

2-5-1998

Inverse Condemnation.

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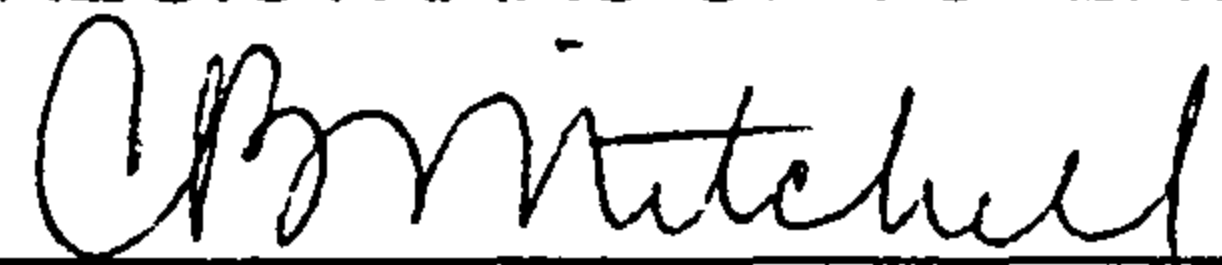


BILL JONES
Secretary of State
State of California

ELECTIONS DIVISION
(916) 657-2166
1500 - 11th 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

February 5, 1998

TO: ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENTS (98054)

FROM: 
CATHY MITCHELL
ELECTIONS SPECIALIST

SUBJECT: **INITIATIVE #801**

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**INVERSE CONDEMNATION.
INITIATIVE STATUTE.**

The proponent of the above-named measure is:

Thomas W. Hiltachk
Bell, McAndrews & Hiltachk
455 Capitol Mall, Suite 801
Sacramento, California 95814
(916) 442-7757

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FEB 13 1998

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#801
INVERSE CONDEMNATION.
INITIATIVE STATUTE.

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required: 433,269
California Constitution, Article II, Section 8(b)

2. Official Summary Date:..... Thursday, 02/05/98
Elections Code section (EC§) 336

3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (EC §336) Thursday, 02/05/98

 - 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)) Monday, 07/06/98*

 - 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))..... Thursday, 07/16/98

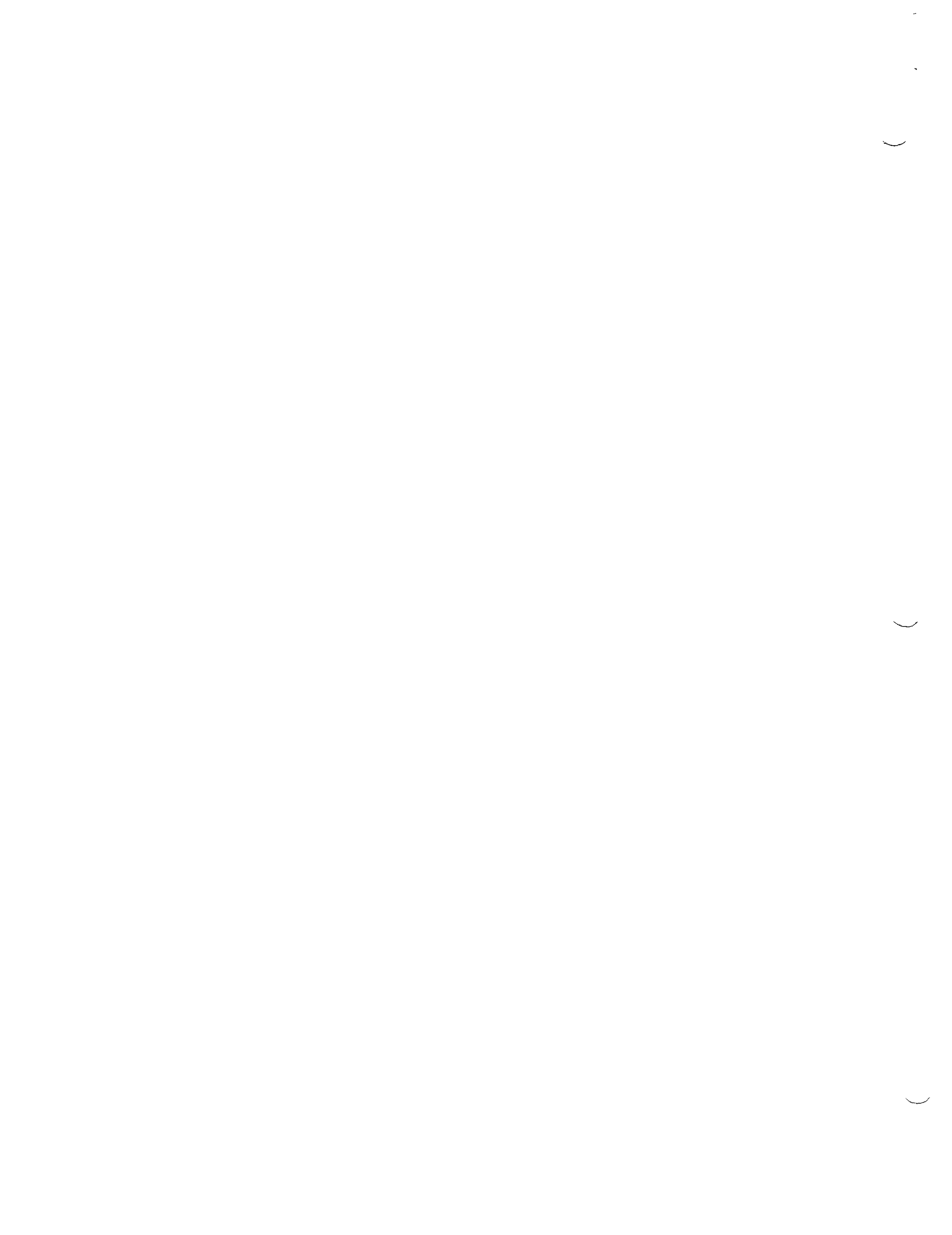
(If the Proponent files the petition with the county on a date prior to 07/06/98,
the county has eight working days from the filing of the petition to determine the
total number of signatures affixed to the petition and to transmit the total to the
Secretary of State) (EC §9030(b)).

 - 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))..... Saturday, 07/25/98**

 - 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, 09/04/98

* Date adjusted for official deadline which falls on a Sunday. (EC §15)

** Date varies based on receipt of county certification.



INITIATIVE #801

Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 07/25/98, 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, 09/14/98**
- 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)). Tuesday, 10/27/98

(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 09/14/98, 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)..... Saturday, 10/31/98**

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.

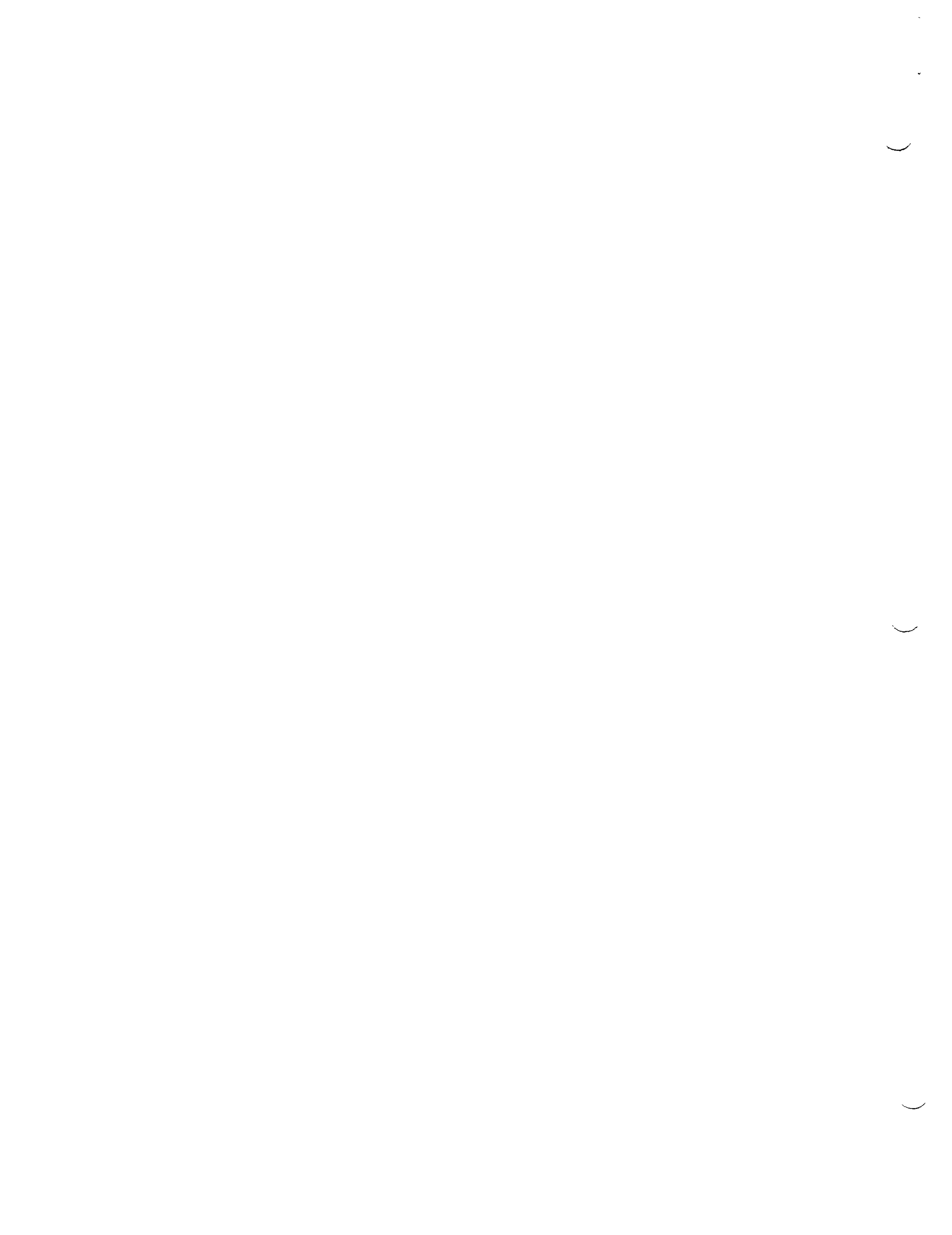
** Date varies based on receipt of county certification.



IMPORTANT POINTS

- 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
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Facsimile: (916) 323-2137
(916) 324-5490

February 5, 1998

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

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

FEB - 5 1998

Re: Initiative Title and Summary
Subject: INVERSE CONDEMNATION. INITIATIVE STATUTE.
File No: SA 97 RF 0075

BILL JONES, Secretary of State
By *Deirdre Avent*
Deputy Secretary of State

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 proponent of the above-identified proposed initiative our title and summary.

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

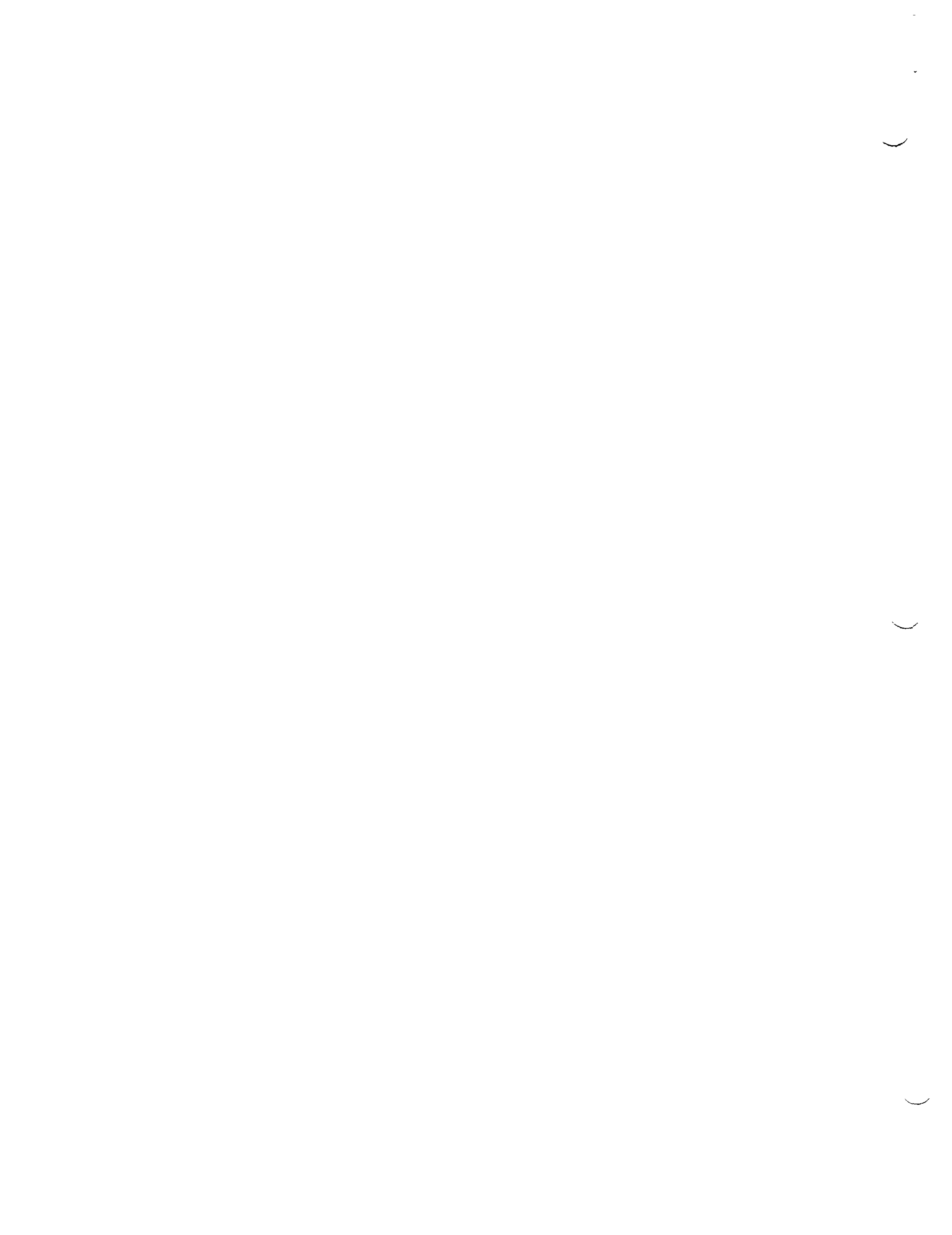
According to information available in our records, the name and address of the proponent are as stated on the declaration of service.

Sincerely,

DANIEL E. LUNGREN
Attorney General

Connie Lemus
CONNIE LEMUS
Initiative Coordinator

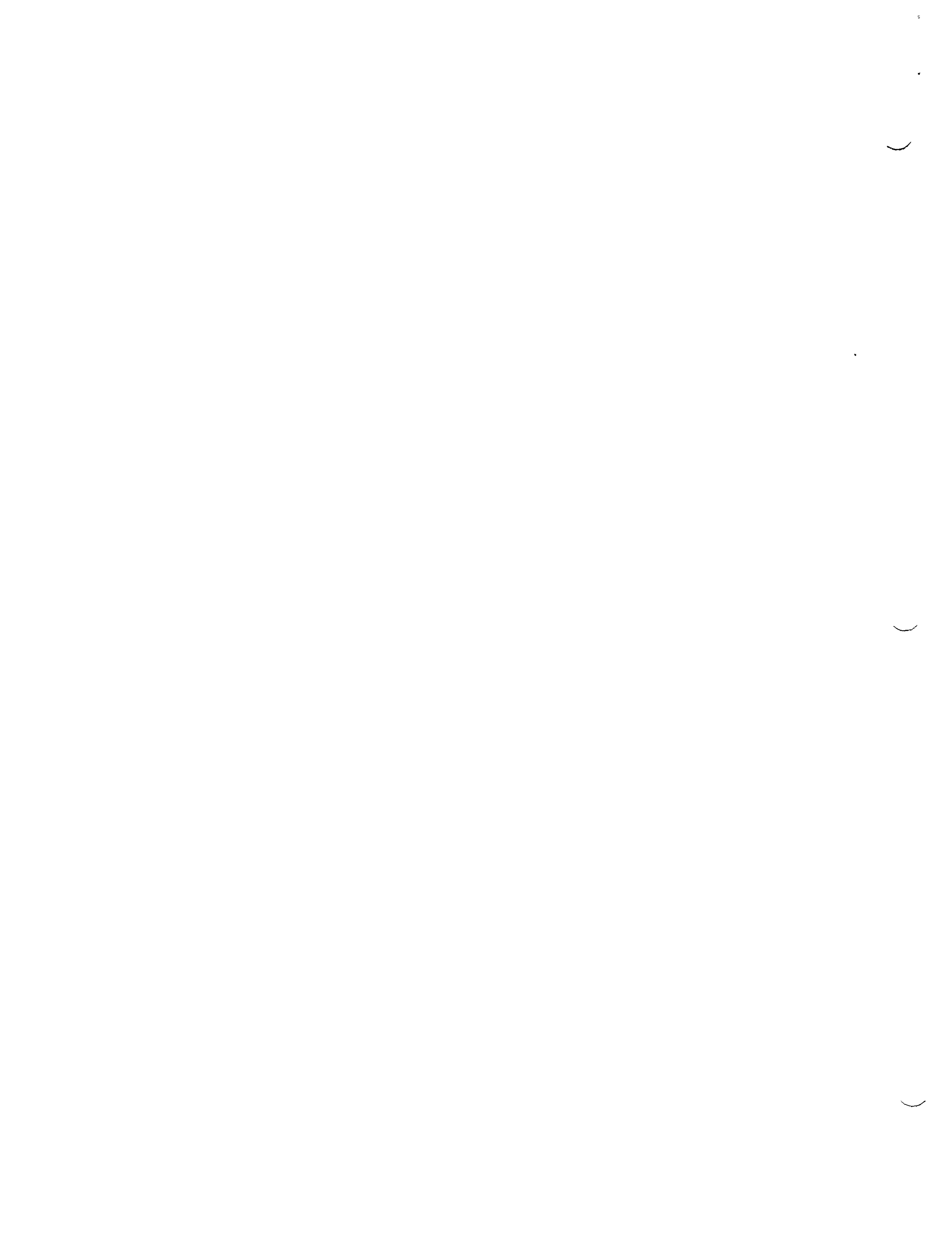
CL:fec
Enclosures
cc: Thomas W. Hiltachk



Date: February 5, 1998
File No.: SA 97 RF 0075

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

INVERSE CONDEMNATION. INITIATIVE STATUTE. Requires compensation for state or local government action that prohibits, restricts or limits use of real property causing reduction of fair market value by 20 percent or more. Government actions necessary to prevent public nuisance excepted. Authorizes suit for and allows jury determination of liability and compensation. Allows property owner to file suit without first challenging legality of governmental action. When compensation is paid, government action controls property use. Provides five year statute of limitations for suit. Applies to government action under existing laws or future laws. Attorney General must adopt regulations for measure's administration, enforcement. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: This measure would result in unknown, but potentially major, annual administrative and claim costs to provide compensation to property holders damaged by governmental actions.



BELL, MCANDREWS & HILTACHK

SA97RF0075

ATTORNEYS AND COUNSELORS AT LAW

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(916) 442-7757

FAX (916) 442-7759

CHARLES H. BELL, JR.
COLLEEN C. MCANDREWS
THOMAS W. HILTACHK

1441 FOURTH STREET
SANTA MONICA, CA 90401
(310) 458-1405

December 5, 1997

Michelle Olson
Initiative Coordinator
Department of Justice
1300 I Street
Sacramento, CA 95814

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DEC - 8 1997

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

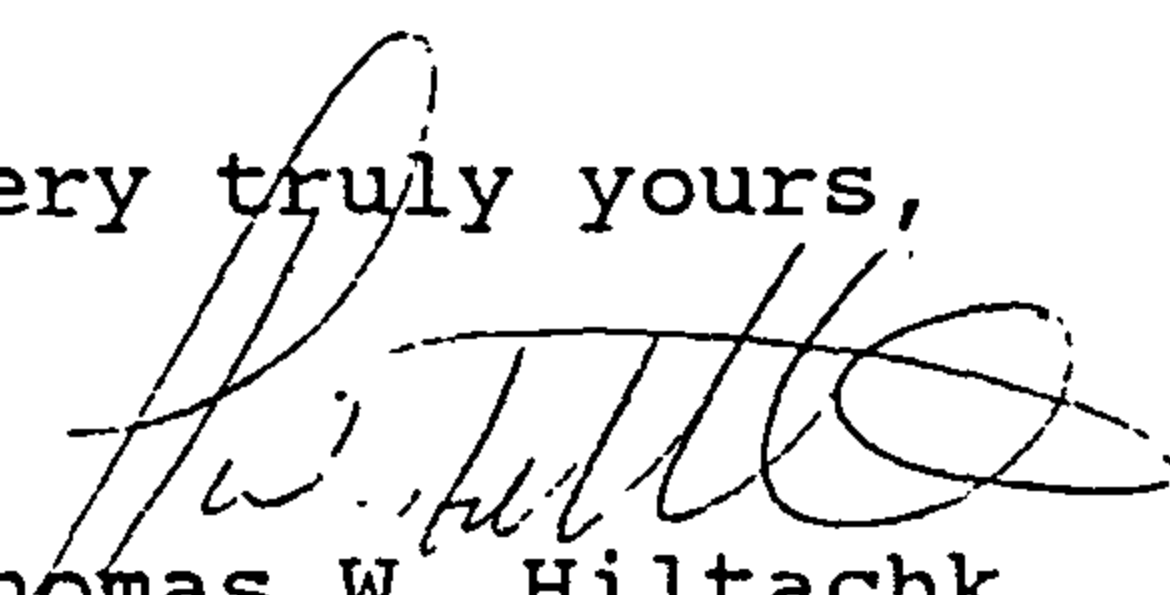
Re: Request For Title and Summary

Dear Ms. Olson:

Please find enclosed an initiative entitled "Private Property Protection Act." I am the proponent of this initiative and am a registered voter. I have enclosed the \$200 filing fee with this letter.

Please prepare a title and summary of the initiative as soon as possible.

Very truly yours,


Thomas W. Hiltachk,
Proponent

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INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO VOTERS

Section 1. Title.

This act shall be known and may be cited as the Private Property Protection Act.

Section 2. Findings & Declaration of Purpose.

The People of the State of California find and declare that:

(a) Both the United States and California Constitutions recognize that the rights of individuals to own and use property is fundamental and must be protected.

(b) Government, however, may regulate the use of private property for the benefit of all Californians when such regulation is necessary to protect the health and safety of its citizens.

(c) When government restricts the use of private property for the benefit of society as a whole, then fairness demands that society, not the individual landowner, should bear the costs associated with the restriction.

(d) When government's regulation of the use of private property severely reduces the market value of the property it is fair and appropriate that government compensate the property owner for the severe loss in market value of the property caused by the implementation of regulatory program.

(e) Therefore, the voters of California hereby adopt the "Private Property Protection Act" in order to establish a fair and equitable system to determine when just compensation is required as a result of government regulation of private property.

Section 3. Inverse Condemnation.

Title 7.1 of Part 3 (commencing with section 1274) of the Code of Civil Procedure is added to read:

§ 1274(a) If state or local government, by statute, ordinance, resolution, regulation, judicial order or decree, or by any other government action prohibits, restricts or in anyway limits the otherwise lawful use of real property to such a degree as to significantly reduce the fair market value of such real property or portion thereof, the state or local government must provide the property owner just compensation.

(b) An owner of real property may seek just compensation for the reduction in fair market value caused by the state or local

government action by filing a civil action in Superior Court, and to have the issue of liability and compensation determined by a jury. It is not necessary for a landowner to challenge the legality of the action of state or local government by a mandamus or any other legal cause of action prior to seeking relief pursuant to this title. Venue for such an action shall be determined pursuant to section 1250.020.

(c) For purposes of this title, a significant reduction of the fair market value of real property occurs when the state or local government action, or combination of government actions, reduces the fair market value by twenty (20%) or more of a parcel, or a portion of a parcel, affected by the government action.

(d) For purposes of this title, "fair market value" means the most probable price at which a parcel or portion of a parcel would change hands, in a competitive and open market under all conditions requisite to a fair sale between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts, prior to the state or local government action. Evidence of market value shall be ascertained pursuant to Article 2 of Chapter 1 of Division 7 (commencing with section 810) of the Evidence Code.

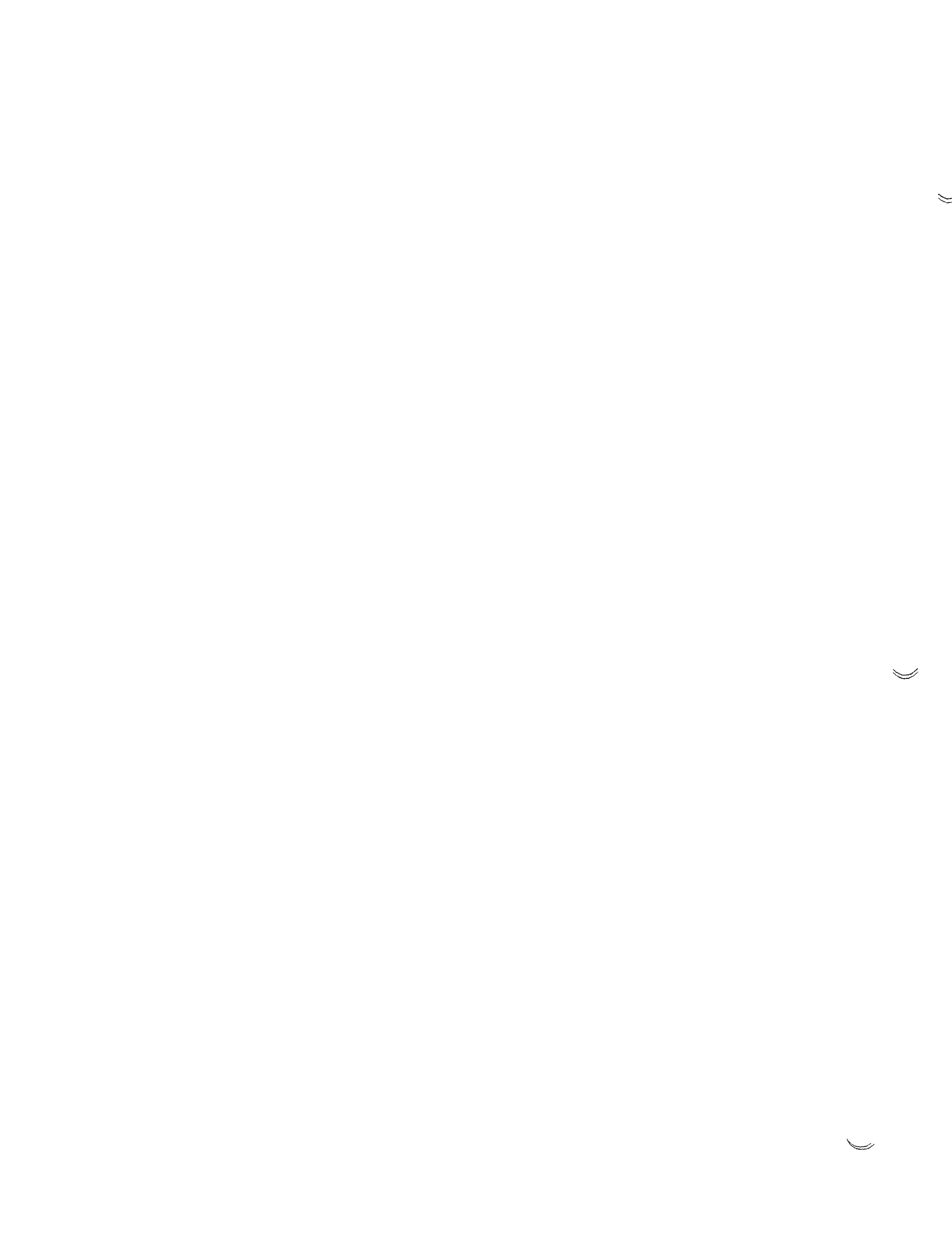
(e) For purposes of this title, "just compensation" is the amount of compensation equal to the reduction in fair market value that resulted from the state or local government action, or combination of government actions.

(f) For purposes of this title, "parcel" means real property identified as a parcel by the county assessor. "Portion of a parcel" means a contiguous area that is less than the whole parcel, which can be identified for purposes of establishing fair market value.

(g) For purposes of this title, "state" means the State of California, any agency of the state, and any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions with limited geographical boundaries. The term "local government" means any county, city, city and county, including a charter city or county, any special district or any other local or regional governmental entity.

§1274.1 The state or local government may not make waiver of the provisions of this title a condition for approval of the use of real property or the issuance of any permit or other entitlement.

§1274.2 No compensation shall be required by virtue of this title if the state or local government action is an exercise



Section 4. Other Legal Remedies Protected.

Nothing in this Act shall be construed to preclude property owners from bringing any other legal challenges including, inverse condemnation, to the action of state or local government under the United States Constitution or the Constitution of the State of California or any other law.

Section 5. Severability clause.

If any provision of this Act, or the application to any person or circumstances is held invalid or void, such invalidity or voidness shall not affect other provisions or applications which can be given effect without the invalid or void provision or application, and to this end, all of the provisions of this Act are declared to be severable.

