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Requests to Abate and Regulate Toxic Waste Discharges from Plastic Monopine Macro Cell Towers, City of South Lake Tahoe, Lake Tahoe Basin

Dear Mayor Middlebrook, City Council members, and Water Board Executive Officer Plaziak,

This letter addresses an acute breakdown in planning and Project permitting by the Lahontan Regional Water Quality Control Board (“Water Board”) and the City of South Lake Tahoe (“CSLT”) concerning a matter of urgent public safety. We the undersigned request your immediate attention and coordinated action. The focus of this letter is the continuous unpermitted industrial discharges of litter and microplastic wastes from faux monopine wireless macro cell towers into Lake Tahoe. We have already documented our concerns regarding this illegal activity throughout the Tahoe Regional Planning Authority (“TRPA”) approval process covering the wireless faux monopine tower at 1360 Ski Run Blvd. We made the Water Board aware of our concerns in late March 2022, and many times thereafter, including toxic constituents in the uncontrolled wastes. In late May 2022 we received the Water Board’s response that no formal regulatory action would be taken with regard to the plastic wastes, a response we deem inadequate under applicable law and policy. No additional information from the Water Board has been provided since. Furthermore, the July 2022 “State of the Lake Report” from the U.C. Davis Tahoe Environmental Research Group indicates that microplastics (“MPs”) are a present and increasing threat in Lake Tahoe, from “carelessness” according to the Director, and a basis for action (see August 1, 2022 NPR-CapRadio news report at <https://www.capradio.org/articles/2022/08/01/lake-tahoe-report-suggests-historic-rise-in-algae-and-surging-microplastics-are-reasons-to-take-action/>).

Toxic Hazardous Waste

We have recently commissioned a lab to test waste plastics that are currently being shed and dispersed into Lake Tahoe from two nearby faux monopine macro cell towers similar to the one being built at 1360 Ski Run Blvd. The lab tests detected lead in all samples.¹ The California Department of Toxic Substances Control (“DTSC”) website references a listing of “chemicals which create a presumption that a waste is a hazardous waste. If a waste consists of or contains a chemical listed in this subdivision, the waste is presumed to be a hazardous waste, unless it is determined that the waste is not a hazardous waste pursuant to the procedures set forth...”

Lead is on the list, and certain lead compounds are considered “extremely hazardous” wastes. (See [California Code of Regulations, Article 5, Appendix X](#)) We are alone in testing the faux monopine tower plastic waste materials for toxics, as requested prior to TRPA’s approval of its Permit for the Ski Run macro tower last March.

Besides lead, we are concerned about microplastics, man-made materials containing a variety of toxins that do not break down into natural substances in the environment. Our team has discovered that PVC plastic wastes obtained from two tower sites in east El Dorado County (Lake Tahoe Basin) contain toxic lead, and surmise that lead contained in MPs is being discharged on lands and into streams, storm drains, groundwater aquifers, and the environment around these proliferating macro cell tower sites, and ultimately into Lake Tahoe. We have also collected samples, and documented hundreds of pounds of plastic wastes from a ridgetop monopine macro tower that have been discharged over a debris field extending hundreds of feet at Heavenly Valley Ski Area, operated on U.S National Forest lands (El Dorado Co.) for many years.

Lead is highly toxic. It is a constituent of PVC microplastics. The six or more faux monopine wireless towers which the CSLT has already approved almost certainly contain lead in the faux plastic “leaves” and “branches.” Your actions are urgently required to prevent new toxic discharges of microplastics, and to abate those discharges that have already occurred and are ongoing under prior CSLT approvals. (We also encourage El Dorado County to begin investigations into the faux pine macro towers it has approved in the past two decades and take abatement actions for microplastics and toxic substances discharges based on the information we are here providing to you, in cooperation with the Water Board and others.)

¹ [Lead Analysis of monopine needles.pdf](#)

Legal Framework

The Congress ([Clean Water Act](#), [Resource Conservation and Recovery Act](#) (RCRA), and other federal statutes), the State of California ([Porter Cologne Water Quality Control Act](#), Health and Safety Code, [Proposition 65](#)), Department of Toxic Substances Control (DTSC), and [Water Board regulations](#) all concur that:

- Uncontrolled, discrete industrial discharges of lead into sources of drinking water and the environment, as is occurring today into federal, state, and municipal waters, including Lake Tahoe, present an **imminent risk to public health**; consequently, there is no allowance for such discrete, controllable waste discharges at Lake Tahoe, where a variety of discharge prohibitions apply. There is no statutory exemption or waiver of waste discharge requirements for such plastic waste and toxic waste discharges on an industrial scale, nor do we have any evidence that one has been issued by the Water Board in accordance with law.
- Continuous cumulative discharges of microplastics containing lead, in violation of the waste discharge prohibitions, in itself should be sufficient cause for concern and immediate oversight by your agencies, which are responsible for protecting the quality and clarity of Lake Tahoe and the health and safety of its residents and users. Lake Tahoe is a major source of drinking water.
- In the case of toxic microplastics, scientific studies² confirm traces in human lungs and blood; there is additional strong evidence of continuous discharges of other highly toxic substances, some of which are on both the DTSC's list (metals and compounds of the metals lead, cadmium, barium, zinc, and tin) or the Proposition 65 List for substances recognized as known carcinogens (phthalates, lead and tin), many of which are also recognized to be highly reactive in biological systems and known to act in negative synergy; in other words, significantly enhanced toxicity greater than the sum of the toxic parts.
- While we are raising concerns specifically at Lake Tahoe, we suggest that this issue of unregulated plastic litter and microplastics discharges from wireless macrotowers is not unique or limited to Lake Tahoe. It is a potential matter of statewide and national significance to prevent and abate further toxic waste

² E.g. [A Detailed Review Study on Potential Effects of Microplastics and Additives of Concern on Human Health.pdf](#)
(<https://drive.google.com/file/d/127Ud8b5nTZuT3meINAFj0ngbj2NQyPa0/view?usp=sharing>)

discharges from the hundreds (thousands nationwide³) of monopine towers already erected, before more are sited, in accordance with the State's Microplastics Strategy which prohibits such discharges.⁴

Our team has no information that the Water Board requested action from, or has consulted with the DTSC on the continuous discharges of microplastics, lead, and other known hazardous waste into the environment and Lake Tahoe, even after we raised a red flag on lead and/or other toxins in PVC wastes from faux monopine cell towers in March 2022, and thereafter with the Water Board. We note that Water Board staff in the "Non-Point Source Unit" have been assigned to review our correspondence on these discrete waste discharges, from the specific towers, as if they were no more subject to control than MPs dust from the sky. We disagree that these discrete industrial waste sources, from one of the world's most-profitable global industries (telecommunications), should escape immediate regulation of their toxic waste discharges under nonpoint source planning provisions when waste discharge requirements should be issued in accordance with law.

There is no evidence that the Water Board or the CSLT has ever complied with CEQA and conducted a full environmental impact assessment of the present wireless industry program of blanketing the CSLT and Tahoe Region with macro towers containing faux monopine plastic materials, nor has the TRPA. There is not even evidence of a Negative Declaration with cogent reasons, supported by data and other clear evidence. These facilities release toxic microplastics containing lead and other toxic substances into the Lake Tahoe basin, on an industrial scale, in clear violation of the many waste discharge prohibitions of Water Board, the TRPA, the CSLT, and others who are charged to implement and to enforce these requirements and standards. With the 2021 expiration of its Resolution No. R6T-2016-0035, waiving requirements for certain Projects under Permit requirements from TRPA, the Water Board has a present and independent statutory duty to inform itself and the public, through public hearings, of appropriate requirements for these facilities, and other announcements that regulating toxics releases from monopine towers is no longer delegated to TRPA.

³ <https://www.vox.com/2015/4/19/8445213/cell-phone-towers-trees>

⁴ <https://www.opc.ca.gov/2022/02/landmark-statewide-microplastics-strategy-recommends-early-actions-and-research-priorities-to-reduce-microplastic-pollution/>

Requests of CSLT:

- CSLT Planning Department revoke its Building Permit to Verizon on the present tower project at 1360 Ski Run Blvd. CSLT must carefully assess the health risks to children and other residents and visitors who will be exposed to toxic lead contamination from microplastics released from, or otherwise associated with, the proposed wireless macro tower to be operated by Verizon under a Special Use Permit from the CSLT at the on-site snow play area.
- CSLT revisit and reassess the Special Use Permit granted to Verizon on June 15, 2019,⁵ under a CEQA Categorical Exemption, in light of new findings on toxic lead and other hazardous substances in microplastics that we have brought to your and the public's attention. This urgent new matter affecting public health was not considered at the time this Special Use permit was originally issued. Our continuing contention is that this Special Use Permit for Verizon has already expired as a matter of law (Condition 3), and therefore Verizon is operating outside of a valid CSLT permit.
- CSLT immediately investigate and abate any damages arising from faux monopine wireless macro towers already approved by the CSLT, and inform us of your activities within 30 days.

Requests of Water Board:

- Water Board provide a thoughtful response to the points of law set forth in Alan Miller's detailed analysis contained in pp. 4-15 of his June 10, 2022 letter to Mike Plaziak.⁶ To date, the letter remains answered. The waste discharges remain unregulated by the Water Board, which is our ultimate ongoing request: issue orders to the dischargers requiring waste discharge reports and investigations; issue waste discharge requirements and cleanup/abatement orders.
- Water Board will declare a moratorium on the initial approval and construction of all monopine towers in the Tahoe Region of CA pending its complete review, as required by CEQA, of human and environmental effects from discharges and exposure to microplastics containing lead and other toxins, which are prohibited industrial discharges into Lake Tahoe.

⁵ [Unissued SLT SUP 19-026.pdf](#)

⁶ [Miller - Mike Plaziak, Monopine Towers Regulatory Requests, June 10, 2022.pdf](#)

- Water Board engage with other land owners where monopine facilities are sited. This is especially necessary since monopine towers may be on public lands, in the public right-of-ways in proximity to storm drains, a situation that will also concern conservancies, state park and beach managers, and other public officials and land managers such as US Forest Service, where towers have been placed.
- Water Board, in cooperation with CSLT, immediately begin preparing a CEQA compliant EIS, and support TRPA in including monopine discharges in its own required EIS.

Grant Possibility: There is the possibility for a \$250,000 grant in the near future from the National Science Foundation for a study of MPs at Lake Tahoe by Cornell University researchers. We encourage interested agencies and persons to engage with this pending Lake Tahoe study, at no cost to the regional participants in the study.

We look forward to your response describing the specific actions on this matter. We urge that you act without delay and fulfill your fiduciary responsibilities to the public. Our team will support any positive actions by the CSLT and Water Board.

Sincerely,

Tahoe for Safer Tech

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