

VIA EMAIL TO rb6-lahontan@waterboards.ca.gov

To: Chairman Peter C. Pumphrey, Chairman LRWQCB
Executive Director Michael R. Plaziak, LRWQCB

Cc: Other Members of the Lahontan Regional Water Quality Control Board (LRWQCB):
Amy Horne, Kimberly Cox, Keith Dyas, Essra Mostafavi

From: Legal Team for Tahoe Stewards; Environmental Health Trust; Tahoe for Safer Tech;
Alan Miller, PE; Monica Eisenstecken; David Benedict; David Jinkens

Re: Petition Against Waivers Issued in Violation of California Water Code Section 13269 for
Telecom Dischargers of Plastic Wastes as Litter and Microplastics in the Lake Tahoe
Hydrologic Unit and Request for Water Board Compliance with CWC Section 13264

Date: April 14, 2023

Dear Chairman Pumphrey, Executive Officer Plaziak, and other LRWQCB Members:

We write as counsel for the above-named petitioners to point out LRWQCB's legal responsibility to investigate carefully and then to stop illegal discharges of plastic solid plastic wastes from monopine macro cell towers disguised as fake pine trees within the Lake Tahoe Region. Our clients have previously brought this serious matter to your attention, but the latest actions demonstrate you are basically ignoring their petitions for regulatory and enforcement action. This letter briefly addresses the following:

- LRWQCB's present zero discharge standard for solid industrial waste.
- Applicable regulations governing waivers of the waste discharge requirements.
- Rules covering illegal delegation of LRWQCB regulatory authority.
- LRWQCB's statutory obligations as a responsible lead agency under the California Environmental Quality Act (CEQA).

The [California Water Code](#) (CWC) section 13320 establishes requirements for water quality petitions to State Water Resources Control Board (SWRCB) and allows the LRWQCB 60 days to act or take no action on our request before petitioning is proper. If the LRWQCB refuses to abide by its legal and fiduciary duties to protect the water quality of Lake Tahoe and the Lake Tahoe Basin within the statutory time period we intend to move to petition SWRCB. This letter supports the professional opinion of Alan Miller, PE, a long-time former employee of LRWQCB and an expert on California water quality laws and regulations. Mr. Miller's letter to you of April 12, 2023, is incorporated herein by reference, and should be read with this letter.

Prohibitions. The following are excerpted (emphasis added in bold) from the Water Quality Control Plan for the Lahontan Region:

3. The discharge of waste that could affect the quality of waters of the State that is **not authorized by the State or Regional Board** through waste discharge requirements,

waiver of waste discharge requirements, NPDES permit, cease and desist order, certification of water quality compliance pursuant to Clean Water Act section 401, or other appropriate regulatory mechanism is prohibited.

4. The discharge of untreated sewage, garbage, or other solid wastes into surface waters of the Region is prohibited. (For the purposes of this prohibition, “untreated sewage” is that which exceeds secondary treatment standards of the Federal Water Pollution Control Act, which are incorporated in this plan in Section 4.4 under “Surface Water Disposal of Sewage Effluent.”).

Chapter 5.2 sets forth six additional prohibitions. Two most applicable are:

- The discharge of garbage or other solid waste to lands within the Lake Tahoe Basin is prohibited.
- The discharge of industrial waste within the Lake Tahoe Basin is prohibited. Industrial waste is defined as any waste resulting from any process or activity of manufacturing or construction. Stormwater discharges from industrial facilities are not prohibited when wastes in the discharge are controlled through the application of management practices or other means and the discharge does not cause a violation of water quality objectives.

There is no exemption for the latter prohibition. In addition, the following statewide prohibition in SWRCB’s Trash Policy applies to the discharge of trash.

- **2. Prohibition of Discharge.** The discharge of TRASH to surface waters of the State or the deposition of TRASH where it may be discharged into surface waters of the State is prohibited. Compliance with this prohibition of discharge shall be achieved as follows:... d. Dischargers without NPDES permits, WDRs, or waivers of WDRs must comply with this prohibition of discharge.

Waivers. The LRWQCB is required by law to comply fully with the detailed and specific [California Water Code Section 13269](#) covering waivers of waste discharge requirements. The language of Section 13269 is mandatory, using the word “shall,” with regard to specific actions such as essential findings, and established fixed dates for compliance. Section 13269 does not allow corporate dischargers to fashion their own convenient compliance program or allow the LRWQCB to pick and choose what part of the law it decides to comply with, cherry-picking data to support its conclusions. The law is crystal clear and the options for LRWQCB are limited: issue Waste Discharge Requirements (WDRs) under section 13264, or waive WDRs under section 13269. With respect to the discharge of plastic solid waste from monopines in the Lake Tahoe Basin identified by petitioners, LRWQCB is practicing what is tantamount to an illegal underground regulatory program specially tailored for telecoms and owners of monopine cell towers that is inconsistent with, and indeed, violates existing law and policy.

Illegal Delegation. LRWQCB is not permitted under California law to delegate its statutory discretion to another agency (in this case Tahoe Regional Planning Agency), the various

municipalities, or far worse, to the commercial companies (e.g., Verizon, AT&T) and/or landowners that it is supposed to be regulating. Reasonable standards must guide such delegation. In the present instance, LRWQCB has accepted proposals from telecom companies to implement a biannual “cleanup” of solid waste discharges from their monopine towers at several sites described at length in Mr. Miller’s letter. Moreover, LRWQCB has, in the recent past, delegated its regulatory authority, which is clearly set out in the CWC, to TRPA. TRPA is being sued by some of the same petitioners for openly defying its own public trust and other legal responsibilities under its California-Nevada Bi-State Compact. The negotiated biannual cleanup is illegal as a matter of law. There is no authority for this corporate dispensation which, in any case, cannot possibly work to contain the illegal discharge. LRWQCB must immediately commence regulatory or enforcement actions against these solid waste polluters, including the imposition of fines and other penalties, as required under policies adopted by the SWRCB for investigations, cleanup, and enforcement, none of which are currently being followed.

The principle of illegal delegation also applies to the LRWQCB’s deference to municipalities where in every letter the LRWQCB is treating escaping trash as the responsibility of a municipal NPDES permittee rather than a telecom company. This interpretation is legally incorrect. Monopine waste degrading into carcinogenic microplastics is very different from ordinary trash; the applicable federal standard under NPDES, “maximum extent possible,” as it applies to municipalities, is very different from zero discharge under CWC, which applies directly to unpermitted and impermissible discharges of monopine waste by telecom polluters. The application of the CWC standard is especially necessary in the present case, when such discharges are continuing, pervasive, and programmatic, and with many new cell towers anticipated.

The doctrine prohibiting delegation of legislative power is well established in California. *Kugler v. Yocum* (1968) 69 Cal.2d 371, 375. A legislature’s delegation of unbridled discretion to an administrative agency is invalid. *State Board of Dry Cleaners v. Thrift-D-Lux Cleaners, Inc.*, 40 Cal.2d 436, 448 (1953); *Kugler v. Yocum*, 69 Cal.2d 371, 375 (1968). LRWQCB’s attempt to pass off its own regulatory obligations to another government agency or to the dischargers themselves is illegal.

CEQA. The continuing allowance of solid waste discharges from monopines is a major project under CEQA as this term has been interpreted by California courts. LRWQCB is acting as if this project is categorically exempt from CEQA. But there is no authority under CEQA to do this. Activities exempt from CEQA are either expressly identified by statute (i.e., statutory exemptions, PRC § 21080.01 et seq.; CEQA Guidelines §§ 15261 – 85) or fall into one of the classes deemed categorically exempt by the Secretary of Resources (i.e., categorical exemptions). PRC §21080, subd. (b)(10); CEQA Guidelines § 15300. These towers are “projects” within the meaning of CEQA and subject to an environmental determination.

CEQA identifies certain classes of projects which are exempt from the provisions of CEQA. These are called categorical exemptions. PRC § 21084 (a); CEQA Guidelines §§ 15300, 15354. Categorical exemptions are certain classes of activities that generally do not have a significant effect on the environment. CEQA categorical exemptions must be “construed narrowly” and

cannot be unreasonably expanded beyond their terms. *County of Amador v. El Dorado County Water Agency*, 76 Cal.App.4th 931 (1999).

Exemptions are strictly construed to allow for the fullest possible environmental protections within the reasonable scope of statutory language. CEQA Guidelines § 15003, subd. (f); *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster*, 52 Cal.App.4th 1165, 1192 – 93 (1997); *East Peninsula Ed. Council, Inc. v. Palos Verdes Peninsula Unified School Dist.*, 210 Cal.App.3d 155, 171 (1989); *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal.3d 376, 390 (1988) (rejecting “an attempt to use limited exemptions contained in CEQA as a means to subvert rules regulating the protection of the environment”). A reviewing court must “scrupulously enforce all legislatively mandated CEQA requirements.” *Citizens of Goleta Valley v. Bd. of Supervisors*, 52 Cal.3d 553, 564 (1990).

Public agencies utilizing CEQA exemptions must support their determination with substantial evidence. PRC § 21168.5; see *Fairbank v. City of Mill Valley* (1999) 75 Cal.App.4th 1243, 1251, as modified on denial of reh’g (Oct. 29, 1999) (“substantial evidence test governs our review of the city’s factual determination that a project falls within a categorical exemption”); *Banker’s Hill, Hillcrest, Park W. Cmty. Pres. Grp. v. City of San Diego* (2006)139 Cal.App.4th 249, 267; *Davidon Homes v. City of San Jose* (1997) 54 Cal.App.4th 106, 115, as modified on denial of reh’g (Apr. 29, 1997) (“On review, an agency’s categorical exemption determination will be affirmed if supported by substantial evidence that the project fell within the exempt category of projects”); *Magan v. Cnty. Of Kings* (2002) 105 Cal.App.4th 468, 475, as modified (Jan. 13, 2003) (an agency “only has the burden to demonstrate substantial evidence that the ordinance fell within the exempt category of projects”); *San Lorenzo Valley Cmty. Advocs. for Responsible Educ. v. San Lorenzo Valley Unified Sch. Dist.* (2006)139 Cal.App.4th 1356, 1386; *Union of Med. Marijuana Patients, Inc. v. City of San Diego* (2019) 7 Cal.5th 1171, 1186; *Muzzy Ranch Co. v. Solano Cnty. Airport Land Use Com.* (2007) 41Cal.4th 372, 380, 386-387, as modified (Sept. 12, 2007).

LRWQCB bears the burden to provide substantial evidence, which must be based upon facts, reasonable assumptions based on facts, and expert opinion, rather than mere speculation, to support their findings. CEQA Guidelines § 15384, subd. (a); *Save Our Big Trees v. City of Santa Cruz* (2015) 241 Cal.App.4th 694, 710-711 citing *Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th 372, 386.

Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. CEQA Guidelines § 15064, subd. (f)(5).

Conclusion:

Microplastics are now recognized by the California Attorney General as a serious environmental problem. In the case of Lake Tahoe, we know the exact sources of microplastic discharges and the pathways of their dissemination. The LRWQCB must immediately exercise its regulatory and enforcement jurisdictions to stop the discharge of monopine waste and microplastics, which

is illegal under CEQA and the CWC, and requires immediate risk assessment by TRPA under Article VII of the California-Nevada Interstate Compact, in close coordination with LRWQCB.

Petitioners respectfully request a definitive response from the LRWQCB within two weeks.

Sincerely,

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To: Chairman Peter C. Pumphrey, Chairman LRWQCB
Executive Director Michael R. Plaziak, LRWQCB

Cc: Other Members of the Lahontan Regional Water Quality Control Board:
Amy Horne, Kimberly Cox, Keith Dyas, Essra Mostafavi;
Recipients of Waiver letters (via email Reply)

From: Tahoe for Safer Tech, Alan Miller, Monica Eisenstecken, David Benedict, Robert Aaron,
Ben Lebovitz, David Jinkens

Re: Petition Against Waivers Issued in Violation of California Water Code for Telecom Dischargers of Plastic Wastes as Trash and Microplastics in the Lake Tahoe Hydrologic Unit and Request for Water Board Compliance with CWC Sections 13263 and sections 13264

Date: April 12, 2023

Dear Chairman Pumphrey, Executive Director Plaziak, and other LRWQCB Members:

We write to you once again concerned with ongoing and pending plastic waste discharges from monopine telecom towers disguised as fake pine trees. The recent letters issued by the Executive Officer to tower owner/operators (see Attachment 1) are illegal waivers of waste discharge requirements under California Water Code (CWC) section 13269, constituting an illegal underground regulatory program for telecoms and others, and inconsistent with existing law and policy. We also contend the ongoing and illegal waste discharges are prohibited by regulation, and create or threaten to create a condition of pollution or nuisance on and around the various Project sites.

We wish to make very clear that we are petitioning the Water Board's inaction to adopt requirements pursuant to CWC sections 13263, and sections 13264 or 13269, or take other enforcement actions under the CWC in response to reports provided pursuant to section 13260 Orders. We therefore urge immediate revocation or retraction of the letters and to implement the prohibitions forthwith through available regulatory actions for the ongoing and pending/planned discharges. We object to the illicit waivers being here carried on as "underground regulations" for these and other dischargers following the 2021 expiration of the general waiver of waste discharge requirements provided for specified Projects in Board Order No. R6T-2016-0035. We assert it is under an inappropriate and unsupported permitting standard that the Water Board is claiming these discharges are the responsibility of Municipal Separate Storm Sewer System (MS4) permittees to control and abate when appropriate regulatory standards are cited in CWC section 13263.

The situation as we see it, now over a year after contacting the Water Board concerning the unauthorized waste discharges, is as follows: The Water Board has now received “complete” waste discharge reports from several distant telecom operators responsible for the waste discharges, generally on the public and private properties of others. This is based on the letters the Executive Officer issued under the subject line, “**COMPLETE REPORT OF WASTE DISCHARGE ACCEPTED . . .**” We cite relevant parts in CWC sections 13263 and 13264 to examine the options available to the Water Board now that the completed waste discharge reports have been received.

§ 13263. [Requirements for discharge]

(a) The regional board, after any necessary hearing, shall prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge, except discharges into a community sewer system, with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241. . . .

(f) The regional board shall notify in writing the person making or proposing the discharge or the change therein of the discharge requirements to be met. After receipt of the notice, the person so notified shall provide adequate means to meet the requirements.

(g) No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights. . . .”

We note first the use of “shall” which makes the requirements non-discretionary according to Legislative intent in CWC section 15: “‘Shall’ is mandatory and ‘may’ is permissive.” Section (a) is unmet. Section (f) is unmet, as the Water Board has not notified the Dischargers of the discharge requirements to be met. There is no waste “discharge requirement,” as that term is defined and used in the CWC, only an excusing from that requirement. Therefore, the Water Board letters are nothing more, in legal terms, than a notification that the waste discharge reports are complete. Such a notification may be considered a courtesy to the Discharger, typically in advance of issuing requirements, but can’t serve as a “waste discharge requirement” or waiver of same. Therefore, the Water Board is not acting under section (f). The following applies to the Dischargers as we see it.

§ 13264. [Prerequisites to discharge]

(a) No person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:

(1) The issuance of waste discharge requirements pursuant to Section 13263

(2) The expiration of 140 days after compliance with Section 13260 if the waste to be discharged does not create or threaten to create a condition of pollution or nuisance and any of the following applies:

(A) The project is not subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(B) The regional board is the lead agency for purposes of the California Environmental Quality Act, a negative declaration is required, and at least 105 days have expired since the regional board assumed lead agency responsibility.

(C) The regional board is the lead agency for the purposes of the California Environmental Quality Act, and environmental impact report or written documentation prepared to meet the requirements of Section 21080.5 of the Public Resources Code is required, and at least one year has expired since the regional board assumed lead agency responsibility.

(D) The regional board is a responsible agency for purposes of the California Environmental Quality Act, and at least 90 days have expired since certification or approval of environmental documentation by the lead agency.

(3) The issuance of a waiver pursuant to Section 13269.

We again note the use of “shall,” this time with regard to the Discharger, and that neither section (a)(1) or (a)(2) is met. Again, as we have alleged many times based on the evidence, we contend these discharges create or threaten to create a pollution and nuisance. With regard to (a)(3) it appears the Water Board is in the position of CEQA Lead Agency, as the City of South Lake Tahoe filed a CEQA Notice of Exemption in approving its tower permit for the Project at 1360 Ski Run Blvd. (and likely the same for other local California agencies), so the Water Board has nothing like a CEQA negative declaration or environmental impact report to review or rely on. It goes without saying, or could, that the environmental documentation provided by the Tahoe Regional Planning Agency in its various macrotower permit approvals (under bogus exemptions from its federal regulations) is of no legal value to the Water Board in these CEQA matters. (We provide as Attachment 2: CEQA Portal Topic Paper Lead Agency, Responsible Agencies, and Trustee Agencies.) All macrotower Projects and discharges excused from regulation lack an environmental determination from the Water Board pursuant to CEQA. The Water Board will need to figure out what action it will take pursuant to section 13264(b) to comply with CEQA requirements it “shall” not ignore, while the discharges are meanwhile prohibited and subject to potential civil liability, if not from the Water Board, then potentially from a court.

Prohibitions

We note the Legislative intent expressed in CWC section 13263.3:

“[Legislative findings; definitions]

(a) The Legislature finds and declares that pollution prevention should be the first step in a hierarchy for reducing pollution and managing wastes, and to achieve environmental stewardship for society. The Legislature also finds and declares that pollution prevention is necessary to support the federal goal of zero discharge of pollutants into navigable waters.

(b) (1) For the purposes of this section, “pollution prevention” means any action that causes a net reduction in the use or generation of a hazardous substance or other pollutant that is discharged into water and includes any of the following . . .” (examples).

The following prohibitions are from the Water Quality Control Plan for the Lahontan Region (Basin Plan), which the Water Board has adopted pursuant to CWC section 13243. We note also under section 13243. “[Discharge of waste] A regional board, in a water quality control plan **or in waste discharge requirements**, may specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted.” (**emphasis added**) Here we don’t need that emphasis, because the Basin Plan already has a number of applicable waste discharge prohibitions, including:

“3. The discharge of waste that could affect the quality of waters of the state that is **not authorized by the State or Regional Board** through waste discharge requirements, **waiver of waste discharge requirements**, NPDES permit, cease and desist order, certification of water quality compliance pursuant to Clean Water Act section 401, or other appropriate regulatory mechanism is prohibited. (**emphasis added**)”

4. The discharge of untreated sewage, garbage, or other solid wastes into surface waters of the Region is prohibited. (For the purposes of this prohibition, “untreated sewage” is that which exceeds secondary treatment standards of the Federal Water Pollution Control Act, which are incorporated in this plan in Section 4.4 under “Surface Water Disposal of Sewage Effluent.”). (**emphasis added**)

Further, in Chapter 5.2 we have the Lake Tahoe prohibitions. There are six in all, four of which have exemption criteria set forth which this project has not demonstrably met, based on the record evidence. That aside, the focus is on the latter two, for which no exemption criteria are set forth.

5. “The discharge of garbage or other solid waste to lands within the Lake Tahoe Basin is prohibited.”
6. “The discharge of industrial waste within the Lake Tahoe Basin is prohibited. Industrial waste is defined as any waste resulting from any process or activity of manufacturing or construction. Stormwater discharges from industrial facilities are not prohibited when wastes in the discharge are controlled through the application of management practices or other means and the discharge does not cause a violation of water quality objectives.”

There is no exemption for the latter prohibition applicable to storm water containing industrial wastes. NPDES provisions of the federal Clean Water Act do not appear to apply. Therefore the CWC applies. Under the circumstances, voluntary application of management practices for waste control, as proposed, is improper; under prohibition 6, such controls are required to be implemented and monitored under the provisions of section 13264 or section 13269 requirements in lieu of an NPDES permit for the Discharger. If the Water Board thinks the law is otherwise, it shall make its assertions on the record and at a public meeting. In addition, the following prohibition in State Water Resources Control Board Trash Policy applies to the discharge of trash, and has been adopted into your Basin Plan:

“ 2. Prohibition of Discharge

The discharge of TRASH to surface waters of the State or the deposition of TRASH where it may be discharged into surface waters of the State is prohibited. Compliance with this prohibition of discharge shall be achieved as follows: . . . d. Dischargers without NPDES permits, WDRs, or waivers of WDRs must comply with this prohibition of discharge.”

Deposition of trash to lands is included if it can get into overland runoff or drainages and streamways. For non-municipal unregulated dischargers the Trash Provisions (Policy) took effect on Dec. 2, 2015, including the above prohibition. In addition, TRASH shall not be present in waters in amounts that adversely affect beneficial uses or cause nuisance. Affecting a water adversely for beneficial use means things like contaminating aquatic wildlife habitat, affecting adversely rare and threatened species (such are present at Lake Tahoe), adding litter to the waters, or contaminating the water supply with unknown toxins and fine-particulate foreign materials. Nuisance is codified and we have asserted elsewhere in the record that these discharges meet the criteria in the law.

Brief Chronology

It is now just over a year since we first apprised the Water Board, through Mr. Plaziak, of our ongoing water quality concerns following the Tahoe Regional Planning Agency’s (TRPA) March 2022 approval of the massive 112-foot telecom tower at 1360 Ski Run Blvd. During the Public Forum at the May 11, 2022 Water Board meeting we presented evidence and testimony concerning prohibited discharges from several local monopine towers camouflaged with plastics and other materials to resemble pine trees. We assumed this was a very simple matter for the Water Board to enforce waste discharge prohibitions against telecom industry trash, foreign debris and deleterious “forever” microplastic waste materials which may be detrimental to water quality, human health and the environment. This could have been easy, uncomplicated, perhaps with the exception of proper soil cleanups. Our expectations, at a minimum, were that the Water Board would require full and proper investigations under applicable state law and State Water Board policy, and we would go on our way, unless there was some public process to participate with concerning the matters.

When we first spoke, Mr. Plaziak asked, “Why they don’t just install the tower at Ski Run Blvd. without the degradable plastics?” (10,000 pounds of PVC plastics, as we later learned.) Indeed, they do in some areas, but we informed him of TRPA’s scenic requirements in certain areas of value to the telecoms, which brought the plastics in as a solution. There is a trade being made to attempt to reduce the visual effects of industrial telecommunications towers on the scenic landscapes at Lake Tahoe without regard for potential adverse effects on water quality, human health, or the environment from the plastics discharged by the telecommunications industry at Lake Tahoe. The discharges from this industry had escaped Water Board attention entirely, presumably through a long standing general waiver program for certain projects regulated by TRPA, generally minor projects, with no further Water Board involvement (expired Board Order No. R6T-2016-0035). We object to that improper regulatory program of the past, which has expired in any case, and the ongoing underground regulatory program that allowed this in the first place with no Water Board awareness.

We urged immediate Water Board intervention through enforcement of several directly applicable waste discharge prohibitions you are charged to uphold, and orders for investigations, cleanups and abatement of decades of unregulated plastic waste discharges from fake-tree macrotowers as required under State Water Board policy for investigations of unauthorized discharges. Lacking that, we sought adoption of waste discharge requirements (WDRs) or WDR waivers through the formal public process and public meeting required, orders that would implement the prohibitions and other adopted policies and requirements to appropriately control and monitor the discharges if the tower plastics would somehow be allowed. We say the latter because it is our reading of the Basin Plan, which Mr. Miller assisted to write, that these facilities are wholly inconsistent with applicable requirements unless subject to strict zero-discharge controls altogether lacking under the voluntary compliance program offered.

We wrote repeatedly and extensively to you of these policies and requirements. We assert the discharges are not controllable under the Tahoe weather extremes, as this winter aptly demonstrated by ripping new needles and limbs off the Verizon tower called “Angels Roost” at Heavenly Ski Resort, the fallen debris now under tens of feet of compacted, crushing snow at the steeply sloped site, with heavy runoff expected when the weather warms. When I was at the Heavenly Ski Resort recently, the lift operator said 115 mph winds were occurring on the ridge the day before with the snowfall. The Water Board’s letter makes a statement, which falls short of fact finding based on the limited information provided, that “the shedding of monopine needles from the tower is not expected to affect the water quality of waters of the state.” This is nothing but an arbitrary and capricious assertion, unsupported by policy, science and facts. We disagree, as in our prior letters, and will discuss the Water Board’s letter on the Angel’s Roost tower in that section below. For now we remind that Basin Plan prohibitions against trash remain unaddressed.

First Illicit Waiver

Weeks later, in May 2022, we objected when the Executive Officer sent email to Verizon suggesting that the Water Board would not require a waste discharge report for the Ski Run Blvd. macrotower, which was not under construction at the time, and would decide what to do about the many other faux pine macrotowers later. In addition to the ongoing waste discharges at other sites, the macrotower construction at Ski Run Blvd. has been completed with the exception of emplacing the plastics for camouflage, scenic requirements notwithstanding. Also, we now know Sac Wireless dba Verizon acted to construct the macrotower in violation of Federal Communication Commission requirements to wait out the litigation against it, the City of South Lake Tahoe and TRPA in this matter, and obtain the FCC’s determination under the National Environmental Policy Act on the application before it. So we have a glimpse of Verizon’s compliance with requirements (voluntary or otherwise), ignoring them, not unlike the agencies.

Section 13260 Orders Issued

We were cautiously optimistic when the Executive Officer acted on September 8, 2022 to issue orders to the several landowners and/or Dischargers, including Sac Wireless for the Ski Run Blvd. tower and another, to provide reports pursuant to Water Code section 13260. Although

those orders were lacking in content or requests for any specific information about the wastes that had been and would be discharged, our expectation was that the Water Board would either issue or waive WDRs, as that is the requirement under the law. We would at least have an opportunity for input to that public process, and the Water Board would make its claims on the record demonstrating how allowing the discharges may be consistent with the Basin Plan and other policy requirements, and the California Environmental Policy Act (CEQA) and other statutes. Those are the legal options now that section 13260 orders have been issued for the ongoing or pending discharges of waste: issue WDRs under sections 13263 and/or 13264, or waive WDRs under section 13269. Those claims of legal compliance are lacking from the Water Board, over the last year, and now the Water Board has declined to go on record beyond a few sentences dismissing the matters in the letters issued in violation of section 13269 and its very specific requirements.

Among other requirements of section 13269, the essence is that, “. . . subdivision (a) of Section 13263, or subdivision (a) of Section 13264 may be waived by the state board or a regional board as to a specific discharge or type of discharge if the state board or a regional board determines, after any necessary state board or regional board meeting, that the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest. The state board or a regional board shall give notice of any necessary meeting by publication pursuant to Section 11125 of the Government Code.” Sections 13263 and 13264 were discussed previously. Principal among the requirements is Water Board compliance with CEQA for the planned macrotower Project underway at Ski Run Blvd., and the other existing illegal discharges from fake-pine macrotowers. In any event, the Lahontan Water Board has ignored these requirements, legislatively mandated by “shall” in the code sections cited. We opine that is occurring precisely because the Lahontan Water Board could not possibly make such findings honestly, in the light of existing policy, code and public process requirements, as will be further discussed herein. Thus, we have the illegal actions being carried out on behalf of the telecoms, in furtherance of TRPA’s and the City’s illegal actions and the illegal discharges from the telecoms, on the basis of nothing legal or credible. What is in the “public interest” here with these macrotower Projects, and excusing requirements? The Water Board has not gone on record about that in any substantive way.

Illicit Waivers of 2023

That is why we again write to you following your February 2023 issuance of the various letters stating that, in light of the “complete” waste discharge reports provided by the telecoms, and solely on that basis, the Water Board intends to take no further actions to issue or waive WDRs or do anything specific with regard to the telecom industry wastes. As before, we object on the same grounds: Compliance with section 13263, and section 13264 or section 13269 is the legislative mandate. The letters issued by Mr. Plaziak on behalf of the Water Board do not constitute anything of a legal nature in this regard and carry no force of law. We again urge the Water Board to revoke the letters stating no further regulatory action will be taken, and proceed with issuing requirements under section 13264 or 13269, or issuing other orders for enforcement actions for existing Dischargers.

Comments on Letters Waiving Further Regulatory Action

The record from our side is extensive, the record from the Water Board, essentially nil. We have only the letters to the several telecom Dischargers, so let's go over those illegal waivers. The term "waiver" is here used in the vernacular, as in common usage . . . intentionally releasing claims, by such documentation, a dispensation, as from a rule or penalty (Am. Heritage Dict., 5th ed.), in contrast to the specific legal requirements of section 13269. Since the short letters are essentially the same in form, we can discuss the letters jointly as well as specifically. We made some inspections of tower sites from the surrounding public properties and photographic evidence of discharges and inspection notes are provided in Attachment 3.

Sac Wireless/Ski Run + Meadowcrest Towers

The letter from the Water Board to Sac Wireless dated Feb 21, 2023, is termed a response to the waste discharge report from Verizon deemed complete on November 18, 2022. It asserts no further actions will be taken for the Verizon wireless tower on Ski Run Blvd., and another called "Meadowcrest" tower (aka "Kokanee" tower) near the SW corner of Al Tahoe Blvd. and College Drive in the City of South Lake Tahoe. The letter quotes the Discharger's report, "Verizon believes that there is no discharge of waste from these facilities, and therefore no effect on local water quality. The ROWD states, 'due to the nature of the materials (which are designed to be durable), the lack of environmental conditions that would facilitate degradation, the lack of transport pathways, and measures in place to reduce inputs from the watershed to the lake, pollution of the lake from monopine needles at the cell phone tower proposed for 1360 Ski Run Boulevard is unlikely.'" Those latter statements came from a report Verizon had produced by industry consultants prior to the March 2022 permit adoption by TRPA which we provided you long ago in the record of the TRPA permit approval/appeal denial, together with our own critical analysis of that report at that time, and supplemented later in my letter to the Water Board dated June 10, 2022. The Water Board has never responded to any of our comments, including on that report. The report from Integral Consulting, Inc., on behalf of the industrial garbage emitter Verizon misses the point in its risk analysis and literature review; the discharge is prohibited. In the waste discharge report Verizon provided it mentioned that it will provide voluntary cleanups for the trash and microplastic wastes at Meadowcrest tower, as for the Ski Run tower. Again, we object to voluntary requirements for toxic industrial waste emissions.

What Verizon wrote through its consultant is irrelevant, other than being false information and subject to penalty, unless the Water Board is adopting the text as a finding of fact, which it has not done. It does appear to have accepted the report as a basis for its illegal waiver. We have presented testimony and physical evidence of collected plastic wastes from various existing towers to show Verizon's erroneous "belief" of no waste discharge has no basis in fact. These telecoms are nothing if not industrial litterbugs. We have presented evidence and information to refute all of the above assertions on multiple occasions. The transport pathway to Bijou Park Creek adjacent the site is nearly immediate by drainage flows. Debris will blow that far at times. The Water Board simply cites the Discharger's assertions that there is no discharge as if the polluter should be taken at face value, despite copious contrary evidence we presented, evidence of discharge which Mr. Plaziak stated he personally observed at one or more tower sites in testimony at the March 11, 2022 Board meeting. The Water Board has not shared the other

evidence staff presumably gathered to support the requirements to issue the telecoms orders to file waste discharge reports. That there is a discharge of plastic trash from the existing macrotowers is beyond dispute.

The Water Board letter then goes on to opine that the discharge at Ski Run Blvd. macrotower will be regulated by TRPA (under the construction permit it adopted March 21, 2022), though the Water Board has no control over TRPA whatsoever and their site management. The TRPA permit is cited, and the Condition 11 which we've commented extensively on previously, with no credible response from the Water Board. Condition 11 is:

"The permittee shall construct the monopine using the best available technology at that time to adhere all branches, bark, and needles to prevent shedding. The permittee shall maintain the monopine for as long as it is present in a condition consistent with the approved project plans. If any branches, bark, or needle clusters dislodge from the monopine then the materials shall be replaced using best available technology at that time. Material colors shall also be consistent with the approved project plans. The permittee is responsible for keeping the site clean of material dislodged from the monopine for as long as the monopine is present. The site, and surrounding area, shall be inspected by the permittee in the Spring after snow melt and in the Fall prior to snow fall, and cleaned of all visible material dislodged from the tree including branches, bark, needle clusters and associated fragments. All collected debris shall be immediately removed from the site and disposed of properly."

This quote, which we brought to your attention around a year ago, is not a response from the Water Board, not an adopted finding of fact, and a few additional comments are in order. TRPA has been issuing the faux pine tower permits for several decades now in the Lake Tahoe watershed. This is the first instance where a control measure specific to faux-pine tower plastic wastes has been included in a TRPA permit, inserted at the 11th hour, in a ridiculous attempt to respond to our objections over plastic trash and microplastic wastes from the towers, as we alone discovered. Apparently over all those decades TRPA didn't make any inspections or notice any waste discharges from the towers, although we found them aplenty where we did look. In nearly all the areas we looked that were not paved, the detached plastic needles were mixed with natural pine needles and forest duff, nearly indistinguishable without closer inspection. Such will be the case at Ski Run BlvdHansen's Snow Play Area, as at the other tower sites. That may partly explain why the Water Board says some inspections were lacking observed needles. As well, the dischargers, under dawning awareness of Water Board interest, have incentives to hide and deny their discharges by cleanups, however late and lousy in our view. The TRPA Permit and cited control measure applies to "the permittee." The Tahoe Regional Planning Compact, Article VI(g) provides the following:

"(p) Approval by the agency of any project expires 3 years after the date of final action by the agency or the effective date of the amendments to this compact, whichever is late [sic], unless construction is begun within that time and diligently pursued thereafter, or the use or activity has commenced. In computing the 3-year period any period of time during which the project is the subject of a legal action which delays or renders impossible the diligent pursuit of that project shall not be counted. Any license, permit or

certificate issued by the agency which has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this subdivision.”

Thus, the permit will eventually expire and the “permittee” will be unbound by the historic legal requirement. Any failure of voluntary compliance with managing plastic trash or microplastics will be subject to enforcement action by TRPA only in violation of some TRPA regulation or another, with TRPA already evidencing a negligent level of oversight and surely no appetite to enforce against any telecom, even if they could. They are *partners* in so many ways with the telecoms, as with the Water Board. Enough about TRPA and their time-limited permit, except to reiterate that the Water Board has no legal basis of any kind to rely on TRPA to regulate the plastic trash and wastes that have been and/or will be discharged. If the discharges will not be prohibited outright as we assert they must be (with cleanups), we assert the Water Board “shall” issue requirements as per section 13263, pursuant to either CWC section 13269 or and 13264, which are ongoing until rescinded. This begins by fulfilling our requests to revoke the letters issued to the telecoms in February 2023 abandoning further Water Board regulatory actions.

The Water Board letter then discusses the Sac Wireless Meadowcrest macrotower, as mentioned above. Because that macrotower’s TRPA permit has already expired, the Water Board letter indicates it will rely on voluntary clean-up efforts proposed in the waste discharge report by Sac Wireless twice annually for the trash and microplastics. No conditions. That there is a discharge of plastic trash on the winds and weather to land is thus admitted. Since the Meadowcrest facility is near the busy Al Tahoe Blvd., and the College Drive entrance to Lake Tahoe Community College, the letter can’t state that the wastes will be contained on the postage stamp Project site (which is also the situation at Ski Run Blvd and Needle Peak Drive adjacent the macrotower). These streets are owned and managed by the City of South Lake Tahoe and provide drainage for overland flow and channeled runoff from the City streets and surrounding areas not retained on other properties. In some cases, treatment systems of various effectiveness for trash and micro-fine particulates in runoff may be built and maintained at City cost. In other cases treatment systems are minimal, undersized or absent entirely, and the drainages are simply conduits for pollutants and contaminants. The Water Board has not indicated what the case for control may be here, which is irrelevant anyway, when prohibitions are aimed at preventing such discharges of trash and industrial microplastics.

More On Municipal Separate Storm Sewer Systems (MS4s)

What the Water Board writes is that, to the extent the trash and pollutants from these discrete, unregulated pollutant sources escape the Project sites, they will be managed by the City (or County or Caltrans) as part of its municipal drainage requirements which the Water Board has issued a NPDES Permit for. Thus, the Water Board is delegating that the City must control these industrial discharges because the Water Board declines to regulate them itself. Mr. Benedict is in the fall zone of the debris field that will be generated by the Ski Run tower, and is expected to suffer the nuisance and potential contamination over time of his water supply wells, besides the electromagnetic poisoning by Verizon which aggrieves him. As City residents and taxpayers, we object. The City and its residents should bear no responsibility for adverse effects from these industrial waste discharges from macrotowers operated for profit as private commercial facilities.

The Municipal Storm Water Program regulates storm water discharges from municipal separate storm sewer systems (MS4s) throughout California under requirements of the federal Clean Water Act. U.S. EPA defines an MS4 as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned or operated by a State (40 Code of Federal Regulations 122.26(b)(8)). The MS4 systems are broad-scale municipality-wide drainage systems. Treatments for the storm water may or may not be included or required at any particular locale. The applicable federal standard under the National Pollutant Discharge Elimination System (NPDES) for a regulated MS4 is different than for an industrial waste discharger with a discrete, locatable, controllable discharge. The NPDES permits charge the MS4s to comply “to the maximum extent practicable” or MEP standard because they have a much bigger job to do than any tower owner subject to strict prohibitions. Ultimately, it is the regulator who determines if the municipality is meeting the federal requirements to reduce pollutants “to the MEP” on the broad landscapes, a difficult standard to understand and measure or meet, and a permitting standard that is not applicable to non-MS4 Dischargers.

Under TRPA rules, everyone is supposed to retain, treat or control on their private property something like the first inch of precipitation and runoff on the hardscape. The municipalities maintain the roadways and appurtenant drainage systems, which drain the private properties of any excesses from the private properties, but mainly channel roadway runoff and neighborhood drainage. By declining to regulate the discrete pollutant sources that these towers are, ignoring its own legal requirements, the Water Board is acting improperly to turn specific, controllable, industrial pollutant discharges from any number of monopine Projects into generalized trash and sediment pollution subject to general requirements, but little actual control on a municipal scale for trash and microplastic wastes.

The State Water Board website

(https://www.waterboards.ca.gov/water_issues/programs/stormwater/smallms4faq.shtml) says this: “. . . MEP is the result of the cumulative effect of implementing, continuously evaluating, and making corresponding changes to a variety of technically and economically feasible BMPs [Best Management Practices] that ensures the most appropriate controls are implemented in the most effective manner. This process of implementing, evaluating, revising, or adding new BMPs is commonly referred to as the iterative approach (see question 4). For Small MS4s, EPA has stated that pollutant reductions to the MEP will be realized by implementing BMPs through the six minimum measures described in the permit.” (64 Federal Register 68753.)

On the other hand, for an individual discharger subject to non-NPDES waste discharge requirements under section 13260 orders, the appropriate regulatory standard is cited in CWC section 13263 (a): “The regional board, after any necessary hearing, shall prescribe requirements . . . with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241.”

By all appearances and actions the Water Board is promoting that discharges of industrial trash and microplastic waste from the uber-rich telecom industry to the private and public non-Project properties and municipal drainage systems are appropriate because the MS4 is legally obligated, all the while turning its back on its own legal obligations with respect to the discharges, and leaving the true Dischargers unobligated. Not only will such pollutants be burdensome and difficult or impossible to remove from the municipal storm water where treatments are provided, there are many locales where no treatment is provided, and the drainages are simply pollutant conveyances. This promotion of an untenable legal position just makes the Water Board a polluter while posing otherwise.

Why the City or other municipality should be required to accept any management responsibility or potential liability for such trash and toxic industrial waste discharges from the telecoms within its borders is beyond us, and has not been articulated by the Water Board in its letter or NPDES permit on the City of South Lake Tahoe, or its Basin Plan policies. The letter just states, in practice and ill-effect, that's the regulatory scheme. It's not. By this approach, the Water Board is seeking to toss a discrete, prohibited toxic industrial pollutant source, including microplastics, which it could easily stop into the big catch-all box of general pollutants on the landscape. Upon discharge, the wastes are to be managed and controlled, if at all, by the municipalities under a permit largely designed to control urban runoff containing natural sediments from rocks and human occupation, not toxic microplastic wastes from discrete tower sources of the telecom industry. Besides that, these MS4s have their own serious microplastics issues relating to discharges in storm water of abrasion products from tires, as we know, and Caltrans has its own trash issues. The telecoms must deal with or eliminate their own plastic trash and wastes under proper Water Board orders and prohibitions, not foist it on others and into the waters.

USFS-Mobiltie/Angel's Roost Tower

The Water Board letter of February 21, 2023 to Paul Gerst representing Mobiltie Investments III-A, LLC (Mobiltie, a business we understand is related to Verizon Wireless) is of interest concerning the "Angel's Roost" faux pine macrotower. This tower is located on lands administered by the U.S. Forest Service, Lake Tahoe Basin Management Unit (USFS), which has issued Special Use Permits to Mobiltie for the macrotower, and to Vail Resorts for the operation of the Heavenly Ski Resort (Resort). The Water Board jointly reissued updated WDRs to the USFS and Vail Resorts in May 2015 (BOARD ORDER NO. R6T-2015-0021) to accommodate a major Resort expansion, adopting an Environmental Impact Report in the process, in which no telecom macrotowers were disclosed or examined.

Standard Provisions For WDRs in that Board Order, ATTACHMENT D, Provision 2. Reporting Requirements provides:

“a. Pursuant to California Water Code 13267(b), the Discharger shall immediately notify the Regional Board by telephone whenever an adverse condition occurred as a result of this discharge; written confirmation shall follow within two weeks. An adverse condition includes, but is not limited to, spills of petroleum products or toxic chemicals, or damage to control facilities that could affect compliance.

b. Pursuant to California Water Code Section 13260 (c), any proposed material change in the character of the waste, manner or method of treatment or disposal, increase of discharge, or location of discharge, shall be reported to the Regional Board at least 120 days in advance of implementation of any such proposal. This shall include, but not be limited to, all significant soil disturbances.”

We found copious accumulated faux pine plastic trash and wastes widely strewn, uncontrolled, about the Angel’s Roost macrotower, the public property Vail operates upon, and which the USFS administers, on various visits. Apparently, so diligent were their inspections that neither Discharger had awareness of the industrial wastes, toxic chemicals Mobiltie was discharging as trash and degraded toxic microplastics upon the public property and into the runoff and state waters on the property, as no such reports were made to the Water Board until we brought the matter forward.

As is usual, the Water Board ordered the land administrator, USFS, to comply with its CWC section 13260 order of September 2022. The USFS engaged tower owner/operator Mobiltie to respond to the Water Board. Mobiltie provided a report to the Water Board for the Angel’s Roost macrotower on Form 200 which left section II blank as to the “Type of Discharge,” stating in section VII that section II was intentionally omitted because the tower facility does not discharge waste. That was simply false information from attorney Gerst concerning Mobiltie’s ongoing trash discharges. The report from Gerst dated November 11, 2022 included a USFS decision memo for its tower permit, and a TRPA construction permit issued in 2012, which expired in 2015. The Water Board staff rightly rejected that report as incomplete based on the evidence, and on November 21, 2022 requested a number of specific information items concerning plastic waste discharges from the USFS.

Mobiltie submitted information on February 6, 2023, which the Water Board deemed complete in issuing its illegal waiver letter of February 21, 2023, for the Angel’s Roost macrotower. As noted above, the February 21, 2023 letter was issued to Mobiltie, attorney Paul Gerst, not the USFS, and states, “(Water Board) staff issued you a letter of incomplete Report of Waste Discharge (ROWD) dated November 21, 2022, which requested additional information missing from your original ROWD received on November 8, 2022.” (emphasis added) That is incorrect; the letter of incompleteness to which Mobiltie responded was directed to the USFS; Mobiltie has never been ordered to provide anything, but did provide a section 13260 report.

The Water Board letter to Mobiltie cites additional information received from Mobiltie on February 6, 2023 to complete its report of waste discharge. On that basis, and while ignoring all the other record information in these matters, the Water Board wrote its letter deeming the report complete and excusing Mobiltie, and the USFS (with a CC of the letter), from further Water Board regulation of plastic waste discharges by the Dischargers, which waste discharges we now consider USFS complicit in. The Water Board letter cites from the report that twice-annual voluntary cleanups of plastic wastes will be conducted. Mobiltie reported that it replaced the plastics in 2022 and performs twice-annual site inspections “during which any fallen needles/branches near the tower are disposed of properly.” We have photo and video evidence from an October 31, 2022 inspection of the site and surroundings, just before the first snows, showing both needles and branches on the ground as trash and decomposing, clearly abandoned

to rot by Mobiltie's inspectors. This was despite the replacement of the plastics, and reporting to the contrary; quantities were not "minimal" and by inspectors were "overlooked, which should not be the case," to quote the Discharger's report. Indeed, the Mobiltie report provides false information in this regard, and aptly demonstrates why voluntary cleanups are inadequate, and certainly don't include "any" and all trash.

The Discharger reported adding additional artificial chemicals to the plastic faux-needles, "to improve durability" from UV radiation exposure, thus tacitly admitting that without such additives the materials are subject to degradation by ultraviolet light, just one form of radiation, to add to the tower EMF radiation. This treatment would not likely be applied on past or existing faux needles, and the degree of effectiveness is unknown in situ. We know some of the needles did not survive this last winter's snows, littering the snow about the tower, elsewhere buried. The Discharger then cites the consultant's report prepared for Verizon, citing that Integral Consulting found, "There is no evidence that monopine needles used on cell towers generate microplastics. . ." We provided several critical reviews of that erroneous report citing the durability of PVC, which we have provided substantial evidence to refute, particularly with degradation in situ. Mobiltie brought out the same erroneous conclusions in response #4 of its report received February 6, 2023. Mobiltie also failed to provide any information on plastic replacement intervals, as requested by the Water Board, or any information about expected durability and lifecycle. We have provided photos of Angel's Roost stripped nearly bare of plastics after as little as two to three years. During our presentation to the Water Board at the (video recorded) May 11, 2022 meeting one of our associates demonstrated during testimony how he could literally turn the degraded needles to microplastics in a puff of dust before your own eyes with just a snap of his fingers, and did just that for the camera. The consultant report is not credible, nor is the Water Board letter citing it.

The Water Board letter goes on to state that "the material," (presumably PVC, not the additive) is not soluble in water, and is nontoxic. We informed you with our positive lead (Pb) testing of certain needles we collected, that the needles can and do contain toxic elements and compounds that are released on decay to microplastics. With regard to in situ conditions: PVC as a pure material may not be soluble in water but its breakdown microplastic products from decay and weathering, and a variety of potentially toxic additives, are light enough to be blown hundreds of feet on the winds. They are mobile in the aquatic environment and can be carried as a two-phase solution of particulate microplastic matter suspended in water, not dissolved through solubility. That is the problem: The PVC never breaks down into natural elements but the PVC microplastics, down to molecular size, as pollutants themselves do also both release and adsorb other pollutants and contaminants as they move in water, as well as occluding water clarity. Microplastics in the oceans are now being studied from outer space, and floating oily residues were noted following water wave anomalies in areas of concentrated microplastics visible to sensing equipment. (<https://www.space.com/satellites-track-ocean-microplastics-from-space>)

The assertions of non-solubility in water with these wastes is all a red herring anyway, some kind of "back of the envelope" risk calculation, when what we are concerned about is ongoing violations of Basin Plan prohibitions against trash and industrial wastes that have not been adequately addressed. Voluntary/no cleanups with no reporting and no oversight are unacceptable to us, nor has compliance with other CWC, Basin Plan and State Water Resources

Control Board Policies been addressed, as it must be in the public forum of a Water Board meeting.

The letter says, “The monopine is on an isolated peak and the nearest tributary is one-third of mile away at Heavenly Valley Creek. There is no identifiable transport pathway for needles or branches to reach a tributary or Lake Tahoe.” To this we respond that the operator of Heavenly Ski Resort has various steep internal drainage systems that carry runoff and contaminants to ground and surface waters, thus many potential pollutant transport pathways for plastic wastes, which may also affect soil and ground waters. Contaminants in runoff, mainly from erosion, are the principal reason Heavenly Ski Resort (Vail) is regulated under WDRs. Vail is currently inadequately managing trash and microplastic additions to their ground water and runoff from Mobilitie, as allowed and ignored by the USFS, the ultimate responsible party, and now ignored by the Water Board, unless some violation of WDRs has been recorded.

There are no “isolated peaks” in the Lake Tahoe basin, where all is interconnected over time by water. Water flows downhill, rapidly in steep terrain, especially during intense runoff periods. One third of a mile (1760 feet) downhill from Angel’s Roost peak is reasonably close to surface waters when faux needles can travel hundreds of feet in all directions on the wind from their “roost.” That relatively short distance is no basis to conclude no pathway for pollution of surface waters exists when particles can easily travel that distance in runoff (and many miles more), as they do all the time, by increments. Waters flowing overland carry rock, soil, organic matter and other “particles” to waterways to become sediment, with surface waters serving as conveyors to the receiving waters, Lake Tahoe in this case. Once a microplastic enters a natural surface water, no treatment or control can usually be applied and, while plastic particles may be mixed or bound up in sediments for some time, they are bound for Lake Tahoe, eventually, as fine particulate matter in suspension.

That is why we urge prevention through the prohibitions. The Discharger’s report states needles “near the tower” will be removed, but that is inadequate. The final access road approach to the tower and surroundings is very steep and erodible, and lacks erosion controls, despite the Water Board’s WDRs for the resort. Any needles blown onto the steep, gravelly hillside below the tower will cause further erosion to recover, and are not reasonably going to be recovered without causing further erosion increases. The southwesterly side of the mountain below the peak at the Angel’s Roost site is steep, rocky cliffs, and inaccessible. Plastic wastes will be carried by weather forces into those nearby areas and beyond and are not reasonably recoverable. They will not be recovered; they will degrade to microplastics and enter the soils and waters of the ecosystems below. The February 21, 2023 Water Board letter is a travesty, and makes the Water Board look to be simply promoting arbitrary, unfounded claims by Mobilitie in the process of avoiding its own legal obligations.

El Dorado County-CCATT/Wilson Ave Tower

The Water Board initially ordered El Dorado County to report on the macrotower at the Wilson Ave site, a County maintenance yard for heavy equipment. This site is of interest because it’s two streets westerly of State Route 89 and in near proximity to the west shore of Lake Tahoe and

deserves comment. The Water Board began with a September 7, 2022 order to El Dorado County to report on the tower, and after confusion over property ownership was settled, somewhat, the Water Board received an incomplete report from the County on December 19, 2022. The County's report indicated, "The current understanding is that the County of El Dorado is the landowner, with the facility owner / operator being AT&T mobility and Crown Castle." A large storm water infiltration gallery was installed there at public expense on the County's public property some years ago to provide treatment for the pollutants generated from the maintenance activities. One of our associates visited the site prior to the Water Board's stated review on July 19, 2022 and video-recorded and photographed needles and branches found in the storm water basin and littering the paved areas on the project site, where they are pulverized into microplastics by being driven on by heavy equipment. During that visit, there were large amounts of needles in the basin, which is lined with heavy cobblestones and grassy vegetation. Short of removing this basin fill it will be practically impossible to fully remove the plastics and microplastics which will be discharged to ground water approximately several hundred feet from Lake Tahoe, through a public treatment system for storm water that was not designed to treat industrial trash and microplastic waste discharges.

We contend that PVC and its additives and breakdown products from the macrotower will enter the ground water beneath the storm water basin as microplastics and thence discharge to Lake Tahoe. The Water Board has not presented any credible information to refute that microplastics can contaminate soil and ground water, particularly as here, with likely no more than 10 to 15 feet of elevation fall to reach Lake Tahoe. Even supposing the plastics and microplastics may be trapped in the basin, why should the County assume the maintenance responsibilities and costs of managing this pollutant, and potential liability for contamination of its storm water treatment system by microplastics? That is misfeasance: using public property and public resources to support a rich private developer with special, favorable treatment, unequal under the law. Besides that, the County storm water treatment system is at the back of the County property, and the tower is at the front, adjacent the County right of way and street. There is nothing to prevent tower trash and microplastics from falling and being blown directly into those areas and other areas and private properties off the Project site. There they can enter the County municipal storm drainage system and travel the short distance to Lake Tahoe, likely untreated, as we don't know what treatment systems may be installed in that area for storm water, if any. Again, we object to such trash discharges as a water quality and waste management nuisance, externalizing the pollutants and adverse environmental effects and maintenance costs from this wealthy tower developer onto the public domain, with costs and adverse effects to be borne by the public.

On January 6, 2023, the Water Board received a report of waste discharge on behalf of the County land owner from CCATT, LLC, claiming ownership of the tower. The report says the plastics are designed to last for 20 years. We know that is not the case, with the needles degrading or dispersing in as little as 2 to 3 years in some cases. It looks like this tower was built sometime between 2015 and 2018, based on the County record. We found the basin lined with plastic trash in 2022, so the evidence is the 5- to 12-year replacement intervals the Discharger also reported are too infrequent to prevent needle degradation and dispersal.

The Water Board wrote to CCAT, LLC in a letter waiving further requirements (with a CC to El Dorado County) on February 21, 2022, citing these findings.

“Your completed Form 200, ROWD indicates monopine needles may fall from the monopine tower to the ground. You also state that during site inspections, any pine needles or branches that are found within the fenced compound are removed by the site inspector and that it is not expected that the fallen foliage would decompose in the soil surrounding the monopine, especially considering that any fallen foliage is removed during periodic site inspections. Submitted Material Safety Data Sheets and Safety Data Sheets for plastic foliage do not indicate any toxicity and materials are not soluble in water.

Water Board staff inspected this site on July 19, 2022 and did not observe any plastic branch pieces or individual needles in adjacent roadways, gutters, or public stormwater systems. This site is fully fenced on three sides with permanent water quality treatment basins installed downslope from the monopine. No direct discharges to, or clear paths to, surface waters were observed.

Based on available information, the shedding of monopine needles from the tower is not expected to affect the water quality of waters of the state. At this time, the Water Board does not intend to issue either Waste Discharge Requirements, or a Waiver of Waste Discharge Requirements for this site. . . .”

Comments are that needles will fall to the ground, but not just within the fenced compound. They will fall also onto the paved and unpaved areas on and off the project site, including adjacent private property and drainages off the Project site. Cleanups within the fenced compound will not remove all the trash discards from the tower, which are a nuisance. The Materials Safety data Sheet (MSDS) is prepared by the manufacturer, for its purposes, and provides very limited information concerning any additives to the PVC. It provides only the following for,

“SECTION XII – ECOLOGICAL INFORMATION

No information is available. Toxicity is expected to be low based on insolubility in water.”

How the Water Board gets from, “No information is available,” to stating the, “Material Safety Data Sheets and Safety Data Sheets for plastic foliage do not indicate any toxicity,” is unclear at best. We remind that the absence of evidence is not necessarily evidence of absence. We have already addressed the breakdown products in situ which may enter soil and water.

SECTION XV provides regulatory information, stating,

“Regulatory information is not meant to be all-inclusive. It is the user’s responsibility to ensure compliance with federal, state or provincial and local laws. . . .

Section 313 Toxic Chemicals (40 CFR 372.65)

This product contains the following EPCRA Section 313 chemicals subject to the reporting requirements of Section 313 of the Emergency Planning and Community Right-to-know Act of 1986

Component	CAS No	WT %
Antimony Compounds	N010	0-20%
Barium Compounds	N040	0-10%
Zinc Compounds	N982	0-10%”

It is unclear from the MSDS whether the reference to “this product” is citing toxic additives to the PVC or is associated with the metals we’ve seen used to fasten needles to limbs. From Wikipedia (<https://en.wikipedia.org/wiki/Antimony>),

“Antimony and many of its compounds are [toxic](#), and the effects of antimony poisoning are similar to [arsenic poisoning](#). . . .

Toxicity

Certain compounds of antimony appear to be toxic, particularly antimony trioxide and antimony potassium tartrate.^[107] Effects may be similar to arsenic poisoning.^[108] Occupational exposure may cause respiratory irritation, [pneumoconiosis](#), antimony spots on the skin, gastrointestinal symptoms, and cardiac arrhythmias. In addition, antimony trioxide is potentially carcinogenic to humans.^[109]”

Antimony in the prohibited trash should not be discharged to soil, pavement, runoff, ground waters or surface waters in the Lake Tahoe Hydrologic Unit, where it may enter Lake Tahoe. Likewise, for “highly reactive” barium, up to 10% by weight (<https://en.wikipedia.org/wiki/Barium>):

“Toxicity

Because of the high reactivity of the metal, toxicological data are available only for compounds.^[35] Soluble barium compounds are poisonous. In low doses, barium ions act as a muscle stimulant, and higher doses affect the [nervous system](#), causing cardiac irregularities, tremors, weakness, [anxiety](#), [shortness of breath](#), and [paralysis](#). This toxicity may be caused by Ba²⁺ [blocking potassium ion channels](#), which are critical to the proper function of the nervous system.^[36] Other organs damaged by water-soluble barium compounds (i.e., barium ions) are the eyes, immune system, heart, respiratory system, and skin^[35] causing, for example, blindness and sensitization.^[35]”

PVC is not a benign material, actually being considered the worst environmentally among the seven common types of plastics. We are not here discussing PVC for waste *containment*, such as landfill liners, as the Water Board is well-familiar with from widespread use in the region. These PVC needle materials degrade relatively rapidly to microplastics in the Lake Tahoe exposure conditions. The record we’ve previously provided is replete with information concerning PVC, information the Water Board has not addressed and has simply ignored. PVC is a foreign material, a “forever chemical” produced only by man, and has no place being discharged as tower Project trash in the Lake Tahoe HU, where the Water Board has declared “open season” for unregulated industrial trash discharges.

The Water Board letter asserts, “Based on available information, the shedding of monopine needles from the tower is not expected to affect the water quality of waters of the state.” Based on available information we conclude the Water Board has put no credible information forward to allay concerns the discharge could adversely affect both surface and ground water quality. Ground water is also “waters of the state,” as the Water Board well knows, and surface waters are also being put at risk from the introduced toxic and foreign industrial waste materials, so the Water Board statement has no veracity. As with the other towers, the Water Board assumes any industrial waste materials leaving the Wilson Avenue Project site on the winds or in storm water are someone else’s responsibility, or no one’s.

CCATT/Hekpa Drive Tower

Most of the contents of the Water Board’s February 3, 2023 letter to CCATT LLC have already been discussed above concerning PVC insolubility and MSDS conclusions. This is the site with the Hekpa Drive address but located adjacent to the south side of Pioneer Trail. We collected fallen needles from this site and brought them to the May 11, 2022 Water Board meeting. Later, at our expense, we had those needles tested for lead, which positive test results were made available to the Water Board in my letter and our attorney’s memorandum to you (and the City of South Lake Tahoe) of July 8, 2022. The letter to CCATT says, “Water Board staff inspected this site on July 19, 2022 and did not observe any plastic branch pieces or individual needles in adjacent roadways, gutters, or public stormwater systems. No direct discharges to, or clear paths to, surface waters were observed.”

We inspected the site from adjacent public lands in early Fall, October 29, 2022 and found the entryway and adjacent unpaved road shoulder of Pioneer Trail liberally littered with plastic needles from the tower in varying states of decay. Without the benefit of survey information, it appears this roadside area serves as a gutter to drain storm water easterly to the adjacent USFS property, as marked, where there is a fence opening to an unpaved public trail that drains to a very nice Stream Environment Zone and wetland meadow, filled with wildflowers in summer, tributary to Saxon Creek. This “most sensitive” water feature, as described in the Basin Plan, is located only some hundreds of feet downslope and line-of-sight from the Hekpa tower site, which also drains over steep land directly to the adjacent pathway.

Thus, there is both a public storm water system (for the road drainage) which apparently discharges onto the public lands and into the public waters with limited or no “treatment,” and a clear and direct path for overland flow from the steep tower site to surface waters, surface waters which the Water Board seems unaware of and unconcerned with: “Based on available information, the shedding of monopine needles from the tower is not expected to affect the water quality of waters of the state.” The only “treatments” for storm water observed above the wetland/SEZ were some water bars and dips placed on and below the path by the USFS to control erosion from the steeply-sloped drainage path, as is appropriate. These minimal controls will no-doubt be blown out by winter storms and spring runoff this year. Again, we have the public waters as receiving waters for the unregulated, ongoing discharges of tower trash and decaying microplastic wastes we showed you.

PVC is not a benign plastic with regard to the environment and human health. We have provided with our letters specific evidence of lead in the needle products from the Hekpa and Lake Tahoe

Valley Fire Station towers, done testing above and beyond what any public should have to bear, and demonstrated a threat to water quality and public health which the Water Board has declined to address in their dismissal letters. As with the other letters, the remainder of the letter to CCATT is an illicit dismissal of requirements.

LTVFD/Keetak Street Tower

On April 7, 2023, the Water Board issued to Lake Valley Fire Protection District a letter excusing it from further regulation of the wastes discharged from the tower at 2223 Keetak Street, in Meyers, adjacent a firehouse and corporate yard for heavy firefighting equipment. This was in response to additional information after the Water Board rejected its initial report as incomplete in a November 18, 2022 letter, and requested the following specific information:

“... • What type of plastic are the needles, branches, and bark composed of including additives for color, texture, or other features? • What is the weight of plastic discharged to land each year? • How does the plastic degrade over time in the soil surrounding the monopine? • What company manufactures the plastic components? • How old are the plastic components of the tower and how often are they replaced?”

The Water Board’s April 2023 letter notes, “On March 27, 2023, Water Board staff received the additional information requested for the monopine cell tower located at 2223 Keetak Street, El Dorado County, CA, in accordance with California Water Code, section 13260(c) and determined the ROWD is complete. . . and states there is no discharge due to the following:

• The foliage is made of extruded PVC manufactured by Valmont Larson and meets American Society for Testing and Materials (ASTM) F963-08. . . .” Let’s stop right there. The information provided was generally non-responsive to the information specified in the Water Board’s letter of incompleteness, so the Water Board did not receive the information requested, and nonetheless deemed the report complete. The report indicates the needles are PVC, and is silent on any additives such as toxic heavy metals. No discharge weight is given, the report saying the amount is so small in any year “it likely wouldn’t register on a scale” but noting “the needles are so small it’s difficult to even see them on the ground.” Yes, they blend in very well, especially in pine needles and duff.

These are Discharger claims unsupported by facts, with the exception that the discarded needles do break into tiny pieces that are difficult to see among the natural pine needles and leaf litter on the USFS lands adjacent to the tower, and are therefore not removed. We had no difficulty locating substantial debris there upon the public lands of the LVFPD, Caltrans (which operates Highway 89 adjacent the tower), and the USFS lands. All TRASHED. The discharge report states the needles were replaced in 2018, and claims they last 15-20 years “depending on weather.” No way, placed out in the weather extremes of the Upper Truckee River valley, where winds constrained by Luther Pass and Echo Summit come racing through with the heavy snows below the Summit. The weather last winter 2021-2022 must have stripped the many plastic needles from the tower we found in the debris field near Highway 89, putting that claim to a lie after only four winters. Many plastic needles fall between full replacements, are lost in the surrounding needles duff and will never be recovered even with raking to bare soil (not done). A curious fireman spoke to us and told us the tower extrudes wastes all over the large parking lot there. Yes, this is where the firetrucks grind them to bits between sweepings. We found copious amounts of plastic needles and trash also in the unpaved road shoulder, which drains to the

Upper Truckee River 1000 to 2000 feet away, depending on whether drainage flows overland besides in the Highway 89/50 drainage/treatment systems operated by Caltrans. Such plastic needles surely fall on the highway at times and are entrained in the storm water. The cited ASTM standard for the PVC has full title “Standard Consumer Safety Specification for Toy Safety.” It is unclear what relevance the standard for toy safety (e.g., “pom-poms”) has to environmental safety concerning an industrial macrotower Project, which should be the subject of CEQA analysis.

The letter concludes like the others, saying, in effect, it’s not an industrial discharger’s waste management problem, it’s a municipality’s problem, and it’s the responsibility of the public agencies to get those (prohibited) industrial trash and microplastic wastes out of the storm water. That is improper in light of the Water Board’s legal obligations. The letter says, “To the extent any needles would enter the municipal stormwater system, discharges from the municipal stormwater system are regulated by the Lake Tahoe Municipal Stormwater NPDES permit (Order NO. R6T-2022-0046).” It appears that any drainage from the tower vicinity would likely not be covered by that permit, since Caltrans is the main or only recipient of the wastes, but rather under State Water Resources Control Board Order 2022-0033-DWQ for Caltrans. Nonetheless, there is no basis for the Water Board to be promoting to discharge this uncontrolled industrial plastic trash to the Caltrans or El Dorado County drainage systems mandated for protecting Lake Tahoe clarity. We disagree that these discharges are being appropriately regulated under the cited Board orders.

CCATT LLC/8177 Speckled Ave Tower

On February 3, 2023 the Water Board waived requirements for CCATT LLC, in response to the “complete” report this Discharger submitted on behalf of the property owner of the Placer County parcel. The Water Board letter is much the same as the others and no further comment is needed. We have not visited this tower and look forward to doing so, given what we’ve seen of CCAT LLC at the Hekpa site. We note it is within about 500 feet of Griff Creek, which flows to Lake Tahoe about a one-half mile to the south.

Conclusion

With regard to the unresolved CWC section 13260 Orders, the Water Board has wasted precious staff time and efforts with nothing to show for it other than shielding polluters and “partners” of various kinds from proper regulation, and joining their ranks in collusion. The work on this is just beginning under the circumstances. There will be much more to come and the Water Board is expressing a definite preference here to spend time doing “make work” versus doing anything useful to protect water quality. This can’t bode well for its current future, and is surely uninspiring to the rank and file employees who now must forsake your leadership in this basic matter. Certainly nothing accomplished is of any legal worth, but your actions provide a record of delay and inaction to bolster the petition record upon which we stand: the testimony, the evidence, the monthly letters and more, the policies, the laws, and most of all, common sense from anyone who actually cares about Lake Tahoe, as we do.

We therefore reiterate our petition requests as stated on page 1 in light of this letter and urge the Water Board to cease its inactions. Our ask is simply to follow the law so we can move on to other things. No more monopine towers should be allowed to be built at Lake Tahoe without a full CEQA review and orders from the Water Board, or they should be prohibited. Because this inaction with the telecoms is only a small part of a much larger concern with regard to unregulated waste discharges following the expiration of Board Order No. R6T-2016-0035, the request for action on the discharges formerly covered by that Order as discussed on pages 5 - 8 of my emailed letter to the Water Board dated December 16, 2022, is hereby incorporated fully by reference.

Gratefully submitted,

Alan Miller, PE

Attachment 1: Water Board orders and letters to telecom operators

Attachment 2: CEQA Portal Topic Paper Lead Agency, Responsible Agencies, and
Trustee Agencies

Attachment 3: Tower Site Photos/Inspection Notes

Attachment 1: Water Board Orders and letters to telecoms (cover sheet)



Lahontan Regional Water Quality Control Board

September 7, 2022

Michelle Duarte
SAC Wireless
8880 Cal Center Drive, Suite 170
Sacramento, CA 95826

Request for Report of Waste Discharge, Guillian/Verizon Cell Tower Project, 1360 Ski Run Boulevard, South Lake Tahoe, CA, El Dorado County, Assessor's Parcel Number 025-580-007, and all other monopine style cell towers owned by Verizon on the California side of the Lake Tahoe Watershed

The Lahontan Water Quality Board staff requests that SAC Wireless submit a Report of Waste Discharge (ROWD) for the proposed Guillian/Verizon Cell Tower Project, located at 1360 Ski Run Boulevard, South Lake Tahoe, CA (Project), and all other monopine style cell towers owned by Verizon on the California side of the Lake Tahoe Watershed, in accordance with California Water Code, section 13260(c). Section 13260 states that persons discharging or proposing to discharge waste that could affect the quality of the waters of the State, other than into a community sewer system, shall file a ROWD containing information which may be required by the appropriate Regional Water Quality Control Board (Water Board). Observations of faux pine tree cell phone tower locations indicate shedding of plastic debris into the environment. **Please submit a separate ROWD for each monopine style cell tower within 45 days of receipt of this letter.**

Proposed Project at Ski Run

The Tahoe Regional Planning Agency (TRPA) issued a permit for the Project on October 14, 2021. As described in the TRPA Permit, the project will require 736 square feet of coverage to construct a new cellular communications tower on a parcel with existing commercial development. The design of the tower involves a monopine structure extending to a height of 112 feet. Faux pine needle branches will be added to the structure to mitigate scenic impacts.

Report of Waste Discharge Required Forms

Water Board staff is considering issuing Waste Discharge Requirements for the proposed Project and/or the existing monopine cell towers.

PETER C. PUMPHREY, CHAIR | MICHAEL R. PLAZIAK, PG, EXECUTIVE OFFICER

Please use the following forms to complete the ROWD:

- Form 200—

https://www.waterboards.ca.gov/publications_forms/forms/docs/form200.pdf

If you have any questions regarding this letter, please contact Brian Judge at (530) 542-5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner at (530) 542-5425 or Mary.Fiore-Wagner@waterboards.ca.gov.



MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER

cc: Alan Miller

Devon Middlebrook, City of South Lake Tahoe

David Jinkins

Julie Regan, Tahoe Regional Planning Agency

Bridget Cornell, Tahoe Regional Planning Agency

Steve Sweet, Tahoe Regional Planning Agency

Laura Patten, League to Save Lake Tahoe

Nel Guillian

Verizon Wireless

Lahontan Regional Water Quality Control Board

February 21, 2023

Michelle Duarte
SAC Wireless
8880 Cal Center Drive, Suite 170
Sacramento, CA 95826

Response to Report of Waste Discharge, Guillian/Verizon Cell Tower Project, 1360 Ski Run Boulevard, South Lake Tahoe, CA, El Dorado County, Assessor's Parcel Number 025-580-007, and the Tower Located at 1275 Meadow Crest Drive, South Lake Tahoe, CA, El Dorado County, Assessor's Parcel Number 025-041-19

The Lahontan Water Quality Board staff received your Report of Waste Discharge (ROWD) on October 21, 2022 for the proposed Guillian/Verizon Cell Tower Project, located at 1360 Ski Run Boulevard, South Lake Tahoe, CA, and the tower located at 1275 Meadow Crest Drive, South Lake Tahoe, CA, in accordance with California Water Code, section 13260(c). On November 18, 2022, Water Board staff determined the ROWD to be complete.

The completed Form 200, ROWD indicates Verizon owns two monopine cell towers in California within the Lake Tahoe Watershed.

Verizon believes that there is no discharge of waste from these facilities, and therefore no effect on local water quality. The ROWD states, "due to the nature of the materials (which are designed to be durable), the lack of environmental conditions that would facilitate degradation, the lack of transport pathways, and measures in place to reduce inputs from the watershed to the lake, pollution of the lake from monopine needles at the cell phone tower proposed for 1360 Ski Run Boulevard is unlikely."

For the Ski Run location currently under construction, TRPA permit conditions to mitigate possible impacts states, "The permittee shall construct the monopine using the best available technology at that time to adhere all branches, bark, and needles to prevent shedding. The permittee shall maintain the monopine for as long as it is present in a condition consistent with the approved project plans. If any branches, bark, or needle clusters dislodge from the monopine then the materials shall be replaced using best available technology at that time. Material colors shall also be consistent with the approved project plans. The permittee is responsible for keeping the site clean of material dislodged from the monopine for as long as the monopine is present. The site, and surrounding area, shall be inspected by the permittee in the Spring after snow melt

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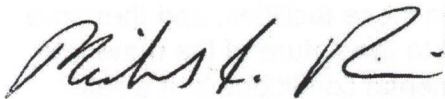
and in the Fall prior to snow fall, and cleaned of all visible material dislodged from the tree including branches, bark, needle clusters and associated fragments. All collected debris shall be immediately removed from the site and disposed of properly."

For the Meadow Crest Drive location, in accordance with the above condition, Verizon Wireless has instructed its technicians, who already inspect each facility a minimum of twice every year, to remove any fallen branches or needles from the other monopine tower that Verizon Wireless owns in the Lake Tahoe watershed, which is located on Meadow Crest Drive and referred to as the Kokanee facility. This diligent inspection and removal of any such debris reduced the accumulation of needles that may fall from a monopine. This monopine is located in a flat forested area between Al Tahoe Boulevard and the South Tahoe Public Utility District sewage treatment facility with no visible tributaries or drainage swales to Trout Creek over 2,000 feet away.

Based on available information, the shedding of monopine needles from these towers is not expected to affect the water quality of waters of the state.

At this time, the Water Board does not intend to issue either Waste Discharge Requirements, or a Waiver of Waste Discharge Requirements, for these sites. To the extent any needles would enter the municipal stormwater system, discharges from the municipal stormwater system are regulated by the Lake Tahoe Municipal Stormwater NPDES permit (Order NO. R6T-2022-0046). If information is presented indicating a threat to water quality, the Water Board may require waste discharge requirements or a waiver of waste discharge requirements for these sites in the future.

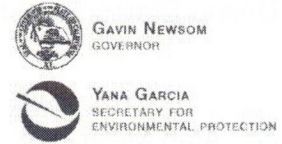
If you have any questions regarding this letter, please contact Brian Judge, Engineering Geologist at (530) 542- 5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner, Senior Environmental Scientist -Supervisor at (530) 542-5425 or Mary.Fiore-Wagner@waterboards.ca.gov.



MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER

cc: Mary Fiore-Wagner, Lahontan Water Board
Brian Judge, Lahontan Water Board
Armand Delgado, Verizon Wireless
Paul Albritton, Mackenzie & Albritton LLP
Alan Miller
David Jinkens
Julie Regan, Tahoe Regional Planning Agency Julie Regan
Bridget Cornell, Tahoe Regional Planning Agency Bridget Cornell
Steve Sweet, Tahoe Regional Planning Agency Steve Sweet
Laura Patten, League to Save Lake Tahoe

Nel Guillian



Lahontan Regional Water Quality Control Board

September 7, 2022

United States Forest Service
100 Forni Road
Placerville, CA 95667

REQUEST FOR REPORT OF WASTE DISCHARGE, MONOPINE CELL TOWER, HEAVENLY RESORT, 1636 SHERMAN WAY, #A, EL DORADO COUNTY, ASSESSOR'S PARCEL NUMBER 030-040-001

The Lahontan Water Quality Board staff requests that the US Forest Service submit a Report of Waste Discharge (ROWD) for the Cell Tower located at Heavenly Resort, 1636 Sherman Way, #A, El Dorado County, CA, in accordance with California Water Code, section 13260(c). Section 13260 states that persons discharging or proposing to discharge waste that could affect the quality of the waters of the State, other than into a community sewer system, shall file a ROWD containing information which may be required by the appropriate Regional Water Quality Control Board (Water Board). Observations of faux pine tree cell phone tower locations indicate shedding of plastic debris into the environment. **Please submit a s ROWD for the monopine style cell tower within 45 days of receipt of this letter.**

Report of Waste Discharge Required Forms

Water Board staff is considering issuing Waste Discharge Requirements for the existing monopine cell tower.

Please use the following forms to complete the ROWD:

- Form 200—

https://www.waterboards.ca.gov/publications_forms/forms/docs/form200.pdf

If you have any questions regarding this letter, please contact Brian Judge at (530) 542-5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner at (530) 542-5425 or Mary.Fiore-Wagner@waterboards.ca.gov.

MICHAEL R. PLAZIAK, PG
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cc: Alan Miller
David Jenkins
Julie Regan, Tahoe Regional Planning Agency
Steve Sweet, Tahoe Regional Planning Agency
Laura Patten, League to Save Lake Tahoe

Lahontan Regional Water Quality Control Board

February 21, 2023

Paul Gerst
Mobilitie Investments III-A, LLC
660 Newport Center Drive, Suite 200
Newport Beach, CA 92660

Complete Report of Waste Discharge Accepted, Monopine Cell Tower, Angel's Roost, Heavenly Ski Resort, 1636 Sherman Way, El Dorado County, Assessor's Parcel Number 030-040-001

Lahontan Regional Water Quality Control Board (Water Board) staff issued you a letter of incomplete Report of Waste Discharge (ROWD) dated November 21, 2022, which requested additional information missing from your original ROWD received on November 8, 2022. On February 6, 2023, Water Board staff received the additional information requested for the monopine cell tower located at 1636 Sherman Way, El Dorado County, CA, in accordance with California Water Code, section 13260(c) and determined the ROWD is complete.

Your completed Form 200, ROWD indicates monopine needles may fall from the monopine to the ground and states there is no discharge due to the following:

- Mobilitie's semi-annual site inspections includes cleanup and disposal of any fallen branches and needles.
- All the branches and needles were replaced in 2022 and are made of PVC with a UV inhibitor to improve durability.
- The material is not soluble in water and is nontoxic.
- The monopine is on an isolated peak and the nearest tributary is one-third of mile away at Heavenly Valley Creek. There is no identifiable transport pathway for needles or branches to reach a tributary or Lake Tahoe.
- The nearest paved surface is approximately a mile away.

Based on available information, the shedding of monopine needles from the tower is not expected to affect the water quality of waters of the state. At this time, the Water Board does not intend to issue either Waste Discharge Requirements, or a Waiver of Waste Discharge Requirements, for this site. To the extent any needles would enter the municipal stormwater system, discharges from the municipal stormwater system are regulated by the Lake Tahoe Municipal Stormwater NPDES permit (Order NO. R6T-2022-0046). If information is presented indicating a threat to water quality, the Water

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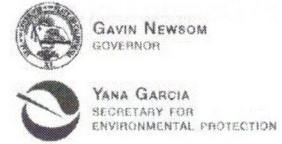
Board may require water discharge requirements or a waiver of waste discharge requirements for the site in the future.

If you have any questions regarding this letter, please contact Brian Judge, Engineering Geologist at (530) 542- 5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner, Senior Environmental Scientist -Supervisor at (530) 542-5425 or Mary.Fiore-Wagner@waterboards.ca.gov.



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EXECUTIVE OFFICER

cc: Mary Fiore-Wagner, Lahontan Water Board
Brian Judge, Lahontan Water Board
Karen Kuentz, U.S. Forest Service
Alan Miller
Julie Regan, Tahoe Regional Planning Agency
Bridget Cornell, Tahoe Regional Planning Agency
Steve Sweet, Tahoe Regional Planning Agency
Laura Patten, League to Save Lake Tahoe



Lahontan Regional Water Quality Control Board

September 7, 2022

El Dorado County
330 Fair Lane
Placerville, CA 95667

REQUEST FOR REPORT OF WASTE DISCHARGE, MONOPINE CELL TOWER, 7101 WILSON AVENUE, EL DORADO COUNTY, ASSESSOR'S PARCEL NUMBER 015-331-029

The Lahontan Water Quality Board staff requests that El Dorado County submit a Report of Waste Discharge (ROWD) for the Cell Tower located at 7101 Wilson Avenue, El Dorado County, CA, in accordance with California Water Code, section 13260(c). Section 13260 states that persons discharging or proposing to discharge waste that could affect the quality of the waters of the State, other than into a community sewer system, shall file a ROWD containing information which may be required by the appropriate Regional Water Quality Control Board (Water Board). Observations of faux pine tree cell phone tower locations indicate shedding of plastic debris into the environment. **Please submit a s ROWD for the monopine style cell tower within 45 days of receipt of this letter.**

Report of Waste Discharge Required Forms

Water Board staff is considering issuing Waste Discharge Requirements for the existing monopine cell tower.

Please use the following forms to complete the ROWD:

- Form 200—

https://www.waterboards.ca.gov/publications_forms/forms/docs/form200.pdf

If you have any questions regarding this letter, please contact Brian Judge at (530) 542-5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner at (530) 542-5425 or Mary.Fiore-Wagner@waterboards.ca.gov.

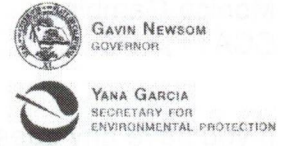
MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER

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cc: Alan Miller

Julie Regan, Tahoe Regional Planning Agency
Steve Sweet, Tahoe Regional Planning Agency
Laura Patten, League to Save Lake Tahoe



Lahontan Regional Water Quality Control Board

February 3, 2023

Monica Gambino
CCATT, LLC, Attention Regulatory
2000 Corporate Drive
Canonsburg, PA 15317

COMPLETE REPORT OF WASTE DISCHARGE ACCEPTED, MONOPINE CELL TOWER, 7101 WILSON AVENUE, EL DORADO COUNTY, ASSESSOR'S PARCEL NUMBER 015-331-029

On January 6, 2023, the Lahontan Regional Water Quality Control Board (Water Board) staff received your Report of Waste Discharge (ROWD) for the monopine cell tower located at 7101 Wilson Avenue, El Dorado County, CA, in accordance with California Water Code, section 13260(c), and determined it is complete.

Your completed Form 200, ROWD indicates monopine needles may fall from the monopine tower to the ground. You also state that during site inspections, any pine needles or branches that are found within the fenced compound are removed by the site inspector and that it is not expected that the fallen foliage would decompose in the soil surrounding the monopine, especially considering that any fallen foliage is removed during periodic site inspections. Submitted Material Safety Data Sheets and Safety Data Sheets for plastic foliage do not indicate any toxicity and materials are not soluble in water.

Water Board staff inspected this site on July 19, 2022 and did not observe any plastic branch pieces or individual needles in adjacent roadways, gutters, or public stormwater systems. This site is fully fenced on three sides with permanent water quality treatment basins installed downslope from the monopine. No direct discharges to, or clear paths to, surface waters were observed.

Based on available information, the shedding of monopine needles from the tower is not expected to affect the water quality of waters of the state. At this time, the Water Board does not intend to issue either Waste Discharge Requirements, or a Waiver of Waste Discharge Requirements for this site. To the extent any needles would enter the municipal stormwater system, discharges from the municipal stormwater system are regulated by the Lake Tahoe Municipal Stormwater NPDES permit (Order NO. R6T-2022-0046). If information is presented indicating a threat to water quality, the Water Board may require waste discharge requirements, or a waiver of waste discharge requirements, for the site in the future.

PETER C. PUMPHREY, CHAIR | MICHAEL R. PLAZIAK, PG, EXECUTIVE OFFICER

Lahontan Regional Water Quality Control Board

September 7, 2022

David Van Meter
Davin L. Van Meter Revocable Living Trust
PO Box 17549
South Lake Tahoe, CA 96151

REQUEST FOR REPORT OF WASTE DISCHARGE, MONOPINE CELL TOWER, 1857 HEKPA DRIVE, EL DORADO COUNTY, ASSESSOR'S PARCEL NUMBER 033- 652-001

The Lahontan Water Quality Board staff requests that you submit a Report of Waste Discharge (ROWD) for the Cell Tower located at 1857 Hekpa Drive, El Dorado County, CA, in accordance with California Water Code, section 13260(c). Section 13260 states that persons discharging or proposing to discharge waste that could affect the quality of the waters of the State, other than into a community sewer system, shall file a ROWD containing information which may be required by the appropriate Regional Water Quality Control Board (Water Board). Observations of faux pine tree cell phone tower locations indicate shedding of plastic debris into the environment. **Please submit a ROWD for the monopine style cell tower within 45 days of receipt of this letter.**

Report of Waste Discharge Required Forms

Water Board staff is considering issuing Waste Discharge Requirements for the existing monopine cell tower.

Please use the following forms to complete the ROWD:

- Form 200—

https://www.waterboards.ca.gov/publications_forms/forms/docs/form200.pdf

If you have any questions regarding this letter, please contact Brian Judge at (530) 542-5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner at (530) 542-5425 or Mary.Fiore-Wagner@waterboards.ca.gov.

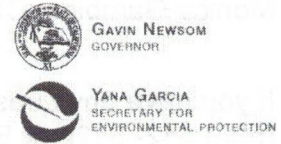


MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER

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PETER C. PUMPHREY, CHAIR | MICHAEL R. PLAZIAK, PG, EXECUTIVE OFFICER

cc: Alan Miller
David Jinkins
Julie Regan, Tahoe Regional Planning Agency
Steve Sweet, Tahoe Regional Planning Agency
Laura Patten, League to Save Lake Tahoe



Lahontan Regional Water Quality Control Board

February 3, 2023

Monica Gambino
CCATT LLC, Attention Regulatory
2000 Corporate Drive
Canonsburg, PA 15317

COMPLETE REPORT OF WASTE DISCHARGE ACCEPTED, MONOPINE CELL TOWER, 1857 HEKPA DRIVE, EL DORADO COUNTY, ASSESSOR'S PARCEL NUMBER 033-652-001

On January 6, 2023, the Lahontan Regional Water Quality Control Board (Water Board) staff received your Report of Waste Discharge (ROWD) for the monopine cell tower located at 1857 Hekpa Drive, El Dorado County, CA, in accordance with California Water Code, section 13260(c), and determined it is complete.

Your completed Form 200, ROWD indicates monopine needles may fall from the monopine tower to the ground. You also state that during site inspections any pine needles or branches that are found within the fenced compound are removed by the site inspector and that it is not expected that the fallen foliage would decompose in the soil surrounding the monopine, especially considering that any fallen foliage is removed during periodic site inspections. Submitted Material Safety Data Sheets and Safety Data Sheets for plastic foliage do not indicate any toxicity and materials are not soluble in water.

Water Board staff inspected this site on July 19, 2022 and did not observe any plastic branch pieces or individual needles in adjacent roadways, gutters, or public stormwater systems. No direct discharges to, or clear paths to, surface waters were observed.

Based on available information, the shedding of monopine needles from the tower is not expected to affect the water quality of waters of the state. At this time, the Water Board does not intend to issue either Waste Discharge Requirements, or a Waiver of Waste Discharge Requirements for this site. To the extent any needles would enter the municipal stormwater system, discharges from the municipal stormwater system are regulated by the Lake Tahoe Municipal Stormwater NPDES permit (Order NO. R6T-2022-0046). If information is presented indicating a threat to water quality, the Water Board may require waste discharge requirements, or a waiver of waste discharge requirements, for the site in the future.

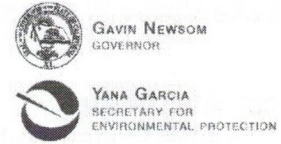
PETER C. PUMPHREY, CHAIR | MICHAEL R. PLAZIAK, PG, EXECUTIVE OFFICER

If you have any questions regarding this letter, please contact Brian Judge at (530) 542- 5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner, Senior Engineer Scientist, at (530) 542-5425 or Mary.Fiore-Wagner@waterboards.ca.gov.



MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER

cc: Mary Fiore-Wagner, Lahontan Water Board
Brian Judge, Lahontan Water Board
David Van Meter, David L. Van Meter Revocable Living Trust
Alan Miller
Julie Regan, Tahoe Regional Planning Agency
Bridget Cornell, Tahoe Regional Planning Agency
Steve Sweet, Tahoe Regional Planning Agency
Laura Patten, League to Save Lake Tahoe



Lahontan Regional Water Quality Control Board

September 7, 2022

Lake Valley Fire Protection District
PO Box 11132
South Lake Tahoe, CA 96155

REQUEST FOR REPORT OF WASTE DISCHARGE, MONOPINE CELL TOWER, 2223 KEETAK STREET, EL DORADO COUNTY, ASSESSOR'S PARCEL NUMBER 035-262-012

The Lahontan Water Quality Board staff requests the Lake Valley Fire Protection District to submit a Report of Waste Discharge (ROWD) for the Cell Tower located at 2223 Keetak Street, El Dorado County, CA, in accordance with California Water Code, section 13260(c). Section 13260 states that persons discharging or proposing to discharge waste that could affect the quality of the waters of the State, other than into a community sewer system, shall file a ROWD containing information which may be required by the appropriate Regional Water Quality Control Board (Water Board). Observations of faux pine tree cell phone tower locations indicate shedding of plastic debris into the environment. **Please submit a s ROWD for the monopine style cell tower within 45 days of receipt of this letter.**

Report of Waste Discharge Required Forms

Water Board staff is considering issuing Waste Discharge Requirements for the existing monopine cell tower.

Please use the following forms to complete the ROWD:

- Form 200—

https://www.waterboards.ca.gov/publications_forms/forms/docs/form200.pdf

If you have any questions regarding this letter, please contact Brian Judge at (530) 542- 5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner at (530) 542- 5425 or Mary.Fiore-Wagner@waterboards.ca.gov.

MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER

See next page for cc list -

PETER C. PUMPHREY, CHAIR | MICHAEL R. PLAZIAK, PG, EXECUTIVE OFFICER

cc: Alan Miller

Julie Regan, Tahoe Regional Planning Agency

Steve Sweet, Tahoe Regional Planning Agency

Laura Patten, League to Save Lake Tahoe

Lahontan Regional Water Quality Control Board

April 7, 2023

Martin Goldberg
Lake Valley Fire Protection District
2211 Keetak Street
South Lake Tahoe, CA 96150

Complete Report of Waste Discharge Accepted, Monopine Cell Tower, 2223 Keetak Street, El Dorado County, Assessor's Parcel Number 035-262-012

Lahontan Regional Water Quality Control Board (Water Board) staff issued you a letter of incomplete Report of Waste Discharge (ROWD) dated November 18, 2022, which requested additional information missing from your original ROWD received on October 24, 2022. On March 27, 2023, Water Board staff received the additional information requested for the monopine cell tower located at 2223 Keetak Street, El Dorado County, CA, in accordance with California Water Code, section 13260(c) and determined the ROWD is complete.

Your completed Form 200, ROWD indicates discharge to land and states there is no discharge due to the following:

- The foliage is made of extruded PVC manufactured by Valmont Larson and meets American Society for Testing and Materials (ASTM) F963-08.
- The tower was built in 2018 and very few needles fall throughout the year.
- Maintenance crews inspect the site twice per year and clean up any needles on the ground.

Based on available information, the shedding of monopine needles from the tower is not expected to affect the water quality of waters of the state. At this time, the Water Board does not intend to issue either Waste Discharge Requirements, or a Waiver of Waste Discharge Requirements for this site. To the extent any needles would enter the municipal stormwater system, discharges from the municipal stormwater system are regulated by the Lake Tahoe Municipal Stormwater NPDES permit (Order NO. R6T-2022-0046). If information is presented indicating a threat to water quality, the Water Board may require water discharge requirements or a waiver of waste discharge requirements for the site in the future.

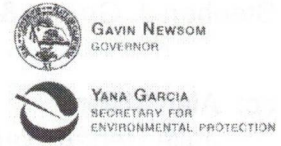
PETER C. PUMPHREY, CHAIR | MICHAEL R. PLAZIAK, PG, EXECUTIVE OFFICER

If you have any questions regarding this letter, please contact Brian Judge, Engineering Geologist at (530) 542- 5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner, Senior Environmental Scientist -Supervisor at (530) 542-5425 or Mary.Fiore-Wagner@waterboards.ca.gov.



MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER

cc: Brian Bertrand, Vertical Bridge
Chad Stephen, Lake Valley Fire District
Alan Miller
Julie Regan, Tahoe Regional Planning Agency
Bridget Cornell, Tahoe Regional Planning Agency
Steve Sweet, Tahoe Regional Planning Agency
Laura Patten, League to Save Lake Tahoe
Mary Fiore-Wagner, Lahontan Water Board
Brian Judge, Lahontan Water Board



Lahontan Regional Water Quality Control Board

September 7, 2022

Stephen J Gregor and Janet A Gregor
PO Box 924
Carnelian Bay, CA 96140

REQUEST FOR REPORT OF WASTE DISCHARGE, MONOPINE CELL TOWER, 8177 SPECKLED AVENUE, PLACER COUNTY, ASSESSOR'S PARCEL NUMBER 015-331-029

The Lahontan Water Quality Board staff requests that you submit a Report of Waste Discharge (ROWD) for the Cell Tower located at 8177 Speckled Avenue, Placer County, CA, in accordance with California Water Code, section 13260(c). Section 13260 states that persons discharging or proposing to discharge waste that could affect the quality of the waters of the State, other than into a community sewer system, shall file a ROWD containing information which may be required by the appropriate Regional Water Quality Control Board (Water Board). Observations of faux pine tree cell phone tower locations indicate shedding of plastic debris into the environment. **Please submit a ROWD for the monopine style cell tower within 45 days of receipt of this letter.**

Report of Waste Discharge Required Forms

Water Board staff is considering issuing Waste Discharge Requirements for the existing monopine cell tower.

Please use the following forms to complete the ROWD:

- Form 200—

https://www.waterboards.ca.gov/publications_forms/forms/docs/form200.pdf

If you have any questions regarding this letter, please contact Brian Judge at (530) 542-5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner at (530) 542-5425 or Mary.Fiore-Wagner@waterboards.ca.gov.

MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER

See next page for cc list –

September 7, 2022

cc: Alan Miller

Julie Regan, Tahoe Regional Planning Agency

Steve Sweet, Tahoe Regional Planning Agency

Laura Patten, League to Save Lake Tahoe



GAVIN NEWSOM
GOVERNOR



YANA GARCIA
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Lahontan Regional Water Quality Control Board

February 3, 2023

Monica Gambino
CCATT LLC, Attention Regulatory
2000 Corporate Drive
Canonsburg, PA 15317

COMPLETE REPORT OF WASTE DISCHARGE ACCEPTED, MONOPINE CELL TOWER, 8177 SPECKLED, PLACER COUNTY, ASSESSOR'S PARCEL NUMBER 090-041-038

On January 6, 2023, the Lahontan Regional Water Quality Control Board (Water Board) staff received your Report of Waste Discharge (ROWD) for the monopine cell tower located at 8177 Speckled Avenue, Placer County, CA, in accordance with California Water Code, section 13260(c), and determined it is complete.

Your completed Form 200, ROWD indicates monopine needles may fall from the monopine tower to the ground. You also state that during site inspections that any pine needles or branches that are found within the fenced compound are removed by the site inspector and that it is not expected that the fallen foliage would decompose in the soil surrounding the monopine, especially considering that any fallen foliage is removed during periodic site inspections. Submitted Material Safety Data Sheets and Safety Data Sheets for plastic foliage do not indicate any toxicity and materials are not soluble in water.

Water Board staff inspected this site on July 19, 2022 and did not observe any plastic branch pieces or individual needles in adjacent roadways, gutters, or public stormwater systems. This site is fully fenced with permanent water quality best management practices installed. No direct discharges to, or clear paths to, surface waters were observed.

Based on available information, the shedding of monopine needles from the tower is not expected to affect the water quality of waters of the state. At this time, the Water Board does not intend to issue either Waste Discharge Requirements, or a Waiver of Waste Discharge Requirements for this site. To the extent any needles would enter the municipal stormwater system, discharges from the municipal stormwater system are regulated by the Lake Tahoe Municipal Stormwater NPDES permit (Order NO. R6T-2022-0046). If information is presented indicating a threat to water quality, the Water Board may require waste discharge requirements, or a waiver of waste discharge requirements, for the site in the future.

PETER C. PUMPHREY, CHAIR | MICHAEL R. PLAZIAK, PG, EXECUTIVE OFFICER

If you have any questions regarding this letter, please contact Brian Judge at (530) 542- 5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner, Senior Engineer Scientist, at (530) 542-5425 or Mary.Fiore-Wagner@waterboards.ca.gov.



MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER

cc: Mary Fiore-Wagner, Lahontan Water Board
Brian Judge, Lahontan Water Board
Stephen J Gregor and Janet A Gregor
Alan Miller
Julie Regan, Tahoe Regional Planning Agency
Bridget Cornell, Tahoe Regional Planning Agency
Steve Sweet, Tahoe Regional Planning Agency
Laura Patten, League to Save Lake Tahoe



CEQA Portal Topic Paper

Lead Agency, Responsible Agencies, and Trustee Agencies

Introduction

CEQA applies to all California public agencies that carry out or approve projects. When the legislature enacted CEQA and the Natural Resources Agency adopted the State CEQA Guidelines, they both recognized that some projects are carried out or approved by more than one agency. Therefore, both CEQA and the State CEQA Guidelines define several different categories of agencies and give differing roles and responsibilities to each. One key to successful CEQA compliance is for the various agencies involved in a project to figure out their respective roles at the beginning of a project. This is particularly important because for most projects only one CEQA document is prepared by the Lead Agency, and it must be used by all of the agencies carrying out or approving the project. This topic paper describes the various categories of agencies and explains their respective roles and responsibilities in the environmental review process set forth by CEQA.

What Is a Lead Agency?

The Lead Agency, as defined by CEQA, is the public agency that has the primary responsibility for carrying out or approving a project. (State CEQA Guidelines Section 15367.) To be a CEQA Lead Agency, the public agency must have discretionary authority over the proposed project (see also *CEQA Triggers* Topic Paper). The Lead Agency also has the primary responsibility for determining what level of CEQA review is required for a project and for preparing and approving the appropriate document [e.g., negative declaration (ND), mitigated negative declaration (MND), or Environmental Impact Report (EIR)]. *Id.* More information is provided below under *Who Can Serve as a Lead Agency?* and *What Is the Role of the Lead Agency.*

What Is a Responsible Agency?

A Responsible Agency under CEQA is a public agency with some discretionary authority over a project or a portion of it, but which has not been designated the Lead Agency. (State CEQA Guidelines Section 15381.) So, if a project involves discretionary actions by more than one agency, one may be selected as the Lead Agency pursuant to State CEQA Guidelines Section 15051, and the others would become Responsible Agencies.

Because Responsible Agencies will take discretionary actions regarding a project, they are also required to comply with CEQA. For efficiency, CEQA allows Responsible Agencies to rely on a CEQA document prepared by the Lead Agency to meet their CEQA compliance requirements. However, Responsible Agencies must independently review and approve the CEQA document, and not rely automatically on the Lead Agency's judgments. According to CEQA, a Responsible Agency complies with CEQA "by considering the EIR or negative declaration prepared by the Lead Agency and by reaching its own conclusions on whether and how to approve the project involved" (State CEQA Guidelines Section 15096(a)).

What Is a Trustee Agency?

A Trustee Agency is a State agency having jurisdiction by law over natural resources that are held in trust for the people of California, and which may be affected by a project (State CEQA Guidelines Section 15386). A Trustee Agency may also be a Responsible Agency if it has discretionary authority over a project.

CEQA only identifies four Trustee Agencies: the California Department of Fish and Wildlife (CDFW); the State Lands Commission (SLC); the State Department of Parks and Recreation (State Parks); and the University of California (UC) (State CEQA Guidelines Section 15386(a–d)).

CDFW is a Trustee Agency for projects that involve or could have an effect on the fish and wildlife resources of the State, including designated rare or endangered native plants, game refuges, ecological reserves, and other areas it administers. SLC is a Trustee Agency for projects that involve State-owned sovereign lands such as the beds of navigable waters and State school lands. State Parks is a Trustee Agency for projects that involve or may have an effect on a property within the State Park System. UC is a Trustee Agency for projects that involve or may affect the Natural Land and Water Reserves System.

Who Can Serve as a Lead Agency?

CEQA compliance is required for discretionary projects to be carried out or approved by California "public agencies," including any State agency, board, or commission, as well as any Local Agency.

The California Public Resources Code (PRC) states that CEQA applies to public agencies (PRC Section 21080(a)), and defines public agency to include "any state agency, board, or commission, any county, city and county, city, regional agency, public district, redevelopment agency, or other political subdivision" (PRC Section 21063 [emphasis added]).

The State CEQA Guidelines define state agency as "a governmental agency in the executive branch of the State Government or an entity which operates under the direction and control of an agency in the executive branch of State Government and is funded primarily by the State Treasury." (State CEQA Guidelines Section 15383).

A *Local Agency* is defined under the CEQA statute as “any public agency other than a state agency, board, or commission” (PRC Section 21062). Therefore, under CEQA a county, city, combined city and county (such as San Francisco), regional agency, public district, redevelopment agency, or other public subdivision, is a Local Agency. Under PRC Section 21062, redevelopment agencies and Local Agency Formation Commissions (LAFCOs) are considered local agencies.

For purposes of CEQA, a “public agency” does not include the following:

- The State Legislature
- The Governor and executive offices of the Governor (see *Pertinent Court Cases* below)
- California state courts (State CEQA Guidelines Section 15379)
- The electorate (see *Pertinent Court Cases* below)
- Any agency of the federal government (State CEQA Guidelines Section 15379)

How Is a Lead Agency Selected?

In many cases, the choice of a CEQA Lead Agency is simple. For example if a public agency is carrying out its own project, it will typically be the Lead Agency for the project. Also, if only one public agency has discretionary authority over a project, it will be the Lead Agency. However, there are also circumstances when more than one public agency may have a substantial claim to be the Lead Agency. In those situations, CEQA provides that the Lead Agency is “the public agency which has the principal responsibility for carrying out or approving a project,” which may be subject to CEQA (PRC Section 21067).

State CEQA Guidelines Section 15051 refines the statutory language and sets forth additional criteria for identifying the Lead Agency. For example, for private projects the Lead Agency should normally be the agency “with general governmental powers” such as a city or county, as opposed to a single- or limited-purpose agency such as a school district, water district, or air pollution control district. Limited-purpose state agencies, such as the State Water Resources Control Board of the Department of Fish and Wildlife typically serve as Responsible Agencies when a local government is the Lead Agency (State CEQA Guidelines Section 15051(b)(1)). Where two or more public agencies have equal responsibility over a project as a whole, the first agency to act on the project would normally be the Lead Agency (State CEQA Guidelines Section 15051(c)).

Where more than one public agency has discretionary authority over a project and each has a substantial claim to be the Lead Agency, the two agencies may meet to decide which should be the Lead Agency (State CEQA Guidelines Section 15051(d)). Any agreement regarding selection of the Lead Agency must adhere to the guidelines criteria. Thus, for example, if several agencies assign Lead Agency status to an agency that does not meet the criteria for being a Lead Agency, a court may set aside the choice and declare the CEQA document prepared by the wrong agency to be inadequate.

If two or more public agencies are unable to agree which agency should be the Lead Agency, any of the disputing agencies, or the project applicant (in the case of a private project), may request the Governor's Office of Planning and Research (OPR) to decide (PRC Section 21165(a); State CEQA Guidelines Section 15053). OPR will then designate the Lead Agency within 21 days. If there is no dispute regarding the choice of the Lead Agency, OPR does not have a role in designating the Lead Agency. (PRC Section 21165(b)). Formal requests for OPR to designate a Lead Agency are quite rare. However, OPR is often asked to assist agencies in selecting the correct Lead Agency.

What Is the Role of the Lead Agency?

Completing CEQA Review

The Lead Agency has primary responsibility for completing CEQA Review for a proposed project. This includes the determination as to what type of CEQA compliance document is required (e.g., Notice of Exemption, IS/ND, IS/MND, or EIR), as well as for overseeing the completion of the appropriate document, either directly with its staff or by hiring a third party (such as a consulting firm). However, even if an agency hires a third party to prepare a document, the document's compliance with CEQA remains the ultimate responsibility of the Lead Agency, and it is responsible for ensuring that any documents prepared meet the content- and process-related requirements of CEQA.

In general, with respect to the content-related requirements, the Lead Agency must ensure that the document evaluates all required resource topics, contains an adequate range of alternatives, and includes appropriate mitigation measures for any significant impacts. Additionally, the Lead Agency must exercise its independent judgment as to the significance of all impacts, based on scientific and factual data (State CEQA Guidelines Section 15064(b)), and it must select and adopt mitigation measures to reduce significant impacts to less-than-significant levels, where feasible (State CEQA Guidelines Section 15126.4).

When an EIR is prepared, the Lead Agency must "certify" that the document meets all of the requirements of CEQA, has been presented to the decision-making body that has considered it, and that it reflects Lead Agency's independent judgment. (State CEQA Guidelines Section 15090.) Where an EIR identifies one or more significant environmental effects, the Lead Agency must make findings for each effect that documents the efforts of the Lead Agency to mitigate these impacts, or explain why mitigation to a less-than-significant level is not feasible. (State CEQA Guidelines Section 15091.) The findings establish the analytical link between the CEQA document and a decision derived from the documentation. When significant impacts remain, the Lead Agency must also adopt a Statement of Overriding Considerations, which documents the ultimate balancing of the merits of approving a project against its environmental damage (State CEQA Guidelines Section 15093).

Similarly, when an ND or MND is prepared instead of an EIR, the Lead Agency must consider and adopt the ND before making a decision on a project (State CEQA Guidelines Section 15074).

A Lead Agency is also responsible for complying with all of the process-related aspects of CEQA, including the preparation and filing of all required notices, conducting all required public outreach activities, and the distribution of documents. Finally, the Lead Agency has a responsibility to consult with Responsible and Trustee Agencies, as described below.

Coordination with Responsible and Trustee Agencies

The Lead Agency's decision whether to prepare an ND, MND, or an EIR is binding on all Responsible and Trustee Agencies, except in unusual circumstances (PRC Section 21080.1(a); State CEQA Guidelines Section 15050(c)). Therefore, a Lead Agency is required to consult with and involve all Responsible and Trustee Agencies throughout the CEQA process. First, the Lead Agency must consult with Responsible and Trustee Agencies prior to determining whether a negative declaration or an EIR is required for a project (PRC Section 21080.3(a); State CEQA Guidelines Section 15063(g)). If a Lead Agency determines an EIR is required for a project, the Lead Agency must send a Notice of Preparation to all Responsible and Trustee Agencies, who will then specify to the Lead Agency "the scope and content of the environmental information that is germane to the statutory responsibilities" of that agency in connection with the proposed project and which must be included in the EIR (PRC Section 21080.4; State CEQA Guidelines Section 15082(b)).

Next, the Lead Agency must send every Responsible and Trustee Agency a Notice of Preparation (NOP) prior to undertaking an EIR (PRC Section 21092; State CEQA Guidelines Section 15082(a)). Within 30 days of receiving the NOP, each Responsible and Trustee Agency and OPR must provide the Lead Agency with detail about the scope and content of the environmental information related to the agency's area of statutory responsibility to be included in the draft EIR. (Pub. Res. Code § 21080.4(a); State CEQA Guidelines Section 15082(b).) Prior to completing an EIR, the Lead Agency must again consult with and invite comments from all Responsible and Trustee Agencies (PRC Sections 21104(a), 21153(a); State CEQA Guidelines Section 15086). If a Lead Agency intends to adopt an ND or MND, the Lead Agency must send a Notice of Intent (NOI) to every Responsible and Trustee Agency (State CEQA Guidelines Section 15073(c)).

In addition to reaching out to Responsible and Trustee Agencies, other agencies that a Lead Agency must consult and request comments from include:

- Any other state, federal, or local agency that has jurisdiction by law with respect to the project or that exercises authority over resources which may be affected by the project (PRC Sections 21104(a), 21153(a); State CEQA Guidelines Section 15086(a)(3)); and
- Every city or county bordering the city or county within which the project is located (State CEQA Guidelines Section 15086(a)(4).)

Lead Agencies may also have special consultation requirements with other agencies in very specific situations—for example, when certain categories of large projects would affect water

supplies, the Lead Agency has certain obligations to consult with the agency that would provide water to the project (State CEQA Guidelines Section 15086(a)(3)).) Similarly, for a subdivision project within one mile of a State Water Resources Development System facility, a Lead Agency preparing an EIR must consult with Department of Water Resources (State CEQA Guidelines Section 15086(a)(7)).) For projects of “statewide, regional, or area-wide significance” (State CEQA Guidelines Section 15206(b)), a Lead Agency must consult with transportation planning agencies and public agencies that have transportation facilities (including public transit agencies, if they have facilities within ½ mile of the project) within their jurisdictions that could be affected by the project (State CEQA Guidelines Section 15086(a)(5)).

What Is the Role of a Responsible Agency?

In response to consultation, a Responsible Agency must explain its reasons for recommending whether the Lead Agency should prepare an EIR or an ND (or MND) for the project (State CEQA Guidelines Section 15096(b)(1)). After receiving a NOP from a Lead Agency, the Responsible Agency must send a reply specifying “the scope and content of the environmental information which would be germane to the Responsible Agency’s statutory responsibilities in connection with the proposed project.” (State CEQA Guidelines Section 15096(b)(2).)

A Responsible Agency should review and comment on draft EIRs, NDs, and MNDs for projects which involve activities “within the agency’s area of expertise or which are required to be carried out or approved by the agency or which will be subject to the exercise of powers by the agency.” (State CEQA Guidelines Section 15096(b)(3).) If it determines that the Lead Agency’s final document is not adequate for its use, a Responsible Agency has limited options. It may:

- Bring a legal challenge against the adequacy of a final EIR, ND, or MND prepared by the Lead Agency;
- Waive its objections and use the Lead Agency’s document anyway; or
- Under certain circumstances, assume the role of Lead Agency and prepare its own CEQA document.

In any of these situations, the Responsible Agency may not act on a project without having a completed and approved CEQA document on which to base its decision. However, if the Responsible Agency finds the ND, MND, or EIR prepared by the Lead Agency is sufficient, it may rely on that document before reaching a decision on the project. (State CEQA Guidelines Section 15096(f).) A Responsible Agency has responsibility for mitigating or avoiding direct or indirect environmental effects of the parts of the project that it decides to carry out, finance, or approve. (State CEQA Guidelines Section 15096(g)(1).) A Responsible Agency may also have to prepare and adopt findings (State CEQA Guidelines Section 15096 (h)) for decisions that it makes regarding the mitigation of environmental impacts. Finally, after making its decision on a project, a Responsible Agency must file a notice of determination (“NOD”) in the same manner as a Lead Agency under State CEQA Guidelines Sections 15075 or 15094 (State CEQA Guidelines Section 15096(i).)

What Is the Role of a Trustee Agency?

Although a Trustee Agency does not have approval authority over a project, it is nevertheless an important player in the CEQA process. The role of Trustee Agencies focuses on ensuring that Lead and Responsible Agencies take into consideration those natural resources under their jurisdiction, and which are held in trust for the people of the state. This responsibility is exercised through consultation with the Lead Agency regarding the type of document to prepare (State CEQA Guidelines Section 15063(g)), recommendations to the Lead Agency about the scope and content of information related to the Trustee's area of responsibility that must be included in the Draft EIR (State CEQA Guidelines Section 15082(b)), and submission of comments on the CEQA document prepared by the Lead Agency. (State CEQA Guidelines Section 15204(d).) If a Trustee Agency also has permitting authority over a project its role in the CEQA process is that of Responsible Agency for that project. In these situations it must follow all of the procedures discussed above for a Responsible Agency

Lead Agencies and Participating Agencies in a Joint CEQA/NEPA Document

In California, some projects that are subject to CEQA are also subject to the National Environmental Policy Act (NEPA). This occurs when a state or local project will have federal agency involvement because of any of the following circumstances:

- The project is jointly carried out by a local or state agency and a federal agency
- The project requires federal permits or other entitlements
- The project receives federal funds
- The project will occur on federal land or will require a lease or right-of-way from a federal agency

In those situations, both the State CEQA Guidelines (State CEQA Guidelines Section 15006(j)) and the White House Council on Environmental Quality (CEQ) NEPA regulations (40 CFR 1506.2) encourage the state and federal Lead Agencies to cooperate and prepare joint NEPA/CEQA documents. Although CEQA typically allows only a single Lead Agency for a given project, a CEQA Lead Agency may serve as a joint Lead Agency with a federal agency when a joint document is prepared.

Over the years, many joint CEQA/NEPA documents have been successfully prepared; however, the preparation of joint documents is often a complicated undertaking. Recognizing this, in 2014, the Governor's Office of Planning and Research (OPR) and the CEQ issued their first-ever joint guidance entitled *NEPA and CEQA: Integrating Federal and State Environmental Reviews* (Council on Environmental Quality, Governor's Office of Planning and Research 2014).

OPR's guidance document is intended to assist state and federal agencies when a joint CEQA/NEPA document is to be prepared, and there is both a NEPA and a CEQA Lead Agency. The guidance covers a broad variety of topics related to integrating CEQA and NEPA such as: when is each law triggered, differences in terminology; how to integrate the two laws;



preparing a joint CEQA/NEPA document; and how federal and state agencies make their respective decisions using a joint document. It also includes a sample Memorandum of Understanding that the federal and state Lead Agencies can use to reach agreement on preparing and using a joint document.

Areas of Controversy Regarding Lead Agencies

A key area of controversy regarding public agencies and CEQA (as highlighted further below in under *Pertinent Court Cases*) is the selection of the Lead Agency.

The State CEQA Guidelines provide guidance on how the Lead Agency should be selected in case two or more public agencies dispute which agency should serve as the Lead Agency (see *How Is a Lead Agency Selected?* above). As previously mentioned, the public agency that has “primary responsibility for carrying out or approving a project” generally should serve as the

Lead Agency. Furthermore, State CEQA Guidelines Section 15051 provides additional guidance for determining the Lead Agency.

A brief review of relevant cases, discussed in the section below, may provide additional guidance in determining the Lead Agency in the event that the regulatory guidance does not provide absolute clarity in a given situation. See *Pertinent Court Cases* below for additional detail and case citations.

For example, the public agency with the greatest responsibility for undertaking a project likely is the Lead Agency, despite the fact that another public agency may have a mandatory obligation to facilitate the former agency’s actions. (See *Planning and Conservation League v. Castaic Lake Water Agency* (2009).)

However, a public agency may not delegate its role as Lead Agency to another public agency that has a great interest in a project, when the former agency has near-plenary statutory or regulatory jurisdictional responsibility for that project. (See *Planning and Conservation League v. Dept. of Water Resources* (2000).)

Finally, a public agency with the authority to merely operate or manage a project is not necessarily the Lead Agency if another public agency has the legal authority for approving the project. (See *Friends of Cuyamaca Valley v. Lake Cuyamaca Rec. & Park Dist.* (1994).)

Important Cases

The following published cases involve issues related to CEQA Lead, Responsible, and Trustee Agencies:

Lead Agency Cases

- *Center for Biological Diversity v. County of San Bernardino* (May 10, 2015) 247 Cal.App.4th 326

Selected language verbatim from the Appellate Court Case:

A proposed project to pump fresh groundwater from an underground aquifer located below real property owned by Cadiz, Inc. (Cadiz), in the Mojave Desert (the Project) spawned six related cases. The Project is a public/private partnership, the purposes of which are to prevent waste of the water in the aquifer, and to ultimately transport the water to customers in Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties...

The named respondents were the Santa Margarita Water District (Santa Margarita) as the lead agency for the Project; the Board of Directors of the Santa Margarita Water District; the County of San Bernardino, a responsible agency for the Project (the County); and the Board of Supervisors of the County of San Bernardino...

First, Appellants contend that Santa Margarita was improperly designated as the lead agency for the Project, and that this error so tainted the environmental review process that such designation requires preparation of a new environmental impact report (EIR). We disagree. Santa Margarita was properly designated as the lead agency because it is jointly carrying out the Project with the property owner, Cadiz, and because it is the agency with the principal authority for approving and supervising the Project as a whole. Because we find no error in the designation of Santa Margarita as the lead agency, we need not address the issue of prejudice.

- *Picayune Rancheria of Chukchansi Indians v. Brown* (2014) 229 Cal.App.4th 1416, 1430

In this case the Third District Court of Appeal addressed the question of whether the Governor of California is a “public agency” subject to CEQA. The appellate court held that neither the Governor nor the Governor’s Office is a public agency and, therefore, is not subject to CEQA. Thus, the Governor does not serve as a Lead Agency.

- *Habitat and Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277

In this case, the city acted as the lead agency by agreement with LAFCO. The Sixth District Court of Appeal upheld as proper the designation of a city as the Lead Agency in a municipal services boundary expansion where the city was the entity proposing the sphere of influence (SOI) amendment and providing the services to a university campus, if approved by LAFCO. LAFCO remained the responsible agency because it was responsible for making a decision on the proposed SOI amendment and the request for extraterritorial services.

- *Planning and Conservation League v. Castaic Lake Water Agency* (2009) 180 Cal.App.4th 210, 239

In this case the Second District Court of Appeal held that a local water agency, not the Department of Water Resources (DWR) was the proper Lead Agency to implement a local water transfer because the local water agency had the responsibility to determine the water needs of its service area and to obtain the necessary water for those needs. By contrast,

DWR was obliged by statute to facilitate such transfers. Thus, because the Castaic Lake Water Agency shouldered the primary responsibility for creating and implementing the water transfer in question, it was the proper Lead Agency.

- *Sierra Club v. West Side Irrigation District* (2005) 128 Cal.App.4th 690

In this case the Third District Court of Appeal upheld an agreements between two separate irrigation districts and the City of Tracy regarding Lead and Responsible Agency roles. Under the agreements, the districts assigned to the city their right to collect water from the Central Valley Project, which the city would access through its own turnout on a canal. The agreements were contingent in part upon the districts' compliance with CEQA. The parties agreed the irrigation districts would serve as Lead Agencies to assign the water rights to the city, and the city would act as a Responsible Agency. The court stated that both the districts and the city were qualified to serve as Lead Agency, and that in such situations, CEQA permits either agency to assume that role.

- *Planning and Conservation League v. Dept. of Water Resources* (2000) 83 Cal.App.4th 892, 906

In this case the Third District Court of Appeal held that the State Department of Water Resources (DWR) improperly allowed a joint powers water agency to act as Lead Agency for implementation of an agreement to negotiate and execute amendments to existing contracts between DWR and multiple contracting agencies, a project over which DWR had statutory responsibility to build, manage, and operate.

- *Friends of Cuyamaca Valley v. Lake Cuyamaca Rec. & Park Dist.* (1994) 28 Cal.App.4th 419, 427

In this case the Fourth District Court of Appeal held that CDFW, not a local recreation and park district, had the authority and responsibility under CEQA to act as Lead Agency in approving the annual duck season, as CDFW by regulation sets the hunting season schedule, adopts governing regulations, and issues licenses, whereas the local district by agreement with CDFW is simply obligated to operate and manage the hunting season.

Responsible and Trustee Agency Cases

- *Fall River Wild Trout Foundation v. County of Shasta* (1999) 70 Cal.App.4th 482, 492-93

In this case the Third District Court of Appeal held that a County's failure to send a copy of the mitigated negative declaration to CDFW as Trustee Agency deprived the County of information necessary to informed decision-making and informed public participation, and thus constituted prejudicial abuse of discretion.

- *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1389

In this case, the Fourth District Court of Appeal held that the city was not required to send a copy of the proposed negative declaration to the US Fish & Wildlife Service because it is a federal agency. The court reasoned that only a state agency specified in State CEQA Guidelines section 15386 is considered to be a Trustee Agency under CEQA.

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Sources

Bass, R., K. Bogdan, and T. Rivasplata. 2012. *CEQA Deskbook: A Step-By-Step Guide on How to the Comply with the California Environmental Quality Act*, 3rd edition. Solano Press Book, Point Arena, CA.

Council on Environmental Quality and Governor's Office of Planning and Research. 2014. *NEPA and CEQA: Integrating Federal and State Environmental Reviews*. February.

Remy Moose Manley LLP. 2006. *Guide to CEQA*, 11th edition. Solano Press.

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Legal Disclaimer:

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Attachment 3: Tower Site Photos/Inspection Notes

Sac Wireless/Ski Run Tower



(2023) Verizon dba Sac Wireless Tower at Ski Run Blvd and Needle Peak Drive. Ski Run Blvd is to the right before the tower. Needles were not emplaced prior to winter. Tower built in violation of FFC stay pending litigation resolution. Extensive and cogent visual analysis by TRPA found this tower would blend into the Tahoe landscape of this residential neighborhood and the surrounding trees, and thus meets so-called “scenic thresholds” in the Ski Run Blvd. scenic non-attainment area, but only with the addition of 10,000 pounds of PVC plastics to camouflage the industrial tower.



Ski Run tower base at Needle Peak Road showing many smaller trees near the tower. The entire Project parcel (Hansen's Snow Play Area) is heavily treed; needles will be blown onto the landscape and mixed with forest duff and will not be recovered, or they will fall in the roadway and drain to Bijou Park Creek and/or Lake Tahoe.



Verizon committed to keep all the soil on the Project site at the September 2022 TRPA appeal hearing for expanded foundation excavation. Soil is piled in Needle Peak Drive, Ski Run Blvd below to left. Street closed to public.



Aspen Grove along Ski Run Blvd opposite Hansen's Snow Play area, and Ski Run tower site. At the left stake a culvert carries the stream across Ski Run Blvd, to surface in front of Hansen's property, and enters the adjacent Bijou Park Creek Stream Environment Zone below the Hansen property and tower site (where vegetation is so dense photos are not of much use).



Verizon/Sac Wireless was required to stay within the fenced area for construction and made an unauthorized access road which it continued to use for construction purposes. Oopsie!.



Is Verizon going to burn our Lake Tahoe basin to a cinder before it even gets powered up? Contractor hits a gas line while excavating in the street shoulder. Ooopsie!



Needle Peak and Ski Run Blvd. closed, neighborhood evacuation for gas line break by Verizon contractor. 9/22/22

USFS-Mobiltie/Angel's Roost Tower – 10/31/22



Angel's Roost tower approach road, very steep, erodible. Native tree at center. Faux-pine tower at left. Needles were replaced in 2022.



Angel's Roost tower. Note tree top sheared off in foreground.



Angel's Roost tower needle shards remaining following "cleanup." The ground around the tower near and far is liberally trashed with individual needle shards (difficult to depict in photos) and clumps. Needles are subject to further weather and degradation to microplastics. Highly erodible soils surround the tower, mixed with native pine debris.



Needles shards from Angel's Roost tower remain following "cleanup." Typical of the tower surroundings.



Eroding hill slope below tower, approach road at right. Plastics discharged on wind or water to this area can't be recovered without causing additional erosion, and so "cleanup" does not include plastics removal in these areas.



A view to what we seek to protect. Angel's Roost tower to immediate rear of photographer. The slopes below are steep, rocky and inaccessible. Plastics discharged to this area will not be recovered and will enter the environment and waters as microplastics, lost from control but never gone. Industrial macrotowers with plastic trash and microplastics wastes have no rightful place in such areas on the public lands at Lake Tahoe and are rightfully prohibited by law.

El Dorado County-CCATT/Wilson Ave Tower - 9/15/22



Wilson St. Tower from near entrance to El Dorado County maintenance facility (to left), looking southerly, Wilson Street/right of way at right of the fence. Note hanging broken limbs on tower and plastic coverings missing from antennae.



Closer view of Wilson Ave Tower. Note limbs missing needles, antennas lacking (required) covers.



County storm water retention basin as seen from back of Wilson Ave tower (trunk at left). Fallen needles are subject to heavy equipment traffic generating microplastics from trash. The storm water basin extends beyond the pretreatment basin's white weir (center) into the grassy infiltration/retention area beyond, where large amounts of needles were initially found. The basin has no discernible outflow and discharges underground near the back of the property.



Wilson Avenue, looking northerly, drainage flows to left, one-half block to nearest cross street, then flows two blocks easterly to Lake Tahoe. Road shoulder is a mess. Site was “cleaned” and some obvious needles and trash were removed in response to Water Board inquiry (only), prior to this visit. Photos and video from an earlier visit by an associate show many needles in the on-site storm water basin, and beyond the Project site boundaries along the street.



Wilson Ave tower site, Wilson Ave at left, base station, trunk at right, near roadway. Portable generator parked in right of way, off the Project site. Drainage flows are towards viewer. Fallen needles/fragments are difficult or impossible to remove from gravels (grinding stones).



Soils near base of Wilson Ave tower following “cleanup,” which came years after the tower was installed in response to Water Board inquiry. Microplastics remain.

CCATT LLC/Hekpa Drive – 10/27/22, 10/29/22



Hekpa Tower located adjacent to Pioneer Trail, set in a heavily forested area.



A portion of the disintegrating plastics being replaced, stored on soil overlain by pine duff. Towers may contain up to 10,000 pounds of plastic, industrial scale. These plastic needles contain lead.



Hekpa Tower/base station to right, out of photo. Road shoulder leading to USFS trail entrance beyond parked car, looking easterly. Microplastics and tower trash in road shoulder though the site had reportedly been “cleaned.”



Entrance to USFS trail to Saxon Creek headwaters, Pioneer Trail to left, approx. 100 feet from tower (to rear of camera). Needles were observed in the road shoulder here, off the Project site.



Trail leading from Pioneer Trail to Stream Environment Zone (upper left) tributary to Saxon Creek/Cold Creek, maybe 500 hundred feet below the tower site, which is to the immediate right, out of photo. Trail conveys Hekpa tower site backside runoff to SEZ below.



Back side, Hekpa Tower, slopes to Trail on adjacent USFS land which flows to SEZ meadow. Fallen/discarded needles can't be separated from natural needles. Site is not raked so no needles or trash removed in this area. Needles blown or flowed onto USFS lands are not removed. Plastic tape will be left to rot.



Example of plastic needles mixed with native pine needles and duff, showing it is hard to easily distinguish individual plastic needles detached from anchors/limbs. Microplastics enter soil and storm runoff. The only way to fully remove plastics is by raking and removal of upper soil layers, clearly not done or practicable



USFS Trail to SEZ meadow from below tower site. Hekpa tower to the left of power pole at center-right. Needles discharged by water or wind into this area are not removed. Shown below is the same area, tower in view, in March 2023, with a clump of plastic needles blown some 200 feet onto the USFS property below the tower, where it will not be recovered. The plastics were replaced in 2022 and did not withstand the Tahoe weather extremes.



LTVFD/Keetak Street Tower – 10/29/22



Tower base station viewed from near Hwy 89 entrance. Needles and plastic antenna covers on the tower appear to be degrading in situ and detach in wind and weather.





Tower at center, adjacent lands of US Forest Service can't be raked and disturbed to remove plastic trash and microplastics noted on the ground. Firehouse and equipment in background. Hwy 89 to immediate left, out of photo, drain to Upper Truckee River/Lake Tahoe.



Needles discarded at base of Keetak Drive macrotower prior to onset of fall snow cover, not isolated, but representative of the clumps and needles dispersed around the tower debris field.



View from the tower to adjacent private properties, plastic needles and trash littering the ground, singly and in branch “tips” and clumps, mixed with natural needle and native duff. Why the *portable* generator? Looks to be a potential fire hazard, with fueling and storage; good thing there’s a fire station near. Why not in the base station, permanent?