992

Re: Basic Tool Company Site
2133 56th Street, Hampton, Virginia (the "Site")

Dear Mr. Martin:

This letter confirms 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. § 9607(a), as amended (CERCLA), that you and/or your company, the Basic Tool Company, may incur or may have incurred with respect to the above-referenced Site. Prior oral notification of potential liability was given to you on September 17, 1992. This letter also notifies you of ongoing removal activities at the Site which you may be asked to perform or pay for at a later date if EPA performs them.

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. §§ 9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. § 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, 42 U.S.C. § 9606(a), to require PRPs to commence cleanup activities. Failure to comply with an administrative order issued under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), may result in a fine of up to $25,000 per day, under Section 106(b) of CERCLA, and/or imposition of treble damages, under Section 107(c)(3), 42 U.S.C. § 9607(c)(3).

EPA has evaluated information in connection with the investigation of the Site. Based on this information, EPA believes that you and/or your Company, the Basic Tool Company, 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 you and/or your Company, the Basic Tool Company, of your potential liability with regard to this matter and encourages you to voluntarily perform or finance those response activities that EPA determines are necessary at the Site.

SITE RESPONSE ACTIVITIES

At present, EPA is conducting the following activities at the Site:

1. Providing fire protection;

2. Characterizing and segregating the contents of the drums, vats and other containers;

3. Staging the segregated drums, vats and containers for treatment and or disposal;

4. Overpacking small containers;

5. Containing leaks from other containers;

6. Planning dispose for all hazardous substances onsite.

DECISION NOT TO USE SPECIAL NOTICE

Under CERCLA Section 122(e), 42 U.S.C. § 9622(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 because use of such procedures is not practicable or in the public interest, nor would use of such procedures facilitate an agreement or expedite remedial action. It is EPA's policy not to use the special notice procedures for removals unless there is a six-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 six 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.

DEMAND FOR PAYMENT

In accordance with CERCLA, EPA already has undertaken certain actions and incurred certain costs in response to conditions at the Site. These response actions include continued characterization and segregation of drums, vats and containers, sampling and staging of the drums and overpacking the containers. EPA may demand these costs from you at some time in the future. You are potentially liable for additional costs including any costs for enforcement or collection, plus interest if EPA conducts additional activities at the Site.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. § 9613(k), EPA will 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 such 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 located at 841 Chestnut Building, Philadelphia, PA 19107.

PRP RESPONSE AND EPA CONTACT

You are encouraged to contact EPA within 3 calendar days of receipt of this letter 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 that you have declined any involvement in performing the response activities described above. 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:

U.S. Environmental Protection Agency
Carol Manning, On-Scene Coordinator
Removal Enforcement Section (3HW33)
841 Chestnut Building
Philadelphia, PA 19107
(215) 597-6684

If you or your attorney have any questions pertaining to this matter, please direct them to Carol Manning, of my staff, or Margaret Cardamone, Assistant Regional Counsel at (215) 597-1632.

Sincerely,

Peter W S Lau

Abraham Ferdas, Associate Division
Director for Superfund Programs
Hazardous Waste Management Division

cc: Margaret Cardamone (3RC22)