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**STATE BOARD OF EQUALIZATION**

Sacramento  
12-7-61

Gentlemen:

This is in reply to your letter of November 30, 1961, in which you stated that the road oil which is furnished by your client, the REDACTED TEXT, lasted in the case of logging roads, for a period of only three to five months. You also noted that oiling logging roads should be considered a maintenance operation rather than an improvement to real property.

As stated in our earlier letter (dated October 26, 1961) we do not believe the fact that the road oil becomes dispersed by time and use is sufficient to keep it from being an improvement to realty. If the oiled surface lasts for only a period of three months rather than three years, it is still our opinion that your client, in applying the oil to the road surface, is a construction contractor making improvements to real property.

The subject of whether maintenance constitutes an improvement to realty has been a subject of an opinion of the California Attorney General. We are enclosing a copy of that opinion for your information. You will note that the last paragraph of this opinion states:

“In view of the legislative history and the interpretation placed upon the legislation by your Board, we are of the opinion that materials used by contractors with the United States or its agencies in repairing or maintaining such property are subject to the sales tax.”

Accordingly, we are of the opinion that the sale of the road oil to your client for use in construction contracts with the United States Government was a taxable sale under Section 6384 of the California Sales and Use Tax Law (Revenue and Taxation Code), and if he gave a resale certificate to his supplier, he is liable for use tax under Section 6094.

Very truly yours,

E. H. Stetson  
Tax Counsel

By \_\_\_\_\_  
John H. Knowles

JHK:o'b

Enclosure

cc: Fresno - Administrator