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M e m o r a n d u m

To: Honorable Brad Sherman
Honorabile William Bennett
Honorabile Ernest J. Dronenburg, Jr.
Member, 4th District
Honorabile Gray Davis

Date: March 22, 1991

From: E. L. Sorensen, Jr.
Chief Counsel

Subject: Recent Court Action
Maecon, Inc. v. State Board of Equalization

On March 19, 1991, the California Court of Appeal issued its decision in the above-referenced case, which is another of the actions brought on behalf of Tax Consultant REDACTED TEXT testing the Board's distinction between "fixtures" and "machinery and equipment" within Regulation 1521 on construction contractors. The trial court ruled in favor of Maecon on several issues, and in favor of the Board on others.

In yet another unpublished opinion, the Court of Appeal affirmed the part of the trial court decision in the Board's favor and reversed a large part of the decision by the trial court in plaintiff's favor. The Court of Appeal agreed with the Board that the fuel waste facility at Edwards Air Force Base was comprised of fixtures taxable to United States Government contractors and was not comprised of machinery and equipment resold by the contractor to the United States Government. The purpose of the fuel waste disposal facility was to clean up and remove hazardous waste materials that accumulated at the Air Force base. The facility included scrubbers, blowers, tanks, pipes, fittings, filters, valves, manipulators, pumps, and a control system, all of which were attached to the realty.

The Court of Appeal agreed with the trial court that an industrial waste facility at Beale Air Force Base was "machinery and equipment" resold to the United States Government, and not "fixtures", because the facility was described in the record as "loose equipment" and "a floating skimmer with accessories", with no evidence of attachment to realty.

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Attachment

cc: Ms. Cindy Rambo
Ms. Judy Agan
Mr. Bob Nunes
Mr. Glenn Bystrom