Date: January 18, 2020

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To: City of Sacramento Staff & Council Members:

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Re: Notice of Cease and Desist from all currently deployed and in operational 5G/4G "small” Wireless Telecommunications Facilities" (sWTF) and Wireless Telecommunications Facilities (WTF) and any current and future applications and from any placement, construction, modification and operations thereof, as non-compliant with 8/9/19 Ruling in Case 18-1129

SENT BY EMAIL

[Clerical: Please place this letter into the Sacramento City public records under the subject wireless telecommunications facilities, thank you.]

*Notice to Agent is Notice to Principal; Notice to Principal is Notice to Agent*

Dear Sacramento Staff, Council Members, Mayor Steinberg, Maria MacGunigal, et al.:

Before the 5G technology was deployed throughout the City of Sacramento, an important meeting took place on August 24, 2017. There was a group of RF/EMF specialists who had set up a meeting and met with your Chief Innovation Officer, Maria MacGunigal and her team. I was on that team, along with two environmental health lobbyist and one professional building biologist. We met to discuss the urgency in delaying using Sacramento as a test pilot city for 5G. I am currently an environmental health consultant for the National Association for Children and Safe Technology (NACST) and have past work managing environmental restoration projects for the US Army Corps of Engineers. I understand the science of effects as well as implications of toxins in the environment, in particular, the topic of electromagnetic microwave radiation (EMR). I spoke with Maria MacGunigal and her team about the science of harm and how the mechanism of damage can be proven at the molecular, DNA, micro cellular to cellular, tissue, organ, and whole body effects. I had given them two green binders totalling over 500 pages worth of science articles, declassified scientific studies, public, local and international policy, history and industry being a captured agency.

Provided at the end of this letter is the Table of Contents of the two green binders, its list of articles and exhibits of which we handed over to your CIO and team after the meeting on August 24, 2017.

We shared the importance of halting the rollout of the 5G technology and why Sacramento should not become a “5G Pilot City” to a technology that has never been properly safety tested by the FCC or any regulatory agency. It is an irresponsible act to expose an entire city and its workers and residents with more layers of microwave radiation from a whole new swath of frequencies, including those found in the high band portion called the millimeter waves. The FCC has no calculable means to test anything past 6GHz, yet, the City of Sacramento has now allowed the introduction of bands of frequencies well past that range between 6GHz to 300GHz. Since the introduction of 5G, the FCC has placed no limits to what can be used, the entire spectrum of microwave radiation is now available for commercial use, all 3000 microwave frequencies.

Before the rollout of 5G, downtown Sacramento already had over 400+ cell towers within a four mile radius, already an insane number. Add that with the addition of very dense placement of 5G antennas, this makes the downtown area literally an unavoidable war zone of microwave bathing everywhere indoors and out. This is now the case with residential areas. Once low EMR places within residential areas are now hotbeds of microwave radiation as dense placements of close proximity microwave radiation antennas spew toxic microwaves within close range and height into the homes of Sacramento residents. This must be stopped. The electronic harassment by microwaves is considered assault and battery, endangerment of health and safety, a trespass technology and surveillance device, and an invasion of privacy onto the persons exposed.

There have been too numerous developments in the scientific arena further proving harm from EMR exposures. Especially since the 5G technology will ride alongside all the previous cellular generations, 4G, 3G, 2G, the introduction of 5G frequency types are exponentially additive with many frequencies never before unleashed into the natural environment, harming pollinators, animals, flora and fauna, but not limited to these.

There has been a recent DC Circuit Court case final judgement and the need of its findings be enforced by the City of Sacramento. And so therefore, this letter is also a request to cease and desist any current and future 5G/4G application and/or already deployed “small” Wireless Telecommunications Facilities (sWTF)/ Wireless Telecommunications Facilities (WTF) related to 5G/4G.

We advise you that on August 9, 2019, the DC Circuit Court of Appeals in its Ruling in [Case 18-1129](https://www.cadc.uscourts.gov/internet/opinions.nsf/4001BED4E8A6A29685258451005085C7/%24file/18-1129-1801375.pdf) **vacated**[**FCC Order 18-30**](https://www.fcc.gov/document/fcc-acts-speed-deployment-next-gen-wireless-infrastructure-0)**‘s deregulation of sWTFs and remanded** this to the Federal Communications Commission (“FCC”).

In case 18-1129, the judges said that “the FCC failed to justify its determination that it is not in the public interest to require review of [sWTF] deployments” and ruled that “the Order’s deregulation of [sWTFs] is arbitrary and capricious.”

**The DC Circuit judges published the following reasons for their**[**8/9/19 Ruling**](http://https/www.cadc.uscourts.gov/internet/opinions.nsf/4001BED4E8A6A29685258451005085C7/%24file/18-1129-1801375.pdf)**, concluding:**

* The FCC failed to address that it was speeding densification “without completing its investigation of . . . health effects of low-intensity radiofrequency [microwave] radiation”
* The FCC did not adequately address the harms of deregulation
* The FCC did not justify its portrayal of those harms as negligible
* The FCC’s characterization of the Order as consistent with its longstanding policy was not “logical and rational.” . . . because the FCC mischaracterized the size, scale and footprint of the anticipated nationwide deployment of 800,000-unit network of sWTF
* Such sWTF are “crucially different from the consumer signal boosters and Wi-Fi routers to which the FCC compares them”
* “It is impossible on this record to credit the claim that [sWTF] deregulation will ‘leave little to no environmental footprint.'”
* The FCC fails to justify its conclusion that sWTF “as a class” and by their “nature” are “inherently unlikely” to trigger potential significant environmental impacts.

**Therefore, this 8/9/19 DC Circuit Ruling renders every past, current and future, sWTF application in the City of Sacramento, California as incomplete**.

As printed in the [Federal Register on 11/5/19](https://www.federalregister.gov/documents/2019/11/05/2019-24071/accelerating-wireless-broadband-deployment-by-removing-barriers-to-infrastructure-investment), the repeal of FCC 18-30 — a section of the Commission’s rules implementing the small Wireless Telecommunications Facilities exemption — will cause a lack of sWTF-specific rules on the effective date of Dec 5, 2019.

The anticipated nationwide deployment of an 800,000-unit network of sWTF is clearly a federal undertaking because the Wireless Industry licenses its wireless spectrum frequencies from the federal government. That makes every single sWTF planned for the City of Sacramento, California part of this federal undertaking. The nationwide deployment of an 800,000 plus network of sWTF means that every sWTF application, past, present and future in the City of Sacramento, California remains incomplete, stopping all shot-clocks to new applications while shutting down operational sWTF to be inoperable.

In addition, the DC Circuit Court of Appeals further ruled against FCC overreach on October 1, 2019. In [Case 18-1051](https://www.cadc.uscourts.gov/internet/opinions.nsf/FA43C305E2B9A35485258486004F6D0F/%24file/18-1051-1808766.pdf), on page 146, re: Restoring Internet Freedom, 33 FCC Rcd. 311 (2018) (“2018 Order”) the Ruling states:

*"[Because] the Commission’s Preemption Directive, see 2018 Order ¶¶ 194–204, lies beyond its authority, we vacate the portion of the 2018 Order purporting to preempt ‘any state or local requirements that are inconsistent with [the Commission’s] deregulatory approach[,]’ see id. ¶ 194."*

Based on the need to show proof of NEPA review, this letter therefore demands that the City of Sacramento, California cease and desist from:

1. The maintenance of any and all sWTF already deployed,
2. the processing of any and all new sWTF applications,
3. the placement of any new sWTF,
4. the construction of any new sWTF, and
5. the modification of any sWTF that would result in the addition of any antenna, or increase in any Effective Radiated Power from the sWTF.

In connection with the above-ceased activities, you may wish to inform applicants of the DC Circuit Court Case 18-1129 requirement to comply with the above Rulings and NEPA. The Court repealed the NEPA preemption in FCC Order 18-30. Any new sWTF shot-clocks can be tolled by the City of Sacramento, California until further notice. And any currently erected sWTF can be rendered inoperable and nonfunctioning until the NEPA compliance is received by the lease applicants of every sWTF already in operation.

The following testimony from Attorney Edward B. Myers, an intervenor in Case 18-1129, was delivered at an 11/19/19 hearing in Montgomery County, Maryland and in a 11/20/19 San Francisco hearing. The testimony was entered into the respective public records at each of these hearings:

*“I am an attorney and was an intervenor in the DC Circuit Case 18-1129. I worked closely with the Natural Resources Defense Council on the briefs filed with the Court. My reading of the Court decision is summarized in the following:*

*The Federal Communications Commission issued a rulemaking order on March 30, 2018 to expedite the deployment of Densified 4G/5G and other advanced wireless facilities (what the FCC called “small cell” facilities). The FCC’s order exempted all of these 4G/5G facilities from two kinds of previously required review: historic-preservation review under the National Historic Preservation Act (NHPA) and environmental review under the National Environmental Policy Act (NEPA).*

*On August 9, 2019, the US Court of Appeals for the District of Columbia Circuit vacated the FCC’s rulemaking order. The legal effect of vacating the FCC’s rule necessarily means that the prior rule was reinstated: any actions taken on the basis of the vacated rule must be reconsidered under the terms of the prior rule.*

*The prior rule required the FCC to apply NEPA to the construction of 4G/5G facilities. Consequently, it is not lawful that any such facility be constructed without prior NEPA review. While other actions of Congress and the FCC have attempted to circumscribe local authority over the construction of Densified 4G/5G facilities, in light of the Court’s decision, the localities are, nevertheless, within their rights to****require the sponsors****of Densified 4G/5G facilities to provide evidence that the FCC has conducted a NEPA review prior to approving any request for construction.*

*Moreover, in as much as the Court’s decision vacated the FCC’s rule, the decision applies nationwide: its effect is not limited to the District of Columbia.”*

**Attorney Ingrid Evans**[**testified**](https://youtu.be/IKEtqSRmt1g?t=24m55s)**in a Nov 20, 2019 San Francisco Board of Appeals Hearing:**

*"I would also like to add that this case that came up earlier, the United Keetowah vs the FCC case, which was recently decided by the DC Circuit is very instrumental here and I think it is going to change the game on this and I think it is something to which the Board should pay attention.****It is going to be required that these small cell towers and these wireless permits be required to do an Environmental Impact and that is something that should be done****. I would request that all of these permits be delayed until DPH has gotten back to you on the health effects and an environmental impact study has been done. Thank you."*

Kindly remember that the Telecommunications Act of 1996 (“1996-TCA”), 47 U.S. Code § 332(c)(7)(B)(iv), recognizes the actual environmental effects of radiofrequency radiation from Wireless Telecommunications Facilities, indicating by extension its recognition of actual health effects. This Act left regulation of the health effects of WTFs' RF radiation entirely within state and local officials’ authorities, *obligating* said officials to protect its residents from health effects with regard to the placement, construction, modification and operations of WTF. In plain reading

*“No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission’s regulations concerning such emissions.”*

These statements are no mere matters of concern but of urgent matters regarding life and death. For the sake of preserving the life of your citizens, the court ruling requiring NEPA compliance is proof the FCC has overreached far beyond its regulatory boundaries and in fact, operates counter to its commission by catering to industry while suppressing the lives and needs of every local resident their ability to attain the quiet enjoyment of their streets.

Sincerely,

Lena Pu

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National Association for Children and Safe Technology (NACST.org)