

12-9-1997

# Timber Harvesting. Identification. Old Growth Trees. Clearcutting.

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**BILL JONES**  
*Secretary of State*  
*State of California*

**ELECTIONS DIVISION**  
(916) 657-2166  
1500 - 11<sup>th</sup> STREET  
SACRAMENTO, CA 95814  
Voter Registration Hotline  
1-800-345-VOTE  
For Hearing and Speech Impaired  
Only  
1-800-833-8683  
e-mail: comments@ss.ca.gov

December 9, 1997

TO: ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENTS (97225)

FROM: *Cathy Mitchell*  
CATHY MITCHELL  
ELECTIONS SPECIALIST

SUBJECT: INITIATIVE #776

Pursuant to Elections Code section 3513, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**TIMBER HARVESTING. IDENTIFICATION.  
OLD GROWTH TREES. CLEARCUTTING.  
INITIATIVE STATUTE.**

The proponents of the above-named measure are:

William Verick  
William F. Grader, Jr  
c/o Mr. James Wheaton  
Environmental Law Foundation  
1736 Franklin Street, 8<sup>th</sup> Floor  
Oakland, CA 94612  
(510) 208-4555

**#776**  
**TIMBER HARVESTING. IDENTIFICATION.**  
**OLD GROWTH TREES. CLEARCUTTING.**  
**INITIATIVE STATUTE.**

**CIRCULATING AND FILING SCHEDULE**

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1. Minimum number of signatures required: ..... 433,269  
California Constitution, Article II, Section 8(b)
  
2. Official Summary Date:..... Tuesday, 12/09/97  
Elections Code section (EC §336)
  
3. Petitions Sections:
  - a. First day Proponent can circulate Sections for  
signatures (EC §336)..... Tuesday, 12/09/97
  
  - b. Last day Proponent can circulate and file  
with the county. All sections are to be filed at the  
same time within each county (EC §336, 9030(a)) ..... Friday, 05/08/98
  
  - c. Last day for county to determine total number of  
signatures affixed to petitions and to transmit total  
to the Secretary of State (EC §9030(b))..... Wednesday, 05/20/98
  

(If the Proponent files the petition with the county on a date prior to 05/08/98,  
the county has eight working days from the filing of the petition to determine  
the total number of signatures affixed to the petition and to transmit the total to  
the Secretary of State) (EC §9030(b)).
  
- d. Secretary of State determines whether the total number  
of signatures filed with all county clerks/registrars of  
voters meets the minimum number of required signatures,  
and notifies the counties (EC §9030(c))..... Friday, 05/29/98\*
  
- e. Last day for county to determine total number of qualified  
voters who signed the petition, and to transmit certificate  
with a blank copy of the petition to the Secretary of State  
(EC §9030(d)(e))..... Friday, 07/10/98

\* Date varies based upon receipt of county certification. Elec. Cd. §15.

**INITIATIVE #776**

**Circulating and Filing Schedule continued:**

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(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 05/29/98, the last day is no later than the thirtieth day after the county's receipt of notification). (EC §9030(d)(e)).

- f. If the signature count is more than 476,596 or less than 411,606 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 411,606 and 476,596 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures (EC §9030(f)(g); 9031(a))..... Monday, 07/20/98\*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State (EC §9031(b)(c)). .....Monday, 08/31/98

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 07/20/98, the last day is no later than the thirtieth working day after the county's receipt of notification). EC §9031(b)(c).

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (EC §9031(d); 9033). ..... Friday, 09/04/98\*

**NOTE TO PROPONENTS WHO WISH TO QUALIFY FOR THE NOVEMBER 3, 1998 GENERAL ELECTION:** This initiative must be certified for the ballot 131 days before the election (June 25, 1998). Please remember to time your submissions accordingly. For example, in order to allow the maximum time permitted by law for the random sample verification process, it is suggested that proponents file their petitions to county elections official by April 17, 1998. If a 100% check of signatures is necessary, it is advised that the petitions be filed by February 25, 1998.

\* Date varies based upon receipt of county certification. Elec. Cd. §15.

## IMPORTANT POINTS

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- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 123 Cal. App. 3d 825, 177 Cal. Rptr. 621; 63 Ops. Cal. Atty. Gen. 37 (1980).
- Please refer to Elections Code sections 100,101,104,9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation in printing, typing and otherwise preparing your initiative petition for circulation and signatures, Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq. A brief summary is attached for your reference.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

Enclosures

DANIEL E. LUNGREN  
Attorney General

State of California  
DEPARTMENT OF JUSTICE




1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550  
(916) 445-9555  
Facsimile: (916) 323-2137  
(916) 324-5490

December 9, 1997

FILED  
In the office of the Secretary of State  
of the State of California

DEC 9 1997

Bill Jones  
Secretary of State  
1500 - 11th Street  
Sacramento, CA 95814

BILL JONES, Secretary of State  
By   
Deputy Secretary of State

Re: Initiative Title and Summary  
Subject: TIMBER HARVESTING. IDENTIFICATION.  
OLD GROWTH TREES. CLEARCUTTING. INITIATIVE STATUTE.

File No: SA 97 RF 0051

Dear Mr. Jones:

Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed to the proponents of the above-identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponents, a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the names and address of the proponents are as stated on the declaration of mailing.

Sincerely,

DANIEL E. LUNGREN  
Attorney General



MICHELE W. OLSEN  
Acting Initiatives Coordinator

MWO:fec  
Enclosures  
cc: William Verick  
William F. Grader, Jr.

Date: December 9, 1997  
File No.: SA 97 RF 0051

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

TIMBER HARVESTING. IDENTIFICATION. OLD GROWTH TREES. CLEARCUTTING. INITIATIVE STATUTE. Restricts clearcutting to prohibit cuts resulting in post-harvest areas retaining less than 100 square feet/acre of lumber, measured at 4.5 feet from base of timberland on two acres or more. Limited exceptions. Requires identification, public notice of "Heritage Trees"/stamping of lumber milled from such trees. Authorizes civil enforcement actions by Attorney General, public officials, and private persons. Authorizes injunctions/fines up to \$25,000/violation or three times timber value. Imposes fees to cover administration/enforcement costs. Prohibits payments from General Fund for costs of timber operations on private lands. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Unknown reduction in state and local revenues, potentially a few million to over ten million dollars annually, to extent timber harvesting is reduced. Unknown long term impact on state and local revenues due to changes in economic activities. Unknown state costs to implement timber harvest regulations; any costs would be offset by fees. Annual savings of about \$13 million to various state funds from filing fee revenues for timber harvest plans.



# ENVIRONMENTAL LAW FOUNDATION

1736 Franklin Street, 8th Floor, Oakland, California 94612 • 510/208-4555 • Fax 510/465-6248 •

SA97RF0051

RECTORS  
Alph Santlago  
Masca  
California Rural  
Legal Assistance  
Alf Merrilees  
United Brotherhood  
Teamsters  
Vid Nesmith  
Verra Club /  
Chapter  
Teresa Schilling  
James Wheaton  
President and  
Executive Director  
Appell Hayes  
(48-1994)

17 October 1997

Attorney General Dan Lungren  
Deputy Attorney General Rosemary Calderon  
1300 I Street  
Sacramento, California 95814

RECEIVED  
OCT 32 1997

Re: Proposed initiatives

Dear Ms. Calderon:

We are the proponents of five initiatives filed with your office on Friday 10 October 1997, numbered SA97RF0047 - SA97RF0051. Please direct all further correspondence and questions from your office or the Secretary of State about those initiatives to:

MEMBER ADVISORS  
Professor Robert  
M...  
... Public  
... Law,  
... University of  
... Diego

Mr. James Wheaton  
Environmental Law Foundation  
1736 Franklin Street, 8th Floor  
Oakland, CA 94612  
510/208-4555  
Fax: 510/465-6248

Meyerhoff  
Rural Resources  
Advisory Council

Cordially,

William Verick

William F. Grader, Jr.

RECEIVED

NOV 14 1997

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE



SA97RF0051

**Verification**

I, William Verick, am an official proponent of the attached initiative and request for Title and Summary.

Signed,


  
William L. Verick

SA97RF0051

**Verification**

I, William Grader, am an official proponent of the attached initiative and request for Title and Summary.

Signed,

  
\_\_\_\_\_  
William Grader



5A97RF0051

# ENVIRONMENTAL LAW FOUNDATION

1736 Franklin Street, 8th Floor, Oakland, California 94612 • 510/208-4555 • Fax 510/465-6248 •

CTORS  
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Club /  
Chapter  
Schilling  
Wheaton  
Executive Director  
William Hayes  
(1994)  
ADVISORS  
Robert  
Public  
Law,  
ity of  
go  
erhoff  
Resources  
Council

10 October 1997

Attorney General Dan Lungren  
Deputy Attorney General Rosemary Calderon  
1300 I Street  
Sacramento, California 95814

BY HAND DELIVERY

Re: Proposed initiatives

Dear Attorney General Lungren:

Attached hereto for filing are drafts of five individual initiative measures, submitted for Title and Summary of the chief purpose and points of the proposed measures, under the provisions of Elections Code § 9002.

Each is accompanied by a verification containing the original signatures of the two proponents of the measures, Mr. William Verick and Mr. William Grader. A separate sheet with the proponents' residential addresses for verification of their status as registered electors is also attached to this letter. Separate checks for \$200 for each measure are also attached hereto.

Please address all correspondence and questions to me, at the address and phone numbers above, on behalf of the proponents.

Each measure has a suggested Title, which appears at the top of each draft. We will, per your office's suggestion, forward a suggested Summary of the chief purpose and points of each measure, within a week or ten days of this filing, to aid you in your official role.

We look forward to working with you to answer any inquiries you may have about these measures.

Cordially,

James Wheaton

Encl.

**INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO  
THE VOTERS**

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**Anti-Clearcutting and Heritage Tree Protection Act**

[set forth summary here]

**TO THE HONORABLE SECRETARY OF THE STATE OF CALIFORNIA**

We, the undersigned, registered, qualified voters of California, residents of \_\_\_\_\_ County, hereby propose amendments to various California Codes relating to water quality and forest practices and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed statutory amendments (full title and text of the measure) read as follows:

**SECTION 1.** This Act shall be known as Anti-Clearcutting and Heritage Tree Protection Act of 1998.

**SECTION 2. Findings and Declarations.**

1. The People of the State of California find that irresponsible industrial logging is destroying forests, and the natural and historical heritage that belongs to all people of the State.
2. The People further find that state agencies have failed to protect public trust resources and that these resources have been harmed and degraded.
3. The People find that harmful and destructive logging has been subsidized by transfers from the State General Fund, a form of corporate welfare.

The People of the State of California therefore declare their rights:

- (a) To protect our natural and historical heritage.
- (b) To protect public trust resources from irresponsible clearcutting and “cut and run” logging.
- (c) To protect the public purse from being used to subsidize activities that harm public trust resources.

The people hereby enact the provisions of this initiative in furtherance of these rights.

**SECTION 3.** Section 4563 is added to Article 5 of Chapter 8 of Part 2 of Division 4 of the Public Resources Code to read:

Section 4563(a). Notwithstanding any other provision of law, except as otherwise provided by this section, clearcutting of timber is prohibited.

(b) For the purposes of this section, “clearcutting” means any timber harvest operation in which the post-harvest area retains less than 100 square feet of basal area at breast height per acre on any area greater than two (2) acres in size. Clearcutting does not include any of the following:

- (1) Harvesting of Christmas trees or Eucalyptus trees;
- (2) Emergency sanitation of damaged, insect-infested or diseased trees that pose an imminent threat to human health or safety;
- (3) Emergency road repairs;
- (4) Fire breaks, fire roads, and rights-of-ways not to exceed 30 feet in width; or
- (5) Timber operations on timberland owed or controlled by a single entity which owns or controls a total of 40 acres or less. For purposes of this section, an “entity” shall include an individual, organization, partnership, joint venture, corporation, or limited liability company,

and any parent or subsidiary of any such entity.

**SECTION 4.** Section 5030 is added to Article 3 of Chapter 1 of Part 4 of Division 5 of the Public Resources Code to read:

Section 5030. Heritage Trees.

(a) The People of the State of California find and declare that ancient and old growth trees are rare and irreplaceable resources that make an invaluable contribution to the natural and historical heritage of California.

(b) All trees in California that are known or likely to have been living on the date on which California became a state are hereby declared to be "Heritage Trees" and historical resources and are subject to the provisions of this Article.

(c) In addition to the requirements of Section 4582 of the Public Resources Code, each timber harvesting plan must specifically and individually identify each Heritage Tree that will be cut, felled, harvested, destroyed, or otherwise damaged during timber operations.

(d) In addition to the requirements of subsection (c) of this section, no timber harvesting plan may be accepted for filing, approved, or deemed approved unless, at least 30 days prior to the date on which the timber harvesting plan is accepted for filing, the timber owner, as defined in Section 4527.5 of the Public Resources Code, has notified the public of the total number, species, and diameter at breast height of each Heritage Tree required to be identified pursuant to subsection (c) of this section. This notice shall require, at a minimum, a quarter page display advertisement, in 15 point type or larger, in at least the largest daily circulation newspaper(s) in both the county in which the Heritage Tree or Heritage Trees are to be cut, and the State.

(e) When a timber owner sells a log or logs from Heritage Trees, that timber owner shall

provide notice to the purchaser that the log is from a Heritage Tree.

(f) Any person that mills lumber from a Heritage Tree shall affix to each piece of lumber milled from a Heritage Tree a permanent seal or stamp which shall be of legible size and typography and shall state the following: This lumber was milled from a California Heritage Tree.

(g) Subsections (c), (d), and (e) of this section shall apply only to timber owners who own or control 2000 acres or more of timberland, or who have rights to harvest timber on 2000 acres or more of timberland, as defined in section 4526 of the Public Resources Code.

**SECTION 5.** Section 4592.5 is added to Article 7 of Chapter 8 of Part 2 of Division 4 of the Public Resources Code to read:

Section 4592.5. No timber harvesting plan shall be accepted for filing, approved, or deemed approved unless the department, the appropriate regional water quality control board, the Department of Fish and Game, and the Division of Mines and Geology have been fully compensated by the timber owner or operator for the actual costs incurred in administering and enforcing this Article, including but not limited to developing regulations, monitoring compliance, and reviewing timber harvesting plans. The department shall adopt a schedule of timber harvest plan filing fees adequate to meet the requirements of this section. Fees shall be increased in proportion both to the timber volume proposed to be removed and to the acreage of land upon which timber is proposed to be harvested.

**SECTION 6.** Section 4518 is added to Article 7 of Chapter 8 of Part 2 of Division 4 of the Public Resources Code to read:

Section 4518. Notwithstanding any other provision of law, no funds from the General Fund shall be appropriated or expended to pay for any direct or indirect costs of timber operations

on private lands.

**SECTION 7.** Section 4619 is added to Article 8 of Chapter 1 of Part 2 of Division 4 of the Public Resources Code to read:

Section 4619. (a) Any violation of Sections 4563 or 5030 is a civil violation.

(b) Any person violating or threatening to violate Sections 4563 or 5030 may be enjoined in any court of competent jurisdiction.

(c) Any person who violates Sections 4563 or 5030 shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) per day for each violation or three times the value of the timber harvested or marketed in violation of Sections 4563 or 5030, whichever is greater.

(d) An action for violating Section 4563 or 5030 may be brought by the Attorney General in the name of the people of the State of California or by any district attorney or, with the consent of the district attorney, by a city attorney in any city or city and county in the name of the People of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association, or by any person on his or her own behalf or on behalf of the public.

(e) No action may be commenced pursuant subsection (d) of this Section by any person that is not the Attorney General, a district attorney or city attorney if the Attorney General, a district attorney or city attorney has previously commenced and is diligently prosecuting a civil action against the alleged violator for the same violation.

(f) In any action brought to enforce Sections 4563 or 5030, the court shall, upon motion, award to a substantially prevailing party that is enforcing this Act, that party's attorneys



fees and costs, including the costs of expert witnesses and consultants, if the following conditions are met:

(1) A significant benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons, and

(2) The necessity and financial burden of private enforcement are such as to make the award appropriate.

**SECTION 8.** The provisions of this Act are severable. If any provision of this Act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

**SECTION 9.** All references to California Code Sections that existed prior to the enactment of this Act are to those sections as they read on January 1, 1998.

**SECTION 10.** To further the purposes of this Act, this Act shall be construed broadly.