

From: [Al Miller](#)
To: [Marja Ambler](#); [John Marshall](#); [Cindy Gustafson](#); [Julie Regan](#)
Cc: [Lahontan](#); [Mary Fiore-Wagner](#); [Mike Plaziak](#)
Subject: Fwd: Water Quality Petition Filing - Microplastics at Lake Tahoe
Date: Tuesday, July 11, 2023 12:47:23 PM
Attachments: [Attachment 2 - CEOA Lead Agency Responsible Trustee 2020 Update.pdf](#)
[Attachment 2 - LRWOCB Petition - Letter from Attornies 4-14-23.pdf](#)
[Attachment 4 - Correspondence Record.pdf](#)
[Attachment 1 - LRWOCB Petition - Letter from Miller 4 -12 23.pdf](#)
[SWRCB Petition - Letter from Attornies 7-11-23.pdf](#)
[Attachment 5 - List of Email Contacts - LRWOCB section 13260 Orders \(April 2023\).pdf](#)
[Attachment 3 - TRPA Permitting Activity 2021 -2022.pdf](#)
[SWRCB Petition - Letter from Petitioners 7-11-23.pdf](#)
[Attachment 3 - Tower Site Photos+Inspection Notes.pdf](#)
[Attachment 1 - Water Board orders and letters to telecoms.pdf](#)

Ms. Ambler, This Water Quality petition was today filed with the State Water Resources Control Board in Sacramento against the California Regional Water Quality Control Board, Lahontan Region, for the illegal regulatory program it has been conducting with TRPA concerning microplastics pollution from telecom communications monopine macrotowers and other construction projects the TRPA has approved without any involvement or oversight from the Lahontan Water Board. Since these comments are provided well in advance of the July 19, 2023 Agenda publication date, instructions to you are to publish within the July 26, 2023 Agenda the email here, the forwarded email to the State Water Resources Control Board, and the attached two petition letters dated 7-11-23 and their eight attachments in the Agenda presented to the Governing Board and the public. NO MORE MONOPINES! Alan Miller, PE

----- Forwarded message -----

From: **Al Miller** <syngineer1@gmail.com>
Date: Tue, Jul 11, 2023 at 12:23 PM
Subject: Water Quality Petition Filing - Microplastics at Lake Tahoe
To: <waterqualitypetitions@waterboards.ca.gov>, Lahontan <rb6-lahontan@waterboards.ca.gov>

Ms. Crowl, Please find the attached Water Quality Petition, with two letters dated today and eight related attachments. Please contact me if you have any questions. Thank you. Alan Miller, PE

State Water Resources Control Board
Office of Chief Counsel
Adrianna M. Crowl
P.O. Box 100
Sacramento, CA 95812-0100
By eMail to: waterqualitypetitions@waterboards.ca.gov

July 11, 2023

Petition to State Water Resources Control Board For Inaction of Regional Water Quality Control Board, Lahontan Region, to Adopt or Waive Waste Discharge Requirements under California Water Code sections 13263 and 13264, or California Water Code section 13269, respectively, for Numerous Projects Discharging Plastic, Microplastic and Construction Wastes in the Lake Tahoe Hydrologic Unit

This petition is filed pursuant to applicable regulations and instructions provided at https://www.waterboards.ca.gov/public_notices/petitions/water_quality/wqpetition_instr.shtml.

1. Name, address, telephone number and e-mail address (if available) of the petitioner.

Petitioners Are: Alan Miller, PE; who will serve as the point of contact for our group,

PO Box 7526, S Lake Tahoe CA 96158, (530) 542-0243, syngineer1@gmail.com

Robert Aaron, S Lake Tahoe; David Jinkens, S Lake Tahoe.

2. The action or inaction of the Regional Water Board being petitioned, including a copy of the action being challenged or any refusal to act.

The inaction is discussed in detail in two related petitions filed jointly with the Lahontan Water Board, the first by Alan Miller, filed on April, 13, 2023, and the second by attorneys Gresser, Berg and Lien, filed on April 14, 2023, see Attachments 1 and 2. Briefly, this Petition is related to the Orders issued by the LRWQBC pursuant to California Water Code section 13260 together with the waste discharge reports received and particularly the letters from LRWQCB in response (see Attachment 1 to the April 13, 2023 petition letter), and the petition letters cited above requesting the LRWQBC Executive Officer (1) retract the letters issued stating no further action would be taken on the applications filed for waste discharge requirements and (2) take actions to adopt or waive waste discharge requirements as required under the CWC for these and other waste discharges, supported by a clear and well reasoned explanation for its conclusions. Petitioners believe and allege that the LRWQBC is illegally waiving waste discharge requirements for projects affecting water quality numbering in the hundreds annually in the Lake Tahoe Hydrologic Unit.

Petitioners have repeatedly pointed out the risks of uncontrolled and prohibited industrial-scale discharges of plastic and microplastic wastes from wireless telecommunications towers camouflaged with plastic to resemble trees (“monopines”). We allege the failure to regulate these monopine macrotower projects is part of a larger illicit program the LRWQBC is carrying out to allow waste discharge requirements to be waived illegally and against applicable policies for a large number of small construction projects in Lake Tahoe under an expired general waiver of waste discharge requirements (Resolution Board Order R6T-2016-0035, Renewed Waiver of Filing A Report of Waste Discharge and Waiver of Waste Discharge Requirements For Specific Types of Projects or Discharges Regulated by the Tahoe Regional Planning Agency). Beginning in late March 2022, Petitioners have expressed their concerns in correspondence to the LRWQBC, including discussion in testimony and writings at a public meeting of the LRWQBC on May 11, 2022.

Petitioners have confirmed that tower plastics degrade rapidly under the extreme environmental conditions (high winds for example) in Lake Tahoe, resulting in large amounts of uncontrolled discharges of plastic and microplastic wastes. The permit approval by the Tahoe Regional Planning Agency (TRPA) of the 112-foot high monopine macrotower at 1630 Ski Run Blvd, City of South Lake Tahoe, now in litigation is only one example. That tower is slated to be adorned with approximately 10,000 pounds of degradable PVC plastics (needing to be replaced approx. every five years or less), and is just one of many monopines the TRPA has approved without LRWQCB involvement in the last three decades under illegally-delegated authorities in general waivers from the LRWQBC, including the general waiver of Board Order R6T-2016-0035 which expired in May 2021. Our concerns extend to the LRWQBC’s ongoing failure to regulate plastic wastes from the monopine macrotowers and other waste discharges affecting water quality under the expired general waiver, with the ongoing unregulated waste discharges continuing and growing.

3. The date the Regional Water Board refused to act or was requested to act.

Taking the date of the earlier petition letter filing, we urged the LRWQBC to retract the “no further action” letters and promulgate requirements under the law on April 13, 2023. The LRWQBC has refused to act in response to the petitions. Taking the earlier of the jointly-filed petitions, the LRWQBC failed to act by June 12, 2023, and thus this petition is timely filed before or by July 12, 2023.

4. A statement of the reasons the action or inaction was inappropriate or improper.

From the beginning we proposed a straightforward solution to the plastic wastes discharges, which are prohibited by regulation under several applicable prohibitions: enforce the prohibitions and eliminate the monopine towers, and require clean up the past discharges to the extent

feasible. This could be done under waste discharge requirements implementing the applicable prohibitions with time schedules to comply. The LRWQBC chose a different path. In response to our petitions, the LRWQBC did issue six orders to various persons and public agencies to file waste discharge reports for monopine towers in early September 2022 under CWC section 13260. Following a cursory review, the LRWQBC Executive Officer issued “no further action” letters to the various filers under section 13260, declining any further regulatory action. We petitioned these letters as “inactions” of the LRWQBC, for failing to promulgate or adopt requirements as must be done under the law, with a substantial critique of each letter and monopine site we inspected. These inactions were from reliance on TRPA permitting actions, as the letters state, and the expired waiver, an illicit underground regulatory program and illegal delegation of project permitting to the TRPA.

The waste discharges from these monopine tower projects serve as examples of whole classes of projects and waste discharges that the LRWQBC has improperly declined to regulate over the decades; the macro cell tower on Ski Run Blvd. serves as a poignant example. That project is just one among many hundreds that the LRWQBC has illegally delegated its water quality duties to the TRPA to oversee. See Attachment 3. The basis in law and policy for our concerns is explained at length in our correspondence and testimony in the public record; this Petition is necessarily a summary. The inactions are a failure to implement required policies specified in the Water Quality Control Plan for the Lahontan Region (Basin Plan), including numerous applicable waste discharge prohibitions. The inactions are wholly inconsistent with the CWC and the State Water Board’s Policy for Investigation and Cleanups. The inactions are inappropriate because they allow unregulated discharges of plastic wastes containing toxic contaminants and breakdown products to the waters and watersheds of the Lake Tahoe Hydrologic Unit, to the detriment of Lake Tahoe water clarity and quality and many of the beneficial uses Lake Tahoe serves. Further, the LRWQBC has done nothing to abate the past plastic waste discharges from the monopine towers at Lake Tahoe CA, which we allege constitute nuisances under the CWC.

Our requests to the LRWQBC to cease its “underground regulatory program” (as termed by the Office of Administrative Law) for all projects formerly covered by the LRWQBC’s general waiver of waste discharge requirements has been met with silence. The delegation to TRPA, as in expired Board Order R6T-2016-0035, including regulating plastic and microplastic wastes from monopine towers in the Lake Tahoe region of CA, is illegal, and the illegal actions continue. The TRPA is currently processing a new application for a 95-foot high monopine tower at Shop Street in the City of South Lake Tahoe, with no filing of waste discharge reports with the LRWQBC and thus no opportunity for public involvement in the matter before the LRWQBC. This is also the case with hundreds of construction projects processed annually by TRPA alone in California-portions of the Lake Tahoe region affecting water quality, with no permit oversight on the dischargers or involvement by the LRWQBC.

5. How the petitioner is aggrieved.

All of these activities and acts of omission that are creating clear and present dangers to the inhabitants of Lake Tahoe, water quality and the environment are the responsibility of the LRWQBC appointees acting under color of law. We are not dealing with administrative errors, but with deliberate and intentional illegality in deference to the TRPA and the telecom industry to self-regulate. We are providing an opportunity for the State Water Board to correct the violations of law by the rogue appointees. The general public, ourselves included, have been deprived of the opportunity to make our water quality concerns and grievances known in the public arena of a LRWQBC meeting held to consider comment from the public and others concerning specific requirements put forward by the LRWQBC, and to comment for the public record concerning the LRWQBC's compliance with the California Environmental Quality Act, the failure to implement the State Water Board's Cleanup Policy, and a variety of other important State policies and prohibitions concerning trash, plastic wastes, and microplastic contaminants, as are now present in Lake Tahoe. We are aggrieved because we speak for the people whose public health and safety is threatened while the LRWQBC silently implements its illicit underground regulatory program with TRPA and ignores prohibited industrial waste discharges. We speak for the waters of the Lake Tahoe region that are being threatened by unregulated industrial wastes, where no state agency or official person appears to care about these contamination issues and the ongoing defiance of state and federal law. We speak for the environment in general at Lake Tahoe, which is under ongoing and ever more serious threats of industrial waste discharges from projects numbering in the thousands annually, including the much-touted wireless technology rollout ("5G+") with unlimited numbers of monopine and other towers littering the region. We are aggrieved because the LRWQBC is acting like a scofflaw and endangering the public and the unique environment of the Lake Tahoe region for highly-questionable purposes (scenic quality and workload reduction) by ignoring its official duties with regard to water quality and non-discretionary legal mandates.

The action the petitioner requests the State Water Board to take.

Petitioners respectfully make the following requests that the State Water Board:

- A. Issue an Order prohibiting the waste discharges from existing and proposed new monopine towers in the Lake Tahoe Hydrologic Unit under existing regulatory prohibitions.
- B. Rebuke the LRWQBC for the issuance of the "no further action letters" and revoke the letters forthwith.
- C. Declare that the delegation of regulatory authority by the LRWQBC to TRPA under its expired general waiver is illegal.

- D. Require the LRWQBC to issue waste discharge requirements and/or specific or general waivers in accordance with CWC section 13263 or section 13269, respectively, for the reports filed for monopine wastes under section 13260 orders.
- E. Impose fines and take other enforcement actions for the violations under section 13264, until such time that requirements are lawfully promulgated, including potential investigations and cleanups as Petitioners have requested for unregulated monopine tower waste discharges.
- F. Require that the LRWQBC implement section 13260 application requirements and application processing for waste discharges, including construction wastes, for all construction projects not otherwise covered by waste discharge requirements or waivers from the LRWQBC.
- G. Issue a stay against any new waste discharge from construction of any kind involving land disturbance in the Lake Tahoe Hydrologic Unit that is not in compliance with section 13260 and section 13264 requirements until the LRWQBC has taken the indicated actions to require waste discharge reports and regulate the discharges pursuant to established waste discharge requirements or a formal waiver of waste discharge requirements, based on official findings and processes of public notice and participation, required by California statutory and regulatory law.

6. A statement of points and authorities for any legal issues raised in the petition, including citations to documents or hearing transcripts that are referred to.

The legal points are wholly contained in CWC sections 13263, 13264, and 13269. In particular, we note that the discharges are still occurring illegally from the monopine towers and other projects the LRWQBC has failed to regulate. In particular, section 13264 states, in part,

“ (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: waste to be discharged does not create or threaten to create a condition of pollution or nuisance and any of the following applies:

- (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 have asserted the existing and planned monopine tower projects create or threaten to create a condition of pollution or nuisance (see our letter in the record dated April 29, 2022, pp 4-5), the construction projects in general are not exempt from CEQA, and the LRWQBC is the CEQA Lead Agency for purposes related to this Petition.

7. A statement that copies of the petition have been sent to the Regional Water Board and to the discharger, if different from the petitioner.

The LRWQBC has been notified of this Petition before the State Water Board by filing of this Petition online through the LRWQBC’s document retrieval system, followed by copies to the Dischargers and others by way of email through contact addresses we are aware of. See the list of these people in Attachment 5..

8. A statement that the issues raised in the petition were presented to the regional board before the regional board acted, or an explanation of why the petitioner could not raise those objections before the regional board.

We have raised the issues with the LRWQBC in an extensive written correspondence since late March 2022, and refer to certain of the communications below. In response the LRWQBC has offered mostly silence, illegal actions, and failures to act to adopt lawful requirements, as the public record in this matter makes clear.

Please see the annotated listing of significant letters from the record in Attachment 4.

Conclusion

For the reasons noted herein we request the State Water Board to issue a stay and to take the other remedies requested and to come into full compliance under sections 13260 and 13263.

Sincerely, Petitioners

Attachment 1: Petition Letter from Miller letter, filed 4/13/22 (dated 4/12/22)

Attachment 2: Petition Letter from Attorneys, filed and dated 4/14/22

Attachment 3: Summary of TRPA Permitting Activity 2021-2022

Attachment 4: Annotated listing of significant letters from the record

Attachment 5: List of Email Contacts: LRWQCB section 13260 Orders

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:
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 Mobilite, 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 Mobilite 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—

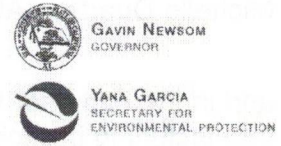
https://www.waterboards.ca.gov/publications_forms/forms/docs/form200.pdf

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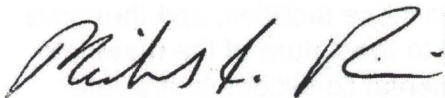
and in the Fall prior to snow fall, and cleaned of all visible material dislodged from the tree including branches, bark, needle clusters and associated fragments. All collected debris shall be immediately removed from the site and disposed of properly.”

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.

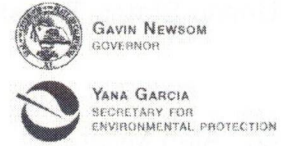
If you have any questions regarding this letter, please contact Brian Judge, Engineering Geologist at (530) 542- 5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner, Senior Environmental Scientist -Supervisor at (530) 542-5425 or Mary.Fiore-Wagner@waterboards.ca.gov.



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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 Guilliam



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

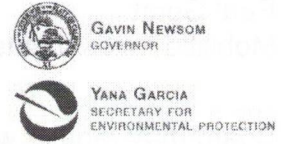
If you have any questions regarding this letter, please contact Brian Judge at (530) 542-5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner at (530) 542-5425 or Mary.Fiore-Wagner@waterboards.ca.gov.

MICHAEL R. PLAZIAK, PG
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See next page for cc list –

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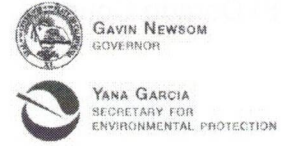
Board may require water discharge requirements or a waiver of waste discharge requirements for the site in the future.

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

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

REQUEST FOR REPORT OF WASTE DUMPING, MONITORING CELL TOWER
 1701 WILSON AVENUE, EL DORADO COUNTY, ASSASSIN'S PARCEL NUMBER
 012-317-022

The California Department of Water Resources (DWR) and the El Dorado County Agency
 Board of Waste Disposal (BWD) are seeking a qualified contractor to provide
 BWD with a waste disposal site. The contractor will be responsible for
 conducting a site assessment, including a geotechnical investigation, and
 providing a report on the results of the investigation. The contractor will
 also be responsible for providing a plan for the site, including a
 description of the site, a map of the site, and a description of the
 proposed waste disposal site. The contractor will also be responsible for
 providing a plan for the site, including a description of the site, a
 map of the site, and a description of the proposed waste disposal site.

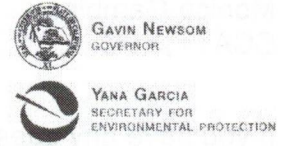
Request for Waste Disposal Report
 The contractor will be responsible for providing a report on the results of the
 investigation. The contractor will also be responsible for providing a plan
 for the site, including a description of the site, a map of the site, and
 a description of the proposed waste disposal site.

Please use the following forms to complete the RFP:
 Form 100 -
 This form will be used to provide information about the project.

If you have any questions regarding the RFP, please contact Brian Jones at (916) 525-0100
 or brian.jones@el-dorado.ca.gov. If you have any questions regarding the RFP,
 please contact Brian Jones at (916) 525-0100 or brian.jones@el-dorado.ca.gov.

[Signature]
 BRIAN JONES
 COUNTY ENGINEER

See you next time!
 Thank you for your interest in this project.
 If you have any questions regarding the RFP, please contact Brian Jones at (916) 525-0100
 or brian.jones@el-dorado.ca.gov.



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

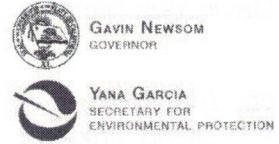
On January 6, 2023, the Lahontan Regional Water Quality Control Board (Water Board) staff received your Report of Waste Discharge (ROWD) for the monopine cell tower located at 7101 Wilson Avenue, El Dorado County, CA, in accordance with California Water Code, section 13260(c), and determined it is complete.

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—

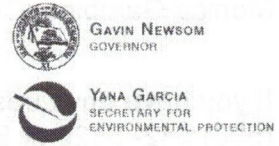
https://www.waterboards.ca.gov/publications_forms/forms/docs/form200.pdf

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

See next page for cc list –

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



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.

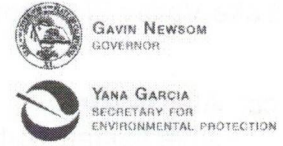
PETER C. PUMPHREY, CHAIR | MICHAEL R. PLAZIAK, PG, EXECUTIVE OFFICER

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

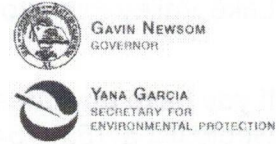
If you have any questions regarding this letter, please contact Brian Judge at (530) 542- 5426 or Brian.Judge@waterboards.ca.gov, or Mary Fiore-Wagner at (530) 542-5425 or Mary.Fiore-Wagner@waterboards.ca.gov.

A handwritten signature in black ink, appearing to read "Michael R. Plaziak".

MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER

See next page for cc list -

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



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.

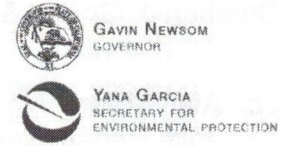
PETER C. PUMPHREY, CHAIR | MICHAEL R. PLAZIAK, PG, EXECUTIVE OFFICER

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 –

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

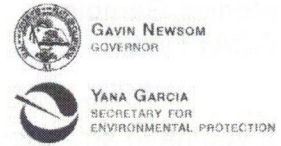
REQUEST FOR REPORT OR WASTE DISCHARGE MONITORING DELIVERABLE
8171 SPECIFIED AVENUE, BLAKE COUNTY, ASSessor's PARCEL NUMBER
8171-017-010

The Lake Tahoe County Board requests that you submit a Report of Waste
Discharge (ROWD) for the Cell Tower located at 8171 Specified Avenue, Parcel
8171-017-010, as shown on the attached map. The ROWD should include:
1. A description of the facility and its location.
2. A description of the waste discharge and the receiving water body.
3. A description of the monitoring system and the monitoring data.
4. A description of the management and control measures.
5. A description of the impact assessment and the mitigation measures.
6. A description of the public participation process.

Report of Waste Discharge (ROWD) Form
Water Board is considering issuing a Waste Discharge Permit for the facility.
Please use the following form in completing the ROWD.

Form 500-
If you have any questions regarding the ROWD, please contact Brian C. (530) 533-5433
or Mary Ann (530) 533-5434 or Mary Ann (530) 533-5434.

MICHAEL R. PULASKI, PC
EXECUTIVE OFFICER



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 agreement between two separate irrigation districts and the City of Tracy regarding Lead and Responsible Agency roles. Under the agreement, 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 agreement was 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

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Date Updated: February 2, 2020

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. Oopsie!



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?

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) 41 Cal.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,

Legal Team:

Julian Gresser	juliangresser77@gmail.com
Robert J. Berg	robertbergesq@aol.com
Gregg Lien	lakelaw@sierratahoe.net

Quote from TRPA's November 16, 2022 Governing Board Meeting Agenda

“Project Permitting

Through the first ten months of 2022, TRPA has received 975 permit applications, eight percent higher than were received during same period in 2021, when TRPA received the highest number of applications ever. In the last month, 100 percent of applications received were reviewed for completeness within 30 days of application submittal. Ninety-four percent of permits were issued within 120 days of TRPA receiving a complete application. Out of the 167 applications currently in review, thirteen applications have exceeded 120 days in TRPA review time (all are shorezone or buoy applications). See tables on next page for more permitting details.

Website(s): Not a direct website for the initiative but associated ones include:

📄 <https://www.laketahoeinfo.org/>”

[Note: The following page contains a screenshot of a Permit Application tabulation, as the Table can't be cut and pasted from TRPA agenda without loss of formats.]

Commentary:

This Table includes project applications in CA and NV, with the great majority in CA. Only TRPA can reasonably tease out which are in each State. Projects in CA with more than one acre of land disturbance are subject to the LRWQCB's Lake Tahoe Construction Activity NPDES Storm Water Permit; the number of these larger projects typically active has been in the 10 - 20 range annually. LRWQCB can provide exact numbers, but these are the only construction projects regulated by the LRWQCB at Lake Tahoe, with all other construction activity ignored by it. TRPA is proud of its ability to crank out permits, but they are a multi-purpose planning agency with little to no water quality expertise, no water quality engineers or engineer-geologists on staff, and NO WATER QUALITY AUTHORITY as under the California Water Code. TRPA is a threat to water quality by approving more projects than it can reasonably regulate, using cookbook rules and deficient permits with regard to water quality and oversight. Take out around half of the totals for “verifications and banking” and “transfers of development” not involving land disturbance, as the others do. Note many shorezone/lakezone projects near waters.



TRPA Applications by Project Type through October 31, 2022

TRPA Applications by Project Type	2020	2021	2022 YTD
Residential Projects	220	242	227
Commercial Projects	9	11	16
Recreation/Public Service Projects	30	44	46
Shorezone/Lakezone Projects	48	130	64
Grading Projects	38	37	28
Verifications and Banking	374	427	348
Transfers of Development	29	55	53
Other	97	150	193
Grand Total	845	1096	975

Attachment 4: Annotated chronological listing of significant letters in the record

1. Letter Date: April 5, 2022

Subject Line: Request for Action to Prevent the Prohibited Discharge of Plastics Containing Toxic Wastes from the Proposed Guilliam/Verizon Wireless Faux Pine Macrotower at 1360 Ski Run Blvd., South Lake Tahoe (El Dorado County Assessor's Parcel Number 025-580-007)

Topics: No waste discharge requirements or waiver issued for monopine tower construction; toxicity of PVC monopine wastes; request to implement discharge prohibitions and section 13260 orders; request for investigations at existing tower sites; TRPA permit background leading to discovery of monopine tower plastic wastes; expired Lahontan Water Board waiver R6T-2016-0035 (delegation to TRPA); information on microplastics; potential research opportunity.

2. Letter Date: April 11, 2022

Subject Line: Request to Address the Water Board – Lahontan Region at May 2022 Public Meeting Concerning the Prohibited Discharge of Plastics Containing Toxic Wastes from the Proposed Guilliam/Verizon Wireless Faux Pine Macrotower at 1360 Ski Run Blvd., South Lake Tahoe (El Dorado County Assessor's Parcel Number 025-580-007)

Topics: Reference to April 5, 2022 letter and April 6, 2022 meeting with Executive Officer Plaziak; request to be added to agenda and public notice for the May 11, 2022 meeting (we were accommodated only during the Public Forum, with no notice to the public of the topics to be presented); reiterated requests for section 13260 orders; offer to present at the May 11, 2022 meeting information on microplastics, generally, in the global context of plastic and electronics wastes from the global telecommunications/computing industries.

3. Letter Date: April 29, 2022

Subject Line: Notice of Intent to Petition State Water Resources Control Board for Lahontan Water Board Failures to Act Concerning the Prohibited Discharge of Plastics Containing Toxic Wastes from the Proposed Guilliam/Verizon Wireless Faux Pine Macrotower at 1360 Ski Run Blvd., South Lake Tahoe (El Dorado County Assessor's Parcel Number 025-580-007) and Other Existing Monopine Towers With Plastic Camouflage In The Lake Tahoe Hydrologic Unit

Topics: Executive Officer Plaziak's inaction on prior requests; reasons for notice per subject line; California's "Statewide Microplastics Strategy"; State Water Board testing of microplastics in drinking water; State Water Board adopted Trash Provisions applicable to all state waters; impacts of trash on municipal separate storm water systems (MS4s); volunteer efforts to abate trash (plastic) at Lake Tahoe; elements of public nuisance met by monopine tower wastes; illegal

delegation to TRPA of waste control activities; excerpted transcripts of TRPA Appeal Hearing related to water quality and microplastics.

4. Letter Date: May 9, 2022 (in advance of meeting)

Subject Line: Preventing “Monopine” Plastic & Microplastic Pollution at Lake Tahoe May 11, 2022 presentation to Lahontan Regional Water Quality Control Board

Topics: Water quality issues at Lake Tahoe with microplastics; USEPA studies; issues with delegating water quality protection to TRPA; Basin Plan prohibitions; evidence of plastic wastes; applicable Water Code citations; requests for regulatory action for planned and existing monopine towers; fire threats from towers; notice of intent to petition State Water Board for inactions.

5. Letter Date: May 26, 2022

Subject Line: omitted

Topics: Deference to TRPA on planned tower, declining to issue 13260 order; investigations of existing macrotowers with TRPA; investigations of microplastics issues; interagency consultations.

6. Letter Date: June 10, 2022

Subject Line: Response to Your E-mail of May 25, 2022, Concerning Proposed and Existing Plastic Waste Discharges from Monopine Wireless Facilities, Lake Tahoe Hydrologic Unit

Topics: Ongoing concerns with soil and water contamination from unregulated monopine towers; request to cease illicit waiver program for telecoms and others and adopt legal requirements; critique of reliance on TRPA monopine tower permits; request to follow State Water Board Policy for Investigations and Cleanups; distrust of TRPA and concerns with Lahontan Water Board complicity with TRPA in investigations.

7. Letter Date: July 8, 2022

Subject Line: Requests to Regulate Proposed and Existing Plastic Waste Discharges from Monopine Wireless Facilities, Lake Tahoe Hydrologic Unit

Topics: Reiterated requests for regulatory action; monopine plastic wastes testing and positive detections of lead; hazardous waste laws and regulations; 3rd Amended Complaint in federal District Court Eastern CA, Eisenstecken v. TRPA, et al. re Ski Run macrotower (copy provided).

8. Letter Date: August 5, 2022

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

Topics: Letter addressed to Lahontan Water Board and City of South Lake Tahoe; breakdowns in planning and regulatory coordination resulting in threats to health and safety, uncontrolled waste discharges; legal frameworks for toxics control being ignored; request for response to points of law in the record; request for moratorium on new monopine wireless facilities and wastes from same; request for coordinated Environmental Impact Statement for monopine tower facilities at Lake Tahoe. (No response came from our fine public servants at the City.)

9. Letter Date: September 2, 2022

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

Topics: Reiterates former requests for monopine tower regulation under relevant laws and authorities with regard to toxic waste discharges; new Governor appointee, Attorney General Rob Bonta, investigating BIG PLASTIC; protests against continued Lahontan Water Board silence/inaction on BIG TELECOM; request for Lahontan Water Board referral of telecom microplastics violations to Attorney General; second administrative appeal (third, actually) filed against TRPA for ground water protection violations for Ski Run Blvd. monopine macrotower.

10. Letter Date: December 16, 2022

Subject Lines: REQUEST TO REVOKE STAFF LETTER ILLEGALLY WAIVING WASTE DISCHARGE REQUIREMENTS FOR GUILLIAM/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

REQUEST TO ISSUE OR WAIVE WASTE DISCHARGE REQUIREMENTS FOR CONSTRUCTION PROJECTS IN THE LAKE TAHOE HYDROLOGIC UNIT WITH LESS THAN ONE ACRE OF LAND DISTURBANCE

Topics: Objection to *line-staff* waiver of waste discharge requirements; request for revocation and prohibition implementation; cell tower projects as example small construction projects under

expired Lahontan Water Board general waiver; unmet needs/mandates/policies for Lahontan Water Board regulation of construction projects at Lake Tahoe; suggested ways forward.

11. Letter Date: December 16, 2022

Subject Line: Imminent and Ongoing Hazard to Lake Tahoe Water Quality

Topics: Silent refusal by Lahontan Water Board to take an official position; notice of impending petition to State Water Board; concerns with impacts of microplastics and evidence of toxicity; burden of proof put on public not dischargers; illicit waivers; CEQA requirements; inconsistencies with plans and policies; inconsistencies with statutes, including Administrative Procedures Act; requests for appealable actions, commencement of CEQA process, public engagement; request for intercession by State Water Board on own motion.

12. Letter Date: April 12, 2023

Subject Line: 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

Topics: Last call to act before petition to State Water Board, protesting continued inaction to adopt regulatory requirements; protesting illegal waivers; citations of regulatory requirements; discussion of CEQA requirements; brief chronology; extensive critique of Lahontan Water Board letters illicitly waiving requirements for monopine towers, with site-by-site engineering analysis and site-inspection photo evidence.

13. Letter Date: April 14, 2023

Subject Line: 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

Topics: Last call to act before petition of inaction to State Water Board, protesting continued inaction to adopt regulatory requirements; ongoing requests for regulatory action; citations to laws and authorities. Request for definitive reply to legal points.

Email contacts Water Board petition – April 2023

Heavenly Feb 21, 2022 Complete ROWD

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Email contacts Water Board petition – April 2023

Heavenly Feb 21, 2022 Complete ROWD

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To: State Water Resources Control Board (SWRCB)
Office of Chief Counsel
Adrianna M. Crowl
P.O. Box 100
Sacramento, CA 95812-0100

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

Re: Appeal Regarding Illegal Waivers Issued by the Lahontan Water Quality Control Board (LWQCB) 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: July 11, 2023

By eMail to: waterqualitypetitions@waterboards.ca.gov

Dear Ms. Crowl,

Our client Alan Miller, who worked at Lahontan Regional Water Quality Control Board (LRWQCB) for over 25 years, has today filed a petition with the State Water Resources Control Board (SWRCB). On April 14, 2023 our Legal Team submitted the opinion in Attachment 2 of Mr. Miller's petition to the Lahontan Regional Water Quality Control Board (LRWQCB) in support of our several client's concerns over illegal discharges of monopine plastic and microplastic waste into Lake Tahoe. The letter requests specific actions that LRWQBC must take to become aware of and control a continuing, aggravating hazard to public health and the environmental integrity of Lake Tahoe. We asked LRWQBC to respond to our request within two weeks. LRWQBC has chosen to ignore and not respond to our letter, which is the subject now of this petition. The legal issues remain the same: LRWQBC continues to act in clear defiance of California and federal law.

Mr. Miller is making the following requests in his petition which we concur with and repeat here:

- A. Issue an Order prohibiting the waste discharges from existing and proposed new monopine towers in the Lake Tahoe Hydrologic Unit under existing regulatory prohibitions.
- B. Rebuke the LRWQBC for the issuance of the "no further action letters" and revoke the letters forthwith.
- C. Declare that the delegation of regulatory authority by the LRWQBC to TRPA under its expired general waiver is illegal.
- D. Require the LRWQBC to issue waste discharge requirements and/or specific or general waivers in accordance with CWC section 13263 or section 13269, respectively, for the reports filed for monopine wastes under section 13260 orders.

- E. Impose fines and take other enforcement actions for the violations under section 13264, until such time that requirements are lawfully promulgated, including potential investigations and cleanups as Petitioners have requested for unregulated monopine tower waste discharges.
- F. Require that the LRWQBC implement section 13260 application requirements and application processing for waste discharges, including construction wastes, for all construction projects not otherwise covered by waste discharge requirements or waivers from the LRWQBC.
- G. Issue a stay against any new waste discharge from construction of any kind involving land disturbance in the Lake Tahoe Hydrologic Unit that is not in compliance with section 13260 and section 13264 requirements until the LRWQBC has taken the indicated actions to require waste discharge reports and regulate the discharges pursuant to established waste discharge requirements or a formal waiver of waste discharge requirements, based on official findings and processes of public notice and participation, required by California statutory and regulatory law.

We appreciate your consideration and stand willing to cooperate with and support SWRCB in any enforcement action SWRCB decides to take.

Sincerely,

Legal Team:

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Robert J. Berg- robertbergesq@aol.com

Gregg Lien- lakelaw@sierratahoe.net

From: julian.juliangresser
To: waterqualitypetitions@waterboards.ca.gov; julian.juliangresser; Ben Levi; Gregg Lien; Robert Berg; david.benedict; David Jinkens; Monica Eisenstecken; Ben Lebovitz; Robert Aaron; Al Miller
Cc: John Marshall; Cindy.Gustafson; Julie.Regan; Tracy.Campbell; cc: Lahontan; Mary.Fiore-Wagner; Mike.Plaziak; Marja.Amble
Subject: Opinion of Legal Team Concerning Appeal by Allan Miller et. al from Lahontan RWQCB Failure to Act
Date: Tuesday, July 11, 2023 2:59:58 PM
Attachments: [Attachment 2 - LRWQCB Petition - Letter from Attorneys 4-14-23.pdf](#)
[2023-07-11 SWCB legal letter.pdf](#)

Dear Counsel Crowl,

Kindly find attached the opinion of the Legal Team in support of Mr. Allan Miller's filing today.

Thank you for your consideration,

Sincerely,

Legal Team
Julian Gresser
Robert Berg
Gregg Lien

--

Julian Gresser, Attorney/Law Office of Julian Gresser/Co-founder [BroadBand International Legal Action Network \(BB-ILAN\)](#)/Author: [How the Leopard Changed Its Spots--Evolutionary Values for an Age in Crisis](#)/ Office: 1-805-563-3226 | Cell: 1-805-708-1864

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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) 41 Cal.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,

Legal Team:

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To: State Water Resources Control Board (SWRCB)
Office of Chief Counsel
Adrianna M. Crowl
P.O. Box 100
Sacramento, CA 95812-0100

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

Re: Appeal Regarding Illegal Waivers Issued by the Lahontan Water Quality
Control Board (LWQCB) 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: July 11, 2023

By eMail to: waterqualitypetitions@waterboards.ca.gov

Dear Ms. Crowl,

On April 14, 2023 our Legal Team submitted the attached opinion to the Lahontan Regional Water Quality Control Board (LRWQCB) in support of our clients' concerns over illegal discharges of macro cell tower "monopine" plastic and microplastic waste into Lake Tahoe. The letter requests specific actions that LRWQCB must take to become aware of and control a continuing, aggravating hazard to public health and the environmental integrity of Lake Tahoe. We asked LRWQCB to respond to our request within two weeks. LRWQCB has chosen to ignore and not respond to our letter, which is the subject now of this appeal. The legal issues remain the same: LRWQCB continues to act in clear defiance of California and federal law. One of our clients, Alan Miller, who worked at LRWQCB for over 25 years, has filed an appeal with the State Water Resources Control Board (SWRCB) making the following requests in which we concur and repeat here:

- A. Issue an Order prohibiting the waste discharges from existing and proposed new monopine towers in the Lake Tahoe Hydrologic Unit under existing regulatory prohibitions.
- B. Rebuke the LRWQCB for the issuance of the "no further action letters" and revoke the letters forthwith.
- C. Declare that the delegation of regulatory authority by the LRWQCB to TRPA under its expired general waiver is illegal.
- D. Require the LRWQCB to issue waste discharge requirements and/or specific or general waivers in accordance with CWC section 13263 or section 13269, respectively, for the reports filed for monopine wastes under section 13260 orders.
- E. Impose fines and take other enforcement actions for the violations under section 13264, until such time that requirements are lawfully promulgated, including potential investigations and cleanups as Petitioners have requested for unregulated monopine tower waste discharges.

- F. Require that the LRWQCB implement section 13260 application requirements and application processing for waste discharges, including construction wastes, for all construction projects not otherwise covered by waste discharge requirements or waivers from the LRWQCB.
- G. Issue a stay against any new waste discharge from construction of any kind involving land disturbance in the Lake Tahoe Hydrologic Unit that is not in compliance with section 13260 and section 13264 requirements until the LRWQCB has taken the indicated actions to require waste discharge reports and regulate the discharges pursuant to established waste discharge requirements or a formal waiver of waste discharge requirements, based on official findings and processes of public notice and participation, required by California statutory and regulatory law.

We appreciate your consideration and stand willing to cooperate with and support SWRCB in any enforcement action SWRCB decides to take.

Sincerely,

Legal Team:

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From: [leah kaufman](#)
To: [Marja Ambler](#)
Subject: Human-Caused Issues Arise for Lake Tahoe as Area Sees 3 Times More Visitors Than Yosemite National Park in Past Year - SnowBrains
Date: Sunday, July 9, 2023 8:36:32 AM

<https://snowbrains.com/lake-tahoe-sees-3-times-more-visitors-than-yosemite-national-park-in-past-year1/>

[Sent from AT&T Yahoo Mail on Android](#)

KAUFMAN PLANNING AND CONSULTING
P.O. BOX 253
CARNELIAN BAY, CA
96140
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July 10, 2023

Re: Comments regarding the TRPA/Placer County Housing and Area Plan Amendment Proposals

To the NTRAC Committee,

My name is Leah Kaufman. I am a semi-retired land use planning consultant who has worked exclusively in the Tahoe Basin since 1989. My first job out of college was as a planner for the TRPA. I am not a NIMBY or unsympathetic to the plight of the workforce in the basin. It took me 10 years of hard work where I started out living in moldy apartments with four roommates, before I had the good fortune to be able to purchase a small home. (Subsequently I sold my first house to my employee under market rate so she could live here).

I am only saying all this because I was personally attacked after the last NTRAC meeting I attended for "having mine." I am very fortunate for what I have but worked hard to get there.

TRPA and Placer County want to amend our Area Plans that were approved in 2017 (as a result of years of meetings between 35 community members, developers, and the agencies) because there aren't enough multiple family dwellings, achievable, and or affordable workforce housing. TRPA would like to massively increase Height, Density, and Land Coverage, while reducing parking and setbacks in both the Town Centers as well as areas outside the Town Centers currently zoned for multi-family dwellings. The idea is to provide housing at a reduced rate of \$2,450/month and give developers a 12% return on investment.

Why are we at this crossroads?

1. 3,900 Short Term Rentals (STR's) have been approved in Eastern Placer County alone, of which all are not being used, yet there are huge impacts from the 3,400 or so current permits. The STR's have impacted the affordable/workforce housing market and the community. STR's are a big money-making business. Placer County receives **\$6,000,000** million annually as part of the TOT taxes collected. Homeowners buy homes based on how much income they can make. (\$100,000 or more per year for a three-bedroom house). In the past, a percentage of the empty homes were used to house the workforce. STR's were few and far between and the second homeowners were generous about sharing their homes with the local work force. They are not so generous now because huge amounts of money are made from the short-term rentals as evidenced by realtors selling the homes, and some of the homeowners have had bad experiences from long term renters.

TRPA has stated that approximately 50% of the homes in the basin sit vacant. (Source TRPA news release 2023)

Suggestion: Placer County has allowed too many STR's. The number of permits should be reduced, and policies enacted that protect the community, tourist accommodations, environment, and local workforce. Communities all over the United States are experiencing this same dilemma and have done something about it. Moratoriums have been placed while the problems are addressed (Santa Rosa), laws regulate the location of where STR's are allowed such as in tourist districts only (Aspen, Boulder, City of South Lake Tahoe, and requirements that the homeowners also live in the residences (New York City) have been enacted. The City of South Lake Tahoe has approved Measure T banning short term rentals in residential areas outside of the tourist core out of residential neighborhoods.

Incentivize the second homeowners to rent long-term. I believe some TOT funds were allocated for this purpose last year and that 79 homeowners rented to employees. Additional TOT monies should be earmarked for this purpose.

2. Currently, TRPA trends have been to approve luxury condos, McMansions, and timeshares, with no or minimum housing requirements. The Nevada side (Douglas County) has no employee housing requirements and recently approved an 85 +-foot-tall 40-unit luxury apartment complex (Latitude 39) in Stateline, Nevada with dog grooming, pools and pickleball courts. The attorney for the applicant said that they did not have to provide any affordable or workforce housing because it was in Douglas County, yet this is a vertical high-rise project in the Tahoe Basin, that will employ workers and was approved by a majority of the TRPA Governing Board members. \$\$\$

947 Tahoe Blvd was approved last week in Incline Village by the TRPA Governing Board for 40 single family luxury condos on the main street with four \$1,000,000 condos offered for sale as their "affordable housing "mitigation! How is this affordable? The Washoe County housing report stated that there is a need for additional affordable housing in Incline Village and the approval was a complete discretionary zoning adverse to the community plan teams not wanting to see single family development in a commercial core. The TRPA two step process allows conversion from multiple family to single family dwelling ownership.

Suggestion: There needs to be a uniform policy basin-wide (California and Nevada) for workforce, affordable, moderate, achievable, rental housing etc. Ban the two-step process allowing single family dwellings in Town Centers and pause approving the luxury condos, McMansions and Timeshares until there are provisions for addressing the workforce needs and requirements for such developments. All of these developments require a workforce including the larger homes that are rented as STR's.

3. Intrawest came into Squaw Valley in the late 1990's early 2,000, expanding Palisades into a five plus story village concept with the caveat that they would NOT provide for employee housing on site and Placer County let them expand. No on-site workforce housing required, and the mitigation was to provide an empty parcel that is still sitting empty. The village was constructed. Palisades has 1,000 employees and accommodations for approximately 35 beds on site. They have recently purchased two hotels in Tahoe Vista which are zoned for Tourist Accommodation (approx. 40 beds), and an 8 plex apt in Kings Beach. These sites are located 18+ miles away from their own ski area and housing is only a fraction of what they employ.
Now Palisades wants to expand again and only provide 300 of the required 1,000 workforce beds on-site. NorthStars' affordable housing (Sawmill Heights) was reputedly sold to the Ritz Carlton? It is unknown what the requirements are to rent these units and or if they are actually used for employees of the ski area. Homewood has the Garni Lodge also an old tourist accommodation property that is now vacant and blighted and is located over 20 miles away from the ski area.

Suggestion: Workforce housing should be mandated on site for the ski areas and other large employers. If there is room to expand there is room to provide housing. Existing blighted structures such as the Garni, trailer parks, sub-standard housing throughout the region, should be redeveloped first as the highest priority before building new projects or building on vacant land.

4. The Sept 2022 mtg minutes from the Local Government and Housing Committee state that there are empty two- and three-bedroom units in Truckee because of qualifications and demand for smaller units.

Suggestion: There should be an understanding regarding why the missing middle is not renting the two- and three-bedroom units in Truckee and why would it be any different in Tahoe as is intended for some of the TBAP amendment projects? Has this changed? The North Tahoe Community Alliance/Visitor Center stated in a Stewardship meeting July 10, 2023, that people surveyed locally want more rentals than for purchase housing. If the rules are being manipulated for the missing middle housing, there should be a thorough understanding of such need prior to amending any of the Area Plans. i.e Is \$2,450/month rent viable for a 650-sf apartment in a five story building? Would families want to live in the proposed high-rise developments in the middle of a Town Center in 650 sf? What happens if someone quits/gets fired etc. from their 30 hour a week job (achievable housing) but still wants to remain in the housing?

5. Placer County also stated from the Sept 2022 mtg minutes that Placer County only has a few sites that would benefit from 100 housing units or more.

Areas zoned for multiple family dwellings stretch from Incline Village to Kings Beach, the Kings Beach grid, all of Tahoe Vista, Carnelian Bay Gateway, Lake Forest, Dollar Hill,

Tahoe City, Tahoma residential, Homewood, etc. Hundreds of potential parcels and hundreds of acres.

Suggestion: The County and the TRPA must be more specific. The presentation prepared by TRPA states all parcels eligible for multi-family zoning would be allowed extra height, density, land coverage without transfers, reduced setbacks and reduced parking.

It is imperative that an inventory of all the eligible parcels, the location of such parcels and the plan areas in which they are located are made public. The TRPA should notify all property owners that are within the affected areas that proposed amendments to change the density, height, and coverage are pending.

Are the parcels both private and on public lands? Are they developed or vacant? Are SPECIFIC properties identified? Do the agencies even know how many parcels between Incline and Tahoma are zoned for multi-family development?

In some cases, the current Plan Area regulations are opposed to multiple family development on the ground floor along Highway 28. Is this recommendation proposed to be changed as well? (Please refer to Placer County Tahoe Basin Area Plan Implementing Regulations January 2017 for Mixed-Use subdistricts). Will the original plan team members representing locals, tourists, business owners etc. have a say, or like the Incline Village project be based on the dollars created by such developments?

6. The proposed amendment scenarios as shown in the presentation done by TRPA were done on an example 5,000 to 8,000 sf parcels. Not all parcels are 8,000 sf. There are numerous larger parcels zoned for multiple family development in Placer County. Example: in Tahoe Vista alone there are 20 parcels that would have the required multi-family zoning and are two, three, four, and five acres in size. At 60 units per acre density, one two-acre vacant parcel could generate 120 units. A five-acre parcel could generate 300 units. The entire population of Tahoe Vista is under 800 persons, with one lane roads in each direction, and thus the impacts to such an increase in population and impacts to the environment would be extensive. Tahoma Residential has small lots yet has the same proposed zoning. There are no structures over two stories high, and services are limited in this area.

Suggestion: The example housing parcel in the presentation I viewed is less than ¼ of an acre, which has very different impacts than for the larger parcels regarding density, height, and land coverage allowances. Has a scenario for the larger parcels been analyzed or thought out? 70% land coverage (where now the maximum is 50%), 60 units per acre density (where now density is 8 to 25 units/acre), and 48 feet tall four stories of height (where heights now do not exceed three stories), would create environmental impacts that could involve significant changes to population and the environment. An EIS would be required to study the potential impacts to infrastructure, community character, water quality, noise, traffic, vegetation, fire evacuation, housing and population and other TRPA thresholds.

7. The proposed amendments do not in any way address impacts to community character. Community character as originally discussed in meetings crafting the 2012 thresholds and in APA reports *is a “compilation of the sum of many parts that make a community unique and that establish a sense of place for its residents.” These include a consideration of the existing natural environment in balance with its built surroundings, the relative scale of development, manmade modifications, the cultural/historic landscape and resources, natural features of the area, existing character, density, coverage, existing architecture styles, colors, materials, massing, height, roof pitch, tree preservation, open space, compatibility, unity, cohesiveness, etc. Communities throughout the basin are unique. South Shore is very different from North Shore and people decide what they like best when traveling and choosing a place to live.

**(How do you define Community Character-Adapting the EIS Process by Gary Pivo-Defining and Measuring Community Character by Bret C Keas-, Measuring Community Character-Quick Notes-APA)*

Suggestion: Community character must be defined before any amendments are approved. Removing trees, adding height, increasing coverage, decreasing setbacks, reducing parking, fast tracking and bypassing the public review process will impact our community character forever. Is that what is desired?

Summary:

More thought needs to be given to the actual impacts to the environment before there is approval of these amendments. Existing problems must be addressed and fixed first. Community character for the areas outside town centers are the most vulnerable by these proposed amendments. They are zoned for mixed use but the residents in the transition areas fought hard during the 2017 Area Plan update to not be included in the increased height, density and coverage that currently are allowed for Town Centers. Areas outside Town Centers are located farther away from services. Infrastructure, and mobility during the winter months to walk in severe snowstorms are an issue. Not all the transition areas have sidewalks so walking on the Highway is the alternative. Reducing parking by expecting people to ride the bus or their bikes in winter to .75 spaces per unit is nonsensical. Our workforce has cars, and they need them in many cases for the type of jobs that they have.

A lot more work must go into the crafting of the amendments Some suggested solutions include:

- Enact the original Plan Team members tasking them to address the housing situation in each of the Plan Areas where multiple family dwellings are allowed.

- Provide information to the public regarding the inventory of eligible sites. Send public notices to those affected areas for citizen input.
- Discuss alternative options that don't involve such draconian measures for the extra height, density, and land coverage. Aspen Boulder, Co does not believe in increased height, nor does Santa Rosa, Boulder Co, the Town of Windsor etc. all who do not have a sensitive resource like Lake Tahoe out their front door.

(Source: *The Aspen Times How high is too high in Aspen*). Aspen has 100 pages of design standards including creating a LOWER range of maximum building heights, reducing the square footage developers can build relative to the size of their lots- FAR ratios, with heights LESS than 42 feet). Boulder Co building heights are 35 feet to a max of 55 feet in some instances, Windsor Height is three stories)

- According to the Faculty of Environmental and Urban Change-York University research shows urban sprawl can be vertical or horizontal. (January 26, 2022). Sprawl is big ticket politics relying on economic growth based on the financialization of housing. The financing has created a fiscal trap making it difficult to create new housing options and for newcomers to access the housing market. The roller coaster is that the construction industry and the real estate market drive GNP. Upscaled regional governance with proper land use planning and protections, greenbelts and transit is a preferred alternative.
- Prepare guidelines with criteria/mitigation measures to maintain and even improve character of neighborhoods. (It is an assault on the environment and on the neighborhoods to allow extra height, density, and land coverage affecting hundreds of parcels in all areas allowing multi-family development which stretch from Incline to Tahoma). At a minimum specific parcel must be identified and a detailed environmental analysis prepared. (Three stories are typical height for parcels outside the Town Centers). (Four stories are heights agreed upon within the Town Centers).
- The agencies proposing changes must understand what is needed for the workforce who can't afford these \$2,450 a month plus apartments, find out if the professionals even want to live in four and five story buildings without yards and adequate parking, and get a feel for the type of housing that the professionals, etc. desire.
- The County, local stewardship programs, private and public sector must encourage and incentivize existing property owners to fix the existing run down and dilapidated housing and improve conditions in the dense trailer parks. We need a redevelopment agency to reoffer façade and other forgivable improvement loans and we should encourage ADU's, and JADU's in the neighborhoods. TRPA just received a \$3,000,000 grant from Housing and Urban Development. Use this money for rehab opportunities not more studies.

- All the local ski areas should offer incentives such as the town of Aspen and Snowmass with Tenants for Turns. (Outside Magazine 2023) The ski area rents 800 rooms for their employees and offers incentives for homeowners, such as ski passes, \$1,200 credits etc. for housing one of their employees. What have our ski areas done? Palisades meager attempt to provide housing for 75 people where 1,000 employees are employed is sad.
- Develop additional incentives and code language to simplify the ADU's and JADU's and duplex type housing in neighborhoods not involving more height.
- Luxury property tax, second home tax, real estate transfer tax, basin entry fees, should contribute as the tourists, second homeowners, STR's etc. are part of the problem and are contributors as to why additional housing for the workforce is needed.

The Placer County "Needs rezone program" adopted by the Placer County Board of Supervisors on May 11, 2021, has been approved to rezone properties for higher density development to satisfy the County's requirement to meet its share of the regional housing needs to allow higher density residential development. This must be done by May 15, 2024. Zoning in portions of Placer County are proposed for a residential multifamily 30 (RM30). This would be a minimum density of 20 dwelling units per acre and maximum density of 30 units per acre. Currently the multi-family parcels in Tahoe are between 8 units per acre to 25 units per acre no where near the 60 unit per acre density proposed. If 30 units per acre maximum density is proposed in Placer County for the rezone areas, then why is the Tahoe Basin subject to 60 units per acre and unlimited density proposals?

What is also missing in the proposals are the impacts of the influx of tourists to the lake and to the people who live here. The Stewardship meeting held on July 10th, 2023, did not talk about the impacts to the local population due to tourism but was advocating for more tourism to fill in the shoulder seasons thus leading to more impacts for the work force. We receive more visitors than Yosemite (15,000,000 per year). The resident population is approximately 56,000. **There seems to be a major disconnect on two things: Few Tahoe locals see the positive impacts of tourism outweighing the negatives, and not enough visitors are thoughtful towards the environment.** Based on the July 2022 visitor survey in the Tahoe Destination Stewardship Plan, only 29% of locals agree that the positive benefits of tourism and recreation in the Tahoe area outweigh the negative impacts, and only 21% of residents agree that tourism and recreation support quality of life and a strong sense of community. (Source: Snow Brains Human Caused Issues Arise for Lake Tahoe by John Cunningham July 7, 2023)

Please think carefully about what is being considered, engage in some hearty debate, provide better answers, respect the environment and individual community character, and take the time to identify and fix existing problems first before creating a whole new set of issues. Please examine why we are at this crossroads.

Respectfully submitted.

Leah Kaufman
Leah Kaufman
Principal Planner

Cc Cindy Gustatson
Karen Fink
Julie Regan
TRPA Governing Board
Crystal Jacobson
League to Save Lake Tahoe
Mountain Air Preservation (Map)

Kaufman Planning and Consulting
P.O. Box 253
Carnelian Bay, CA
96140

July 18, 2023

To Whom it may concern,

There is so much going on and it is hard to navigate what meetings and what process are proposed for current TRPA changes. The following letter addresses both the proposed changes to the thresholds as well as the proposed code language changes in the ordinance. Please send to the respective planners working on the amendments.

Can you explain why many of the 150 threshold goals are proposed to be eliminated?. If some are eliminated or minimized others should be considered such as:

TRPA THRESHOLDS FOR CONVERSIONS: Thresholds were crafted in 1982 before the trend for McMansions, and huge luxury condo complexes, and conversions of entitlements. Conversions of CFA to residential uses were also not part of the 1982 threshold discussions because they were not conceived. i.e., 3,500 sf of CFA equates to 11.67 homes, 11.67 TAU's and 17 multiple family dwellings of any size. Although the overall cap of individual entitlements may be set by threshold capacity, the impacts of the morphing the sizes of the entitlements have never been analyzed. When a TAU of a 300 square foot motel room with one bathroom sink, toilet and shower turns into a 3,000 square foot home with 5 bedrooms, 5 bathrooms and a gourmet kitchen, you know that all thresholds of vehicle traffic, noise, land coverage, vegetation removal, massing, water, and sewer, and need for additional workforce housing etc. are affected. Code language and threshold discussions must take the conversions and massing into consideration.

COMMUNITY CHARACTER: There are no guidelines regarding community character and what makes one community different and /or unique from another. There are no guidelines in place to preserve a community vision. We want to see TRPA engage in Community character discussions to preserve our communities and we want to be a part of these discussions and resulting guidelines and ordinances. Individual communities should have a say in their own preservation, destination, and vision. Community character as originally discussed in meetings crafting the 2012 thresholds and in subsequent updates and in APA reports *is a "compilation of the sum of many parts that make a community unique and that establish a sense of place for its residents." These include a consideration of the existing natural environment in balance with its built surroundings, the relative scale of development, manmade modifications, the cultural/historic landscape and resources, natural features of the area, existing character, density, coverage, existing architecture styles, colors, materials, massing, height, roof pitch, tree preservation, open space, compatibility, unity, cohesiveness, etc. Communities throughout

the basin are unique. South Shore is very different from North Shore and people decide what they like best when traveling and choosing a place to live.

**(How do you define Community Character-Adapting the EIS Process by Gary Pivo-Defining and Measuring Community Character by Bret C Keas-, Measuring Community Character-Quick Notes- APA)*

HISTORICAL PRESERVATION: Code ordinance changes propose that staff take over any lead role in review of recovery plans etc. but this is counter intuitive as staff continues to allow the historic homes to be dismantled. This has changed from when we had to find homes for these historic structures, advertise in the paper for their relocation, or repurpose on site.

We want TRPA to take a stand to protect historical iconic structures. There is constant comment by all people who come to visit or to live here that they like Tahoe and the quaint historic mountain resort aspects of Tahoe. Historic preservation not just documentation and dismantling of these homes that are suggested for inclusion in the National Register, but to maintain the community character of the region.

The Schilling house designed by Julia Morgan, is a prime example of needed preservation. If you can afford to build a 14,000-sf home perhaps you could afford a better recovery plan. Simply dismantling a structure designated for inclusion on the National Register and saving the windows is not good enough, especially since the ingeniousness of the Morgan home design were the roof and rafter creations and, in some cases, the historical landscape is the historic feature.. The consultants hired to prepare historic reports are extremely upset and wonder why they should even write reports as none of their recommendations are being followed. SHPO has not reviewed single family homes for over five years and thus these structures are being removed one by one. It is not good enough that staff guards the hen house and will now be in charge of recovery plans per code updates.

TRPA code must address historic consultants' recommendations. No one will save any of the future homes with the proposed code language allowing staff to oversee recovery plans that do nothing to preserve the structures.

Thank you for your consideration.

Sincerely,

Leah Kaufman
Planner

From: [Ann Nichols](#)
To: [Marja Ambler](#)
Cc: [Gavin Feiger](#); [DarcieGoodman-Collins](#); "[Alexis Ollar](#)"
Subject: FW: NYTimes: Community Land Trusts Are Working to Create New Homeowners
Date: Thursday, July 13, 2023 1:48:29 PM

Please distribute to GB an APC.

Ann Nichols
Broker
Realtor Serving California and Nevada at Lake Tahoe

Cell 775-742-1548
ann@annnichols.com
P.O. Box 4, Crystal Bay, Nevada 89402

Nv#0004527
Ca#000405338

-----Original Message-----

From: Margaret Eadington <meadington@gmail.com>
Sent: Wednesday, July 12, 2023 9:07 AM
To: ann nichols <ann@annnichols.com>; ann nichols <preserve@ntpac.org>
Subject: NYTimes: Community Land Trusts Are Working to Create New Homeowners

Maybe a housing land trust for the Tahoe basin? Do you know anyone who could take this on?

<https://www.nytimes.com/2023/07/08/realestate/community-land-trusts-gentrification.html?smid=nytcore-ios-share&referringSource=articleShare>
Community Land Trusts Are Working to Create New Homeowners

Sent from my iPhone

From: [Ann Nichols](mailto:Ann.Nichols@washoecounty.gov)
To: rbeaty7891@aol.com
Cc: "[Megan Wood](mailto:Megan.Wood@washoecounty.gov)"; [Shirlee Herrington](mailto:Shirlee.Herrington@washoecounty.gov); [Marja Ambler](mailto:Marja.Ambler@washoecounty.gov); "[Clark, Mike E.](mailto:Clark.Mike.E@washoecounty.gov)"; candriola@washoecounty.gov; [Alexis Hill](mailto:Alexis.Hill@washoecounty.gov); jherman@washoecounty.gov; mcgarcia@washoecounty.gov
Subject: RE: TRPA and trash
Date: Sunday, July 9, 2023 11:39:55 AM
Attachments: [image001.png](#)

The above will send to Washoe County, Placer County and TRPA if you ask to have distributed to:

Sherring and mwood to Placer Supes and planning, mambler to ApC and Governing Board.



North Tahoe Preservation Alliance

P.O. Box 4

Crystal Bay, Nv. 89402

preserve@ntpac.org

775-831-0625

www.ntpac.org

"Helping preserve the natural beauty and rural character of North Lake Tahoe"

Preserve Lake Tahoe (Video): <https://youtu.be/WKzPL-EwEUw>

TikTok Video: https://www.tiktok.com/@northtahoepreservation?_t=8XCElbNFbSt&_r=1

Instagram Video: <https://www.instagram.com/northtahoepreservation/>

From: rbeaty7891@aol.com <rbeaty7891@aol.com>

Sent: Sunday, July 9, 2023 11:11 AM

To: jregan@trpa.gov

Subject: TRPA and trash

Dear Ms. Regan,

I am part of the Brockway Point Homeowners Association board. We have Speedboat Beach as part of our environment, and we are physically close to Lake Tahoe. I have attended numerous meetings of various local CABs and other community involvement groups as well as TRPA and Placer County meetings. Over the past several years I have seen increased pressure on TRPA from developers. I have not seen a coherent response from TRPA. By that I mean that each individual project has been looked at

as if it was in a vacuum and existed without relation to other projects. TRPA is facilitating development when it should be a bulwark against development.

TRPA was supposed to save the environment. These days TRPA is focused on saving the developers and trying to ensure that they can be successful. TRPA is concerned with the economics of businesses in Lake Tahoe. This is not necessary or correct. Local zoning and tax abatements would make it more possible for small developers to replace existing structures and abandoned properties. Many of these properties are owned by people hoping to make a killing through unwanted developments facilitated by TRPA's lax enforcement of environmental standards.

TRPA's failures to protect the environment and the long-term damage being done by over-tourism, overly promoted and under-financed, are going to be **your** legacy if you continue to persist in the fiction that you can improve the area through development. Lake Tahoe basin is already (in my opinion) developed far beyond its carrying capacity infrastructure. The inability to say 'NO' to development will eventually be seen as the reason for the failure of TRPA to fulfill its original mandate - protect the Lake.

There seems to be no real understanding on your part that **all** development in the North Lake Tahoe corridor is likely to impact the community and the environment in negative ways. There are extremely limited roadways throughout the basin and North Lake Tahoe in particular. Any large wildfire will be an evacuation disaster. I could go on and make various points as to the flaws in your supported traffic studies and EIRs, but I am sure you get my point. I, and the community that I work with, do not support the direction that TRPA has taken and need you to take our opposition seriously as we do not plan to go away. The trash on the beaches was just a small indicator of how far from a proper scene TRPA has allowed us to go.

Sincerely,

Richard Beaty
PO Box 1672
Kings Beach Ca 96143
201 960 0342

From: [Robert Aaron](#)
To: [Marja Ambler](#); [Katrina.Fleshman](#)
Subject: 'Alarming' levels of microplastics found in Lake Tahoe, study shows
Date: Thursday, July 13, 2023 10:51:49 AM

'Marja and Katrina please add this the record for future reference! Please forward to all board members! Include me cc. For confirmation!

Thank you
B

Alarming' levels of microplastics found in Lake Tahoe, study shows
<https://l.smartnews.com/p-9aLFz/NhXjqL>

Sent from my iPhone

From: [Robert Aaron](#)
To: [Marja Ambler](#)
Subject: Former FCC Attorney: How the FCC Fails to Follow Environmental Laws and Fails the Public - Environmental Health Trust
Date: Thursday, July 13, 2023 10:37:21 AM

Marja, Please put this on the record, and make sure you share this with all of the board member's. Also include me in the forwarded message to all the board members for confirmation they received it.

Thank you!

Many concerned citizens!

<https://ehtrust.org/former-fcc-attorney-how-the-fcc-fails-to-follow-environmental-laws-and-fails-the-public/>

Sent from my iPhone

From: [Robert Aaron](#)
To: [Maria Ambler](#); [Sue Blankenship](#); [Katrina.Fleshman](#); [Robert Berg](#); [Julie Reagan](#)
Subject: Fwd: Wildlife and Wireless Expert Webinar
Date: Monday, July 17, 2023 9:00:26 AM

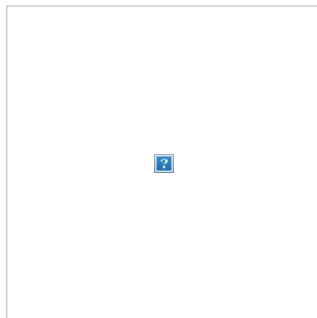
Please add this to the records!
Reply that it has been done!

Also share with the Boards!

Sent from my iPhone

Begin forwarded message:

From: Environmental Health Trust <info@ehtrust.org>
Date: July 17, 2023 at 6:09:14 AM PDT
To: Robert Aaron <robertmaaron@gmail.com>
Subject: **Wildlife and Wireless Expert Webinar**
Reply-To: info@ehtrust.org



Wireless, Wildlife and the Environment

Watch our expert science, policy and law webinar on the ecosystem impacts of cell towers, wireless networks, and non-ionizing electromagnetic radiation.

This expert [webinar](#) features experts in science, law and policy presenting the case for the urgent need for protective regulations limiting radio frequency (RF) exposure to wildlife.

The rapid proliferation of wireless antennas into national parks, wilderness, urban and suburban ecosystems is increasing the environmental levels of RF electromagnetic radiation, creating critical exposure risks to wildlife and the natural environment.

The first half of the webinar features two co-authors of the landmark review, "[Effects of non-ionizing electromagnetic fields on flora and fauna](#)" documenting 1,200 studies indicating a myriad of harmful effects to wildlife even at "vanishingly low" exposure levels.

Albert M. Manville II PhD, former Senior Wildlife Biologist at the U.S. Fish and Wildlife Service. [Watch](#)

B. Blake Levitt is an award-winning medical/science journalist and author. [Watch](#)

Erica Rosenberg, retired FCC Assistant Chief of the Competition and Infrastructure Policy Division shared highlights of her article "[Environmental Procedures at the FCC: A Case Study in Corporate Capture.](#)" [Watch](#)

Daniel Favre PhD, biologist, presented his published research, "[Mobile phone-induced honeybee worker piping.](#)" [Watch](#)

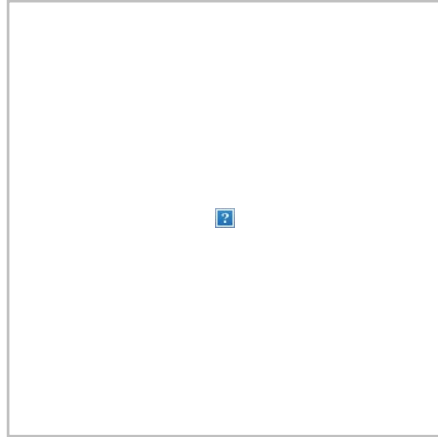
Dr. Cornelia Waldmann-Selsam presented a field study "[Radiofrequency radiation injures trees around mobile phone base stations](#)" she co-authored on the impact of radiofrequency radiation to trees. She also shared new findings from her latest report "[Tree Damage Caused by Radiofrequency Radiation.](#)" [Watch](#)

Devra Davis PhD, MPH, President of [Environmental Health Trust](#), presented studies on [plants](#) and [zebra fish](#) along with an update on the landmark legal case against the FCC. [Watch](#)

Theodora Scarato, Executive Director of [Environmental Health Trust](#), highlighted the [increased energy use of 5G networks](#) and the next steps for protective policy. [Watch](#)

[Watch the Webinar](#)

New Study: Wi-Fi Harms Honeybee Homing Ability



Significant effects were found on the homing ability of foraging honey bees when long term exposed to frequencies used in Wi-Fi 2.4 and 5.8 GHz.

[Learn more](#)

How Money and Power Dominate RF Research

In this Microwave News interview on science and industry influence, Henry Lai states, "We've come a long way in understanding how low-frequency and high-frequency EMFs can damage DNA and affect gene expression. There should no longer be much doubt that both are biologically active. I suspect that the principal mechanism of action relates to changes in reactive oxidative species. This can lead to both adverse and beneficial effects —at very low intensities."

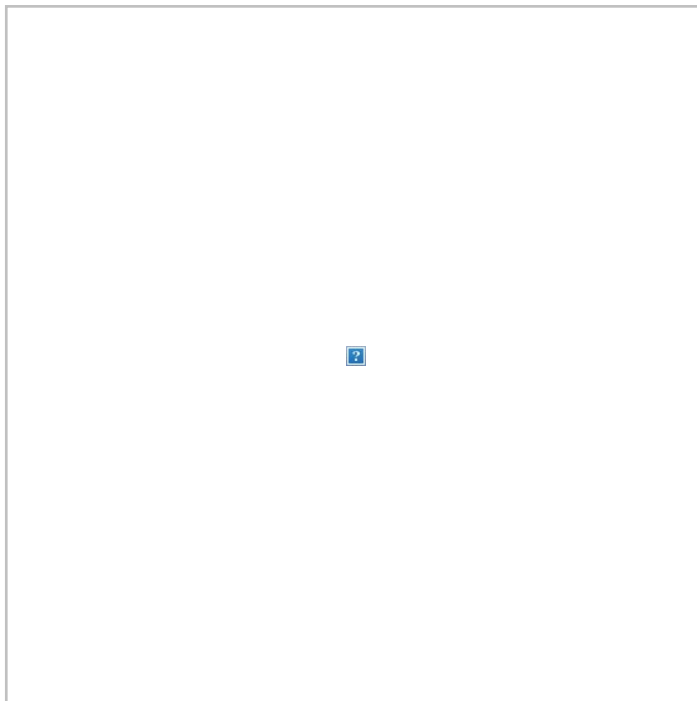
[Read the Microwave News Interview](#)

Detroit Council School Cell Towers

The Detroit City Council approved a resolution asking the Detroit Health Department to assess the health impact of cell tower RF radiation to children.

[Read the Story](#)

New Study: Unintended Electromagnetic Radiation Emanating From Large Satellite Constellations



In 2022, a landmark U.S. Government Accountability Office report documented the potential environmental impacts of satellites and ways to mitigate the effects.

Learn more about satellites and the recent study

Appreciate what EHT is doing to protect families and the environment?
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Environmental Health Trust is a 501 C3 registered public charity.

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