

STATE OF MICHIGAN



JOHN ENGLER, Governor

DEPARTMENT OF ENVIRONMENTAL QUALITY

"Better Service for a Better Environment"

HOLLISTER BUILDING, PO BOX 30473, LANSING MI 48909-7973

INTERNET: www.deq.state.mi.us

RUSSELL J. HARDING, Director

REPLY TO:

SHIAWASSEE DISTRICT OFFICE
10650 BENNETT DR
MORRICE MI 48857-9792

February 25 1999

Mr, Robert Metcalf
General Motors Corporation
North American Operations
902 E. Hamilton Avenue
Flint Michigan 48550-8504

Dear Mr. Metcalf:

SUBJECT: Request for a Groundwater Migration Exemption for the Linden Road Landfill,
Genesee County

In response to your request for a migration exemption for the contamination found in the shallow upgradient monitoring wells at the above referenced facility, the Michigan Department of Environmental Quality (MDEQ) has the following comments:

Part 201 of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, provides an exemption from state liability for an owner or operator of a facility if a parcel is impacted by contamination solely as a result of contamination migrating from another site. This exemption does not apply if the person causes or contributes to a release.

Specifically, Section 20126(4)(d) of the NREPA states that the following person is not liable: "the owner or operator of property onto which contamination has migrated unless that person is responsible for an activity causing the release that is the source of the contamination."

If the data and information indicate that the conditions you described meet the criteria set forth above, the state would not consider you to be a person liable under the provisions of Part 201 of the NREPA. Also, Section 20107a(4) states that due care obligations, mentioned in Section 20107a(1), do not apply to owners or operators of property where contamination has migrated who are not liable under Section 20126(4)(d).

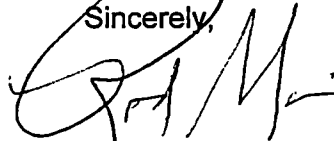
However, the owner is required to disclose information about the property at the time of sale or transfer if it is a facility. As defined in Section 20101(1)(l): "Facility means any area, place, or property where a hazardous substance in excess of the concentrations which satisfy the requirements of section 20120a(1)(a) or (17) or the cleanup criteria for unrestricted residential use under part 213. . . comes to be located." Section 20116(1) provides that "a person who has knowledge or information or is on notice through a recorded instrument that a parcel of his or

her real property is a facility shall not transfer an interest in that real property unless he or she provides written notice to the purchaser or other person to which the property is transferred that the real property is a facility and discloses the general nature and extent of the release." Section 20116(3) also requires disclosure of ". . . any land use or resource use restrictions that apply to the property as part of remedial action . . ."

The information set forth in this letter is explanatory only and should not be considered as a determination or finding by the Department of Environmental Quality that the conditions on the property meet the liability exemption criteria under Part 201 of the NREPA.

If you have any questions, contact James Innes at (517) 625-4693.

Sincerely,



Rodney Mosier
District Supervisor
Environmental Response Division
Shiawassee District Office

RM:JEI:jh

cc: Mr. James Innes, MDEQ