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May 15, 2017

BCSC Inquiries  
British Columbia Securities Commission (BCSC)  
P.O. Box 10142, Pacific Centre  
Vancouver, BC V7Y 1L2

To Whom it May Concern:

**Re: TAHOE RESOURCES INC.**

We are counsel to the Diocesan Committee for the Defense of Nature in Guatemala (CODIDENA), Maritimes-Guatemala Breaking the Silence Network, MiningWatch Canada, and Network in Solidarity with the People of Guatemala (NISGUA). They are organizations that work with the Guatemalan communities in the vicinity of the Escobal mine being developed by Tahoe Resources, Inc. ("Tahoe").

We wish to bring to your attention facts that suggest that Tahoe has misstated material facts and omitted to state material facts necessary for Canadian investors to understand accurately the risks of investing in Tahoe. We have gathered the enclosed facts from lawyers and community members in the vicinity of the Escobal mine, and have worked to substantiate them as much as is possible from a distance. We feel that the facts presented in detail in the enclosed request merit an investigation.

Below please find a list of issues raised in this complaint, which are discussed in further detail in the enclosed report:

1. The expansion of the Escobal mine is a key part of Tahoe's business plan, but has Tahoe materially misstated the facts about the extent of community opposition to the Escobal

mine, and has Tahoe omitted to state material facts necessary for investors to accurately judge the risk that this opposition poses to the expansion of the Escobal mine?

2. Has Tahoe failed to disclose “known events or uncertainties” that are reasonably likely to have an effect on Tahoe’s business, namely lawsuits by Tahoe’s subsidiary in Guatemala, Mineral San Rafael (MSR) against the President of Guatemala and other government entities to provide MSR with more protection from protesters; and litigation to stop or invalidate community plebiscites on whether to accept or reject mining?

3. Has Tahoe failed to disclose material information relating to human rights violations?

Tahoe is a precious metal extraction company incorporated in British Columbia, Canada, and headquartered in Reno, Nevada. It is traded on the Toronto and New York stock exchanges (TSX:THO/NYSE:TAHO). It acquired the Escobal project mine in Guatemala in 2010, which it announced reached commercial production in January 2014. In 2015, it merged with Rio Alto Mining, which has two mines in Peru. In 2016, Tahoe announced a business combination with Lake Shore Gold Corp., which operates two mines in Ontario, Canada.

This request relates to Tahoe’s Escobal mine in Guatemala. Below is a summary of the events relevant to this request.

#### **A. Has Tahoe failed to disclose material information?**

*1. The expansion of the Escobal mine is a key part of Tahoe’s business plan, but has Tahoe materially misstated the facts about the extent of community opposition to the Escobal mine, and has Tahoe omitted to state material facts necessary for investors accurately to judge the risk that this opposition poses to the expansion of the Escobal mine?*

Escobal is Tahoe’s main asset. On April 4, 2016, Tahoe stated, “Tahoe’s asset base is anchored by the large-scale, high-grade Escobal silver mine in Guatemala...” Consequently, any disruptions in the operation of the Escobal mine will have a material impact on Tahoe’s operations as a whole.<sup>1</sup>

Expansion is central to Tahoe’s business plan. Tahoe has pending exploration licenses in municipalities surrounding Escobal. Tahoe stated in its 2014 Annual Information Form that “[o]ur principal objectives at this time are to optimize Escobal operations and to continue expanding the Mineral Resource and Mineral Reserve base through exploration and

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<sup>1</sup> See pp. 6-9 of the enclosed report for information on Tahoe’s expansion plans and maps showing pending exploration concessions.

development of the Escobal vein and other veins identified in the region.” Tahoe states that “[as] part of this process, we will undertake early-stage exploration activities to ensure an orderly and steady development of exploration targets.” In an interview with Canadian television network, BNN in February 9, 2015, Kevin McArthur, Tahoe’s CEO, reiterated his plan to expand in Guatemala.

Starting in 2013, community opposition to the Escobal project and to Tahoe Resources has grown to encompass multiple communities affected by the mine. In some cases, the response to this opposition has included serious violence against protestors and community organizations. Many members of the affected communities attribute these acts of violence directly to Tahoe and its affiliates. In its filings, Tahoe has either misstated material facts or omitted to state material facts, and in general has downplayed the seriousness of community opposition to the company’s principal mine operation.

- (i) Tahoe plans to expand into municipalities where the citizens, in officially-sanctioned plebiscites, have voted overwhelmingly to reject mining;<sup>2</sup>
- (ii) Protests against mining in some municipalities have prevented Tahoe from connecting to the main power grid. In response to opposition to its project, Tahoe’s wholly-owned subsidiary, Minera San Rafael, quietly filed a lawsuit against the President of Guatemala requesting further protection from protestors, following which the government deployed military personnel to the mine site and surrounding area;<sup>3</sup>
- (iii) Tahoe seeks to expand into areas where it lacks the free, prior and informed consent of Indigenous peoples;<sup>4</sup> and
- (iv) Tahoe appears to have lost three of its exploration licences.<sup>5</sup>

*2. Tahoe has not disclosed lawsuits by Tahoe’s subsidiary in Guatemala, Mineral San Rafael (MSR), against the President of Guatemala and other government entities to provide MSR with more protection from protestors; and litigation to stop or invalidate community plebiscites on whether to accept or reject mining.*

Partly because MSR’s attempt to connect its mine to the main power grid was thwarted by protests, MSR commenced a lawsuit against the President of Guatemala, the Ministry of the

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<sup>2</sup> For maps on the concessions affected by municipal plebiscites, see pp. 10-12 of the enclosed report and the Appendix.

<sup>3</sup> For the discrepancy between what Tahoe disclosed of the protest, compared to the details provided in the secret court case, see pp. 13-14 of the enclosed report.

<sup>4</sup> For information why the Xinca Indigenous people are hostile to Tahoe, see pp. 15-17.

<sup>5</sup> For information on the discrepancy in the 2015 AIF between a map that shows four exploration concessions and the text that mentions only one, see p. 17.

Interior, the Ministry of National Defense, the Director of the National Police, the Commissioner of the National Police in the Department of Jalapa, and the Commissioner of National Police in the Department of Santa Rosa for failure to provide enough protection to allow the mine to operate. In June 2012, only a month before MSR quietly filed the lawsuit, Tahoe said in its Preliminary Economic Assessment that, “community support is very high.” The Constitutional Court of Guatemala dismissed Tahoe’s lawsuit on February 26, 2013. However, two months later, in April 23, 2013, the police broke up a peaceful protest and arrested 26 protesters. Then on May 2, 2013, President Otto Perez Molina declared a state of siege (similar to Martial Law) and deployed 8,500 police and soldiers in the municipalities surrounding the Escobal mine, since which time a military outpost remains in the area. Tahoe has never disclosed this lawsuit.<sup>6</sup>

Tahoe has also failed to disclose at least four lawsuits brought to stop or invalidate the plebiscites on mining in the municipalities surrounding Escobal. These lawsuits are material because they either involve MSR directly as a party or they relate to municipalities where MSR has a granted or pending concession. They show the extent to which Tahoe and its allies feared the results of the votes and the extent to which they would thwart democratic rights to vote. It is questionable whether a lawsuit to prevent a community from exercising democratic rights can ever be “ordinary routine litigation incidental to the business”; but in this case, these tactics also put into doubt Tahoe’s claims that it had a high degree of community support.<sup>7</sup>

### *3. Tahoe has not disclosed material information relating to human rights violations*

Since well before the mine was put into operation, the Escobal project has been marred by serious acts of violence and repression. In some instances, such as the shooting of six farmers and one student by Tahoe’s private security forces, Tahoe is directly implicated in the violence. The victims are now suing Tahoe in Canada.

In other instances, such as the murder of a Xinca Indigenous leader, the murder of a sixteen-year-old girl, and the shooting of a community leader at a bus stop, no one has been charged and Tahoe has denied responsibility. However, each of the victims was a well-known activist who opposed the mine and local communities blame Tahoe for their deaths.

Events like these spurred a review of Tahoe by the Council on Ethics of the Norwegian Government Pension Fund Global (“Norwegian Fund”). The Norwegian Fund was not satisfied with Tahoe’s responses to its inquiries and found that “the company’s replies to the Council make it difficult for the Council to conclude that the company’s systems and strategies are

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<sup>6</sup> For information on how to locate the court cases on the website of the Constitutional Court of Guatemala, see fn 14 of the enclosed report.

<sup>7</sup> For a description of the four lawsuits and the number of people voting in the municipalities, see pp. 19-21 of the enclosed report.

suited to reveal, prevent and compensate for human rights violations connected to the operation.” Consequently, at the end of January 2015, the Norwegian Fund divested from Tahoe.<sup>8</sup>

Information on human rights risks is material because

- The Norwegian Fund, with over \$US 850 billion in assets, should be considered a reasonable investor, and it decided to divest after its investigation;
- The Dutch Pension Fund, Pensioenfonds PGB, also falls within the category of “reasonable investor” and lists Tahoe on its list of “excluded companies” on the basis of “human rights violations in Guatemala”;<sup>9</sup>
- There is heightened public interest in human rights abuses associated with Canadian mining companies, including criticism from the Inter-American Commission on Human Rights and treaty bodies of the United Nations;<sup>10</sup>
- Recent reports have drawn the link between social conflict and the bottom line, including a 2015 Harvard University report on company-community conflicts that found that social conflicts had financial costs and costs to human resources for addressing those conflicts.<sup>11</sup>
- There was sudden drop in Tahoe’s stock price the day after the Justice and Corporate Accountability Project issued a press release announcing the complaint and request to investigate submitted to the United States Securities and Exchange Commission. This press release was published on August 11, 2016. The day before, on August 10, Tahoe had announced a very successful quarter, which had resulted in a 7% increase in its stock price. The stock began to fall immediately on August 11, and a week later (August 19), it had fallen by 10%.

## **B. JCAP’s Parallel Request to Investigate to the Securities Exchange Commission**

Tahoe currently holds foreign private issuer status with the United States Securities Exchange Commission (“SEC”). It is incorporated in the province of British Columbia and states in its filings that it is a Canadian company, with the British Columbia Securities Commission (“BCSC”) as its principal regulator.

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<sup>8</sup> For instances in which Tahoe failed to provide adequate responses to the Council or in which the Council came to conclusions that contradicted assertions made by Tahoe see pp. 22-27 of the enclosed report.

<sup>9</sup> See online: <<http://www.pensioenfondspgb.nl/nl-nl/Documents/Beleggingen/PGB%20Exclusion%20List%20%28period%20October%201st%20-%20December%2031st%202016%29.pdf>>.

<sup>10</sup> For a list of bodies expressing concern with Canadian mining, see pp. 27-28 of the enclosed report.

<sup>11</sup> For a reference to a Harvard University study on the costs of social conflict see p. 29 of the enclosed report.

In light of Tahoe's own disclosures about its status as a foreign private issuer, in August 2016, we asked the SEC, in a parallel investigation, to investigate its status as a foreign private issuer. In our request to the SEC, we submitted that it may be that Tahoe should no longer enjoy the status of a foreign private. While we have not received a formal response from the SEC, the passage for more than seven months with no action suggests that the SEC has either decided not to investigate Tahoe and/or determined that Tahoe qualifies as a foreign private issuer and is therefore not subject to the same disclosure obligations as United States' corporations.

The BCSC, as Tahoe's principal regulator, is therefore in the best (and perhaps only) position to investigate Tahoe's conduct and ensure that it is meeting its disclosure obligations, as required by Canadian law.

### **C. Tahoe's filings merit rigorous scrutiny**

Tahoe's disclosure should be rigorously scrutinized for two reasons.

First, in July 2013, the BCSC placed Tahoe on its "Issuers in Default List" in relation to statements made about proven and probable reserves in its Preliminary Economic Assessment. In August 2013, the SEC corresponded with Tahoe on this issue. This matter is now closed, and we are not requesting that it be reopened. Rather, we believe that past problems should be taken into account in assessing the likelihood of current failures to disclose.<sup>12</sup>

Second, an investigation by an investor, the Norwegian Fund, showed that Tahoe's disclosures omitted material information and misstated material facts. The Norwegian Fund's requests for information on alleged human rights abuses were met with inadequate responses. Among other things, this lack of cooperation resulted in the Fund's decision to divest from Tahoe on January 27, 2015.

For the above reasons, we submit that there are grounds for reviewing Tahoe's disclosures and whether it is providing its investors with all material information. We also submit that past experience with Tahoe justifies a rigorous review.

Yours truly,



Shin Imai  
Barrister and Solicitor

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<sup>12</sup> For the reasons that Tahoe was found to be in default, see pp. 28-30 of the enclosed report.