

March 7, 2024

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: PHX Minerals Inc. – Exclusion of Stockholder Proposal Submitted by Chris Mueller

Ladies and Gentlemen:

On behalf of PHX Minerals Inc., a Delaware corporation (the “**Company**”), and in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), we are filing this letter with respect to the stockholder proposal submitted by Chris Mueller (the “**Proponent**”) on January 28, 2024, and received by the Company on or about February 6, 2024 (the “**Proposal**”). As described below, it is unclear whether the Proposal has been submitted for inclusion in the proxy materials that the Company intends to distribute in connection with its 2024 Annual Meeting of Stockholders (the “**2024 Proxy Materials**”). The Proposal is attached hereto as Exhibit A.

We hereby request confirmation that the Staff of the Division of Corporation Finance (the “**Staff**”) will not recommend any enforcement action if, in reliance on Rule 14a-8, the Company omits the Proposal from the 2024 Proxy Materials.

In accordance with relevant Staff guidance, we are submitting this letter and its attachments to the Staff through the Staff’s online Shareholder Proposal Form. Further, in accordance with Rule 14a-8(j), we are simultaneously sending a copy of this letter and its attachments to the Proponent as notice of the Company’s intent to omit the Proposal from the 2024 Proxy Materials. This letter constitutes the Company’s statement of the reasons it deems the omission of the Proposal to be proper. We have been advised by the Company as to the factual matters set forth herein.

THE PROPOSAL

The Proposal states:

PHX Minerals should disclose registered shareholder share totals on 10-Q and 10-K reports. Registered share totals should include separate tallies of shares held by investors in DRS and DSPP form

(and Cede if possible). In addition, our company should upgrade its investment plan, and move away from Computershare's boilerplate DirectStock plan.

REASONS FOR EXCLUSION OF THE PROPOSAL

The Company believes that the Proposal may be properly omitted from the 2024 Proxy Materials pursuant to:

- Rule 14a-8(e)(2) because the Company did not receive the Proposal from the Proponent at its principal executive offices by the December 8, 2023 deadline for submitting stockholder proposals to the Company; and
- Rule 14a-8(b)(1) because the Proponent fails to satisfy the ownership threshold requirements of Rule 14a-8(b)(1).

Furthermore, the Proponent is unclear in the correspondence as to whether or not the Proponent intended to submit the Proposal under Rule 14a-8. Therefore, to the extent that the Proposal was submitted under Rule 14a-8, the Company requests that the Staff concur that the Company may exclude the Proposal from the 2024 Proxy Materials under Rule 14a-8(e)(2) and/or Rule 14a-8(b)(1). Additionally, the Company requests that the Staff waive the 80-day deadline set forth in Rule 14a-8(j)(1) for good cause.

The Proposal May Be Excluded Under Rule 14a-8(e)(2) Because The Proposal Was Received By The Company At Its Principal Executive Offices After The Deadline For Submitting Stockholder Proposals For Inclusion In The 2024 Proxy Materials

Rule 14a-8(e)(2) provides that a stockholder proposal submitted with respect to a company's regularly scheduled annual meeting "must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials." As required by Rule 14a-5(e), the Company included in its 2023 proxy statement the deadline for receiving stockholder proposals submitted for inclusion in the 2024 Proxy Materials, calculated in the manner described in Rule 14a-8(e), as well as the address for submitting those proposals. Specifically, page 52 of the Company's 2023 proxy statement stated:

Proposals of stockholders intended to be presented by stockholders at the next annual meeting to be held in May 2024, and to be

included in the proxy statement and form of proxy card pursuant to Rule 14a-8 under the Exchange Act, must be received by the Company at least 120 days before April 6, 2024, which is the anticipated date of mailing of notice for the 2024 annual meeting. Any such proposals should be in writing and sent by certified mail, return receipt requested, to the Company's office at 1320 South University Drive, Suite 720, Fort Worth, TX 76107, Attention: Secretary.

Because at the time of filing its 2023 proxy statement the Company knew the 2024 annual meeting date would be changed by more than 30 days from the date of the 2023 annual meeting as result of a change in the Company's fiscal year, the Company specifically set forth in its 2023 proxy statement that the deadline for receiving stockholder proposals submitted for inclusion in the 2024 Proxy Materials would be 120 days before April 6, 2024, the anticipated date of mailing of notice for the 2024 Annual Meeting of Stockholders. Accordingly, the deadline for receiving stockholder proposals submitted for inclusion in the 2024 Proxy Materials was December 8, 2023. The Proponent's letter was received at the Company's principal executive offices on or about February 6, 2024, which was 60 days after the deadline.

The Staff has repeatedly concurred that a proposal may be excluded in its entirety under Rule 14a-8(e)(2) when it is received after the applicable deadline for submitting a stockholder proposal. See, e.g., The PNC Financial Services Group, Inc. (Feb. 20, 2024); Hewlett Packard Enterprise Company (Jan. 4, 2024); The Kroger Co. (The Sisters of the Presentation of the Blessed Virgin Mary of Aberdeen, South Dakota) (Apr. 25, 2023). Consistent with this precedent, we believe the Proposal may properly be excluded as untimely pursuant to Rule 14a-8(e)(2).

In accordance with Rule 14a-8(f)(1), the Company has not provided the Proponent with notice of the Proposal's procedural deficiency because this deficiency cannot be remedied. As stated in Rule 14a-8(f)(1), "[a] company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline". Accordingly, the Company is not required to provide notice under Rule 14a-8(f)(1) in order for the Proposal to be excluded under Rule 14a-8(e)(2).

The Company believes that the Proposal may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(e)(2), to the extent Rule 14a-8 applies, because the Proposal was received at the Company's principal executive offices 60 days after the deadline for submitting stockholder proposals for the 2024 Annual Meeting.

The Proposal May Be Excluded Under Rule 14a-8(b)(1) Because The Proponent Fails To Satisfy The Requisite Eligibility To Submit The Stockholder Proposal

Rule 14a-8(b)(1) provides that, to be eligible to submit a stockholder proposal in connection with a stockholder meeting that is scheduled to be held on or after January 1, 2023, a stockholder must have continuously held:

1. At least \$2,000 in market value of the company's securities entitled to vote on the proposal for at least three years; or
2. At least \$15,000 in market value of the company's securities entitled to vote on the proposal for at least two years; or
3. At least \$25,000 in market value of the company's securities entitled to vote on the proposal for at least one year.

Pursuant to Rule 14a-8(b)(2)(i), if the Proponent is the registered holder of the Company's securities, which means that the Proponent's name appears in the Company's records as a stockholder, the Company can verify the Proponent's eligibility on its own. In this case, the Proponent is a registered holder of the Company's securities, as stated by the Proponent in his Proposal letter to the Company. Based on the Company's review of the ownership records regarding the Proponent's direct ownership of common stock of the Company as of February 29, 2024, as provided by the Company's transfer agent, a copy of which is attached hereto as Exhibit B (the "**Ownership Record**"), the Proponent owned only one share of the Company's common stock as of such date. Therefore, the Proponent's direct ownership is insufficient to satisfy the ownership threshold requirements of Rule 14a-8(b)(1).

According to Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("**SLB 14L**"), in its reference to Release No. 34-89964 (Sept. 23, 2020) of the Securities and Exchange Commission (the "**Commission**"), to calculate whether a proponent satisfied the relevant ownership threshold, the proponent should determine whether, on any date within the 60 calendar days before the date the proponent submitted the proposal, the proponent's investment had a market value at the relevant threshold or greater. SLB 14L further provides that the market value is calculated by multiplying the number of securities the proponent continuously held for the relevant period by the highest selling price during the 60 calendar days before the stockholder submitted the proposal.

During the 60 calendar days preceding and including February 6, 2024, the date the Proponent submitted the Proposal, the highest selling price for the Company's common stock was \$3.53 per share. Based on the Ownership Record as of February 29, 2024, the value of the Proponent's holdings in the Company for purposes of submitting the Stockholder Proposal is \$3.53, which is below the \$2,000 ownership threshold set forth in Rule 14a-8(b)(1). Therefore, the Proponent fails to satisfy the eligibility requirements under Rule 14a-8(b)(1). As described above in this letter, under Rule 14a-8(f)(1), a company may exclude a stockholder proposal without

providing the proponent notice of a deficiency if the deficiency cannot be remedied. This deficiency cannot be remedied because the Ownership Record shows that the Proponent only owned one share of common stock of the Company as of February 29, 2024, which means the Proponent has not held the requisite minimum amount of securities for the length of time required by Rule 14a-8(b)(1) and he is unable to satisfy this requirement by the date of the 2024 Annual Meeting of Stockholders to be held in May 2024 (which the Company currently anticipates holding on May 15, 2024).

The Company believes that the Proposal may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(e)(2), to the extent Rule 14a-8 applies, because the Proponent fails to satisfy the eligibility requirements under Rule 14a-8(b)(1).

Waiver Of The 80-Day Requirement Under Rule 14a-8(j)(1) Is Appropriate

The Company further requests that the Staff waive the 80-day filing requirement set forth in Rule 14a-8(j) for good cause. Rule 14a-8(j)(1) requires that, if a company “intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission.” However, Rule 14a-8(j)(1) allows the Staff to waive the deadline if a company can show “good cause.” The Company did not receive the Proposal until on or about February 6, 2024, and was unable to submit this letter in time to meet the 80-day requirement.

CONCLUSION

For the reasons set forth above, the Company believes that the Proposal may be excluded from its 2024 Proxy Materials pursuant to Rule 14a-8(e)(2) and/or Rule 14a-8(b)(1). The Company respectfully requests the Staff’s concurrence with its decision to exclude the Proposal from its 2024 Proxy Materials and further requests confirmation that the Staff will not recommend enforcement action to the Commission if it so excludes the Proposal.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this request. Please do not hesitate to call me at (713) 752-4389 or email me at ktucker@jw.com if we may be of any further assistance in this matter.

Respectfully yours,

/S/ Kirk Tucker

Kirk Tucker

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
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Attachments: Exhibit A, Exhibit B

cc: Chris Mueller
Ralph D'Amico, Executive Vice President and Chief Financial Officer,
PHX Minerals Inc.

EXHIBIT A

Copy of the Proposal

See attached.

January 28, 2024

PHX Minerals
1601 NW Expressway - Valliance Bank Tower, Suite 1100
Oklahoma City, Oklahoma 73118

Members of the board,

My name is Chris Mueller, and I would like to submit a shareholder proposal for the 2024 annual shareholder meeting. I am an individual investor with a directly registered ownership position in our company. I intend to hold my position through the date of the 2024 annual shareholder meeting. I would be happy to meet with the board to discuss my proposal at any time.

My proposal: PHX Minerals should disclose registered shareholder share totals on 10-Q and 10-K reports. Registered share totals should include separate tallies of shares held by investors in DRS and DSPP form (and Cede if possible). In addition, our company should upgrade its investment plan, and move away from Computershare's boilerplate DirectStock plan.

Several issuers already disclose registered share totals with a couple sentences on each 10-Q or 10-K report. Registered holders are passionate and loyal investors who disclose their personal information to and desire a direct and close relationship with the company they invest with. Registered holder information is of material interest to investors who want to track distribution and commitment of an investor base, and can inspire more long term investors.

Regarding the investment plan, there are several reasons why we should upgrade. First - DirectStock plan does not allow hybrid holding methods in a single account. All accounts are either fully enrolled or fully not enrolled in the plan. Accounts NOT enrolled are "all DRS" (owned exclusively by the investor). By comparison, accounts that are fully enrolled are what Computershare calls DSPP consisting of "shares that underpin the plan".

Second, recurring buys through DirectStock plan are scheduled and predictable - making them prone to arbitrage and manipulation. The purchases tend to be processed through a single broker-dealer (often BofA Securities) and they tend to happen T+3 from the 1st and 15th (excluding weekends and bank holidays). The 2024 dates that these purchases will likely occur for our company are: Jan 5, Jan 19, Feb 6, Feb 21, Ma 6, Mar 20, April 4, April 18, May 6, May 20, June 6, June 21, July 5, July 18, Aug 6, Aug 20, Sept 6, Sept 19, Oct 4, Oct 18, Nov 6, Nov 21, Dec 5, and Dec 19.

Upgrading our investment plan would allow PHX Minerals the ability to allow hybrid registered holding methods and meet the needs of materially interested long term retail investors. It would also allow for our company to either put an end to the predictable and vulnerable recurring purchases, or make sure they are less predictable and vulnerable. While it would represent an additional cost, sponsoring and administering a customized plan will be worth it.

Thank you for your time,



Chris Mueller



EXHIBIT B

Record of Proponent's Share Ownership

See attached.

PHX MINERALS INC

Date selected 2/29/2024
Document created 2/29/2024 6:39 PM**Holder**

CHRIS MUELLER

Address

[REDACTED]

ID

[REDACTED]

Share Class	Register	Balance	Price	Value
Grouped by: PHX (CUSIP 69291A100)				
COMMON	Book Entry	1	USD 3.07	USD 3.07

Market data for Publicly Traded Securities provided by Xignite Ltd.