1Tesla Road, Austin, Texas 78725
P 650 681 5100 F 650 681 5101

March 19, 2025

VIA E-Mail to shareholderproposals@sec.gov

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

RE: Stockholder Proposal Submitted by As You Sow

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 U.S. 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 2025 annual meeting of stockholders (the "Proxy Materials"). As You Sow, on behalf of Michael E. Monteiro 2016 Rev Trust (collectively, the "Proponent"), acted as lead filer for the Proposal, and The Woodcock Foundation and Minnesota Valley National Wildlife Refuge Trust co-filed 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. In accordance with relevant Staff guidance, the Company is submitting this letter and its attachments to the Staff through the Staff's online Shareholder Proposal Form. Pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Company is simultaneously sending a copy of this letter and its attachments to the Proponent as notice of the Company's intent to omit the Proposal for its Proxy Materials.

Rule 14a-8(k) and Section E of Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("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.

Good Cause for Waiver of 80-Day Deadline under Rule 14a-8(j)(1)

Under Rule 14a-8(j), the Staff "may permit the company to make its submission [of a no-action request] later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline."

The Company is filing this letter fewer than 80 days before it intends to file its definitive 2025 Proxy Materials for good cause. As discussed below, Staff Legal Bulletin No. 14M (Feb. 12, 2025) ("SLB 14M"), which was issued after the expiration of the 80-day window for the Company, is central to the legal arguments raised in this letter. As stated in Question 3 of SLB 14M, the Staff "will consider the publication of [SLB 14M] to be 'good cause'" under Rule 14a-8(j) if SLB 14M relates to the legal arguments made by a later-filed no-action request. Therefore, consistent with Rule 14a-8(j) and SLB 14M, the Company has good cause for filing this letter later than the typical 80-day window.

The Proposal

The Proposal sets forth the following:

Resolved: Shareholders request that Tesla commit to a moratorium on sourcing minerals from deep sea mining.

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

Basis for Exclusion

1Tesla Road, Austin, Texas 78725
P 650 681 5100 F 650 681 5101

The Company respectfully requests that the Staff concur in our view that, under the Commission's updated guidance in SLB 14M, the Proposal may be excluded from the Proxy Materials pursuant to Rule 14a-8(i)(7) of the Exchange Act, as the Proposal deals with matters relating to the Company's ordinary business and impermissibly seeks to micromanage the Company.

Rule and Analysis

Rule 14a-8(i)(7) allows the omission of a stockholder proposal from a registrant's proxy statement if the 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 matters 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 shareholder 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 shareholders, as a group, would not be in a position to make an informed judgment.

On February 12, 2025, the Staff issued SLB 14M, which (1) rescinded Staff Legal Bulletin No. 14L ("SLB 14L") and (2) reinstated guidance on "micromanagement" under Staff Legal Bulletin No. 14J ("SLB 14J") and Staff Legal Bulletin No. 14K ("SLB 14K") that had been rescinded by SLB 14L. Taken together, SLB 14M and the reinstated guidance under SLB 14J and SLB 14K make clear that the Proposal is excludable under 14a-8(i)(7), for the following reasons:

- The Proposal relates to matters that 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 shareholder oversight; and
- The Proposal impermissibly seeks to micromanage the Company by seeking to impose a specific method for implementing a complex policy.

a. The Proposal Deals with Matters Relating to the Company's Ordinary Business.

The underlying policy of the ordinary business exclusion is "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. One of the "central considerations" underlying the ordinary business exclusion is whether a proposal raises matters that 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 shareholder oversight" relate to a company's "ordinary" business operations. *See* 1998 Release and SLB 14M. There is a "significant policy exception" to this consideration, and proposals focusing on a significant policy issue may not be excludable "because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote." *Id.* However, as SLB 14M makes clear, whether the significant policy exception applies depends on the particular policy issue raised by the proposal and its significance in relation to the company, and the Staff "will take a company-specific approach in evaluating significance, rather than focusing solely on whether a proposal raises a policy issue with broad societal impact or whether particular issues or categories of issues are universally 'significant.'" SLB 14M. As a result, the analysis under this prong of the Rule 14a-8(i)(7) will focus on whether a proposal "deals with a matter relating to an individual company's ordinary business operations or raises a policy issue that transcends the individual company's ordinary business operations."

The Proposal requests the Company "commit to a moratorium on sourcing minerals for deep sea mining." In the "whereas" clause, the Proposal grounds this request in "[g]lobal concern […] about deep sea mining." The Proposal cites other information and studies to highlight the "universal significance" of this issue, including the global importance of an undisturbed seafloor environment and potential global impacts of deep sea mining on wildlife populations. However, as SLB 14M clearly states, the Staff's analysis under Rule 14a-8(i)(7) is not solely on whether an issue is "universally significant", but instead turns on a proposal deals with a matter relating to an *individual* company's ordinary business operations. The Proposal contains only one sentence linking these global policy issues with the Company—"Tesla can avoid the reputational harm of being linked to this unnecessary and environmentally harmful industry and avoid the financial risks of orienting its supply chain around an industry with an uncertain regulatory future." This statement does not establish Company-specific significance of the global policy issues that are the focus of the Proposal. SLB 14M states that "[t]he mere possibility of reputational or economic harm alone will not demonstrate that a proposal is 'otherwise significantly related to the company's business.'" Although this statement is made under SLB 14M's discussion of Rule 14a-8(i)(5), we believe its logic is also applicable to the analysis of company-specific significance under Rule 14a-8(i)(7) as applied to this Proposal.

In the absence of a policy issue with such Company-specific significance that it transcends "ordinary business", the Proposal falls squarely into the core of the "ordinary business" exclusion because it deals with matters that are fundamental to management's ability to run a company on a day-to-day basis, namely (i) the Company's selection of suppliers and supply chain

1Tesla Road, Austin, Texas 78725
P 650 681 5100 F 650 681 5101

decisions and (ii) the composition and offering of the Company's products. It is well established that a company's decisions in these two areas are precisely the kind of fundamental, day-to-day operational matters meant to be covered by the "ordinary business" exception under Rule 14a-8(i)(7). Prior to the issuance of the now-rescinded SLB 14L, the Staff has consistently concurred with exclusion on this basis of proposals relating to these types of matters, notwithstanding language in the proposal referencing a policy issue. *See*, *e.g.*, *The TJX Companies, Inc.* (Apr. 9, 2021) (concurring with exclusion under Rule 14a-8(i)(7) of a proposal that requested a report on "racism through undetected supply chain prison labor" because the proposal related to decisions regarding the company's suppliers and enforcement of its existing standards of supplier conduct); *The Home Depot, Inc.* (Mar. 20, 2020) (concurring with exclusion under Rule 14a-8(i)(7) of a proposal that is similar to the proposal submitted at TJX); *JPMorgan Chase & Co.* (Mar. 19, 2019) (concurring with exclusion under Rule 14a-8(i)(7) of a proposal relating to the construction of a sea-based canal in Mexico because the proposal related to the products and services offered for sale by the company); *Wells Fargo & Co.* (Jan. 28, 2013) (recon. denied Mar. 4, 2013) (concurring with exclusion under Rule 14a-8(i)(7) of a proposal requesting a report "discussing the adequacy of the company's policies in addressing the social and financial impacts of direct deposit advance lending. . ." because "the proposal relates to the products and services offered for sale by the company"); *The Southern Company* (Jan. 19, 2011) (concurring with exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company "strive to purchase a very high percentage" of "Made in the USA" goods and services because the proposal related to "decisions relating to supplier relationships"); *Spectra Energy Corp.* (Oct. 7, 2010, *recon. denied* Oct. 25, 2010) (concurring with exclusion under Rule 14a-8(i)(7) of a proposal that is similar to the proposal submitted at the Southern Company).

In this instance, notwithstanding the reference to global policy issues, the Proposal clearly relates to supply chain- and product-related issues that are complex, that should be resolved by management and the board of directors, and that are impracticable for shareholders to decide how to resolve at an annual shareholders meeting. Specifically, the Proposal seeks to influence the specific suppliers from which the Company sources its minerals by requesting a moratorium on certain resources. The Company's supplier network is an essential component in accomplishing its business objectives. The Company sources materials for its products from thousands of suppliers, and these complex supply chain relationships have been developed over an extensive period of time. As a result of the number, variety and complexity of the Company's supplier relationships, the Company regularly assesses its suppliers. 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. In addition, 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.

As such, the Proposal should be excluded under Rule 14a-8(i)(7) on the grounds that it deals with matters relating to Company's ordinary business. Consistent with SLB 14M, the single reference to the possibility of reputational or economic harm for the Company does not subject this Proposal to the "significant policy exception" under this prong of Rule 14a-8(i)(7).

b. The Proposal Impermissibly Seeks to Micromanage the Company by Imposing a Specific Method for Implementing a Complex Policy.

Under SLB 14K, which has been reinstated by SLB 14M, "[w]hen a proposal prescribes specific actions that the company's management or the board must undertake without affording them sufficient flexibility or discretion in addressing the complex matter presented by the proposal, the proposal may micromanage the company to such a degree that exclusion of the proposal would be warranted." Under SLB 14K, the Staff has stated that proposals may warrant different outcomes under the "micromanagement" analysis, even when they focus on the same subject matter, "based solely on the level of prescriptiveness with which the proposals approach that subject matter." As an example, SLB 14K references a proposal that prescribes a specific method for reducing greenhouse emissions, noting that the proposal was excludable on the basis of "micromanagement" because it "effectively requir[es] the adoption of time-bound targets (short, medium and long) that the company would measure itself against and changes in operations to meet those goals, thereby imposing a specific method for implementing a complex policy." SLB 14K contrasts this proposal with one seeking a report "describing if, and how, [a company] plans to reduce its total

1Tesla Road, Austin, Texas 78725
P 650 681 5100 F 650 681 5101

contribution to climate change and align its operations and investments with the Paris [Climate] Agreement's goal of maintaining global temperatures well below 2 degrees Celsius." The Staff concluded that this proposal "did not seek to micromanage the company because it deferred to management's discretion to consider if and how the company plans to reduce its carbon footprint and asked the company to consider the relative benefits and drawbacks of several actions."

Under SLB 14K, it is clear that clear that the Proposal seeks to micromanage the Company. The Proposal prescribes a specific action for the Company—simply, that Tesla should "commit to a moratorium on sourcing minerals from deep sea mining"—without affording management or the board with any flexibility or discretion. In this respect, the Proposal is similar to the precedent referenced in SLB 14K, which urged a board to adopt a policy prohibiting certain adjusting financial performance metrics and which the Staff determined to be excludable on the basis of "micromanagement" because "such proposal prohibits any such adjustments *without regard to specific circumstances* or *the possibility of reasonable exceptions*." *See* SLB 14K (referencing *Johnson & Johnson* (Feb. 14, 2019)) (emphasis added). The Proposal does not include references to any specific circumstances or possibility of reasonable exceptions to the requested moratorium.

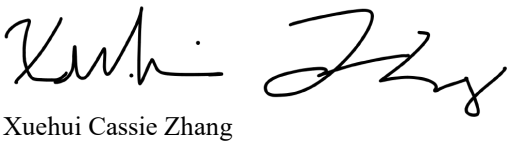
Under SLB 14K, "[w]hen a company asserts the micromanagement prong as a reason to exclude a proposal, we would expect it to include in its analysis how the proposal may unduly limit the ability of management and the board to manage complex matters with a level of flexibility necessary to fulfill their fiduciary duties to shareholders." The complexity of the supply chain- and product-related issues that are implicated by the Proposal are further described above in Section a. As noted above, given the complexity of these matters, it is crucial for the Company's management team, which possesses the necessary expertise and judgment, to have the flexibility to make decisions regarding, among others, the composition of the Company's products, the sourcing of raw materials and the selection of the Company's raw material suppliers, the entry into agreements with suppliers for the purchase of raw materials, the availability of such raw materials, the terms of those agreements and the timing of such agreements and decisions under those agreements.

Therefore, a commitment to a specific action with respect to the Company's supply chain and products, as requested by the Proposal, especially a commitment that does not provide any flexibility or discretion for management or the board to consider specific circumstances or reasonable exceptions, unduly limits the ability of management and the board to manage these complex matters. Consequently, consistent with SLB 14K and SLB 14M, the Proposal should be excluded under Rule 14a-8(i)(7) on the grounds impermissibly seeks to micromanage the company by imposing a specific method for implementing a complex policy.

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 cassie.zhang@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,



Xuehui Cassie Zhang
Associate General Counsel

cc: As You Sow

EXHIBIT A

AS YOU SOW
2020 Milvia St. Suite 500
Berkeley, CA 94704

VIA FEDEX & EMAIL

December 16, 2024

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

Attention: Legal Department – Shareholder Mail

As You Sow® is filing a shareholder proposal on behalf of Michael E. Monteiro 2016 Rev Trust ("Proponent"), a shareholder of Tesla Inc. for inclusion in Tesla's 2025 proxy statement and for consideration by shareholders in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934.

A letter from the Proponent authorizing *As You Sow* to act on its behalf is enclosed. A representative of the Proponent 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.

To schedule a dialogue, please contact Elizabeth Levy, Biodiversity Coordinator, at [redacted].
Please send all correspondence **with a copy to** [redacted]

Sincerely,

Danielle Fugere
President & Chief Counsel

Enclosures
- Shareholder Proposal
- Shareholder Authorization

cc: ir@tesla.com

WHEREAS: Global concern is growing about deep sea mining, the process of extracting battery-related minerals from the deep seabed. Studies indicate that such mining risks destroying fragile habitats, dramatically reducing biodiversity, and causing irreversible damage to marine ecosystems.[1]

Deep sea mining dredges the ocean floor, indiscriminately killing sea life in its path and releasing sediment plumes laced with toxic metals into the water column, poisoning marine food chains.[2] These plumes can cause a cascading effect of biodiversity loss far beyond the mining site, potentially disrupting entire food webs.[3]

Evidence indicates that the detrimental impacts of deep sea mining are likely to result in a reduction in food supply and fisheries-related employment.[4] It also harms the ability of oceans to sequester carbon and retain long-held carbon stores in the seabed.[5] Recent studies have illuminated the importance of an undisturbed seafloor environment to the ocean's ability to generate oxygen.[6] Studies further demonstrate that deep sea mining can more than halve wildlife populations.[7] This finding is particularly concerning, given the discovery of over 5,000 new species in just one region planned for deep sea mining.[8]

Deep sea mining's scientific uncertainty and potentially catastrophic impacts have led many countries, civil society groups, and corporations to voice concern. More than thirty governments have called for a moratorium on deep sea mining.[9] In addition, electric vehicle ("EV") manufacturers, including BMW, Renault, Rivian, Volkswagen, and Volvo, have joined tech giants Apple, Google, Salesforce, and Samsung in committing to a global deep sea mining moratorium and pledging to keep their supply chains deep sea mining-free until scientific findings are sufficient to assess the environmental risks.[10] This growing support for a deep sea mining moratorium by countries with major EV markets raises competitiveness and regulatory concerns for companies that allow deep sea mined materials into their supply chains.

The mineral needs of large electric vehicle manufacturers such as Tesla are touted as the primary incentive for developing a deep sea mining industry. Yet, EV battery technology is trending away from minerals found in deep sea nodules, with a lithium surplus projected through 2027.[11] Such minerals are currently readily available terrestrially, and future demand for critical minerals can be reduced by over 50% through a combination of new technology, circular economy strategies, and recycling.[12]

---

[1] https://www.fauna-flora.org/publications/fauna-flora-deep sea-mining-report-update-march-2023/, p.28
[2] https://nhm.openrepository.com/handle/10141/622833, p.12
[3] https://www.cell.com/current-biology/fulltext/S0960-9822(23)00815-1
[4] https://www.nature.com/articles/s44183-023-00016-8; https://www.cbd.int/article/food-2018-11-21-09-29-49
[5] https://www.frontiersin.org/journals/marine-science/articles/10.3389/fmars.2021.706161/full; https://www.frontiersin.org/journals/marine-science/articles/10.3389/fmars.2020.00165/full
[6] https://www.nature.com/articles/s41561-024-01480-8
[7] https://www.cell.com/current-biology/fulltext/S0960-9822(23)00815-1
[8] https://www.cell.com/current-biology/fulltext/S0960-9822(23)00534-1
[9] https://deep sea-conservation.org/solutions/no-deep sea-mining/momentum-for-a-moratorium/
[10] https://www.stopdeepseabedmining.org/endorsers/
[11] https://www.blueclimateinitiative.org/next-gen-batteries-eliminate-need-for-dsm, p.2-3; https://www.reuters.com/markets/commodities/lithium-supply-surplus-set-stay-with-battery-makers-help-2024-12-10/
[12] https://www.energy-transitions.org/wp-content/uploads/2023/08/ETC-Materials-Report_highres-1.pdf, p.81; https://rmi.org/wp-content/uploads/dlm_uploads/2023/12/xchange_batteries_the_battery_domino_effect.pdf, p.3; https://wwfint.awsassets.panda.org/downloads/the_future_is_circular___sintefmineralsfinalreport_nov_2022__1__1.pdf, p.2-3

By excluding deep sea mined minerals from its supply chains, Tesla can avoid the reputational harm of being linked to this unnecessary and environmentally harmful industry and avoid the financial risks of orienting its supply chain around an industry with an uncertain regulatory future.

RESOLVED: Shareholders request that Tesla commit to a moratorium on sourcing minerals from deep sea mining.