

January 8, 2024

VIA E-Mail to shareholderproposals@sec.gov

United States Securities and Exchange Commission
Division of Corporation Finance
100 F Street, N.E.
Washington, D.C. 20549-7010

RE: Stockholder Proposal Submitted by As You Sow Foundation Fund

Ladies and Gentlemen:

Tesla, Inc. (the “Company” or “Tesla”) is submitting this letter to notify the staff of the Division of Corporation Finance (the “Staff”) of the Securities and Exchange Commission (the “Commission”) of the Company’s intention to exclude a stockholder proposal (the “Proposal”) from its proxy materials to be distributed in connection with its 2024 annual meeting of stockholders (the “Proxy Materials”). As You Sow Foundation Fund (the “Proponent”) is the lead filer for the Proposal.

The Company respectfully requests that the Staff advise the Company that it will not recommend any enforcement action to the Commission if the Company excludes the Proposal from its Proxy Materials for the reasons discussed below. Pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and Staff Legal Bulletin No. 14D (November 7, 2008) (“SLB 14D”), the Company is submitting this letter electronically, setting forth our reasons for excluding the Proposal. Rule 14a-8(k) and Section E of SLB 14D provide that stockholder proponents are required to send companies a copy of any correspondence that the stockholder proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponent that if it submits correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to the Company.

Proposal

The Proposal sets forth the following resolution:

RESOLVED: Shareholders request that Tesla commit to a moratorium on sourcing minerals from deep sea mining, consistent with the principles announced in the Business Statement Supporting a Moratorium on Deep Sea Mining.

A copy of the Proposal is attached hereto as Exhibit A.

Basis for Exclusion

The Company respectfully requests that the Staff concur in our view that the Proposal may be excluded from the Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal inextricably deals with matters relating to the Company’s ordinary business operations.

Rule and Analysis

Rule 14a-8(i)(7) allows the omission of a stockholder proposal from a registrant’s proxy statement if such proposal “deals with a matter relating to the company’s ordinary business operations.” As set out in Securities Exchange Act Release No 34-40018 (May 21, 1998) (the “1998 Release”), there are two “central considerations” underlying the ordinary business exclusion. One is that certain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct stockholder oversight. The other relates to the degree that a proposal seeks to “micro-manage” the company by probing too deeply into matters of a complex nature upon which stockholders, as a group, would not be in a position to make an informed judgment.

As discussed below, the Proposal implicates both considerations underlying the ordinary business exclusion and is thus excludable as pertaining to the Company’s ordinary business operations.

A. THE PROPOSAL MAY BE EXCLUDED PURSUANT TO RULE 14A-8(i)(7) BECAUSE IT WOULD HINDER MANAGEMENT’S FUNDAMENTAL ABILITY TO RUN THE COMPANY’S DAY-TO-DAY OPERATIONS

By requesting the Company “commit to a moratorium on sourcing minerals for deep sea mining,” the Proponent’s Proposal implicates core matters involving the Company’s business and operations – (i) the Company’s selection of suppliers and (ii) the source and types of raw materials used in the Company’s products – which are fundamental to management’s ability to run the Company on a day-to-day basis and therefore, cannot, as a practical matter, be subject to direct stockholder oversight.

Supplier relationship and decisions regarding such relationships are fundamental to the Company’s day-to-day business operations.

The Company sources materials for its products from thousands of suppliers. Some of our suppliers are close to our factories, while others are part of global supply chains. These complex supply relationships have been developed over an extensive period of time and the Company maintains comprehensive processes for vetting, contracting with and auditing its suppliers. As a result of the number, variety and complexity of the Company’s supplier relationships, the Company regularly assesses its suppliers and considers ways to mitigate risk, promote responsible sourcing and increase the efficiency of its global supply chain. The Company places considerable importance on forging strong supplier relationships, and the Company’s supplier network is an essential component in accomplishing its business objectives.

In the 1998 Release, the Commission cited “management of the workforce, . . . decisions on production quality and quantity, and the retention of suppliers” as examples of tasks that are fundamental to management’s ability to run a company on a daily basis. Subsequently, the Staff has concurred with the exclusion under Rule 14a-8(i)(7) of proposals relating to or affecting a company’s supplier or vendor relationships. *See, e.g., The Home Depot, Inc.* (Mar. 20, 2020) (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting a report and analysis of material risk related to the use of prison labor in the company’s supply chain); *Walmart Inc.* (Mar. 8, 2018) (concurring with Rule 14a-8(i)(7) exclusion of a proposal seeking a report outlining the requirements suppliers must follow regarding engineering ownership and liability as relating to an ordinary business matter); *Foot Locker, Inc.* (Mar. 3, 2017) (concurring with Rule 14a-8(i)(7) exclusion of a proposal seeking a report on steps taken by the company to monitor overseas apparel suppliers’ use of subcontractors as relating “broadly to the manner in which the company monitors the conduct of its suppliers and their subcontractors”); *Corrections Corp. of America* (Feb. 28, 2014, recon. denied Mar. 25, 2014) and *The GEO Group, Inc.* (Feb. 14, 2014, recon. denied Mar. 25, 2014) (each concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting that the board adopt and implement provisions “relate[d] to inmate telephone service contracts at correctional and detention facilities operated by the company” on grounds that it “relates to decisions relating to supplier relationships,” noting that “[p]roposals concerning decisions relating to supplier relationships are generally excludable under rule 14a-8(i)(7)”); *Kraft Foods Inc.* (Feb. 23, 2012) (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting a report detailing the ways the company “is assessing water risk to its agricultural supply chain and action it intends to take to mitigate the impact on long-term shareholder value,” noting that the “proposal relates to decisions relating to supplier relationships”); *PetSmart, Inc.* (Mar. 24, 2011) (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting that the board require its suppliers to certify that they have not violated certain animal rights statutes as relating to the company’s ordinary business operations); *Alaska Air Group, Inc.* (Mar. 8, 2010) (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting a report disclosing the maintenance and security standards used by contract repair stations as relating to “decisions relating to vendor relationships”).

The Proponent’s Proposal concerns ordinary business decisions relating to the Company’s relationships with particular suppliers, as the Proposal seeks to influence the specific suppliers from which the Company sources its minerals by requesting a moratorium on certain resources. The ongoing decisions of Company management regarding the entry into agreements with suppliers for the purchase of raw materials, the availability of such raw materials particularly during periods of significant supply chain disruption or uncertainty, the terms of those agreements, the timing of such agreements and decisions under those agreements, are fundamental to Company management’s ability to operate the Company on a day-to-day basis and to maintain its competitiveness and are not, consistent with Staff precedent, proper matters for direct shareholder oversight. As such, the Proposal may be similarly excluded on the grounds that it relates to the Company’s ordinary business operations under Rule 14a-8(i)(7).

Decisions regarding the composition and offering of products are management functions in running the day-to-day operations of the Company.

As a leading global manufacturer of electric vehicles and energy generation and storage systems, with factories located in three continents, the Company has invested significant time and resources in identifying, approving and maintaining relationships with raw material, including mineral suppliers. Decisions regarding the composition of the Company’s products, as well as the sourcing of raw materials and the selection of the Company’s raw material suppliers, are an integral part of the Company’s business and inherently involve complex operational, regulatory, engineering and business considerations requiring extensive knowledge of foreign, federal and state regulatory requirements, complex contractual agreements, engineering-related

factors, global supply chain constraints and related considerations. Furthermore, understanding the impact on customers of such product decisions is fundamental to the Company's business and requires significant specialized expertise to analyze and make such decisions. It is the Company's management team, which possesses specialized expertise and judgment, that is well-positioned to make informed and specific decisions on such day-to-day business.

The Staff has repeatedly recognized that a proposal relating to the sale of a particular product, and seeking to intervene with management's day-to-day decisions regarding the particular products offered to customers, is excludable under Rule 14a-8(i)(7) as a component of "ordinary business," even where a product is deemed controversial or the proposal touches upon a social issue. See *The Home Depot, Inc. (Mar. 21, 2018)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting that the company end its sale of glue traps, on the basis that the proposal related to "the products and services offered for sale by the Company"); *General Mills, Inc. (July 2, 2010)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting limits on the use of salt and other sodium compounds in the company's food products, noting in particular that the proposal "relate[d] to the selection of ingredients in [the company's] products" and that "[p]roposals concerning the selection of ingredients in a company's products are generally excludable under rule 14a-8(i)(7)"); *The Procter & Gamble Company (July 15, 2009)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting the company to cease making cat-kibble, noting that it related to the company's "ordinary business operations (i.e., sale of a particular product)"); *Cabela's Inc. (Apr. 7, 2016)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting the implementation of a policy to continue to sell handguns and rifles discharging up to eight shells without reloading and not to sell (other than to police departments and other military and law enforcement agencies of government) firearms capable of discharging more than eight shells without reloading, noting that the proposal related to "the products and services offered for sale by the company"); *Dominion Resources, Inc. (Feb. 19, 2014)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting the company to develop and provide information concerning renewable energy generation services because the proposal related to "the sale of particular products and services that the company offers," which proposals "are generally excludable").

In addition, the Staff has consistently determined that proposals relating to policies and procedures associated with offered products can be excluded pursuant to Rule 14a-8(i)(7) as relating to the company's ordinary business operations. See *The Walt Disney Co. (Dec. 22, 2010)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal that would require the company to modify its current smoking policy to not allow children within designated smoking areas of its theme parks, noting that the proposal related to "the policies and procedures regarding the products and services that the company offers"); *JPMorgan Chase & Co. (Mar. 16, 2010)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting that the board implement a policy mandating that the company cease its current practice of issuing refund anticipation loans, noting that "proposals concerning the sale of particular services are generally excludable under rule 14a-8(i)(7)"); *General Electric Co. (Balch) (Jan. 28, 1997)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal recommending that the company adopt a policy of recalling and refunding defective products, noting that the proposal related to the company's "ordinary business operations (i.e., recall and refund procedures)"); *FMC Corp. (Feb. 25, 2011, recon. denied Mar. 16, 2011)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal recommending that the company establish a "product stewardship program" for certain of its pesticides, noting that the proposal related to "products offered for sale by the company").

The Proponent's Proposal relates to the future production and sale of any products containing certain raw materials, as well as the Company's policies and procedures relating to those products. At its core, the underlying subject matter of the Proposal relates directly to the ordinary business matter of determining the composition of the particular products the Company should or should not offer for sale, thus inappropriately interfering with the Company's production process. By seeking to intervene in decisions regarding the products the Company chooses to sell (including their components) and its sourcing policies with respect to such products, the Proposal interferes with management's ability to manage, and determine the composition of, the Company's products and related policies, and specifically, management's strategic choices relating to future product offerings. Decisions regarding the products (and their composition) that the Company sells implicate myriad factors that must be considered by the Company's management, including customer preferences, expectations with respect to future legislation and regulation of products, products offered by competitors, the Company's overall long-term strategy and the availability of sufficient quantity and quality of raw materials to both meet current and expected future customer demand. The Proposal should therefore be excluded from Proxy Materials on "ordinary business" grounds as it relates to the Company's ordinary business operations under Rule 14a-8(i)(7).

B. THE PROPOSAL MAY BE EXCLUDED PURSUANT TO RULE 14A-8(i)(7) BECAUSE IT SEEKS TO MICROMANAGE THE COMPANY

As discussed above, the commitment sought by the Proponent relates to Company decisions and actions that directly concern its product offerings and its relationships with suppliers. The Proposal ultimately seeks to micromanage the Company by substituting stockholder decisions for management decisions on granular matters, such as the composition of the Company's

products, the choice of Company suppliers and sourcing of raw materials for the Company's products. The Proposal does not request sustainability or environmental concerns be considered when sourcing raw materials; instead, it calls for a permanent commitment to forgo sourcing minerals for deep sea mining. Decisions regarding product composition and supplier relationships are extremely complex and stockholders are not well-positioned to make informed judgements about such matters for which they do not have access to complete and detailed information. The Company's procurement and use of raw materials, decisions regarding ingredient composition of its products, selection of suppliers, supply chain constraints and competitive considerations, and management of supplier relationships are complicated matters that are integrally entwined with its ordinary business operations and fundamental to management's ability to run the Company's day-to-day operations. Evaluating and weighing these matters involves the expertise of professionals in various disciplines who carefully evaluate complex and competing considerations that relate to the Company and its suppliers, such as industry and product development, innovation and advancements, business operations and expenditures, supply chain factors, regulatory requirements and compliance and engineering factors, consumer preferences and environmental impacts.

The Staff's position that proposals which unduly limit the board's or management's discretion are excludable under micromanagement is longstanding, even when the proposal raises important policy considerations. *See, e.g., The Kroger Co. (Apr. 25, 2023)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting the board take the necessary steps to pilot participation in the Fair Food Program for the Company's tomato purchases in the Southeast United States, in order to mitigate severe risks of forced labor and other human rights violations in the Company's produce supply chain, noting that "the proposal seek to micromanage the Company"); *Eli Lilly and Company (Mar. 1, 2019)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal asking the board to implement a policy that it will not fund, conduct or commission use of the "Forced Swim Test," noting that the proposal "micromanages the Company by seeking to impose specific methods for implementing complex policies"); *SeaWorld Entertainment, Inc. (Mar. 30, 2017)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting the board to retire the current resident orcas to seaside sanctuaries and replace the captive-orca exhibits with innovative virtual and augmented reality or other types of non-animal experiences, noting that the proposal "seeks to micromanage the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment"); *The Wendy's Company (Mar. 2, 2017)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting the board to take all necessary steps to join the Fair Food Program for the purpose of protecting and enhancing consumer and investor confidence in the Wendy's brand as it relates to the purchase of produce, and to prepare a related report, noting that the proposal seeks to micromanage the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment).

Additionally, in applying the micromanagement prong of Rule 14a-8(i)(7), the Staff consistently has concurred that shareholder proposals attempting to micromanage a company by providing a specific method for implementing a proposal as a substitute for the judgment and discretion of management are excludable under Rule 14a-8(i)(7). For example, in *Amazon.com, Inc. (Apr. 7, 2023, recon. denied Apr. 20, 2023)*, the Staff concurred with the exclusion of a proposal for the company to measure and disclose scope 3 GHG emissions from its full value chain. In its reply, the Staff stated that the proposal sought to micromanage the company by "imposing a specific method for implementing a complex policy disclosure without affording discretion to management." *See also Amazon.com Inc. (Apr. 3, 2019)* (concurring with the exclusion of a proposal requesting human rights impact assessments for food products sold as micromanagement for "seeking to impose specific methods for implementing complex policies in place of the ongoing judgments of management as overseen by its board of directors") and *JPMorgan Chase & Co. (Mar. 30, 2018)* (concurring with the exclusion of a proposal that requested a report on the reputational, financial and climate risks associated with project and corporate lending, underwriting, advising and investing of tar sands projects as micromanagement for "seeking to impose specific methods for implementing complex policies").

The Proposal, similarly, while purporting to raise concerns about biodiversity, food supply and carbon dioxide absorption, at its core, seeks to micromanage the Company by requiring compliance with a permanent and specific mandate method of achieving its goal—a commitment to a moratorium on sourcing minerals from deep sea mining. The Company has a robust governance structure with active board of director and executive oversight and dedicated management committees and other subject matter experts analyzing the Company's sourcing policies, developing and implementing strategies and ultimately making decisions in a manner that is appropriate for the Company, its customers and its stockholders. Yet, the Proposal does not afford any discretion to management as to how to achieve such goals.

The Commission noted in the 1998 Release that consideration of complex matters upon which stockholders could not make an informed judgment "may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies." The Proposal specifically implicates the type of day-to-day business operations that the 1998 Release indicated are too impractical and complex to subject to direct stockholder oversight, including the Company's product composition, supply chain operations and

approved suppliers therein. The Proposal does not contemplate the fluctuations in supply, availability, cost, quality, competitive factors or general economic conditions which may impact supply chain strategies and decisions. Such determinations are made by management as part of the Company's routine operations. As such, the matters discussed herein are of the very type contemplated by the Commission as better resolved by management as part of the Company's day-to-day business operations rather than by stockholders at an annual meeting. The Proposal thus probes too deeply into matters of a complex nature upon which stockholders would not be in a position to make an informed judgment, and is properly excludable under Rule 14a-8(i)(7).

C. THE PROPOSAL DOES NOT FOCUS ON A SIGNIFICANT POLICY ISSUE THAT TRANSCENDS THE COMPANY'S ORDINARY BUSINESS OPERATIONS

While the 1998 Release indicated that proposals that "focus on" significant social policy issues may not be excludable under Rule 14a-8(i)(7), in contrast, proposals with passing references touching upon topics that might raise significant social policy issues—but that do not focus on or have only tangential implications for such issues—are not transformed from an otherwise ordinary business proposal into one that transcends ordinary business, and as such, remain excludable under Rule 14a-8(i)(7). In SLB 14L, the Staff outlined its present approach to evaluating ordinary business proposals, noting a plan to "realign" with the Commission's standard in the 1998 Release, first articulated in 1976, by focusing on "the social policy significance of the issue that is the subject of the shareholder proposal" rather than "the nexus between a policy issue and the company." The explanation provided in SLB 14L confirms the Staff's intent to preserve the Commission's policy objectives behind the ordinary business exclusion, namely, as noted above, "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting." 1998 Release. Following SLB 14L's publication, the Staff has illustrated the application of these principles to distinguish between proposals that transcend ordinary business matters and those that are excludable under Rule 14a-8(i)(7). *See, e.g., The Kroger Co. (Apr. 25, 2023)* (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting the board take the necessary steps to pilot participation in the Fair Food Program for the Company's tomato purchases in the Southeast United States, in order to mitigate severe risks of forced labor and other human rights violations in the Company's produce supply chain, noting that "the proposal seeks to micromanage the Company"—The Kroger Co. had argued that the proposal focused on the company's day-to-day relationships with its suppliers, and that the proposal's recitation of human rights issues that might raise a significant social policy issue did not transform the otherwise ordinary business proposal into one that transcends ordinary business); in *Dollar Tree, Inc. (May 2, 2022)* (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal requesting a report on risks to the company's business strategy from increasing labor market pressure, stating that the proposal did not transcend ordinary business matters—Dollar Tree, Inc. had argued that the proposal focused on general workforce concerns and did not raise significant discrimination matters or board-oversight of human capital issues); *Amazon.com, Inc. (Apr. 8, 2022)*, (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal requesting workforce turnover rates and the effects of labor market changes that have resulted from the COVID-19 pandemic, including the impact of the Company's workforce turnover on the Company's diversity, equity and inclusion, noting that the proposal related to ordinary business matters and did not focus on significant social policy issues").

Despite the Proponents' attempt to frame the Proposal as focused on a social policy issue by invoking, among others matters, concerns about environmental, reputational and regulatory risks, the Proposal fails to present an issue of broad societal impact that transcends the matters of the Company's product offerings and its supplier relationships (i.e., the Company's ordinary business). The environmental and reputational risks and aspects of the Proposal are, at best, secondary to the Proposal's ultimate design to micromanage the source of the raw materials used in the Company's products and the specific suppliers from which the Company may purchase from. The Proponents' attempt to insert the complex policy issues associated with environmental risks does not alter the fact that the Proposal itself is squarely focused on the Company's supply chain strategies and decisions. As a result, the Proposal fails to focus on a significant social policy issue that transcends the ordinary business of the Company.

The Company is committed to protecting the environment and maximizing the positive impact of our supply chain for people and the planet as we accelerate the world's transition to sustainable energy. We align with industry best practices and source responsibly according to the Organisation for Economic Co-operation and Development (OECD), the OECD Due Diligence Guidance for Responsible Mineral Supply Chains and Responsible Business Conduct, and the United Nations Guiding Principles on Business and Human Rights. In doing this, we set forth clear expectations for our suppliers, including through our Responsible Sourcing Policy and Supplier Code of Conduct. However, due to the complexity and variety of these relationships, such matters are inherently ordinary business matters integral to the Company's business. Because the proposal remains squarely focused on the Company's policies relating to the sourcing of materials for its products, the significant social policy issue exception does not support inclusion of the Proposal in the Company's Proxy Materials.

Conclusion

The Company respectfully requests that the Staff concur that it will take no action if the Company excludes the Proposal from the Proxy Materials. If the Staff has any questions with respect to the foregoing, or if for any reason the Staff does not agree that the Company may exclude the Proposal from its Proxy Materials, please do not hesitate to contact me at derek.windham@tesla.com. In addition, should the Proponent choose to submit any response or other correspondence to the Commission, we request that the Proponent concurrently submit that response or other correspondence to the Company, as required pursuant to Rule 14a-8(k) and SLB 14D, and copy the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Windham", with a long horizontal line extending to the right.

Derek Windham
Senior Director and Deputy General Counsel

Enclosures

cc: As You Sow Foundation

EXHIBIT A



VIA FEDEX & EMAIL

December 7, 2023

Tesla Inc.,
1 Tesla Road,
Austin TX 78725
Attn: Legal Department
shareholdermail@tesla.com

Attention: Legal Department

As You Sow® is submitting the attached shareholder proposal using shares owned by the *As You Sow* Foundation Fund ("Proponent"), a shareholder of Tesla Inc. for a vote at Tesla's 2024 annual shareholder meeting. This proposal requests Tesla commit to a temporary moratorium on sourcing minerals from deep sea mining, consistent with the principles announced in the Business Statement Supporting a Moratorium on Deep Sea Mining.

The *As You Sow* Foundation Fund meets Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934 requirements including the continuous ownership of over \$25,000 worth of Company stock, with voting rights, which the *As You Sow* Foundation Fund has held continuously for over one year and will continue to hold through the date of the Company's annual meeting in 2024.

The *As You Sow* Foundation Fund supports this proposal and a representative of *As You Sow* will attend the stockholder meeting to move the resolution as required.

We are available to discuss this issue and are optimistic that such a discussion could result in resolution of the Proponent's concerns. Elizabeth Levy, Climate Associate, at [REDACTED] and Cole Genge, Director of Programs at [REDACTED] are the contact persons on behalf of *As You Sow* for this proposal. Ms. Levy and Mr. Genge are available for a meeting with the Company regarding this shareholder proposal at the following days/times: January 2, 2024 at 2:30pm Central Time or January 4, 2024 at 3:00pm Central Time.

Please also send all correspondence regarding this proposal to [REDACTED] and [REDACTED]

Sincerely,

Andrew Behar
CEO, *As You Sow*

Enclosures

- Shareholder Proposal

cc: ir@tesla.com

WHEREAS: The deep sea contains many of the planet’s intact ecosystems and plays a crucial role in regulating the climate.¹ Studies indicate that mining this underexplored and complex area for battery-related minerals will create irreversible habitat and ecosystem loss and could permanently destroy invaluable carbon storage.²

Deep sea mining (DSM) can obliterate sea floor life through dredging, while releasing sediment plumes laced with toxic metals, poisoning marine food chains.³ Deep sea organisms are slow-growing and fragile, and habitats can require millennia to recover from disturbances.⁴ The likely outcomes of DSM include biodiversity loss and jeopardized fish-based livelihoods and food supplies.⁵ Further, industrial-scale exploitation of the seafloor could have grave consequences for the ability of the oceans – one of the planet’s biggest carbon sinks – to absorb carbon dioxide, and may even lead to release of carbon stores.⁶ Scientists warn that DSM, even done cautiously, could be devastating.

The scientific uncertainty and potential catastrophic impacts of DSM have led many civil society groups, including governments, private organizations, and manufacturers to voice concern. Twenty-four governments have put in place a ban, moratorium, or precautionary pause on DSM.⁷ Electric vehicle (EV) manufacturers including BMW, Volvo, Volkswagen, Rivian, and Renault have committed to a global moratorium on deep sea mining, pledging to keep their supply chains deep sea mineral free until scientific findings are sufficient to assess the environmental risks of DSM.⁸

Peers adopting the moratorium underscores the precautionary principle and the availability of more sustainable methods to obtain necessary materials. For example, the BMW Group emphasizes that “its sustainability strategy is also relying more on resource-efficient closed-loop material cycles – with the aim of significantly increasing the percentage of secondary material in vehicles.”⁹

Unlike its peers, Tesla has not supported a DSM moratorium, leaving shareholders concerned that the Company is not addressing the serious reputational and regulatory risks of DSM. The supply of deep sea minerals is also legally, technologically, and financially insecure, making it expensive and risky for Tesla to incorporate deep sea sourced minerals into its supply chain.¹⁰ DSM is also at odds with the Kunming-Montreal Global Biodiversity Framework.¹¹

By committing to a global moratorium on DSM and an ocean mineral free supply chain, Tesla will join the ranks of Google, Samsung, Microsoft, Salesforce, Philips, and its EV peers by protecting a critical ecosystem and reaffirming its commitment to responsible sourcing.

¹ <https://climatesociety.ei.columbia.edu/news/rolling-deep-climate-change-and-deep-sea-ecosystems>

² <https://www.unepfi.org/wordpress/wp-content/uploads/2022/05/Harmful-Marine-Extractives-Deep-Sea-Mining.pdf>; <https://www.frontiersin.org/articles/10.3389/fmars.2020.00165/full>

³ <https://www.iucn.org/resources/issues-brief/deep-sea-mining>

⁴ <https://www.fauna-flora.org/explained/depth-deep-seabed-mining-not-answer-climate-crisis/>, p.17,26

⁵ <https://www.nature.com/articles/s44183-023-00016-8>

⁶ <https://www.fauna-flora.org/wp-content/uploads/2023/05/fauna-flora-deep-sea-mining-update-report-march-23.pdf>, p. 18

⁷ <https://savethehighseas.org/voices-calling-for-a-moratorium-governments-and-parliamentarians/>

⁸ <https://www.stopdeepseabedmining.org/endorsers/>

⁹ <https://www.press.bmwgroup.com/global/article/detail/T0328790EN/bmw-group-protects-the-deep-seas>

¹⁰ <https://ejfoundation.org/news-media/environmentalists-warn-investors-of-deep-sea-mining-risk>;

<https://www.financeforbiodiversity.org/leading-financial-institutions-call-on-governments-to-not-permit-deep-sea-mining/>

¹¹ <https://dsm-campaign.org/wp-content/uploads/2021/10/Precautionary-Principle-Deep-Sea-Mining.pdf>

RESOLVED: Shareholders request that Tesla commit to a moratorium on sourcing minerals from deep sea mining, consistent with the principles announced in the Business Statement Supporting a Moratorium on Deep Sea Mining.

SUPPORTING STATEMENT: If Tesla cannot so commit, shareholders request that the Board disclose its rationale and assess the Company's anticipated need for deep sea materials.