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May 18, 1988

Law and Legislation Committee  
Council Chambers  
Sacramento, California 95814

RE: AB 4498 (Sher) Re Recycled Oil

Honorable Members in Session:

SUMMARY

This report recommends support of AB 4498 (Sher) relating to governmental purchasing of recycled oils, if amended as suggested.

BACKGROUND

AB 4498 would require state and local agencies to give preference to recycled oil when purchasing oil products by requiring that "every local agency shall purchase engine lubricating oil and industrial oil from the seller whose oil product contains the greater percentage of recycled oil if the availability, fitness, quality, and price of the recycled oil product is otherwise equal to comparable virgin oil products."

The attached memorandum from the City's Fleet Manager describes the City's interest in oil recycling as both a buyer of oil products and a generator of used oil. The Fleet Manager recommends support of the legislation, if amended to provide that the existence of any one of the three conditions cited in his memorandum at the top of page 2 is sufficient grounds for using an alternate supply of oil. It is also necessary to develop a system of testing, labeling and rating recycled oil products so that their use can be considered to comply with vehicle warranties.

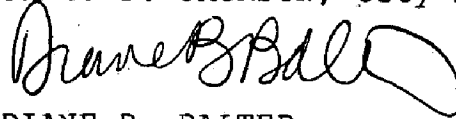
The Fleet Manager makes other technical comments which may be of interest to the author of the legislation.

RECOMMENDATION

It is recommended that the Law and Legislation Committee endorse AB 4498 if amended as indicated.

Respectfully submitted,

JAMES P. JACKSON, City Attorney



DIANE B. BALTER  
Deputy City Attorney

DBB:je  
Att.

May 26, 1988  
Law and Legislation  
All Districts



DEPARTMENT OF  
GENERAL SERVICES

FLEET MANAGEMENT DIVISION

CITY OF SACRAMENTO  
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May 9, 1988

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R. E. "GENE" MOORE  
MANAGER

MEMORANDUM

TO: Diane Balter, Deputy City Attorney  
FROM: R.E. "Gene" Moore, Fleet Manager  
SUBJECT: AB 4498, SHER BILL. HAZARDOUS WASTE: RECYCLED OIL

This memo is a response to your recent questionnaire regarding the Sher Bill, and our staff's analysis of its impact on the City of Sacramento as it relates to the Fleet Management Division.

The environmental, regulatory and economic concerns connected with used oil management are of interest to our operation as we are not only buyers of oil products, but "generators" of used oil and other waste streams. Additionally, as the coordinator of the City's Underground Storage Tank Program, we continually try to keep informed of any legislation regulating this field.

This past week, a member of my staff and I attended a two day symposium on "Oil Waste Management Alternatives" in Oakland, which was sponsored by the Department of Health Services and the United States Environmental Protection Agency. These oral and written presentations were compiled to assist people in both the private and public sectors who generate or manage oil wastes. The topics covered were:

- complying with applicable regulations;
- developing and implementing an overall oil waste management strategy;
- identifying cost-effective on-site/off-site oil waste management alternatives;
- minimizing liabilities; and
- understanding present and planned government oil waste program objectives.

Assemblyman Sher's Bill, AB 4498, specifically interests our Division for several reasons:

1. One of the requirements of the bill states that "every procuring agency shall require that purchases of engine lubricating oil and industrial oil be made from the seller whose oil product contains the greater percentage of

recycled oil unless the agency certifies that a specific oil product containing recycled oil is all of the following:" (bolding added)

- (1) Not reasonably available within a reasonable period of time.
- (2) Unable to meet the reasonable performance standard of the procuring agency.
- (3) Unavailable at a reasonable price. (Less than 5% difference between the price of virgin and recycled oil is used as the guideline for "reasonable").

It seems unreasonable to require that all of these situations must exist before an alternate supplier of oil can be used. Any one of these conditions should allow the procuring agency to look to another source of supply, as each condition can adversely affect the buyer's operation.

2. For the past several years, the Fleet Management Division has requested the City to enter into cooperative purchasing agreements with both State and County purchasing departments in order to obtain equipment and supplies that meet our specifications in the most cost effective manner. We are currently buying our oil through a County cooperative purchasing agreement. All oil purchases are from reputable manufacturers who produce, test and package their products according to established and currently accepted standards.

Oils are rated by how they perform in engine tests, rather than on what they contain. These tests, developed jointly by the auto and oil industries and allied societies, represent different engine requirements. Thus, oils are rated or put into service categories and are labeled by the American Petroleum Institute (API). Officially, vehicle manufacturers make oil recommendations through the owner's manuals they place in vehicles and in warranty specifications.

Therefore, our concern is that the Sher Bill contain some provision that these new oils, which will contain various levels of recycled oil, be tested, labeled with currently recognized ratings, and gain the approval of vehicle/engine manufacturers. These provisions will assure Fleet Managers that recycled oil products meet engine and component specifications and that vehicle warranties remain in effect.

3. In Section 2 (b) of the Bill it states: "The industrial capability currently exists to readily meet an increase in demand for recycled oil products." Yet, one of the speakers at the symposium in Oakland, Mr. Timothy F. Sparks stated: "The number of facilities presently in operation actually permitted to reprocess used oils in the State of California totals six. .... Of these six, two are located in the north and four are located Bakersfield south. Only one of these facilities (Evergreen Oil, in the San Francisco Bay area) has a full part B Hazardous Facility Permit; the rest are operating under interim status." These contradictory points of view should be noted. Provisions should be made in the Bill to assure that proper facilities are built that can recycle the used oil entirely within the limits of the law.


4. Approximately 80% of the used oils collected in California each year is reprocessed to some degree and sold as fuel, especially to the shipping industry. This reprocessed oil is economically favorable for the shipping

industry as it replaces more expensive fuel that would otherwise have to be purchased. It would seem that the Sher Bill's proposed program to increase the production of "rerefined" oil would have an impact on the availability of reprocessed oil for the shipping industry. How this would affect future shipping costs is not known.

5. One area of the Bill deals with having establishments properly equipped and authorized to accept used oil from the general public (household wastes). It is foreseeable, that due to liabilities involved with such an operation, private companies would not be inclined to operate such an establishment. Therefore, if at some future time the City of Sacramento is required to accept oil wastes from the public at a designated site, the question of liability must be addressed. Both the City employees involved with such an operation and the general public who will be accessing it must be properly educated about the various and complex waste streams. Wastes must be clearly labeled and properly collected to ensure that contamination of recyclable oil products does not occur, or that dangerous mixing of waste streams does not produce a volatile substance. If a large volume of recyclable oil is contaminated by unknown toxins, it becomes a "hazardous waste", and the costs involved in properly disposing of it are dramatically increased.

6. Lastly, additional staff time required to meet all the provisions of this State mandate would be required and would also need to be documented in order to justify SB 90 reimbursements, if established.

I hope that we have sufficiently covered the issues that your questionnaire has addressed. If further clarification is needed in any area, please do not hesitate to contact either me or Virginia Henry.

  
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R.E. "Gene" Moore  
Fleet Manager

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**ASSEMBLY BILL**

**No. 4498**

**Introduced by Assembly Member Sher**

**February 19, 1988**

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An act to add Article 14 (commencing with Section 25251) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to recycled oil.

**LEGISLATIVE COUNSEL'S DIGEST**

AB 4498, as introduced, Sher. Hazardous waste: recycled oil.

(1) Existing law requires used oil, as specified, to be handled as hazardous waste and prohibits disposal of used oil in an unauthorized manner.

This bill would require specified labeling on oil containers. The bill would require the California Waste Management Board to maintain access to a toll-free telephone number for a specified purpose relating to used oil, as defined.

The bill would also require state and local agencies of government to give preference to recycled oil, as specified, unless a specified certification is made, thereby imposing a state-mandated local program. The bill would require the board to monitor recycled oil procurement and require procuring agencies, as defined, to provide information to the board in that regard, thereby imposing a state-mandated local program.

The bill would make legislative findings and declarations.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other

procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be made from the State Mandates Claims Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares as  
2 follows:

3 (a) In 1986, the Legislature enacted Article 13  
4 (commencing with Section 25250) of Chapter 6.5 of  
5 Division 20 of the Health and Safety Code, relating to the  
6 management of used oil, as defined, which set forth the  
7 requirements for environmentally safe recycling and  
8 disposal of used oil.

9 (b) It is the intent of the Legislature to now establish  
10 a program to increase both the supply and demand for  
11 recycled oil products in a manner consistent with the  
12 definitions and requirements of that article.

13 (c) The development of this state's recycled oil  
14 market is an essential part of the efforts to protect the  
15 environment and public health from hazards of improper  
16 disposal of used oil. By supporting a sound market for  
17 recycled oil products, the state creates significant  
18 economic incentives for compliance with the provisions  
19 of that article.

20 (d) The growth of the market for recycled oil products  
21 further serves the state's interests in the preservation of  
22 the state's and the nation's dwindling supply of  
23 petroleum.

24 SEC. 2. The Legislature further finds and declares as  
25 follows:

26 (a) New technologies currently employed by the  
27 recycled oil industry are capable of yielding high quality  
28 oils equivalent or superior to virgin oils.

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1 (b) The industrial capability currently exists to readily  
2 meet an increase in demand for recycled oil products.

3 (c) The costs of recycled oil are competitive with  
4 those of virgin oil.

5 SEC. 3. Article 14 (commencing with Section 25251)  
6 is added to Chapter 6.5 of Division 20 of the Health and  
7 Safety Code, to read:

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Article 14. Recycled Oil Markets

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11 25251. (a) The definitions in this section govern the  
12 construction of this article.

13 (b) "Board" means the California Waste Management  
14 Board.

15 (c) "Department" means the State Department of  
16 Health Services.

17 (d) "Engine lubricating oil" means any oil used in an  
18 internal combustion crankcase, transmission, gearbox, or  
19 differential of an automobile, bus, truck, vessel, plane,  
20 heavy equipment, or machinery powered by an internal  
21 combustion engine.

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22 (e) "Industrial oil" means any compressor, turbine, or  
23 bearing oil; hydraulic oil; metal-working oil; refrigeration  
24 oil; or railroad drainings.

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25 (f) "Procuring agency" means any state agency or any  
26 agency of a political subdivision of the state which is using  
27 state funds for procurement of engine lubricating oil or  
28 industrial oil, or any person contracting with that agency  
29 with respect to work performed under a contract for  
30 engine lubricating oil or industrial oil.

31 (g) "Recycled oil" means recycled oil as defined in  
32 subdivision (c) of Section 25250.1.

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33 (h) "Used oil" means used oil, as defined in subdivision  
34 (a) of Section 25250.1.

35 25251.1. All containers that (1) contain engine  
36 lubricating oils or industrial oils, or are intended for use  
37 as a used oil receptacle and (2) are intended for use by  
38 consumers in California shall be labeled in at least  
39 14-point typeface by the manufacturers of the containers  
40 as follows:

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1 "Used oil is classified as a hazardous waste under  
2 California law. Used oil shall be recycled or disposed of  
3 properly. Do not place used oil into household garbage or  
4 commercial dumpsters or pour into sewers or onto the  
5 ground. Call the following toll-free telephone number to  
6 find out how to properly recycle or dispose of your used  
7 oil in your area: (800) \_\_\_\_\_"

8 25251.2. The board shall maintain an improved level  
9 of access to the toll-free telephone number designated in  
10 subdivision (g) of Section 25251.1 which is to be used for  
11 the sole purpose of informing callers of the following:

12 (a) The permissible methods of recycling or disposing  
13 of used oil.

14 (b) The types of establishments likely to be properly  
15 equipped and authorized to accept used oil.

16 (c) Specific establishments located in the area of the  
17 caller that have notified the board that they are properly  
18 equipped and authorized to accept used oil.

19 (d) Specific oil recycling facilities in the area of the  
20 caller that are permitted by the department to receive  
21 used oil and that have programs of used oil pickup.

22 25251.3. Every procuring agency shall revise its  
23 procedures and specifications for purchases of engine  
24 lubricating oil and industrial oil to eliminate any  
25 exclusion of recycled oils and any requirement that oils  
26 be manufactured from virgin materials.

27 25251.4. (a) Every procuring agency shall require  
28 that purchases of engine lubricating oil and industrial oil  
29 be made from the seller whose oil product contains the  
30 greater percentage of recycled oil, unless the procuring  
31 agency certifies that a specific oil product containing  
32 recycled oil is all of the following:

33 (1) Not reasonably available within a reasonable  
34 period of time.

35 (2) Unable to meet the reasonable performance  
36 standards of the procuring agency.

37 (3) Unavailable at a reasonable price. The price for a  
38 recycled oil product that is less than 5 percent greater  
39 than the lowest bid or price quoted by suppliers offering  
40 virgin oil products shall not be considered to be an

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1 unreasonable price.

2 (b) Prices of recycled oil products in excess of 5  
3 percent more than the lowest bid or price quoted by  
4 suppliers offering virgin oil products may be considered  
5 reasonable depending on the specific purchasing  
6 considerations of the procuring agency.

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7 25251.5. (a) Every procuring agency shall establish  
8 and maintain an affirmative program for procuring oils  
9 containing the maximum content of recycled oil.

10 (b) An affirmative program shall include, but not be  
11 limited to, all of the following:

12 (1) The placement of descriptions of the preference  
13 for recycled oil products in publications used to solicit  
14 bids from suppliers.

15 (2) Description of the recycled oil procurement  
16 program at bidder's conferences.

17 (2) Discussion of the preference program in engine  
18 lubricating oil and industrial oil procurement solicitations  
19 or invitations to bid.

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20 (4) Efforts to inform industry trade associations about  
21 the preference program.

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22 25251.4. The board shall monitor the recycled oil  
23 procurement of procuring agencies to determine the  
24 annual volume of recycled oil purchased pursuant to this  
25 article. All procuring agencies shall assist the board in  
26 carrying out its monitoring under this section and shall  
27 promptly make available all requested information  
28 concerning the procurement of virgin and recycled oil  
29 products. This information shall be provided in the form  
30 determined by the board.

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31 25251.5. Every local agency shall purchase engine  
32 lubricating oil and industrial oil from the seller whose oil  
33 product contains the greater percentage of recycled oil if  
34 the availability, fitness, quality, and price of the recycled  
35 oil product is otherwise equal to comparable virgin oil  
36 products.

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37 SEC. 3. Notwithstanding Section 17610 of the  
38 Government Code, if the Commission on State Mandates  
39 determines that this act contains costs mandated by the  
40 state, reimbursement to local agencies and school

1 districts for those costs shall be made pursuant to Part 7  
2 (commencing with Section 17500) of Division 4 of Title  
3 2 of the Government Code. If the statewide cost of the  
4 claim for reimbursement does not exceed five hundred  
5 thousand dollars (\$500,000), reimbursement shall be  
6 made from the State Mandates Claims Fund.

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