



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

February 23, 2022

Jason M. Hille
Foley & Lardner LLP

Re: Badger Meter, Inc. (the "Company")
Incoming letter dated December 23, 2021

Dear Mr. Hille:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by NorthStar Asset Management, Inc. for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the board report to shareholders with action steps to foster greater racial equity on the board.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(10). Based on the information you have presented, it appears that the Company's public disclosures do not substantially implement the Proposal.

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2021-2022-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Mari Schwartzer
NorthStar Asset Management, Inc.

December 23, 2021

VIA EMAIL (shareholderproposals@sec.gov)

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Badger Meter, Inc. – Omission of Stockholder Proposal by NorthStar Asset Management, Inc. Funded Pension Plan Pursuant to Rule 14a-8

Ladies & Gentlemen:

Pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), we are writing on behalf of our client, Badger Meter, Inc., a Wisconsin corporation (the “Company”), to request that the staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) concur with the Company’s view that, for the reasons stated below, it may exclude the shareholder proposal and supporting statement (the “Proposal”) submitted by NorthStar Asset Management, Inc. Funded Pension Plan (the “Proponent”) from the proxy materials to be distributed by the Company in connection with its 2022 annual meeting of shareholders (the “2022 Proxy Materials”). We request confirmation that the Staff will not recommend to the Commission that enforcement action be taken if the Company omits the Proposal from the 2022 Proxy Materials for the reasons discussed below.

In accordance with Section C of Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB No. 14D”), we are emailing this letter and its attachments to the Staff at shareholderproposals@sec.gov. In accordance with Rule 14a-8(j), we are simultaneously emailing a copy of this letter and its attachments to the Proponent as notice of the Company’s intent to omit the Proposal from the 2022 Proxy Materials.

Rule 14a-8(k) and Section E of SLB No. 14D provide that a shareholder proponent is required to send to the company a copy of any correspondence that the proponent elects to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponent that if the Proponent elects to submit correspondence to the Commission or the Staff relating to the Proposal, then a copy of that correspondence should concurrently be furnished to the Company.

The Company currently intends to file its definitive 2022 Proxy Materials with the Commission on or about March 18, 2022. Accordingly, as contemplated by Rule 14a-8(j), we have filed this letter with the Commission no later than 80 calendar days before the Company intends to file its definitive 2022 Proxy Materials with the Commission.

I. The Proposal

The Proposal submitted to the Company by the Proponent relates to racial equity on the Board of Directors and states in relevant part as follows:

WHEREAS:

In the U.S., the lack of diversity on corporate boards of directors has become a significant concern for investors and companies. Though a focus on racial equity was fueled by country-wide racial justice protests in 2020, progress on boardroom diversity remains slow;

The Proponent has engaged Badger Meter (“the Company”) on persistent board diversity concerns and the potential negative effect on long-term share value since fall 2016. After a similar proposal garnered 85% of the shareholder vote at the 2021 annual meeting, the company added one racially diverse board member. While this is an important step forward, 89% of the expanded board still self-identifies as non-diverse by race or ethnicity and, to the Proponent’s knowledge, the Company has not set in place actionable plans to achieve greater board diversity;

Research has shown that diverse teams are beneficial in many ways, including a higher likelihood to “radically innovate and anticipate shifts in consumer needs and consumption patterns—helping their companies to gain a competitive edge” and likeliness to outperform industry peers on profitability over time. Importantly, it has also been found that the level of diversity matters, with a 48% performance differential between most and least diverse companies;

Research has also demonstrated that the “critical mass” for diversity on boards is three or more. At this level, the diverse members can “cause a fundamental change in the boardroom and enhance corporate governance.” While this study focused on gender diversity on boards, the Proponent asserts its applicability to people of color as well and notes that the Company’s board has not met this critical mass level for gender diversity either;

The Proponent believes that committing to concrete, actionable steps to further diversify the board of directors would serve the long-term value of shareholders and the company.

RESOLVED: *Shareholders request that the Board of Directors report to shareholders within six months after the Company’s annual meeting, at reasonable expense excluding confidential information, with action steps to foster greater racial equity on the board.*

The Proposal includes a Supporting Statement that states the following:

SUPPORTING STATEMENT:

The Proponent suggests that among the strategies the Company could explore include, at board and management discretion, are: engaging a search firm for each board search, board diversity goals, requiring at least two candidates of color in each candidate pool, considering a board refreshment policy, examining the potential limits to increases in diversity from using current board member networks for recruitment, and other strategies that balance candidate qualifications and diversity. In defining “racial equity,” the Proponent suggests the Company use comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI.

II. Basis for Exclusion

We hereby respectfully request that the Staff concur in the Company’s view that it may exclude the Proposal from the 2022 Proxy Materials pursuant to Rule 14a-8(i)(10) under the Exchange Act because the Proposal already has been substantially implemented.

III. Background

On November 15, 2021, the Company received the Proposal accompanied by a cover letter from the Proponent dated November 15, 2021. This cover letter verified the Proponent’s share ownership as of such date. Copies of the Proposal and the cover letter are attached hereto as **Exhibit A**. Our prior correspondence with the Proponent, in which we communicated with the Proponent about our Diversity Report (as defined below) and subsequently notified the Proponent of our intent to omit the Proposal is attached hereto as **Exhibit B**.

IV. Analysis

A. The Company Can Exclude the Proposal Under Rule 14a-8(i)(10) Because It Already Has Been Substantially Implemented.

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company has substantially implemented the proposal. The SEC stated, with respect to Rule 14a-8(i)(10)’s predecessor, that the rule was “designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by management.” SEC Release No. 34-12598 (July 7, 1976). The proposal does not need to be implemented in full or exactly as presented by the proponent. Rather, the standard for exclusion is substantial implementation. Exchange Act Release No. 40018 (May 21, 1998).

The Staff has stated that when determining whether a shareholder proposal has been substantially implemented, it will consider whether a company’s particular policies, practices and procedures “compare favorably with the guidelines of the proposal.” *Texaco, Inc. (Recon.)* (avail. Mar. 28, 1991); *PNM Resources, Inc.* (March 20, 2018) (permitting exclusion of a proposal requesting the company establish more effective board oversight of policies and programs addressing climate change and report

to shareholders because the company's existing climate change report was published with board oversight); *Exxon Mobil Corp.* (March 23, 2018) (permitting exclusion of a proposal that requested a report "describing how the Company could adapt its business model to align with a decarbonizing economy by altering its energy mix" to reduce greenhouse gas emissions when the company made various statements about its efforts to adapt to a lower-carbon environment in two different disclosure documents); see, e.g., *General Mills Inc.* (May 21, 2021); *Servicenow, Inc.* (April, 23, 2021); and *Seaworld Entertainment, Inc.* (April 20, 2021). Further, when a company can demonstrate it has addressed each element of a shareholder proposal, the Staff has concurred that the proposal has been "substantially implemented." *Target Corp.* (April 9, 2021); *Apple Inc.* (Dec. 17, 2020); *WD-40 Co.* (Sep. 27, 2016); *Oracle Corp.* (Aug. 11, 2016); *Exxon Mobil Corp.* (March 17, 2015); *Deere & Co.* (Nov. 13, 2012).

In addition, the Staff has also excluded proposals under Rule 14a-8(i)(10) when a company has satisfied a proposal's "essential objective," and therefore substantially implemented the proposal, even if the company did not take the exact action requested in a proposal, did not implement every detail of the proposal, or exercised discretion in determining how to implement the proposal. *General Motors Corp.* (avail. Mar. 4, 1996); *Anheuser-Busch Cos., Inc.* (Jan. 17, 2007); *ConAgra Foods, Inc.* (July 3, 2006); *Johnson & Johnson* (Feb. 17, 2006); *Talbots Inc.* (Apr. 5, 2022). See also, e.g., *Alcoa Inc.* (Feb. 3, 2009) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting a report that describes how the company's actions to reduce its impact on global climate change may have altered the current and future global climate, where the company published general reports on climate change, sustainability and emissions data on its website); *Dunkin' Brands Group Inc.* (March 6, 2019) (agreeing a proposal requesting a report on the feasibility of integration of sustainability metrics into the company's compensation program was substantially implemented where the company met the essential objective of the proposal through existing disclosures).

Moreover, the Staff has consistently concurred with the exclusion of shareholder proposals requesting reports where the company has already publicly disclosed the subject matter of the requested report. See, e.g., *Hess Corp.* (April 11, 2019) (permitting exclusion of a proposal requesting the that company issue a report on how it can reduce its carbon footprint in alignment with the Paris Agreement where the company had already provided the requested information in multiple reports) and *Exelon Corp.* (Feb. 26, 2010) (concurring with the exclusion under Rule 14a-8(i)(10) of a proposal that requested a report on different aspects of the company's political contributions when the company had already adopted its own set of corporate political contribution guidelines and issued a political contributions report that, together, provided "an up-to-date view of the [c]ompany's policies and procedures with regard to political contributions").

B. The Company Has Already Issued a Diversity Report in which it Substantially Implements the Strategies Suggested in the Proponent's Supporting Statement.

On October 15, 2021, the Company published a Report on Board Diversity (the "Diversity Report") in which the Board lays out its plan to advance diversity and which addresses the strategies suggested by Proponent in the Supporting Statement to the Proposal. The Diversity Report is publicly available here:

<https://investors.badgermeter.com/home/default.aspx>

More specifically, the Diversity Report addresses each element of the Proposal and Supporting Statement as follows:

<p>Elements of the Disclosure Request by the Proposal</p>	<p>How the Diversity Report or Existing Policies Already Address the Proposal</p>
<p>“Board of Directors report to shareholders within six months after the Company’s annual meeting . . . with action steps to foster greater racial equity on the board ”</p>	<p>The Diversity Report was published to the Company’s website on October 15, 2021 with a purpose to “[provide] greater clarity into [the Company’s] diversity approach and the concrete actions [it] continue[s] to undertake.”</p>
<p>The Proposal suggests “engaging a search firm for each board search.”</p>	<p>Page 3 of the Diversity Report states that the Governance Committee has “engaged a board search firm to expand the pool of qualified candidates from which Board nominees are chosen, including under-represented minority candidates.”</p>
<p>The Proposal calls for the Company to set out “board diversity goals.”</p>	<p>The Company’s Principles of Corporate Governance state the Company is committed to “actively seeking out highly qualified women and racial/ethnically diverse minority candidates, as well as candidates with diverse backgrounds, skills and experiences as part of all board searches the company undertakes” The Principles of Corporate Governance are publicly available here: https://investors.badgermeter.com/governance/governance-documents/default.aspx</p>
<p>The Proposal suggests that the Company require “at least two candidates of color in each candidate pool.”</p>	<p>The Company has substantially implemented this specific proposal in its Principles of Corporate Governance, where the Company commits to “ensur[ing] each pool of qualified candidates from which Board nominees are chosen includes candidates who bring racial, ethnic and/or gender diversity” (noting that the Staff has previously concurred that a company does not need to take the exact action requested in a proposal for that proposal to be excluded).</p>

Elements of the Disclosure Request by the Proposal	How the Diversity Report or Existing Policies Already Address the Proposal
<p>The Proposal requests that the Company examine “potential limits to increases in diversity from using current board member networks for recruitment.”</p>	<p>The Company engaged a board search firm to expand the pool of candidates from which it can draw. In addition, the Company actively sought out the opinions of investors holding nearly 12 million shares, or approximately 40% of the Company’s outstanding shares, including 6 of the Company’s top 10 shareholders, in compiling the Diversity Report. Finally, as stated on page 2 of the Diversity Report, the Board undertakes an annual self-evaluation process led by the Board’s lead independent director to examine any potential limitations in its processes.</p>
<p>The Proposal requests the Company use “other strategies that balance candidate qualifications and diversity.”</p>	<p>On Page 2, the Diversity Report states that the Company “regularly monitors its member’s diverse mix of skills, experience, backgrounds and other differentiating characteristics in order to assure that the Board has the necessary attributes to perform its oversight function effectively.” Additionally, the Diversity Report describes the Company’s practice of proactively including voluntary disclosures of both the gender and self-identified racial/ethnic diversity of the Board in its annual Proxy Statements.</p>
<p>The Proposal suggests that the Company use “comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI.”</p>	<p>On page 4 of the Diversity Report, the Company states that it is working to enhance and improve diversity “to levels at least consistent with the broader demographics of the communities in which we operate.” Furthermore, the Company provides certain workforce diversity statistics in its SASB-GRI Report, which is publicly available here: https://www.badgermeter.com/sustainability-and-ethics/</p>

Accordingly, as the Board’s actions with respect to each element of the Proposal and Supporting Statement are clear, the Proposal has already been substantially implemented by the Company and may, therefore, be appropriately excluded from the Company’s Proxy Materials.

C. The Company Has Already Addressed the “Essential Objective” of the Proponent’s Proposal.

Not only has the Company substantially implemented the Proposal, but it has also addressed the “essential objective” of the proposal. The Company interprets the “essential objective” to be “fostering greater racial equity on the board through concrete, actionable steps.” Beyond the actions already described, which address and implement each of the Proposal’s suggested strategies, the Company states in its Criteria for Director Nominees within its Principles of Corporate Governance that it is “committed to actively seeking out highly qualified women and racial/ethnically diverse minority

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Page 7

candidates as well as candidates with diverse backgrounds, skills, and experiences as part of all Board searches the Company undertakes” In the event that the Staff disagrees that each of the suggested strategies have been addressed, the Diversity Report and the Company’s existing policies fulfill the “essential objective” of the Proposal to require the Company to report on “actionable steps” it has taken to foster greater racial equity on the board. Furthermore, the Company demonstrated its commitment to fostering diversity by signing the Metropolitan Milwaukee Associate of Commerce (MMAC) Diversity Pledge, a commitment to increasing diversity representation in the workforce. Taken together, the Company’s existing policies, the Diversity Report, and the commitment to the MMAC Diversity Pledge demonstrate the Company’s actionable steps towards greater racial equity on the board.

Accordingly, and consistent with published positions of the Staff, the Company respectfully submits that the Proposal can be excluded from its 2022 Proxy Materials pursuant to Rule 14a-8(i)(10).

IV. Conclusion

For the reasons stated above, the Company believes it may exclude the Proposal from its 2022 Proxy Materials. The Company requests the Staff’s concurrence in the Company’s view or, alternatively, confirmation that the Staff will not recommend any enforcement action to the Commission if the Company excludes the Proposal from its 2022 Proxy Materials.

If you have any questions or need additional information, please feel free to contact me at (414) 319-7336. In accordance with Staff Legal Bulletin No. 14F (Oct. 18, 2011), please send your response to this letter by email to jhille@foley.com.

I would appreciate if the Staff also would send a copy of any response to William R.A. Bergum, Vice President - General Counsel and Secretary, Badger Meter, Inc., at bbergum@badgermeter.com, and Karen Bauer, Vice President – Investor Relations, Strategy and Treasurer, Badger Meter, Inc. at kbauer@badgermeter.com.

Very truly yours,

Jason M. Hille

Enclosures

cc: Robert A. Wrocklage, Senior Vice President – Chief Financial Officer, Badger Meter, Inc.
William R. A. Bergum, Vice President – General Counsel and Secretary, Badger Meter, Inc.
Karen M. Bauer, Vice President – Investor Relations, Strategy and Treasurer, Badger Meter, Inc.
Peter D. Fetzer, Partner, Foley & Lardner LLP
Julie N.W. Goodridge, Trustee, NorthStar Asset Management, Inc. Funded Pension Plan

EXHIBIT A

PROPOSAL

November 15, 2021

Via email and FedEx Express

William R.A. Bergum
Vice President – General Counsel and Secretary
Badger Meter
4545 W Brown Deer Rd
PO Box 245036
Milwaukee, WI 53224-9536
bbergum@badgermeter.com

Re: Shareholder proposal for 2022 Annual Shareholder Meeting

Dear Mr. Bergum:

The NorthStar Asset Management, Inc. Funded Pension Plan (“NorthStar”) is submitting the attached proposal (the “Proposal”) pursuant to the Securities and Exchange Commission’s Rule 14a-8 to be included in the proxy statement of Badger Meter, Inc. (the “Company”) for its 2022 annual meeting of shareholders.

NorthStar has continuously beneficially owned, for at least three years as of the date hereof, at least \$2,000 worth of the Company’s common stock. Verification of this ownership will be sent under separate cover. NorthStar intends to continue to hold such shares through the date of the Company’s 2022 annual meeting of shareholders.

NorthStar is available to meet with the Company via teleconference on Wednesday, December 1 at 11am ET or Thursday, December 2 at 2:30pm ET.

Please send future correspondence and communications regarding this proposal to my representative Mari Schwartzler who can be contacted at 617-802-9121 or mschwartzler@northstarasset.com.

Sincerely,



Julie N.W. Goodridge
President, NorthStar Asset Management, Inc.
Trustee, NorthStar Asset Management, Inc. Funded Pension Plan

Achieving Racial Equity on the Board of Directors

WHEREAS:

In the U.S., the lack of diversity on corporate boards of directors has become a significant concern for investors and companies. Though a focus on racial equity was fueled by country-wide racial justice protests in 2020, progress on boardroom diversity remains slow;

The Proponent has engaged Badger Meter (“the Company”) on persistent board diversity concerns and the potential negative effect on long-term share value since fall 2016. After a similar proposal garnered 85% of the shareholder vote at the 2021 annual meeting, the company added one racially diverse board member. While this is an important step forward, 89% of the expanded board still self-identifies as non-diverse by race or ethnicity and, to the Proponent’s knowledge, the Company has not set in place actionable plans to achieve greater board diversity;

Research has shown that diverse teams are beneficial in many ways, including a higher likelihood to “radically innovate and anticipate shifts in consumer needs and consumption patterns—helping their companies to gain a competitive edge”¹ and likeliness to outperform industry peers on profitability over time. Importantly, it has also been found that the level of diversity matters, with a 48% performance differential between most and least diverse companies²;

Research has also demonstrated that the “critical mass” for diversity on boards is three or more. At this level, the diverse members can “cause a fundamental change in the boardroom and enhance corporate governance.”³ While this study focused on gender diversity on boards, the Proponent asserts its applicability to people of color as well and notes that the Company’s board has not met this critical mass level for gender diversity either;

The Proponent believes that committing to concrete, actionable steps to further diversify the board of directors would serve the long-term value of shareholders and the company.

RESOLVED: Shareholders request that the Board of Directors report to shareholders within six months after the Company’s annual meeting, at reasonable expense excluding confidential information, with action steps to foster greater racial equity on the board.

SUPPORTING STATEMENT:

The Proponent suggests that among the strategies the Company could explore include, at board and management discretion, are: engaging a search firm for each board search, board diversity goals, requiring at least two candidates of color in each candidate pool, considering a board refreshment policy, examining the potential limits to increases in diversity from using current board member networks for recruitment, and other strategies that balance candidate qualifications and diversity. In defining “racial equity,” the Proponent suggests the Company use comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI.

¹ McKinsey & Company, *Women in the Workplace* 2019

² McKinsey & Company, *Diversity Wins* 2020

³ Kramer, V. W., Konrad, A. M., Erkut, S., *Critical Mass on Corporate Boards: Why Three or More Women Enhance Governance*. 2006

Exhibit B

CORRESPONDENCE

From: Mari Schwartzter <mschwartzter@northstarasset.com>
Sent: Thursday, December 16, 2021 12:57 PM
To: Bauer, Karen <KBauer@badgermeter.com>
Subject: {EXTERNAL} RE: 2022 proxy engagement follow-up

Dear Karen,
We will not be withdrawing the proposal.

- Mari

Mari Schwartzter
Director of Shareholder Activism and Engagement

<https://northstarasset.com>

NORTHSTAR
ASSET MANAGEMENT

P.O. Box 301840 | Boston, MA 02130
Tel: 617-522-2635
Fax: 617-522-3165

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From: Bauer, Karen <KBauer@badgermeter.com>
Sent: Wednesday, December 15, 2021 4:23 PM

To: Mari Schwartzter <mschwartzter@northstarasset.com>

Subject: 2022 proxy engagement follow-up

Mari –

It has been one week since our discussion. We believe that should have been adequate time for you to circle back with your colleagues on our request for Northstar to withdraw the substantially implemented, repetitive proposal.

Badger Meter would appreciate your feedback so that we can plan accordingly, especially given the upcoming holidays.

Regards-

Karen

Karen Bauer

Every drop counts.

Karen Bauer | Vice President - Investor Relations, Corporate Strategy & Treasurer | Office: 1.414.371.7276 | Mobile: 1.414.217.8618
Badger Meter | 4545 W Brown Deer Rd | PO Box 245036 | Milwaukee, WI 53224-9536

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From: Mari Schwartzter <mschwartzter@northstarasset.com>

Sent: Tuesday, December 7, 2021 1:41 PM

To: Bauer, Karen <KBauer@badgermeter.com>

Subject: RE: {EXTERNAL} Proposal for 2022 Proxy

Hi Karen,

I look forward to speaking with you tomorrow. In preparation, I wanted to send some advance information. First of all, we're very pleased to see the document that you've sent. We appreciate that Badger Meter took time to really consider our proposal from last year. Something we'd like to understand is how the company is thinking about diversity goals and/or how the company will define what equity in board diversity looks like. We feel this is important so the company has a concrete goal to work towards. For example, this report you sent mentions that the executive leadership team serves as one model of diversity as 40% of executive officers are from underrepresented groups, so that made us wonder what model you would seek for the board. Would the company be looking to diversify to reflect the same 40% or is there another metric you are using? We feel that it would be important to define this in the report.

I have more questions tomorrow, but I felt this one might be something you'd want to ponder in advance.

Thanks and talk to you tomorrow.

- Mari

Mari Schwartz
Director of Shareholder Activism and Engagement

<https://northstarasset.com>

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From: Bauer, Karen <KBauer@badgermeter.com>
Sent: Tuesday, November 30, 2021 12:25 PM
To: Mari Schwartz <mschwartz@northstarasset.com>
Cc: Bergum, Bill <bbergum@badgermeter.com>
Subject: RE: {EXTERNAL} Proposal for 2022 Proxy

Mari –

I am available on Wednesday 12/8 at 2pm ET / 1pm CT.

Please plan to call me on my mobile at 414-217-8618.

Regards-

Karen

From: Mari Schwartz <mschwartz@northstarasset.com>
Sent: Tuesday, November 30, 2021 9:13 AM
To: Bauer, Karen <KBauer@badgermeter.com>
Cc: Bergum, Bill <bbergum@badgermeter.com>
Subject: RE: {EXTERNAL} Proposal for 2022 Proxy

Hi Karen,

Thanks again for your outreach. Could I schedule some time with you next week to discuss this? I suggest Wed (12/8) or Thurs (12/9) 2pm-4pm ET as a starting point. Fri (12/10) at 2:30pm ET is another possibility.

Many thanks,

Mari

Mari Schwartz
Director of Shareholder Activism and Engagement

<https://northstarasset.com>

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P.O. Box 301840 | Boston, MA 02130
Tel: 617-522-2635
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From: Bauer, Karen <KBauer@badgermeter.com>
Sent: Monday, November 22, 2021 3:16 PM
To: Mari Schwartz <mschwartz@northstarasset.com>
Cc: Bergum, Bill <bbergum@badgermeter.com>
Subject: RE: {EXTERNAL} Proposal for 2022 Proxy

Mari –

Based on certain verbiage in this proposal and supporting statements, it appears NorthStar may not have read the Report on Board Diversity published on the Badger Meter website on October 15, 2021. The posting of the report was discussed on our Q3 2021 quarterly earnings call.

In the report (which can be found here: <https://investors.badgermeter.com/home/default.aspx>), the Board specifically lays out its actionable plans to advance diversity. For example, it reports on the Governance Committee's engagement of a board search firm to expand the pool of qualified candidates from which Board nominees are chosen, including underrepresented minority candidates. It also confirms, in alignment with our ongoing ESG efforts and our Values, our commitment to enhancing and improving employee diversity demographics (both generally and within the management ranks) and Board diversity, to levels at least consistent with the broader demographics of the communities in which we operate.

I encourage you to read the report in full and believe you will find your proposal has been substantially implemented, and as such your repeat proposal should be withdrawn.

Karen

Karen Bauer

Every drop counts.

Karen Bauer | Vice President - Investor Relations, Corporate Strategy & Treasurer | Office: 1.414.371.7276 | Mobile: 1.414.217.8618
Badger Meter | 4545 W Brown Deer Rd | PO Box 245036 | Milwaukee, WI 53224-9536

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From: Mari Schwartzer <mschwartz@northstarasset.com>
Sent: Monday, November 15, 2021 10:00 AM
To: Bergum, Bill <bbergum@badgermeter.com>
Cc: Bauer, Karen <KBauer@badgermeter.com>
Subject: {EXTERNAL} Proposal for 2022 Proxy

Dear Mr. Bergum,

Please see the attached copy of the NorthStar Asset Management Funded Pension Plan's filing letter and shareholder proposal, which was also sent to you today via FedEx. If you have any further questions regarding this transmission, please let me know.

Sincerely,
Mari

Mari Schwartzer
Director of Shareholder Activism and Engagement

<https://northstarasset.com>

NORTHSTAR
ASSET MANAGEMENT

P.O. Box 301840 | Boston, MA 02130
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SANFORD J. LEWIS, ATTORNEY

PO Box 231
Amherst, MA 01004-0231
413 549-7333

January 20, 2022
Via electronic mail

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Response to No Action Letter of Badger Meter, Inc. on Diversity & Inclusion Proposal

Ladies and Gentlemen,

NorthStar Asset Management Inc. Funded Pension Plan (the “Proponent”) is a beneficial owner of common stock of Badger Meter, Inc (the “Company”) and has submitted a shareholder proposal (the “Proposal”) to the Company. I am responding, on behalf of the Proponent, to the letter dated December 23, 2021 ("Company Letter"), from Jason M. Hille contending that the Proposal may be excluded from the Company’s 2022 proxy statement. A copy of this letter is being sent concurrently to Jason M. Hille.

SUMMARY

The Proposal urges the Board of Directors to report to shareholders within six months after the Company’s annual meeting with action steps to foster greater racial equity on the board. The supporting statement suggests that the Company consider various strategies to diversify the board that balance candidate qualifications and diversity with the express goal of working towards racial equity. In defining “racial equity,” the Proponent suggests the Company use comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI.

The Company Letter asserts that the Proposal is substantially implemented. For evidence, the Company Letter cites Badger Meter’s 2021 Diversity Report, which does not include forward-looking action steps on how it plans to foster greater racial equity on the board. Instead, the report describes recent progress in improving diversity, which was already recognized in the proposal, and specifically mentions that after a “similar proposal garnered 85% of the shareholder vote at the 2021 annual meeting, the company added one racially diverse board member.” The Company Letter misconstrues the essential purpose of the proposal into a reflection of its discussion of retrospective actions taken, while, in actuality, the Proposal asks the Company to describe what it will do going forward to further improve board diversity.

The Company has not fulfilled the guidelines or essential purpose of the Proposal and thus, has not in any sense fulfilled the ask. Therefore, the Proposal is not excludable under Rule 14a-8(i)(10).

PROPOSAL
Achieving Racial Equity on the Board of Directors

WHEREAS:

In the U.S., the lack of diversity on corporate boards of directors has become a significant concern for investors and companies. Though a focus on racial equity was fueled by country-wide racial justice protests in 2020, progress on boardroom diversity remains slow;

The Proponent has engaged Badger Meter (“the Company”) on persistent board diversity concerns and the potential negative effect on long-term share value since fall 2016. After a similar proposal garnered 85% of the shareholder vote at the 2021 annual meeting, the company added one racially diverse board member. While this is an important step forward, 89% of the expanded board still self-identifies as non-diverse by race or ethnicity and, to the Proponent’s knowledge, the Company has not set in place actionable plans to achieve greater board diversity;

Research has shown that diverse teams are beneficial in many ways, including a higher likelihood to “radically innovate and anticipate shifts in consumer needs and consumption patterns—helping their companies to gain a competitive edge”¹ and likeliness to outperform industry peers on profitability over time. Importantly, it has also been found that the level of diversity matters, with a 48% performance differential between most and least diverse companies²;

Research has also demonstrated that the “critical mass” for diversity on boards is three or more. At this level, the diverse members can “cause a fundamental change in the boardroom and enhance corporate governance.”³ While this study focused on gender diversity on boards, the Proponent asserts its applicability to people of color as well and notes that the Company’s board has not met this critical mass level for gender diversity either;

The Proponent believes that committing to concrete, actionable steps to further diversify the board of directors would serve the long-term value of shareholders and the company.

RESOLVED: Shareholders request that the Board of Directors report to shareholders within six months after the Company’s annual meeting, at reasonable expense excluding confidential information, with action steps to foster greater racial equity on the board.

SUPPORTING STATEMENT:

The Proponent suggests that among the strategies the Company could explore include, at board and management discretion, are: engaging a search firm for each board search, board diversity goals, requiring at least two candidates of color in each candidate pool, considering a board refreshment policy, examining the potential limits to increases in diversity from using current board member networks for recruitment, and other strategies that balance candidate qualifications and diversity. In defining “racial equity,” the Proponent suggests the Company use comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI.

¹ McKinsey & Company, *Women in the Workplace* 2019

² McKinsey & Company, *Diversity Wins* 2020

³ Kramer, V. W., Konrad, A. M., Erkut, S., *Critical Mass on Corporate Boards: Why Three or More Women Enhance Governance*. 2006

ANALYSIS

The Proposal is not substantially implemented under Rule 14a-8(i)(10).

The Proposal requests that Badger Meter, Inc. (“Badger Meter” or the “Company”) report to shareholders within six months after the Company’s annual meeting, at reasonable expense and excluding confidential information, with action steps to foster greater racial equity on the board. The supporting statement of the proposal describes the strategies the Company could explore, at board and management discretion, such as: engaging a search firm for each board search, setting board diversity goals, requiring at least two candidates of color in each candidate pool, considering a board refreshment policy, examining the potential limits to increases in diversity from using current board member networks for recruitment, and other strategies that balance candidate qualifications and diversity.

The Company Letter asserts that the Proposal may be excluded from the 2022 Proxy Materials as substantially implemented pursuant to Rule 14a-8(i)(10). In order for the Company to meet its burden of proving substantial implementation pursuant to Rule 14a-8(i)(10), it must show that its activities meet the guidelines and essential purpose of the proposal. The Staff has noted that a determination that a company has substantially implemented a proposal depends upon whether a company’s particular policies, practices, and procedures compare favorably with the guidelines of the proposal. *Texaco, Inc.* (Mar. 28, 1991). Substantial implementation under Rule 14a-8(i)(10) requires a company’s actions to have satisfactorily addressed *both* the proposal’s guidelines and its essential objective. See, e.g., *Exelon Corp.* (Feb. 26, 2010).

Thus, when a company can demonstrate that it has already taken action that meet most of the guidelines of a proposal and the proposal’s essential purpose, the Staff has concurred that the proposal has been “substantially implemented.” In the current instance, the Company has substantially fulfilled *neither* the guidelines nor the essential purpose of the Proposal.

Guidelines and essential purpose of the Proposal

The current Proposal’s guidelines request that Badger Meter report to shareholders on action steps the Company intends to take to promote greater racial equity on the board, noting that after a long period of having zero racially or ethnically diverse board members that the Company’s board recently added one diverse member. The Proposal acknowledges the importance of this step; however, the essential purpose of the Proposal is to allow shareholders to assess what commitments and action steps the Company *will take* to achieve greater *racial equity* on the board, beyond what it has already done and what is reported in the Proposal itself.

The Company Letter focuses its argument on the Company’s 2021 Report on Board Diversity (the “Report”) that describes the steps taken to improve board diversity. However, the Proposal does not ask for affirmation or description of the Company’s prior board diversity initiatives that led to its recent appointment of a single diverse board member. Rather, the Proposal asks for forward-looking action steps describing how the Company will continue to promote greater racial equity on the board in the coming years. Unfortunately, even after the overwhelming support for greater racial equity on the board by shareholders, the Company has failed to provide concrete action steps on how it intends to increase racial equity on the board

moving forward.

It should also be noted that the improvement in diversity that is reported is an increase from zero people of color to one, not an improvement of enough diverse board members that would allow the board to achieve or approach racial equity. The Proposal specifically seeks reporting to shareholders on action steps intended to achieve racial equity on the board. The Company does not define or describe what “racial equity” (or similar terminology) means to the Company. Without a definition or description of its goals related to this issue, the Company’s report does not implement the Proposal.

The Proposal suggests that in defining “racial equity,” the Company use comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI. Using these suggested comparisons, the Company has clearly not reached *any level* of racial equity on the board. Milwaukee is at least 55% non-white¹ and the U.S. population is at least 42% non-white.² Using these measures, racial equity for a 9-person board would require approximately 4-5 racially or ethnically diverse board members. This is a stark comparison against the Company’s recent addition of a single racially diverse board member.

As it stands, the Company’s report makes no commitments nor describes intended action steps related to the solutions requested in the Proposal. Badger Meter has published brochure-worthy content on its activities on board diversity in response to the Proponent’s similar 2021 shareholder proposal; however, what it has failed to disclose are future commitments and strategies that translate into the sought-after outcomes of continuing to produce progress on racial equity on the board. Thus, the disclosures that Badger Meter has provided in the 2021 Report on Board Diversity implements neither the guidelines nor the essential purpose of the proposal.

For example, although the Report on Board Diversity states that the Company “engaged a board search firm to expand the pool of qualified candidates” during the last year, the report does not commit to using a search firm in the future to continue to expand board diversity. The Company Letter also fails to commit to using this strategy or taking any similar steps going forward, so it misses the mark in responding to the Proposal.

¹ <https://www.census.gov/quickfacts/milwaukeecitywisconsin>

² <https://www.census.gov/library/visualizations/interactive/racial-and-ethnic-diversity-in-the-united-states-2010-and-2020-census.html>

The chart below compares the Report on Board Diversity with the Proposal’s requests:

Badger Meter Diversity Report	Proposal’s Requests
<p>The board monitors its own mix of skills, experiences, and backgrounds in order to function effectively and has an annual self-evaluation process.</p>	<p>This statement does not address the longstanding lack of diversity on the board. If the board’s existing self-evaluation process prioritized board diversity, that process would have highlighted the absence of diversity on the board and it would have prompted action on the issue. In fact, it was the supermajority vote at the annual meeting on the 2021 version of the Proposal that apparently initiated the Company’s examination of whether its board was sufficiently diverse (with, at the time, zero racially or ethnically diverse members).</p> <p>The Proponent feels that the longstanding lack of diversity demonstrates that the Company’s existing monitoring and evaluation processes, as described in the Report on Board Diversity, have failed to produce a diverse board and therefore do not qualify as action steps that will foster racial equity on the board.</p>
<p>The director selection process is designed to identify and nominate the strongest director candidates from all available sources.</p>	<p>In failing to describe what “all available sources” are, the Company has missed an opportunity to demonstrate to shareholders that it takes the issue seriously and has researched sources that will generate diverse director candidates.</p> <p>The Company’s “sources” have previously resulted – almost exclusively – in non-diverse and/or non-diverse male director appointments. In order to diversify the board, companies often need to expand recruitment networks by, for example, developing relationships with diverse alumni networks specific to board recruitment, engage diversity-specialized board search firms, acknowledge that existing board networks will not lead to a racially equitable board,</p>

	<p>and/or join networking organizations dedicated to board diversification.</p> <p>The Report on Board Diversity’s statement of using “all available sources” does not report to shareholders on whether the company will take concrete actions to diversify the networks it draws from when identifying candidates. For example, a commitment in line with the Proposal’s request could be the Company naming specific sources it intends to use or draw from such as Diverse Director Data Source, Catalyst Corporate Board Resource, Board Prospects, Women on Boards, theBoardlist, Board Ready, and the Latino Corporate Directors Association.</p>
<p>The Company proactively included a voluntary disclosure of both gender and self-identified racial/ethnic diversity of the Board in its 2021 Proxy...</p>	<p>While appreciated, this is not an action step that will increase diversity on the board unless the Company is responsive to the data that are shown. Without firm commitments and an action plan to further diversify the board of directors, disclosure of the fact that 89% of the board self-identifies as not racially or ethnically diverse does not qualify as implementation of the Proposal.</p> <p>Because the Company did not previously appear responsive to these data – that for many years the board was 0% racially or ethnically diverse – shareholders cannot assume that these disclosures will be used as a catalyst for further diversification of the board.</p>
<p>The Company’s Principles of Corporate Governance state the Company is committed to “actively seeking out highly qualified women and racial/ethnically diverse minority candidates, as well as candidates with diverse backgrounds, skills and experiences as part of all board searches the company undertakes . . .”</p>	<p>The Company’s current Principles of Corporate Governance have been in place since the Proponent’s February 2017 engagement with the Company. While these statements are important for any board that seeks to attract diverse candidates, the 2017 revisions to this document did not result in an increase on diversity on the board without the Proponent’s 2021 engagement resulting in the majority support of shareholders. The</p>

	<p>implementation of revised Principles of Corporate Governance, as described, is not a new action step.</p> <p>Furthermore, the Company’s Letter implies that these Principles substantially implement the Proposal’s suggestion to set board diversity goals. These Principles are unrelated to goal-setting on board diversity. Nowhere in this document does the Company commit to or even suggest a goal. There is no contemplation of diversity quotas, goals, or specific aspirations in these Principles.</p> <p>The Company’s Letter also implies that the Proposal’s suggestion of requiring “at least two candidates of color in each candidate pool” has been implemented through its 2017 update to the Principles of Corporate Governance. Again, as noted above, the Principles of Corporate Governance do not <i>commit</i> the Company to having specific numbers of women or diverse people in the candidate pool, let alone require more than one candidate of color for each board search. The Company’s updated governance document simply commits the Company to “seeking out” diverse candidates.</p>
<p>The Governance Committee of the Board of Directors engaged a board search firm to expand the pool of qualified candidates from which Board nominees are chosen, including underrepresented minority candidates.</p>	<p>The Proponent appreciates that the Company engaged a board search firm; however, the Report does not commit the Company to using such a search firm again for future board searches, nor has the Company committed to engaging a diversity-focused search firm.</p>
<p>The Company engaged with large shareholders (“6 of the Company’s top 10 shareholders”), which the Company appears to assert implements the Proposal’s request on expanding recruitment networks.</p>	<p>The Company Letter seems to indicate that its engagement with large shareholders (“6 of the Company’s top 10 shareholders”) implements the Proposal’s request related to examining “potential limits to increases in diversity from using current board member networks for recruitment.” It is well-known that when board members pull from their existing</p>

	<p>networks that the board is likely to remain homogenous. The Proposal does not contemplate whether the Company should expand its network by engaging with large institutional shareholders, but rather the Proposal encourages the board to critically and honestly examine the limitations that its own networks can offer in terms of diversity, then to consider how it can expand those networks through targeted outreach and network-building in groups specifically related to diverse directorships and executives.</p>
<p>The Company appointed a new board member in August 2021 in preparation for an upcoming mandatory Board retirement... who is racially diverse.</p>	<p>The Proponent applauds the addition of Mr. Brooks, the first racially diverse board member appointed to the Company’s board of directors in many years. However, the essential purpose of the Proposal relates to strategies the Company seeks to employ in order to promote <i>racial equity</i> on its board. Appointing a single diverse director without a firm commitment to further diversify through stated action steps invites criticisms of tokenism. The appointment of a single diverse board member does not implement the shareholder proposal.</p>
<p>The Report refers to a variety of other diversity-related initiatives that are unrelated to board diversity, such as:</p> <ul style="list-style-type: none"> • SASB/GRI reporting on employee diversity • Executive team diversity • Partnerships with minority hiring agencies (for the workforce) • Pay equity monitoring • Maintaining a human rights policy • Supporting the Equality Act • Signing the local MMAC Diversity Pledge • Memberships in other organizations 	<p>Initiatives described in the Report after the “by the company” header appear to relate specifically to the Company’s workforce. While they are admirable, they are <u>not</u> related to the board and therefore not implementation of the Proposal. The Proponent is concerned that they are distractions from the reality that the Company has not taken similar steps – which could actually implement the Proposal – for the board of directors. The Company makes no claims that it intends to recruit potential <i>board members</i> through these initiatives.</p>

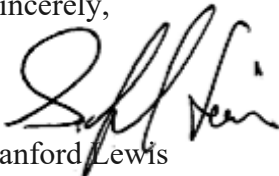
In 2021, after a proposal similar to the current Proposal garnered 85% of the shareholder vote, the Company achieved the appointment of a single diverse director. While one diverse director is a welcomed improvement over zero, the essential objective of the Proposal is to understand how the Company intends to go beyond that – to achieve racial equity in the board composition.

Research has suggested that critical mass is achieved when a board appoints at least three diverse board members or when 35% of the board is diverse.³ When critical mass is achieved, the voices of diverse board members become less marginalized, are taken more seriously, and become more influential. Research has also shown that diversity in leadership, which can reasonably be extrapolated to apply to board diversity, can bring financial benefits to the most diverse companies with a growing gap between leaders and laggards.⁴ The essential objective of the current Proposal is to address the risk of the Company becoming a laggard as it relates to board diversity. The Company's Report on Board Diversity fails to address the causes of or remedies for this issue of persistent low diversity levels nor the potential risks if the appointment of a single diverse director may be perceived as tokenism.

CONCLUSION

Based on the foregoing, we believe it is clear that the Company has provided no basis for the conclusion that the Proposal is excludable from the 2022 proxy statement pursuant to Rule 14a-8(i)(10). As such, we respectfully request that the Staff inform the company that it is denying the no-action request.

Sincerely,



Sanford Lewis

³ Kramer, V. W., Konrad, A. M., Erkut, S., Critical Mass on Corporate Boards: Why Three or More Women Enhance Governance. 2006

⁴ <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-wins-how-inclusion-matters>

January 27, 2022

VIA EMAIL (shareholderproposals@sec.gov)

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Badger Meter, Inc. – Omission of Stockholder Proposal by NorthStar Asset Management, Inc. Funded Pension Plan Pursuant to Rule 14a-8

Ladies & Gentlemen:

This letter is submitted on behalf of our client, Badger Meter Inc., a Wisconsin corporation (the “Company”), in response to the letter dated January 20, 2022, received from Sanford J. Lewis (the “Response Letter”), a copy of which is attached as Exhibit A hereto, with respect to a shareholder proposal and related supporting statement (together, the “Proposal”) sponsored by NorthStar Asset Management Inc. Funded Pension Plan (the “Proponent”). This letter supplements our letter dated December 23, 2021 (the “No-Action Request”), requesting that the staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) concur with the Company’s view that it may exclude the Proposal from the proxy materials distributed by the Company in connection with its 2022 annual meeting of shareholders (collectively, the “2022 Proxy Materials”).

The No-Action Request sets for the bases for our view that the Proposal may be excluded from the 2022 Proxy Materials pursuant to Rule 14a-8(i)(10) because the Company has substantially implemented the Proposal. The Response Letter provides no basis to conclude the Proposal should not be excluded pursuant to Rule 14a-8(i)(10). Nevertheless, this letter addresses certain of the arguments raised in the Response Letter.

Pursuant to Staff Legal Bulletin No. 14D (November 7, 2008) (“SLB No. 14D”), we are submitting this letter to the Staff via e-mail at shareholderproposals@sec.gov. In accordance with Rule 14a-8(j) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), copies of this letter are concurrently being sent to the Proponent.

As a reminder, the Proposal states the following:

WHEREAS:

In the U.S., the lack of diversity on corporate boards of directors has become a significant concern for investors and companies. Though a focus on racial equity was

fueled by country-wide racial justice protests in 2020, progress on boardroom diversity remains slow;

The Proponent has engaged Badger Meter (“the Company”) on persistent board diversity concerns and the potential negative effect on long-term share value since fall 2016. After a similar proposal garnered 85% of the shareholder vote at the 2021 annual meeting, the company added one racially diverse board member. While this is an important step forward, 89% of the expanded board still self-identifies as non-diverse by race or ethnicity and, to the Proponent’s knowledge, the Company has not set in place actionable plans to achieve greater board diversity;

Research has shown that diverse teams are beneficial in many ways, including a higher likelihood to “radically innovate and anticipate shifts in consumer needs and consumption patterns—helping their companies to gain a competitive edge” and likeliness to outperform industry peers on profitability over time. Importantly, it has also been found that the level of diversity matters, with a 48% performance differential between most and least diverse companies;

Research has also demonstrated that the “critical mass” for diversity on boards is three or more. At this level, the diverse members can “cause a fundamental change in the boardroom and enhance corporate governance.” While this study focused on gender diversity on boards, the Proponent asserts its applicability to people of color as well and notes that the Company’s board has not met this critical mass level for gender diversity either;

The Proponent believes that committing to concrete, actionable steps to further diversify the board of directors would serve the long-term value of shareholders and the company.

RESOLVED: *Shareholders request that the Board of Directors report to shareholders within six months after the Company’s annual meeting, at reasonable expense excluding confidential information, with action steps to foster greater racial equity on the board.*

The Proposal includes a Supporting Statement that states the following:

SUPPORTING STATEMENT:

The Proponent suggests that among the strategies the Company could explore include, at board and management discretion, are: engaging a search firm for each board search, board diversity goals, requiring at least two candidates of color in each candidate pool, considering a board refreshment policy, examining the potential limits to increases in diversity from using current board member networks for recruitment, and other strategies that balance candidate qualifications and diversity. In defining “racial equity,” the Proponent suggests the Company use comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI.

The No-Action Request describes in detail the Company’s Report on Board Diversity published on October 15, 2021 (the “Report”). The Report already addresses the strategies suggested by the Proponent in the Supporting Statement to the Proposal and the Report clearly and methodically explains how the Company will advance diversity and addresses the strategies suggested by Proponent in the Proposal.

In the Response Letter, the Proponent argues that the Proposal has not been substantially implemented. The Proponent argues that the substantial amount of evidence the Company presents to demonstrate the steps it has taken to foster greater racial equity is, in fact, misconstruing the “essential objective” of the Proposal—to describe what the Company will do going forward to further improve board diversity—into a reflection of its discussion of retrospective actions taken. As further described below, this interpretation is inconsistent with both the plain language of the Proposal as well as the contents of the Report. The Response further reinterprets the language of the Proposal to require a definition of “racial equity” and specific outcomes as necessary for substantial implementation, clearly ignoring the Proponent’s definition of “essential objective.”

As we explain below, we continue to believe that the Proposal, as drafted, has been substantially implemented by the Company and is therefore excludable under Rule 14a-8(i)(10).

ANALYSIS

I. The Company describes forward-looking actions, satisfying both the plain language and “essential objective” of the Proposal.

The Proponent argues the Report fails to address any “forward-looking action steps describing how the Company will continue to promote greater racial equity on the board in coming years.” This is false, in addition to discussing forward-looking actions throughout, the Report specifically includes a section titled “The following represents a summary of our ongoing commitments to further advance diversity and inclusion.” Moreover, nowhere in the language of the Proposal does the Proponent actually call for forward-looking or new action steps. Rather, it argues that action steps towards racial diversity serve the long-term value of shareholders and specifically requests a report within six months of the annual meeting that contains “action steps to foster great racial equity on the board.” As written, the Proposal requests the Company report to shareholders on action steps, with no distinction as to

whether this is a request for steps already taken or new steps to be taken in the future. As the Report demonstrates, the Company has already put in significant effort and made progress towards a diverse board in the last few years—progress that is also in line with the “essential objective” of the Proposal. The Proponent makes it clear that the Proposal’s “essential objective” is for the Company to explain the “strategies the Company seeks to employ in order to promote racial equity on the board.” The Proponent could have asked for strategies the Company “will seek” if it had specifically wanted a report of exclusively forward-looking actions. The Proponent’s reinterpretation of its own language to require exclusively forward-looking actions and to discount the actions the board has already taken does not make the Proposal any less substantially implemented.

The Staff has previously considered a no-action request in which the proponent attempted to alter the scope of the proposal and ultimately concurred in excluding the proposal based on its plain language. In *Entergy Corporation* (Feb. 14, 2014), the proposal, requested that the company prepare a report on policies it “could adopt” to reduce its greenhouse gas emissions consistent with the national goal of 80% reduction in greenhouse gas emissions by 2050. The Staff concurred with the company that the proposal could be excluded under 14a-8(i)(10) based on the plain reading of the proposal as written, noting that the company’s public disclosures, which included description of its policies to reduce greenhouse gas emissions, compared favorably with the guidelines of the proposal. The Staff rejected the proponent’s claims that the core focus of the proposal was a tangential discussion in the supporting statement.

In the same way, the Company requests that the Staff concur with the Company to exclude the Proposal under 14a-8(i)(10). Even though the Proponent attempts to alter the scope of the Proposal, the plain language of the Proposal does not request exclusively forward-looking actions.

Moreover, the No-Action Request and Report demonstrate that even if the Proponent’s reinterpretation of its own Proposal was appropriate, the Proposal has still been substantially implemented.

In the Response, the Proponent criticizes the Company’s supposed failure to include “forward-looking action steps describing how the Company will continue to promote racial equity on the board.” This criticism ignores the opening paragraph of the Report which states the Report is intended to provide “greater clarity into [the Company’s] diversity approach and the concrete actions [it] continue[s] to undertake,” a statement that is nearly identical to the Proponent’s own language. The mere fact that the Company has already taken some steps or began some practices in the past to foster diversity does not invalidate the fact that the Report describes forward-looking actions the Company intends to take or continue to take in the future. In fact, the vast majority of the action steps that the Report and other Company materials referenced in the No-Action Request describe forward-looking actions, including:

- Committing to “actively **seeking** out highly qualified women and racial/ethnically diverse minority candidates, as well as candidates with diverse backgrounds, skills and experiences as part of all board searches the company undertakes”
- “[E]nsur[ing] each pool of qualified candidates from which Board nominees are chosen includes candidates who bring racial, ethnic and/or gender diversity.”

- “[R]egularly **monitor[ing]** its member’s diverse mix of skills, experiences, backgrounds and other differentiating characteristics in order to assure that the Board has the necessary attributes to perform its oversight function effectively.”
- “[W]orking to enhance and improve employee diversity demographics (both generally and within the management ranks) and **Board diversity**, to levels at least consistent with the broader demographics of the communities in which we operate.”

The board did not merely “seek”, “ensure” or “monitor” in the past, but rather is “seeking”, “ensuring” and “monitoring” now and into the future as strives to continually foster diversity. These are just some examples of forward-looking actions that are intended to foster board diversity and substantially implement the Proposal. Therefore, even if the Company were to accept the Proponent’s novel interpretation of the Proposal, there is no doubt it has been substantially implemented.

II. The Proposal neither calls for a definition of “Racial Equity,” nor requires one for Substantial Implementation.

The Proponent argues that the Report fails to implement the Proposal because it fails to define “racial equity.” Furthermore, the Response Letter argues that the Company has not reached “racial equity” because the Company’s board does not have 4-5 racially or ethnically diverse board members.

First, nowhere in the language of the Proposal does the Proponent request that the board define “racial equity.” The Proponent’s continuous attempts to recast its Proposal in the Response Letter should be seen as what they are, an implicit admission that the Proposal was substantially implemented. Second, the Proponent’s suggestion to define “racial equity” in a quantitative or relational manner is far removed from the original intent of the Proposal. The Report, as is required by the Proposal, focuses on how the Company is fostering greater racial equity rather than taking a prescriptive approach.

III. The Response conflates “action steps” with outcomes.

In the final portion of the Response, the Proponent goes through the items highlighted in the Report by the No-Action Request, claiming that each fails to satisfy the Proposal. For example, the Proponent claims that even though the board monitors its own “mix of skills, experiences, and backgrounds,” a longstanding lack of diversity demonstrates the Company’s existing processes have failed to produce a diverse board and therefore do not qualify as action steps. Throughout this analysis, the Proponent continues to claim that because the actions described in the report have failed to produce a diverse board, they do not qualify as action steps. The Proponent speaks as if the “essential objective” of the Proposal cannot be met until there are a specific number of ethnically diverse members on the board. However, the Proponent itself states in the Response Letter that the “essential purpose of the Proposal relates to strategies the Company seeks to employ in order to promote racial equity on its board.” Even in its own definition, it does not call for a specific outcome. Rather, the Proponent believes the

“essential objective” of the Proposal is **how** the Company intends to strive towards racial equity on the board.

Because this “how” is the critical element of the Proposal, it is incorrect for the Proponent to cite a longstanding lack of diversity on the board as reasons that this Proposal has not been substantially implemented. As the Report describes, it is exactly this longstanding lack of diversity that the actions in the Report are designed to address. A failure of board self-evaluation to produce a diverse board in the past does not mean that this is not a critical action that that board should take, and is taking, to promote diversity in the future. Similarly, just because the Company has an existing commitment to seek out “racial/ethnically diverse minority candidates,” and therefore is not a new action step, it does not mean this is not an important commitment that helps substantially implement the Proposal. The Proposal does not call for new actions or even historically successful actions. Instead, it asks for a report on any action steps, which the Company provided in the Report. Furthermore, the Proponent attempts to recast its supporting statement as the core focus of the Proposal. Notwithstanding the fact that the Company addressed the recommendations in the supporting statement, the Staff has previously rejected proponents’ claims that the core focus of the proposal lies in tangential content within the supporting statement. *Entergy Corporation* (Feb. 14, 2014). Furthermore, we note the falsity of the Proponent’s comment in the Response Letter that the “Company’s current Principles of Corporate Governance have been in place since the Proponent’s February 2017 engagement.” The Company modified its principles of corporate governance in 2021 to strengthen its commitment to diversity, specifically adding the language bolded below:

The board believes that maintaining a diverse membership with varying backgrounds, skills, expertise and other differentiating personal characteristics promotes inclusiveness, enhances the board’s deliberations and enables the board to better represent all of the company’s constituents. Accordingly, the board is committed to seeking out highly qualified women and **racial/ethnically diverse** minority candidates, as well as candidates with diverse backgrounds, skills and experiences as part of **all** board searches the company undertakes **and will ensure each pool of qualified candidates from which board nominees are chosen includes candidates who bring racial, ethnic and/or gender diversity.**

We remind the Proponent that the Proposal need not be implemented exactly as stated in the Proposal. The Staff has regularly excluded proposals under Rule 14a-8(i)(10) when a company has satisfied a proposal’s “essential objective,” and therefore substantially implemented the proposal, **even if the company did not take the exact action requested in a proposal, did not implement every detail of the proposal, or exercised discretion in determining how to implement the proposal.** *General Motors Corp.* (avail. Mar. 4, 1996); *Anheuser-Busch Cos., Inc.* (Jan. 17, 2007); *ConAgra Foods, Inc.* (July 3, 2006); *Johnson & Johnson* (Feb. 17, 2006); *Talbots Inc.* (Apr. 5, 2002). *See also, e.g., Alcoa Inc.* (Feb. 3, 2009) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting a report that describes how the company’s actions to reduce its impact on global climate change may have altered the current and future global climate, where the company published general reports on climate change, sustainability and emissions data on its website); *Dunkin’ Brands Group Inc.* (March 6, 2019) (agreeing a proposal requesting a report on the feasibility of integration of sustainability metrics into the company’s compensation program was substantially implemented where the company met the

Office of Chief Counsel

January 27, 2022

Page 7

“essential objective” of the proposal through existing disclosures). Therefore, it is difficult to see how the Company actions described above and all those described in the No-Action Request are not the substantial implementation of a Proposal calling for progress towards racial equity on the board.

CONCLUSION

Based on the analysis contained in the No-Action Request, we respectfully restate our request that the Staff concur in our view that the Proposal can be excluded from the Company’s 2022 Proxy Materials pursuant to Rule 14a-8(i)(10). If you have any questions or need additional information, please feel free to contact me at (414) 319-7336. In accordance with Staff Legal Bulletin No. 14F (Oct. 18, 2011), please send your response to this letter by email to jhille@foley.com.

I would appreciate if the Staff also would send a copy of any response to William R.A. Bergum, Vice President - General Counsel and Secretary, Badger Meter, Inc., at bbergum@badgermeter.com, and Karen Bauer, Vice President – Investor Relations, Strategy and Treasurer, Badger Meter, Inc. at kbauer@badgermeter.com.

Very truly yours,



Jason M. Hille

Enclosures

cc: Robert A. Wrocklage, Senior Vice President – Chief Financial Officer, Badger Meter, Inc.
William R. A. Bergum, Vice President – General Counsel and Secretary, Badger Meter, Inc.
Karen M. Bauer, Vice President – Investor Relations, Strategy and Treasurer, Badger Meter, Inc.
Peter D. Fetzer, Partner, Foley & Lardner LLP
Julie N.W. Goodridge, Trustee, NorthStar Asset Management, Inc. Funded Pension Plan
Sanford J. Lewis

EXHIBIT A

RESPONSE LETTER

SANFORD J. LEWIS, ATTORNEY

PO Box 231
Amherst, MA 01004-0231
413 549-7333

January 20, 2022
Via electronic mail

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Response to No Action Letter of Badger Meter, Inc. on Diversity & Inclusion Proposal

Ladies and Gentlemen,

NorthStar Asset Management Inc. Funded Pension Plan (the “Proponent”) is a beneficial owner of common stock of Badger Meter, Inc (the “Company”) and has submitted a shareholder proposal (the “Proposal”) to the Company. I am responding, on behalf of the Proponent, to the letter dated December 23, 2021 ("Company Letter"), from Jason M. Hille contending that the Proposal may be excluded from the Company’s 2022 proxy statement. A copy of this letter is being sent concurrently to Jason M. Hille.

SUMMARY

The Proposal urges the Board of Directors to report to shareholders within six months after the Company’s annual meeting with action steps to foster greater racial equity on the board. The supporting statement suggests that the Company consider various strategies to diversify the board that balance candidate qualifications and diversity with the express goal of working towards racial equity. In defining “racial equity,” the Proponent suggests the Company use comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI.

The Company Letter asserts that the Proposal is substantially implemented. For evidence, the Company Letter cites Badger Meter’s 2021 Diversity Report, which does not include forward-looking action steps on how it plans to foster greater racial equity on the board. Instead, the report describes recent progress in improving diversity, which was already recognized in the proposal, and specifically mentions that after a “similar proposal garnered 85% of the shareholder vote at the 2021 annual meeting, the company added one racially diverse board member.” The Company Letter misconstrues the essential purpose of the proposal into a reflection of its discussion of retrospective actions taken, while, in actuality, the Proposal asks the Company to describe what it will do going forward to further improve board diversity.

The Company has not fulfilled the guidelines or essential purpose of the Proposal and thus, has not in any sense fulfilled the ask. Therefore, the Proposal is not excludable under Rule 14a-8(i)(10).

PROPOSAL
Achieving Racial Equity on the Board of Directors

WHEREAS:

In the U.S., the lack of diversity on corporate boards of directors has become a significant concern for investors and companies. Though a focus on racial equity was fueled by country-wide racial justice protests in 2020, progress on boardroom diversity remains slow;

The Proponent has engaged Badger Meter (“the Company”) on persistent board diversity concerns and the potential negative effect on long-term share value since fall 2016. After a similar proposal garnered 85% of the shareholder vote at the 2021 annual meeting, the company added one racially diverse board member. While this is an important step forward, 89% of the expanded board still self-identifies as non-diverse by race or ethnicity and, to the Proponent’s knowledge, the Company has not set in place actionable plans to achieve greater board diversity;

Research has shown that diverse teams are beneficial in many ways, including a higher likelihood to “radically innovate and anticipate shifts in consumer needs and consumption patterns—helping their companies to gain a competitive edge”¹ and likeliness to outperform industry peers on profitability over time. Importantly, it has also been found that the level of diversity matters, with a 48% performance differential between most and least diverse companies²;

Research has also demonstrated that the “critical mass” for diversity on boards is three or more. At this level, the diverse members can “cause a fundamental change in the boardroom and enhance corporate governance.”³ While this study focused on gender diversity on boards, the Proponent asserts its applicability to people of color as well and notes that the Company’s board has not met this critical mass level for gender diversity either;

The Proponent believes that committing to concrete, actionable steps to further diversify the board of directors would serve the long-term value of shareholders and the company.

RESOLVED: Shareholders request that the Board of Directors report to shareholders within six months after the Company’s annual meeting, at reasonable expense excluding confidential information, with action steps to foster greater racial equity on the board.

SUPPORTING STATEMENT:

The Proponent suggests that among the strategies the Company could explore include, at board and management discretion, are: engaging a search firm for each board search, board diversity goals, requiring at least two candidates of color in each candidate pool, considering a board refreshment policy, examining the potential limits to increases in diversity from using current board member networks for recruitment, and other strategies that balance candidate qualifications and diversity. In defining “racial equity,” the Proponent suggests the Company use comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI.

¹ McKinsey & Company, *Women in the Workplace* 2019

² McKinsey & Company, *Diversity Wins* 2020

³ Kramer, V. W., Konrad, A. M., Erkut, S., *Critical Mass on Corporate Boards: Why Three or More Women Enhance Governance*. 2006

ANALYSIS

The Proposal is not substantially implemented under Rule 14a-8(i)(10).

The Proposal requests that Badger Meter, Inc. (“Badger Meter” or the “Company”) report to shareholders within six months after the Company’s annual meeting, at reasonable expense and excluding confidential information, with action steps to foster greater racial equity on the board. The supporting statement of the proposal describes the strategies the Company could explore, at board and management discretion, such as: engaging a search firm for each board search, setting board diversity goals, requiring at least two candidates of color in each candidate pool, considering a board refreshment policy, examining the potential limits to increases in diversity from using current board member networks for recruitment, and other strategies that balance candidate qualifications and diversity.

The Company Letter asserts that the Proposal may be excluded from the 2022 Proxy Materials as substantially implemented pursuant to Rule 14a-8(i)(10). In order for the Company to meet its burden of proving substantial implementation pursuant to Rule 14a-8(i)(10), it must show that its activities meet the guidelines and essential purpose of the proposal. The Staff has noted that a determination that a company has substantially implemented a proposal depends upon whether a company’s particular policies, practices, and procedures compare favorably with the guidelines of the proposal. *Texaco, Inc.* (Mar. 28, 1991). Substantial implementation under Rule 14a-8(i)(10) requires a company’s actions to have satisfactorily addressed *both* the proposal’s guidelines and its essential objective. See, e.g., *Exelon Corp.* (Feb. 26, 2010).

Thus, when a company can demonstrate that it has already taken action that meet most of the guidelines of a proposal and the proposal’s essential purpose, the Staff has concurred that the proposal has been “substantially implemented.” In the current instance, the Company has substantially fulfilled *neither* the guidelines nor the essential purpose of the Proposal.

Guidelines and essential purpose of the Proposal

The current Proposal’s guidelines request that Badger Meter report to shareholders on action steps the Company intends to take to promote greater racial equity on the board, noting that after a long period of having zero racially or ethnically diverse board members that the Company’s board recently added one diverse member. The Proposal acknowledges the importance of this step; however, the essential purpose of the Proposal is to allow shareholders to assess what commitments and action steps the Company *will take* to achieve greater *racial equity* on the board, beyond what it has already done and what is reported in the Proposal itself.

The Company Letter focuses its argument on the Company’s 2021 Report on Board Diversity (the “Report”) that describes the steps taken steps to improve board diversity. However, the Proposal does not ask for affirmation or description of the Company’s prior board diversity initiatives that led to its recent appointment of a single diverse board member. Rather, the Proposal asks for forward-looking action steps describing how the Company will continue to promote greater racial equity on the board in the coming years. Unfortunately, even after the overwhelming support for greater racial equity on the board by shareholders, the Company has failed to provide concrete action steps on how it intends to increase racial equity on the board

moving forward.

It should also be noted that the improvement in diversity that is reported is an increase from zero people of color to one, not an improvement of enough diverse board members that would allow the board to achieve or approach racial equity. The Proposal specifically seeks reporting to shareholders on action steps intended to achieve racial equity on the board. The Company does not define or describe what “racial equity” (or similar terminology) means to the Company. Without a definition or description of its goals related to this issue, the Company’s report does not implement the Proposal.

The Proposal suggests that in defining “racial equity,” the Company use comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI. Using these suggested comparisons, the Company has clearly not reached *any level* of racial equity on the board. Milwaukee is at least 55% non-white¹ and the U.S. population is at least 42% non-white.² Using these measures, racial equity for a 9-person board would require approximately 4-5 racially or ethnically diverse board members. This is a stark comparison against the Company’s recent addition of a single racially diverse board member.

As it stands, the Company’s report makes no commitments nor describes intended action steps related to the solutions requested in the Proposal. Badger Meter has published brochure-worthy content on its activities on board diversity in response to the Proponent’s similar 2021 shareholder proposal; however, what it has failed to disclose are future commitments and strategies that translate into the sought-after outcomes of continuing to produce progress on racial equity on the board. Thus, the disclosures that Badger Meter has provided in the 2021 Report on Board Diversity implements neither the guidelines nor the essential purpose of the proposal.

For example, although the Report on Board Diversity states that the Company “engaged a board search firm to expand the pool of qualified candidates” during the last year, the report does not commit to using a search firm in the future to continue to expand board diversity. The Company Letter also fails to commit to using this strategy or taking any similar steps going forward, so it misses the mark in responding to the Proposal.

¹ <https://www.census.gov/quickfacts/milwaukeecitywisconsin>

² <https://www.census.gov/library/visualizations/interactive/racial-and-ethnic-diversity-in-the-united-states-2010-and-2020-census.html>

The chart below compares the Report on Board Diversity with the Proposal’s requests:

Badger Meter Diversity Report	Proposal’s Requests
<p>The board monitors its own mix of skills, experiences, and backgrounds in order to function effectively and has an annual self-evaluation process.</p>	<p>This statement does not address the longstanding lack of diversity on the board. If the board’s existing self-evaluation process prioritized board diversity, that process would have highlighted the absence of diversity on the board and it would have prompted action on the issue. In fact, it was the supermajority vote at the annual meeting on the 2021 version of the Proposal that apparently initiated the Company’s examination of whether its board was sufficiently diverse (with, at the time, zero racially or ethnically diverse members).</p> <p>The Proponent feels that the longstanding lack of diversity demonstrates that the Company’s existing monitoring and evaluation processes, as described in the Report on Board Diversity, have failed to produce a diverse board and therefore do not qualify as action steps that will foster racial equity on the board.</p>
<p>The director selection process is designed to identify and nominate the strongest director candidates from all available sources.</p>	<p>In failing to describe what “all available sources” are, the Company has missed an opportunity to demonstrate to shareholders that it takes the issue seriously and has researched sources that will generate diverse director candidates.</p> <p>The Company’s “sources” have previously resulted – almost exclusively – in non-diverse and/or non-diverse male director appointments. In order to diversify the board, companies often need to expand recruitment networks by, for example, developing relationships with diverse alumni networks specific to board recruitment, engage diversity-specialized board search firms, acknowledge that existing board networks will not lead to a racially equitable board,</p>

	<p>and/or join networking organizations dedicated to board diversification.</p> <p>The Report on Board Diversity’s statement of using “all available sources” does not report to shareholders on whether the company will take concrete actions to diversify the networks it draws from when identifying candidates. For example, a commitment in line with the Proposal’s request could be the Company naming specific sources it intends to use or draw from such as Diverse Director Data Source, Catalyst Corporate Board Resource, Board Prospects, Women on Boards, theBoardlist, Board Ready, and the Latino Corporate Directors Association.</p>
<p>The Company proactively included a voluntary disclosure of both gender and self-identified racial/ethnic diversity of the Board in its 2021 Proxy...</p>	<p>While appreciated, this is not an action step that will increase diversity on the board unless the Company is responsive to the data that are shown. Without firm commitments and an action plan to further diversify the board of directors, disclosure of the fact that 89% of the board self-identifies as not racially or ethnically diverse does not qualify as implementation of the Proposal.</p> <p>Because the Company did not previously appear responsive to these data – that for many years the board was 0% racially or ethnically diverse – shareholders cannot assume that these disclosures will be used as a catalyst for further diversification of the board.</p>
<p>The Company’s Principles of Corporate Governance state the Company is committed to “actively seeking out highly qualified women and racial/ethnically diverse minority candidates, as well as candidates with diverse backgrounds, skills and experiences as part of all board searches the company undertakes . . .”</p>	<p>The Company’s current Principles of Corporate Governance have been in place since the Proponent’s February 2017 engagement with the Company. While these statements are important for any board that seeks to attract diverse candidates, the 2017 revisions to this document did not result in an increase on diversity on the board without the Proponent’s 2021 engagement resulting in the majority support of shareholders. The</p>

	<p>implementation of revised Principles of Corporate Governance, as described, is not a new action step.</p> <p>Furthermore, the Company’s Letter implies that these Principles substantially implement the Proposal’s suggestion to set board diversity goals. These Principles are unrelated to goal-setting on board diversity. Nowhere in this document does the Company commit to or even suggest a goal. There is no contemplation of diversity quotas, goals, or specific aspirations in these Principles.</p> <p>The Company’s Letter also implies that the Proposal’s suggestion of requiring “at least two candidates of color in each candidate pool” has been implemented through its 2017 update to the Principles of Corporate Governance. Again, as noted above, the Principles of Corporate Governance do not <i>commit</i> the Company to having specific numbers of women or diverse people in the candidate pool, let alone require more than one candidate of color for each board search. The Company’s updated governance document simply commits the Company to “seeking out” diverse candidates.</p>
<p>The Governance Committee of the Board of Directors engaged a board search firm to expand the pool of qualified candidates from which Board nominees are chosen, including underrepresented minority candidates.</p>	<p>The Proponent appreciates that the Company engaged a board search firm; however, the Report does not commit the Company to using such a search firm again for future board searches, nor has the Company committed to engaging a diversity-focused search firm.</p>
<p>The Company engaged with large shareholders (“6 of the Company’s top 10 shareholders”), which the Company appears to assert implements the Proposal’s request on expanding recruitment networks.</p>	<p>The Company Letter seems to indicate that its engagement with large shareholders (“6 of the Company’s top 10 shareholders”) implements the Proposal’s request related to examining “potential limits to increases in diversity from using current board member networks for recruitment.” It is well-known that when board members pull from their existing</p>

	<p>networks that the board is likely to remain homogenous. The Proposal does not contemplate whether the Company should expand its network by engaging with large institutional shareholders, but rather the Proposal encourages the board to critically and honestly examine the limitations that its own networks can offer in terms of diversity, then to consider how it can expand those networks through targeted outreach and network-building in groups specifically related to diverse directorships and executives.</p>
<p>The Company appointed a new board member in August 2021 in preparation for an upcoming mandatory Board retirement... who is racially diverse.</p>	<p>The Proponent applauds the addition of Mr. Brooks, the first racially diverse board member appointed to the Company’s board of directors in many years. However, the essential purpose of the Proposal relates to strategies the Company seeks to employ in order to promote <i>racial equity</i> on its board. Appointing a single diverse director without a firm commitment to further diversify through stated action steps invites criticisms of tokenism. The appointment of a single diverse board member does not implement the shareholder proposal.</p>
<p>The Report refers to a variety of other diversity-related initiatives that are unrelated to board diversity, such as:</p> <ul style="list-style-type: none"> • SASB/GRI reporting on employee diversity • Executive team diversity • Partnerships with minority hiring agencies (for the workforce) • Pay equity monitoring • Maintaining a human rights policy • Supporting the Equality Act • Signing the local MMAC Diversity Pledge • Memberships in other organizations 	<p>Initiatives described in the Report after the “by the company” header appear to relate specifically to the Company’s workforce. While they are admirable, they are <u>not</u> related to the board and therefore not implementation of the Proposal. The Proponent is concerned that they are distractions from the reality that the Company has not taken similar steps – which could actually implement the Proposal – for the board of directors. The Company makes no claims that it intends to recruit potential <i>board members</i> through these initiatives.</p>

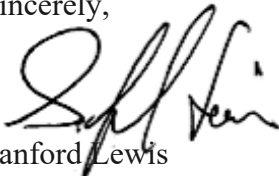
In 2021, after a proposal similar to the current Proposal garnered 85% of the shareholder vote, the Company achieved the appointment of a single diverse director. While one diverse director is a welcomed improvement over zero, the essential objective of the Proposal is to understand how the Company intends to go beyond that – to achieve racial equity in the board composition.

Research has suggested that critical mass is achieved when a board appoints at least three diverse board members or when 35% of the board is diverse.³ When critical mass is achieved, the voices of diverse board members become less marginalized, are taken more seriously, and become more influential. Research has also shown that diversity in leadership, which can reasonably be extrapolated to apply to board diversity, can bring financial benefits to the most diverse companies with a growing gap between leaders and laggards.⁴ The essential objective of the current Proposal is to address the risk of the Company becoming a laggard as it relates to board diversity. The Company's Report on Board Diversity fails to address the causes of or remedies for this issue of persistent low diversity levels nor the potential risks if the appointment of a single diverse director may be perceived as tokenism.

CONCLUSION

Based on the foregoing, we believe it is clear that the Company has provided no basis for the conclusion that the Proposal is excludable from the 2022 proxy statement pursuant to Rule 14a-8(i)(10). As such, we respectfully request that the Staff inform the company that it is denying the no-action request.

Sincerely,



Sanford Lewis

³ Kramer, V. W., Konrad, A. M., Erkut, S., Critical Mass on Corporate Boards: Why Three or More Women Enhance Governance. 2006

⁴ <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-wins-how-inclusion-matters>

February 3, 2022
Via electronic mail

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Shareholder Proposal to Badger Meter, Inc. Regarding board diversity on Behalf of NorthStar Asset Management, Inc. Funded Pension Plan

Ladies and Gentlemen:

I am writing as the proponent to respond to Badger Meter, Inc.'s supplemental no-action request. Our attorney Sanford Lewis previously wrote in response to the no-action request on January 20. Jason M. Hille of Foley & Lardner LLP sent a supplemental letter on behalf of the company dated January 27, 2022 ("Supplemental Letter"). A copy of this response letter is being emailed concurrently to Mr. Hille.

In my opinion as the proponent, the Company is abusing the no-action process in a legalistic manner that feels a kin to gaslighting. The sequence of events in relation to this company and its board diversification efforts tell a different story from the distorted interpretation of our proposal that the company seeks to advance in its correspondence.

Our proposal was filed after the company had made some forward movement, including addition of a new board member as well as wording changes to its corporate governance documents. However, as the proponent, and in our engagements with the company, we have found their commitment to board diversity to continue to be vague and that's why we filed a proposal that clearly states that it is seeking a report on action steps the company will take to improve the situation: "Shareholders request that the Board of Directors report to shareholders within six months after the Company's annual meeting, at reasonable expense excluding confidential information, with action steps to foster greater racial equity on the board." It is obvious that our proposal seeks action steps -- new ideas or strategies to remedy the problem.

In its whereas clauses, our proposal establishes the current status of the board (89% white non-Hispanic), explains the available research that demonstrates the business benefits of a diverse board, and then explains that we are seeking "concrete, actionable steps to further diversify the board of directors" to serve the long-term value of the Company's shareholders. Any plain reading of the Proposal would correctly understand it as a request for new actions. In common parlance, concrete "actionable steps" is not equivalent to "things the Company has already done."

While we recognize the progress over the last year including the changes to the Principles of Corporate Governance, the 85% of investors who supported the proposal in 2021 should be afforded the opportunity to vote once again on whether more action is needed to diversify the board.

The challenge of diversifying the board at Badger Meter Inc. is a work-in-progress. The current proposal is not substantially implemented. It is appropriate for the Company's shareholders to consider the proposal and to further advise the Company on whether the progress to diversify the board suffices, or whether more action steps are needed.

We urge the Staff to reject the Company's claim that the proposal is substantially implemented and notify the Company that the proposal must appear on the proxy.

Thank you for your consideration.

Sincerely,



Julie N.W. Goodridge
CEO, NorthStar Asset Management, Inc.
Trustee, NorthStar Asset Management, Inc. Funded Pension Plan

February 7, 2022

VIA EMAIL (shareholderproposals@sec.gov)

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Badger Meter, Inc. – Omission of Stockholder Proposal by NorthStar Asset Management, Inc. Funded Pension Plan Pursuant to Rule 14a-8

Ladies & Gentlemen:

This letter is submitted on behalf of our client, Badger Meter Inc., a Wisconsin corporation (the “Company”), in response to the letter dated February 3, 2022, received from Julie N.W. Goodridge (the “Second Response Letter”), a copy of which is attached as Exhibit A hereto, with respect to a shareholder proposal and related supporting statement (together, the “Proposal”) sponsored by NorthStar Asset Management, Inc. Funded Pension Plan (the “Proponent”). Also attached in Exhibit A hereto is a letter dated January 20, 2022, received from Sanford Lewis, drafted on behalf of the Proponent (the “First Response Letter”). This letter supplements our letters dated December 23, 2021 (the “No-Action Request”) and January 27, 2022 (the “Company Response”), requesting that the staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) concur with the Company’s view that it may exclude the Proposal, attached hereto as Exhibit B, from the proxy materials distributed by the Company in connection with its 2022 annual meeting of shareholders (collectively, the “2022 Proxy Materials”).

The No-Action Request sets forth the bases for our view that the Proposal may be excluded from the 2022 Proxy Materials pursuant to Rule 14a-8(i)(10) because the Company has substantially implemented the Proposal. The First Response Letter and Second Response Letter provide no basis to conclude the Proposal should not be excluded pursuant to Rule 14a-8(i)(10). Nevertheless, this letter addresses certain of the arguments raised in the Second Response Letter.

Pursuant to Staff Legal Bulletin No. 14D (November 7, 2008) (“SLB No. 14D”), we are submitting this letter to the Staff via e-mail at shareholderproposals@sec.gov. In accordance with Rule 14a-8(j) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), copies of this letter are concurrently being sent to the Proponent.

First, we reaffirm our stance that the Report provides clear action steps to increase the racial diversity of the Company's board. In the Second Response Letter, the Proponent states that it has "found [the Company's] commitment to board diversity to continue to be vague and that's why [the Proponent] filed a proposal that clearly states that it is seeking a report on action steps." As described in detail in the No-Action Request and Company Response Letter, the Company published a Report on Board Diversity on October 15, 2021 (the "Report") attached hereto as Exhibit C. The Report, issued a month before the Proposal was received on November 15, 2021, details specific action steps directly related to board diversity. As analyzed in the chart on pages 5-9 of the No-Action Request, many of these action steps are directly responsive to the strategies suggested by Proponent in its Supporting Statement. The Proponent does not provide adequate support to its statement that the Report is vague nor why the issuance of a new report would benefit the Company's shareholders shortly after the Report was published.

Second, we reaffirm our stance that the Report substantially implements the Proposal. In the Company Response Letter, we argue that the Proponent's reinterpretation of the Proposal to demand exclusively "forward-looking action steps" is inappropriate when the plain language of the Proposal calls for "action steps to foster greater racial equity on the board." We further state that even if the Proposal had called for "forward-looking action steps," the contents of the Report still substantially implemented such request. The Proponent is correct that some of the actions described in the Report, such as the regular monitoring of member backgrounds, the annual self-evaluation process and the active search for qualified racially and ethnically diverse candidates, have happened in the past. However, the Proponent fails to acknowledge that these actions are ongoing and constitute future actions, as well as past ones. The fact that some of the requested actions are also ongoing, and were initiated prior to the Proposal, does not preclude a conclusion that the actions are "forward-looking steps" or that the Proposal is substantially implemented.

Finally, we reaffirm our stance that the Proponent should not be permitted to alter the scope of the Proposal beyond its plain language. In the Second Response Letter, the Proponent reinterprets the Proposal in two ways. First, it replaces a demand for "forward-looking action steps" with "new action steps" by stating that "it is obvious that our proposal [sic] seeks . . . new ideas or strategies to remedy the problem" and that "any plain reading of the Proposal would correctly understand it as a request for new actions." We disagree that a plain reading of the Proposal requests new actions and ask that the Staff not allow the Proponent to retroactively alter the scope of the Proposal.

Second, it states that "the 85% of investors who supported the proposal in 2021 should be afforded the opportunity to vote once again on whether more action is needed to diversify the board." This statement substantially alters the language of the Proposal, which, as written, would have shareholders voting on whether the Company should be required to issue a report describing action steps towards racial equity. This is materially different than a shareholder vote on "whether more action is needed." The Proponent's reinterpretation is inconsistent with a plain reading of the language and the essential objective (defined by the Proponent to be the Company's explanation of the "strategies [it] seeks to employ in order to promote racial equity on the board").

Office of Chief Counsel
February 7, 2022
Page 3

The Company acknowledges that its efforts to diversify its board is an ongoing journey and in the Report committed to specific, actionable steps to advance such diversity. The fact that board diversity is a “work-in-progress” does not mean the Proposal is not substantially implemented.

CONCLUSION

Based on the analysis contained in the No-Action Request, we respectfully restate our request that the Staff concur in our view that the Proposal can be excluded from the Company’s 2022 Proxy Materials pursuant to Rule 14a-8(i)(10). If you have any questions or need additional information, please feel free to contact me at (414) 319-7336. In accordance with Staff Legal Bulletin No. 14F (Oct. 18, 2011), please send your response to this letter by email to jhille@foley.com.

I would appreciate if the Staff also would send a copy of any response to William R.A. Bergum, Vice President - General Counsel and Secretary, Badger Meter, Inc., at bbergum@badgermeter.com and Karen Bauer, Vice President – Investor Relations, Strategy and Treasurer, Badger Meter, Inc. at kbauer@badgermeter.com.

Very truly yours,



Jason M. Hille

Enclosures

cc: Robert A. Wrocklage, Senior Vice President – Chief Financial Officer, Badger Meter, Inc.
William R. A. Bergum, Vice President – General Counsel and Secretary, Badger Meter, Inc.
Karen M. Bauer, Vice President – Investor Relations, Strategy and Treasurer, Badger Meter, Inc.
Peter D. Fetzer, Partner, Foley & Lardner LLP
Julie N.W. Goodridge, Trustee, NorthStar Asset Management, Inc. Funded Pension Plan
Sanford J. Lewis

EXHIBIT A

RESPONSE LETTERS

February 3, 2022
Via electronic mail

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Shareholder Proposal to Badger Meter, Inc. Regarding board diversity on Behalf of NorthStar Asset Management, Inc. Funded Pension Plan

Ladies and Gentlemen:

I am writing as the proponent to respond to Badger Meter, Inc.'s supplemental no-action request. Our attorney Sanford Lewis previously wrote in response to the no-action request on January 20. Jason M. Hille of Foley & Lardner LLP sent a supplemental letter on behalf of the company dated January 27, 2022 ("Supplemental Letter"). A copy of this response letter is being emailed concurrently to Mr. Hille.

In my opinion as the proponent, the Company is abusing the no-action process in a legalistic manner that feels a kin to gaslighting. The sequence of events in relation to this company and its board diversification efforts tell a different story from the distorted interpretation of our proposal that the company seeks to advance in its correspondence.

Our proposal was filed after the company had made some forward movement, including addition of a new board member as well as wording changes to its corporate governance documents. However, as the proponent, and in our engagements with the company, we have found their commitment to board diversity to continue to be vague and that's why we filed a proposal that clearly states that it is seeking a report on action steps the company will take to improve the situation: "Shareholders request that the Board of Directors report to shareholders within six months after the Company's annual meeting, at reasonable expense excluding confidential information, with action steps to foster greater racial equity on the board." It is obvious that our proposal seeks action steps -- new ideas or strategies to remedy the problem.

In its whereas clauses, our proposal establishes the current status of the board (89% white non-Hispanic), explains the available research that demonstrates the business benefits of a diverse board, and then explains that we are seeking "concrete, actionable steps to further diversify the board of directors" to serve the long-term value of the Company's shareholders. Any plain reading of the Proposal would correctly understand it as a request for new actions. In common parlance, concrete "actionable steps" is not equivalent to "things the Company has already done."

While we recognize the progress over the last year including the changes to the Principles of Corporate Governance, the 85% of investors who supported the proposal in 2021 should be afforded the opportunity to vote once again on whether more action is needed to diversify the board.

The challenge of diversifying the board at Badger Meter Inc. is a work-in-progress. The current proposal is not substantially implemented. It is appropriate for the Company's shareholders to consider the proposal and to further advise the Company on whether the progress to diversify the board suffices, or whether more action steps are needed.

We urge the Staff to reject the Company's claim that the proposal is substantially implemented and notify the Company that the proposal must appear on the proxy.

Thank you for your consideration.

Sincerely,



Julie N.W. Goodridge
CEO, NorthStar Asset Management, Inc.
Trustee, NorthStar Asset Management, Inc. Funded Pension Plan

SANFORD J. LEWIS, ATTORNEY

PO Box 231
Amherst, MA 01004-0231
413 549-7333

January 20, 2022
Via electronic mail

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Response to No Action Letter of Badger Meter, Inc. on Diversity & Inclusion Proposal

Ladies and Gentlemen,

NorthStar Asset Management Inc. Funded Pension Plan (the “Proponent”) is a beneficial owner of common stock of Badger Meter, Inc (the “Company”) and has submitted a shareholder proposal (the “Proposal”) to the Company. I am responding, on behalf of the Proponent, to the letter dated December 23, 2021 ("Company Letter"), from Jason M. Hille contending that the Proposal may be excluded from the Company’s 2022 proxy statement. A copy of this letter is being sent concurrently to Jason M. Hille.

SUMMARY

The Proposal urges the Board of Directors to report to shareholders within six months after the Company’s annual meeting with action steps to foster greater racial equity on the board. The supporting statement suggests that the Company consider various strategies to diversify the board that balance candidate qualifications and diversity with the express goal of working towards racial equity. In defining “racial equity,” the Proponent suggests the Company use comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI.

The Company Letter asserts that the Proposal is substantially implemented. For evidence, the Company Letter cites Badger Meter’s 2021 Diversity Report, which does not include forward-looking action steps on how it plans to foster greater racial equity on the board. Instead, the report describes recent progress in improving diversity, which was already recognized in the proposal, and specifically mentions that after a “similar proposal garnered 85% of the shareholder vote at the 2021 annual meeting, the company added one racially diverse board member.” The Company Letter misconstrues the essential purpose of the proposal into a reflection of its discussion of retrospective actions taken, while, in actuality, the Proposal asks the Company to describe what it will do going forward to further improve board diversity.

The Company has not fulfilled the guidelines or essential purpose of the Proposal and thus, has not in any sense fulfilled the ask. Therefore, the Proposal is not excludable under Rule 14a-8(i)(10).

PROPOSAL
Achieving Racial Equity on the Board of Directors

WHEREAS:

In the U.S., the lack of diversity on corporate boards of directors has become a significant concern for investors and companies. Though a focus on racial equity was fueled by country-wide racial justice protests in 2020, progress on boardroom diversity remains slow;

The Proponent has engaged Badger Meter (“the Company”) on persistent board diversity concerns and the potential negative effect on long-term share value since fall 2016. After a similar proposal garnered 85% of the shareholder vote at the 2021 annual meeting, the company added one racially diverse board member. While this is an important step forward, 89% of the expanded board still self-identifies as non-diverse by race or ethnicity and, to the Proponent’s knowledge, the Company has not set in place actionable plans to achieve greater board diversity;

Research has shown that diverse teams are beneficial in many ways, including a higher likelihood to “radically innovate and anticipate shifts in consumer needs and consumption patterns—helping their companies to gain a competitive edge”¹ and likeliness to outperform industry peers on profitability over time. Importantly, it has also been found that the level of diversity matters, with a 48% performance differential between most and least diverse companies²;

Research has also demonstrated that the “critical mass” for diversity on boards is three or more. At this level, the diverse members can “cause a fundamental change in the boardroom and enhance corporate governance.”³ While this study focused on gender diversity on boards, the Proponent asserts its applicability to people of color as well and notes that the Company’s board has not met this critical mass level for gender diversity either;

The Proponent believes that committing to concrete, actionable steps to further diversify the board of directors would serve the long-term value of shareholders and the company.

RESOLVED: Shareholders request that the Board of Directors report to shareholders within six months after the Company’s annual meeting, at reasonable expense excluding confidential information, with action steps to foster greater racial equity on the board.

SUPPORTING STATEMENT:

The Proponent suggests that among the strategies the Company could explore include, at board and management discretion, are: engaging a search firm for each board search, board diversity goals, requiring at least two candidates of color in each candidate pool, considering a board refreshment policy, examining the potential limits to increases in diversity from using current board member networks for recruitment, and other strategies that balance candidate qualifications and diversity. In defining “racial equity,” the Proponent suggests the Company use comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI.

¹ McKinsey & Company, *Women in the Workplace* 2019

² McKinsey & Company, *Diversity Wins* 2020

³ Kramer, V. W., Konrad, A. M., Erkut, S., *Critical Mass on Corporate Boards: Why Three or More Women Enhance Governance*. 2006

ANALYSIS

The Proposal is not substantially implemented under Rule 14a-8(i)(10).

The Proposal requests that Badger Meter, Inc. (“Badger Meter” or the “Company”) report to shareholders within six months after the Company’s annual meeting, at reasonable expense and excluding confidential information, with action steps to foster greater racial equity on the board. The supporting statement of the proposal describes the strategies the Company could explore, at board and management discretion, such as: engaging a search firm for each board search, setting board diversity goals, requiring at least two candidates of color in each candidate pool, considering a board refreshment policy, examining the potential limits to increases in diversity from using current board member networks for recruitment, and other strategies that balance candidate qualifications and diversity.

The Company Letter asserts that the Proposal may be excluded from the 2022 Proxy Materials as substantially implemented pursuant to Rule 14a-8(i)(10). In order for the Company to meet its burden of proving substantial implementation pursuant to Rule 14a-8(i)(10), it must show that its activities meet the guidelines and essential purpose of the proposal. The Staff has noted that a determination that a company has substantially implemented a proposal depends upon whether a company’s particular policies, practices, and procedures compare favorably with the guidelines of the proposal. *Texaco, Inc.* (Mar. 28, 1991). Substantial implementation under Rule 14a-8(i)(10) requires a company’s actions to have satisfactorily addressed *both* the proposal’s guidelines and its essential objective. See, e.g., *Exelon Corp.* (Feb. 26, 2010).

Thus, when a company can demonstrate that it has already taken action that meet most of the guidelines of a proposal and the proposal’s essential purpose, the Staff has concurred that the proposal has been “substantially implemented.” In the current instance, the Company has substantially fulfilled *neither* the guidelines nor the essential purpose of the Proposal.

Guidelines and essential purpose of the Proposal

The current Proposal’s guidelines request that Badger Meter report to shareholders on action steps the Company intends to take to promote greater racial equity on the board, noting that after a long period of having zero racially or ethnically diverse board members that the Company’s board recently added one diverse member. The Proposal acknowledges the importance of this step; however, the essential purpose of the Proposal is to allow shareholders to assess what commitments and action steps the Company *will take* to achieve greater *racial equity* on the board, beyond what it has already done and what is reported in the Proposal itself.

The Company Letter focuses its argument on the Company’s 2021 Report on Board Diversity (the “Report”) that describes the steps taken to improve board diversity. However, the Proposal does not ask for affirmation or description of the Company’s prior board diversity initiatives that led to its recent appointment of a single diverse board member. Rather, the Proposal asks for forward-looking action steps describing how the Company will continue to promote greater racial equity on the board in the coming years. Unfortunately, even after the overwhelming support for greater racial equity on the board by shareholders, the Company has failed to provide concrete action steps on how it intends to increase racial equity on the board

moving forward.

It should also be noted that the improvement in diversity that is reported is an increase from zero people of color to one, not an improvement of enough diverse board members that would allow the board to achieve or approach racial equity. The Proposal specifically seeks reporting to shareholders on action steps intended to achieve racial equity on the board. The Company does not define or describe what “racial equity” (or similar terminology) means to the Company. Without a definition or description of its goals related to this issue, the Company’s report does not implement the Proposal.

The Proposal suggests that in defining “racial equity,” the Company use comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI. Using these suggested comparisons, the Company has clearly not reached *any level* of racial equity on the board. Milwaukee is at least 55% non-white¹ and the U.S. population is at least 42% non-white.² Using these measures, racial equity for a 9-person board would require approximately 4-5 racially or ethnically diverse board members. This is a stark comparison against the Company’s recent addition of a single racially diverse board member.

As it stands, the Company’s report makes no commitments nor describes intended action steps related to the solutions requested in the Proposal. Badger Meter has published brochure-worthy content on its activities on board diversity in response to the Proponent’s similar 2021 shareholder proposal; however, what it has failed to disclose are future commitments and strategies that translate into the sought-after outcomes of continuing to produce progress on racial equity on the board. Thus, the disclosures that Badger Meter has provided in the 2021 Report on Board Diversity implements neither the guidelines nor the essential purpose of the proposal.

For example, although the Report on Board Diversity states that the Company “engaged a board search firm to expand the pool of qualified candidates” during the last year, the report does not commit to using a search firm in the future to continue to expand board diversity. The Company Letter also fails to commit to using this strategy or taking any similar steps going forward, so it misses the mark in responding to the Proposal.

¹ <https://www.census.gov/quickfacts/milwaukeecitywisconsin>

² <https://www.census.gov/library/visualizations/interactive/racial-and-ethnic-diversity-in-the-united-states-2010-and-2020-census.html>

The chart below compares the Report on Board Diversity with the Proposal’s requests:

Badger Meter Diversity Report	Proposal’s Requests
<p>The board monitors its own mix of skills, experiences, and backgrounds in order to function effectively and has an annual self-evaluation process.</p>	<p>This statement does not address the longstanding lack of diversity on the board. If the board’s existing self-evaluation process prioritized board diversity, that process would have highlighted the absence of diversity on the board and it would have prompted action on the issue. In fact, it was the supermajority vote at the annual meeting on the 2021 version of the Proposal that apparently initiated the Company’s examination of whether its board was sufficiently diverse (with, at the time, zero racially or ethnically diverse members).</p> <p>The Proponent feels that the longstanding lack of diversity demonstrates that the Company’s existing monitoring and evaluation processes, as described in the Report on Board Diversity, have failed to produce a diverse board and therefore do not qualify as action steps that will foster racial equity on the board.</p>
<p>The director selection process is designed to identify and nominate the strongest director candidates from all available sources.</p>	<p>In failing to describe what “all available sources” are, the Company has missed an opportunity to demonstrate to shareholders that it takes the issue seriously and has researched sources that will generate diverse director candidates.</p> <p>The Company’s “sources” have previously resulted – almost exclusively – in non-diverse and/or non-diverse male director appointments. In order to diversify the board, companies often need to expand recruitment networks by, for example, developing relationships with diverse alumni networks specific to board recruitment, engage diversity-specialized board search firms, acknowledge that existing board networks will not lead to a racially equitable board,</p>

	<p>and/or join networking organizations dedicated to board diversification.</p> <p>The Report on Board Diversity’s statement of using “all available sources” does not report to shareholders on whether the company will take concrete actions to diversify the networks it draws from when identifying candidates. For example, a commitment in line with the Proposal’s request could be the Company naming specific sources it intends to use or draw from such as Diverse Director Data Source, Catalyst Corporate Board Resource, Board Prospects, Women on Boards, theBoardlist, Board Ready, and the Latino Corporate Directors Association.</p>
<p>The Company proactively included a voluntary disclosure of both gender and self-identified racial/ethnic diversity of the Board in its 2021 Proxy...</p>	<p>While appreciated, this is not an action step that will increase diversity on the board unless the Company is responsive to the data that are shown. Without firm commitments and an action plan to further diversify the board of directors, disclosure of the fact that 89% of the board self-identifies as not racially or ethnically diverse does not qualify as implementation of the Proposal.</p> <p>Because the Company did not previously appear responsive to these data – that for many years the board was 0% racially or ethnically diverse – shareholders cannot assume that these disclosures will be used as a catalyst for further diversification of the board.</p>
<p>The Company’s Principles of Corporate Governance state the Company is committed to “actively seeking out highly qualified women and racial/ethnically diverse minority candidates, as well as candidates with diverse backgrounds, skills and experiences as part of all board searches the company undertakes . . .”</p>	<p>The Company’s current Principles of Corporate Governance have been in place since the Proponent’s February 2017 engagement with the Company. While these statements are important for any board that seeks to attract diverse candidates, the 2017 revisions to this document did not result in an increase on diversity on the board without the Proponent’s 2021 engagement resulting in the majority support of shareholders. The</p>

	<p>implementation of revised Principles of Corporate Governance, as described, is not a new action step.</p> <p>Furthermore, the Company’s Letter implies that these Principles substantially implement the Proposal’s suggestion to set board diversity goals. These Principles are unrelated to goal-setting on board diversity. Nowhere in this document does the Company commit to or even suggest a goal. There is no contemplation of diversity quotas, goals, or specific aspirations in these Principles.</p> <p>The Company’s Letter also implies that the Proposal’s suggestion of requiring “at least two candidates of color in each candidate pool” has been implemented through its 2017 update to the Principles of Corporate Governance. Again, as noted above, the Principles of Corporate Governance do not <i>commit</i> the Company to having specific numbers of women or diverse people in the candidate pool, let alone require more than one candidate of color for each board search. The Company’s updated governance document simply commits the Company to “seeking out” diverse candidates.</p>
<p>The Governance Committee of the Board of Directors engaged a board search firm to expand the pool of qualified candidates from which Board nominees are chosen, including underrepresented minority candidates.</p>	<p>The Proponent appreciates that the Company engaged a board search firm; however, the Report does not commit the Company to using such a search firm again for future board searches, nor has the Company committed to engaging a diversity-focused search firm.</p>
<p>The Company engaged with large shareholders (“6 of the Company’s top 10 shareholders”), which the Company appears to assert implements the Proposal’s request on expanding recruitment networks.</p>	<p>The Company Letter seems to indicate that its engagement with large shareholders (“6 of the Company’s top 10 shareholders”) implements the Proposal’s request related to examining “potential limits to increases in diversity from using current board member networks for recruitment.” It is well-known that when board members pull from their existing</p>

	<p>networks that the board is likely to remain homogenous. The Proposal does not contemplate whether the Company should expand its network by engaging with large institutional shareholders, but rather the Proposal encourages the board to critically and honestly examine the limitations that its own networks can offer in terms of diversity, then to consider how it can expand those networks through targeted outreach and network-building in groups specifically related to diverse directorships and executives.</p>
<p>The Company appointed a new board member in August 2021 in preparation for an upcoming mandatory Board retirement... who is racially diverse.</p>	<p>The Proponent applauds the addition of Mr. Brooks, the first racially diverse board member appointed to the Company’s board of directors in many years. However, the essential purpose of the Proposal relates to strategies the Company seeks to employ in order to promote <i>racial equity</i> on its board. Appointing a single diverse director without a firm commitment to further diversify through stated action steps invites criticisms of tokenism. The appointment of a single diverse board member does not implement the shareholder proposal.</p>
<p>The Report refers to a variety of other diversity-related initiatives that are unrelated to board diversity, such as:</p> <ul style="list-style-type: none"> • SASB/GRI reporting on employee diversity • Executive team diversity • Partnerships with minority hiring agencies (for the workforce) • Pay equity monitoring • Maintaining a human rights policy • Supporting the Equality Act • Signing the local MMAC Diversity Pledge • Memberships in other organizations 	<p>Initiatives described in the Report after the “by the company” header appear to relate specifically to the Company’s workforce. While they are admirable, they are <u>not</u> related to the board and therefore not implementation of the Proposal. The Proponent is concerned that they are distractions from the reality that the Company has not taken similar steps – which could actually implement the Proposal – for the board of directors. The Company makes no claims that it intends to recruit potential <i>board members</i> through these initiatives.</p>

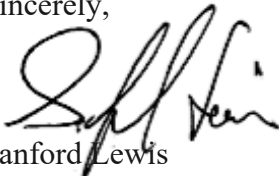
In 2021, after a proposal similar to the current Proposal garnered 85% of the shareholder vote, the Company achieved the appointment of a single diverse director. While one diverse director is a welcomed improvement over zero, the essential objective of the Proposal is to understand how the Company intends to go beyond that – to achieve racial equity in the board composition.

Research has suggested that critical mass is achieved when a board appoints at least three diverse board members or when 35% of the board is diverse.³ When critical mass is achieved, the voices of diverse board members become less marginalized, are taken more seriously, and become more influential. Research has also shown that diversity in leadership, which can reasonably be extrapolated to apply to board diversity, can bring financial benefits to the most diverse companies with a growing gap between leaders and laggards.⁴ The essential objective of the current Proposal is to address the risk of the Company becoming a laggard as it relates to board diversity. The Company's Report on Board Diversity fails to address the causes of or remedies for this issue of persistent low diversity levels nor the potential risks if the appointment of a single diverse director may be perceived as tokenism.

CONCLUSION

Based on the foregoing, we believe it is clear that the Company has provided no basis for the conclusion that the Proposal is excludable from the 2022 proxy statement pursuant to Rule 14a-8(i)(10). As such, we respectfully request that the Staff inform the company that it is denying the no-action request.

Sincerely,



Sanford Lewis

³ Kramer, V. W., Konrad, A. M., Erkut, S., Critical Mass on Corporate Boards: Why Three or More Women Enhance Governance. 2006

⁴ <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-wins-how-inclusion-matters>

EXHIBIT B

THE PROPOSAL

WHEREAS:

In the U.S., the lack of diversity on corporate boards of directors has become a significant concern for investors and companies. Though a focus on racial equity was fueled by country-wide racial justice protests in 2020, progress on boardroom diversity remains slow;

The Proponent has engaged Badger Meter (“the Company”) on persistent board diversity concerns and the potential negative effect on long-term share value since fall 2016. After a similar proposal garnered 85% of the shareholder vote at the 2021 annual meeting, the company added one racially diverse board member. While this is an important step forward, 89% of the expanded board still self-identifies as non-diverse by race or ethnicity and, to the Proponent’s knowledge, the Company has not set in place actionable plans to achieve greater board diversity;

Research has shown that diverse teams are beneficial in many ways, including a higher likelihood to “radically innovate and anticipate shifts in consumer needs and consumption patterns—helping their companies to gain a competitive edge” and likeliness to outperform industry peers on profitability over time. Importantly, it has also been found that the level of diversity matters, with a 48% performance differential between most and least diverse companies;

Research has also demonstrated that the “critical mass” for diversity on boards is three or more. At this level, the diverse members can “cause a fundamental change in the boardroom and enhance corporate governance.” While this study focused on gender diversity on boards, the Proponent asserts its applicability to people of color as well and notes that the Company’s board has not met this critical mass level for gender diversity either;

The Proponent believes that committing to concrete, actionable steps to further diversify the board of directors would serve the long-term value of shareholders and the company.

RESOLVED: *Shareholders request that the Board of Directors report to shareholders within six months after the Company’s annual meeting, at reasonable expense excluding confidential information, with action steps to foster greater racial equity on the board.*

SUPPORTING STATEMENT:

The Proponent suggests that among the strategies the Company could explore include, at board and management discretion, are: engaging a search firm for each board search, board diversity goals, requiring at least two candidates of color in each candidate pool, considering a board refreshment policy, examining the potential limits to increases in diversity from using current board member networks for recruitment, and other strategies that balance candidate qualifications and diversity. In defining “racial equity,” the Proponent suggests the Company use comparative statistics on either the general U.S. population diversity or other logical comparison such as the Company’s headquartering city, Milwaukee, WI.

EXHIBIT C

REPORT ON BOARD DIVERSITY

Badger Meter, Inc.
Report on Board Diversity
October 15, 2021



Badger Meter is committed to continuous improvement in fostering diversity and inclusion at the Company and on its Board of Directors. As part of that commitment, we are releasing this **Report on Board Diversity** which seeks to provide greater visibility into our diversity journey. Through the publication of this report – which reflects our actions and ongoing commitments – we are providing greater clarity into our diversity approach and the concrete actions we continue to undertake.

On behalf of the Board of Directors, the Company conducted substantial outreach efforts among its shareholders to gain insight and understanding of their views on the Company’s diversity journey, including their voting considerations and deliberations with regard to the 2021 shareholder proposal requesting a report to address “....whether and how the company intends to put new, specific action steps in place for increasing board diversity.” Discussions were held with investors collectively holding nearly 12 million shares, or approximately 40% of the Company’s outstanding shares and included 6 of the Company’s top 10 shareholders.



40% Outstanding Shares

6 of Top 10 Shareholders

In summary, the discussions suggested that support “for” the proposal was not indicative of an underlying concern with the Board’s performance or the Company’s commitment to diversity. While shareholders applauded the Company’s voluntary disclosure of the racial/ethnic diversity of the Board in the Proxy, their voting decision for the proposal was primarily based on the Company-acknowledged lack of racial/ethnic diversity

of the slate of Board nominees up for election at that point in time.

The following represents a summary of the actions taken as part of our ongoing diversity journey by the Board of Directors and the Company.

By the Board of Directors:

- The Board regularly monitors its member’s diverse mix of skills, experiences, backgrounds and other differentiating characteristics in order to assure that the Board has the necessary attributes to perform its oversight function effectively.
- The Board undertakes an annual self-evaluation process led by the Lead Independent Director.
- The director selection process is designed to identify and nominate the strongest director candidates from all available sources.
- The Principles of Corporate Governance include the following language that cements the Company’s commitment to a diverse Board: “The board is committed to actively seeking out highly qualified women and racial/ethnically diverse minority candidates, as well as candidates with diverse backgrounds, skills and experiences as part of all board searches the company undertakes and will ensure each pool of qualified candidates from which Board nominees are chosen includes candidates who bring racial, ethnic and/or gender diversity.”
- The Company proactively included a voluntary disclosure of both gender and self-identified racial/ethnic diversity of the Board in its 2021 Proxy in the spirit

of transparency and to hold itself accountable to measuring progress. The disclosure reflected 25% female representation on the Board.

- The Governance Committee of the Board of Directors engaged a board search firm to expand the pool of qualified candidates from which Board nominees are chosen, including under-represented minority candidates.
- The Company appointed a new board member in August 2021 in preparation for an upcoming mandatory Board retirement, to ensure appropriate onboarding and overlap, and who brings long-range product and software planning expertise, engineering and cybersecurity skills to the Board, and who is racially diverse.



Henry F. Brooks
President, Power &
Controls, Collins Aerospace

By the Company:

- The Company prepared and disclosed on its website SASB/GRI reporting metrics on the gender and racial/ethnic diversity demographics of its employees for 2020.
- The executive leadership team serves as one model of diversity as 40% of Executive Officers are from under-represented populations.



- The Company's business operations and employee demographics demonstrate the Company's ongoing commitment to diversity in the following ways:

- We partner with minority hiring agencies as well as minority job posting sites to ensure we are able to attract qualified female, racial/ethnically diverse and other under-represented candidates.
- We monitor employee pay equity through periodic pay equity studies and take action with pay adjustments where warranted.
- We maintain and comply with our human rights policy which affirms our commitment to respect and support internationally recognized human rights and freedoms.
- We are a signatory to the Equality Act, supporting LGBTQ rights.
- We proactively signed the Metropolitan Milwaukee Association of Commerce (MMAC) Diversity Pledge, along with other local employers, to increase diversity in our overall workforce and management ranks.
- We are active members of organizations that support and drive diversity and inclusion efforts including, for example, Milwaukee Women's Inc., Women in Manufacturing® and the UW-Milwaukee Lubar School of Business Multicultural Mentoring Program.



MILWAUKEE:
REGION OF CHOICE
FOR DIVERSE TALENT

The following represents a summary of our ongoing commitments to further advance diversity and inclusion.

- Ongoing board succession and recruitment activities in light of both additional upcoming mandatory Board retirements and general preparedness, to ensure appropriate onboarding and overlap, inclusive of highly qualified women and racial/ethnically diverse minority candidates.
- In alignment with our ongoing ESG priorities and efforts, and our Values, the Company is working to enhance and improve employee diversity demographics (both generally and within the management ranks) and Board diversity, to levels at least consistent with the broader demographics of the communities in which we operate.
 - We are committed to annually disclose through SASB/GRI

reporting, Company metrics on the gender and racial/ethnic diversity demographics of our employees.

- We are committed to annual Proxy disclosure of the Board’s gender and racial/ethnic composition.



In Summary

The Badger Meter Board of Directors believes the actions outlined in this report serve to demonstrate the ongoing commitment to continuous improvement in fostering diversity and inclusion at the Company and on its Board of Directors. Through these thoughtful and intentional steps, the Board will ensure it has the skills, experience and breadth of perspectives that align with the Company’s long-term strategy and serve the best interests of all stakeholders.

