

February 8, 1989

Ernest Drapela, Director  
Parks and Recreation  
City of Eugene  
22 West 7th Avenue  
Eugene, OR 97401

Re: Day Island Landfill  
SW Permit No. 95 (closed)  
Lane County

Dear Mr. Drapela:

Your December 9, 1988 letter requested the Department to "refute or corroborate" Milo Mecham's preliminary legal opinion on liabilities which could accrue to the city by assuming ownership of the Day Island Landfill site. Our legal counsel has reviewed your submittal and reminded us that it is not the Department's role to apprise parties of potential legal liabilities in a particular property transaction, therefore this response is quite brief.

Our experience is that any current owner, as well as many others who have participated in ownership, operation, or disposal of wastes over the life of a landfill, might have potential liability if environmental problems or monetary damages are identified. Under ORS 466.567(3), the city may be exempt from liability under the state "Superfund" program. However, you would not necessarily be exempt under the federal Superfund program (CERCLA), common law, and possibly RCRA (Resource Conservation and Recovery Act).

It seems appropriate for you to be cautious as you consider accepting title to the Day Island site; however, this should only be taken as a general observation.

Sincerely,

Steve Greenwood, Manager  
Solid Waste Section  
Hazardous and Solid Waste Division

SG:eas:b  
SB8257

cc: Lane County Solid Waste Department  
Willamette Valley Region, DEQ  
Ernie Schmidt, Solid Waste Section, DEQ