



July 21, 2023

By Email

VIA EMAIL (shareholderproposals@sec.gov)

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

Re: Texas Pacific Land Corporation
Stockholder Proposal of Jason Hubert

Ladies and Gentlemen:

This letter is submitted by Texas Pacific Land Corporation, a Delaware corporation (the “Company”) pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, to request confirmation that the staff (the “Staff”) of the Securities and Exchange Commission (the “Commission” or the “SEC”) will not recommend enforcement action if, in reliance on Rule 14a-8, the Company excludes from the proxy materials (the “2023 Proxy Materials”) for the Company’s 2023 Annual Meeting of Stockholders (the “2023 Annual Meeting”) a proposal submitted by Jason Hubert (the “Proponent”) on June 8, 2023 (together with the supporting statement, the “Proposal”).

Pursuant to Rule 14a-8(j), a copy of this letter is being sent concurrently to the Proponent as notification of the Company’s intention to omit the Proposal from its 2023 Proxy Materials.

The Company is submitting this letter no later than 80 calendar days before the Company intends to file its definitive 2023 Proxy Materials. Pursuant to Staff Legal Bulletin No. 14D (Nov. 7, 2008), this letter and its exhibits are being submitted via email to shareholderproposals@sec.gov.

THE PROPOSAL

The Proposal and the corresponding supporting statement is attached hereto as Exhibit A. The Proposal is as follows:

Shareholders request that TPL's Board of Directors perform a review of the Company's processes surrounding the preparation of its SEC-filed Proxy Materials.

BASES FOR EXCLUSION

We hereby request that the Staff concur in our view that the Proposal may be excluded from the 2023 Proxy Materials in reliance on:

- Rule 14a-8(i)(10) because the Company has already substantially implemented the Proposal; and
- Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company's ordinary business operations.

ANALYSIS

A. The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(10) Because It Has Already Been Substantially Implemented by the Company

The Company believes that it may properly exclude the Proposal from its Proxy Materials under Rule 14a-8(i)(10), which permits the exclusion of a proposal “[i]f the company has already substantially implemented the proposal.” The Commission stated in 1976 that the predecessor to Rule 14a-8(i)(10) “is designed to avoid the possibility of shareholders having to consider matters which have already been favorably acted upon by the management.” *SEC Release No. 34-12598* (Jul. 7, 1976). Rule 14a-8(i)(10) does not require exact correspondence between the actions sought by a stockholder proponent and the issuer's actions in order for the stockholder's proposal to be excluded. See *SEC Release No. 34-20091* (Aug. 16, 1983). The Staff has previously noted that a basis for exclusion under Rule 14a-8(i)(10) is “a determination that the Company has substantially implemented the proposal depends upon whether its particular policies, practices and procedures compare favorably with the guidelines of the proposal.” *Texaco, Inc.* (Mar. 28, 1991). See also, *Expeditors International of Washington, Inc.* (Jan. 30, 2014) and *Exxon Mobil Corp.* (Mar. 17, 2011).

The Staff has consistently found that “a determination that the company has substantially implemented the proposal depends upon whether [the company's] particular policies, practices, and procedures compare favorably with the guidelines of the proposal.” See *Texaco, Inc.* (March 28, 1991). See also, e.g., *BlackRock, Inc.* (Apr. 2, 2021); *JPMorgan Chase & Co.* (Mar. 9, 2021); *Devon Energy Corp.* (Apr. 1, 2020); *Johnson & Johnson* (Jan. 31, 2020); *Pfizer Inc.* (Jan. 31,

2020); *The Allstate Corp.* (Mar. 15, 2019); *Johnson & Johnson* (Feb. 6, 2019); *United Cont'l Holdings, Inc.* (Apr. 13, 2018); *eBay Inc.* (Mar. 29, 2018); *Kewaunee Scientific Corp.* (May 31, 2017); and *Wal-Mart Stores, Inc.* (Mar. 16, 2017). The Staff has permitted exclusion of a proposal under Rule 14a-8(i)(10) when a company has substantially implemented and therefore satisfied the “essential objective” of a proposal, even if the company did not take the exact action requested by the proponent, did not implement the proposal in every detail, or exercised discretion in determining how to implement the proposal. See, e.g., *Salesforce.com, Inc.* (Apr. 20, 2021); *Apple Inc.* (Oct. 16, 2020); *Wal-Mart Stores, Inc.* (Mar. 25, 2015); and *Exelon Corp.* (Feb. 26, 2010).

In addition, the Staff has provided no-action relief under Rule 14a-8(i)(10) when a company has substantially implemented in a manner that satisfied the “essential objective” of a proposal, even if the company did not take the exact action requested by the proponent, did not implement the proposal in every detail or exercised discretion in determining how to implement the proposal. See *Wal-Mart Stores, Inc.* (Mar. 25, 2015) (permitting exclusion of a shareholder proposal requesting an employee engagement metric for executive compensation where a “diversity and inclusion metric related to employee engagement” was already included in the company’s management incentive plan).

The Company satisfies the essential objective of this Proposal through its existing policies and process relating to the preparation and filing of its proxy materials. The Proposal requests that the Company “perform a review of the Company’s processes surrounding the preparation of its SEC-filed Proxy Materials.” In fact, the Company performs a review of these processes every year in preparation for each proxy statement to be prepared and filed in connection with an annual meeting of stockholders.

The preparation of the Company’s proxy materials is a multidisciplinary process that begins several months before the proxy is filed and distributed to stockholders. Each year, before the proxy drafting is initiated, an internal review occurs of the prior year’s process and consideration of enhancements to be made. Based on that analysis, the Company develops a comprehensive workplan to prepare the proxy statement, which involves the Company’s internal legal, human resources and financial reporting teams as well as the Company’s outside advisors, including outside counsel, executive compensation advisors and proxy solicitors. The Company’s Board of Directors and its committees review relevant disclosures in the proxy statement and discuss with management the preparation process and the substance of the proxy statement.

As a reporting company, the Company’s solicitation of proxies relating to a meeting of stockholders is governed by Section 14 of the Exchange Act and Regulation 14A thereunder. Specifically, Rule 14a-9 of the Exchange Act prohibits making false or misleading statements of material fact, and omitting material facts necessary to make the statements given not false or misleading, in connection with any solicitation of proxies subject to Regulation 14A. The procedures described above are designed to ensure that the Company’s proxy statement disclosures comply with Commission rules and regulations, and these procedures are evaluated on an annual basis.

As such, the Company believes that it has satisfied the Proposal's essential objective. Accordingly, we request that the Staff concur that the Proposal may be excluded under Rule 14a-8(i)(10).

B. The Proposal May be Excluded Pursuant to Rule 14a-8(i)(7) Because the Proposal Deals with Matters Relating to the Company's Ordinary Business Operations.

Rule 14a-8(i)(7) permits the omission of a shareholder proposal dealing with matters relating to a company's "ordinary business operations." According to the Commission's release accompanying the 1998 amendments to Rule 14a-8, 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." *Release No. 34-40018* (May 21, 1998) (the "1998 Release").

In the 1998 Release, the Commission identified the two central considerations underlying the general policy for the ordinary business exclusion. The first consideration relates to the subject matter of the proposal. The Commission stated that, "[c]ertain 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 shareholder oversight." *Id.* Examples of the tasks cited by the Commission include "management of the workforce." *Id.* The second consideration relates to the "degree to which the 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." *Id.*; see also *Staff Legal Bulletin No. 14L* (Nov. 3, 2021) ("SLB 14L"). The term "ordinary business" is rooted in the fundamental "corporate law concept providing management with flexibility in directing certain core matters involving the company's business and operations." 1998 Release (citing *Release No. 12999* (Nov. 22, 1976)).

As the Commission noted in the 1998 Release, proposals relating to ordinary business matters are distinguishable from those "focusing on sufficiently significant social policy issues," which generally are not excludable under Rule 14a-8(i)(7) 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." The ordinary business exception therefore "recognize[s] the board's authority over most day-to-day business matters," while at the same time "preserving shareholders' right to bring important issues before other shareholders by means of the company's proxy statement." See *SLB 14L*, Part B.2.

As noted above, the Company's solicitation of proxies relating to a meeting of stockholders is governed by Section 14 of the Exchange Act and Regulation 14A thereunder. Specifically, Rule 14a-9 of the Exchange Act prohibits making false or misleading statements of material fact, and omitting material facts necessary to make the statements given not false or misleading, in connection with any solicitation of proxies subject to Regulation 14A. The assessment of, and ensuring compliance with, the requirements imposed by applicable laws and regulations are fundamental to management's ability to run the Company on a day-to-day basis, including how the

Company complies with the proxy rules. All of these components are aspects of a Company's legal compliance program and involve complex matters for management's determination.

The Staff has routinely concurred in the exclusion of proposals on the grounds that compliance with applicable law and regulation is a matter falling squarely within the ordinary business of a company. For instance, in *Comcast Corporation* (Apr. 9, 2020), the Staff concurred with the exclusion of a proposal requesting the board to "conduct an independent investigation into and prepare a report . . . on risks posed by the Company's failures to prevent workplace sexual harassment," in reliance on Rule 14a-8(i)(7), where the company successfully argued that compliance with law and regulations is a matter falling squarely within the ordinary business of the company. In *Yahoo! Inc.* (Apr. 3, 2012) the Staff concurred with the exclusion of a proposal directing the board to seek to "minimize the[] damaging results" of possible "legal actions and financial penalties" resulting from the company's potential unlawful activities, because, according to the Staff, the proposal "concern[ed the] company's legal compliance program." *See also, e.g., Navient Corporation* (Mar. 26, 2015) (concurring in the exclusion of a proposal requesting a report on the company's internal controls over its student loan servicing operations, noting that proposals "that concern a company's legal compliance program are generally excludable under Rule 14a-8(i)(7)"); *Apple, Inc.* (Dec. 30, 2014) (concurring in the exclusion of a proposal requesting an executive compensation metric based on the effectiveness of the company's policies regarding adherence to laws and regulations on the grounds that the thrust and focus of the proposal is on the ordinary business matter of the company's legal compliance program); *JPMorgan Chase & Co.* (Mar. 13, 2014) (concurring in the exclusion of a proposal requesting a policy review of the fiduciary, moral and legal obligations of directors and officers on the grounds that such obligations are governed by state law, federal law and stock exchange listing standards, and proposals that concern a company's legal compliance program are generally excludable under Rule 14a-8(i)(7)); *Raytheon Company* (Mar. 25, 2013) (concurring in the exclusion of a proposal requesting a report on the board's oversight of the company's efforts to implement provisions of the Americans with Disabilities Act, the Fair Labor Standards Act and the Age Discrimination in Employment Act on the grounds that proposals concerning a legal compliance program are generally excludable under Rule 14a-8(i)(7)); *FedEx Corporation* (July 14, 2009) (concurring in the exclusion of a proposal requesting a report on the compliance of the company and its contractors with federal and state laws governing proper classification of employees and independent contractors on the grounds that proposals concerning a legal compliance program are generally excludable under Rule 14a-8(i)(7)); *The AES Corporation* (Mar. 13, 2008) (concurring in the omission of a proposal seeking an independent investigation of management's involvement in the falsification of environmental reports in reliance on Rule 14a-8(i)(7) because it concerned the company's general conduct of a legal compliance program); *Verizon Communications Inc.* (Jan. 7, 2008) (concurring in the exclusion of a proposal seeking adoption of policies to ensure that the company did not engage in illegal trespass actions, and to prepare a report on the company policies for handling such incidents, because it concerned the company's "general legal compliance program"); *Coca-Cola Company* (Jan. 9, 2008) (concurring in the omission of a proposal seeking adoption of a policy to publish an annual report on the comparison of laboratory tests of the company's product against national laws and the company's global quality standards in reliance on Rule 14a-8(i)(7) because it concerned

the company's general conduct of a legal compliance program); *Pfizer, Inc.* (Jan. 31, 2007) (concurring in the exclusion of a proposal requesting a report on the company's activities and plans with respect to certain regulatory matters and public policies on the grounds that the proposal related to the ordinary business operation of "evaluating the impact of government regulation on the company"); and *General Electric Company* (Jan. 30, 2007) (concurring in the exclusion of a proposal requesting a report on GE's activity and plans with respect to certain regulatory matters and public policies on the grounds that it related to GE's ordinary business operations (*i.e.*, evaluating the impact of government regulation on the company)).

In addition, the Company's proxy statement is also a form of communication with shareholders during the proxy solicitation process. The Staff has consistently permitted the exclusion under Rule 14a-8(i)(7) of proposals relating to the conduct of the annual meeting process and that seek to regulate the company's communications with its shareholders during the proxy solicitation process. *See Sportsman's Warehouse Holdings, Inc.* (Apr. 10, 2023) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal requesting that board to take steps necessary for a reasonable adjournment of the 2023 annual meeting to a later date or dates, if necessary or appropriate, to solicit additional proxies because the Proposal relates to, and does not transcend, ordinary business matters); *Con-way, Inc.* (Jan. 22, 2009) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the board "ensure that future annual shareholder meetings be distributed over the internet using webcast technology" because it related to the company's ordinary business operations, noting "shareholder relations and the conduct of annual meetings"); *General Motors Corporation* (Mar. 15, 2004) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting certain disclosure regarding the company's solicitation of shareholder votes because it related to the company's ordinary business operations, noting the "provision of additional proxy solicitation information"); *FirstEnergy Corp.* (Feb. 26, 2001) (permitting the exclusion under Rule 14a-8(i)(7) of a proposal recommending that the company "include the complete text of shareholder resolutions in 'any additional request[s] for shareholder votes,' and that the company disclose the costs of these requests" because it related to the company's ordinary business operations, noting "the presentation of additional proxy solicitation expenses in reports to shareholders.").

The Proposal also does not involve a significant policy issue. As set out in the 1998 Release, proposals "focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable [under Rule 14a-8(i)(7)], 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." Accordingly, and as is appropriate, an issue must meet certain standards to be deemed a significant policy issue. In determining whether an issue should be deemed a significant policy issue, the Staff considers whether the issue has been the subject of widespread and/or sustained public debate. The topic of the Proposal does not meet this standard.

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CONCLUSION

For the foregoing reasons, the Company requests your confirmation that the Staff will not recommend any enforcement action to the Commission if the Proposal is omitted from the 2023 Proxy Materials.

We would be happy to provide any additional information and answer any questions regarding this matter. Should you have any questions, please contact the undersigned at mdobbs@texaspacific.com or (214) 969-5530.

Sincerely,

A handwritten signature in black ink, appearing to read "Micheal W. Dobbs". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Micheal W. Dobbs
Senior Vice President, General Counsel and
Secretary

Enclosures

cc: Jason Hubert

Exhibit A

Rule 14a-8 Proposal for Texas Pacific Land Corporation

Proposal # – Review of Proxy Material Preparation Process

Shareholders request that TPL's Board of Directors perform a review of the Company's processes surrounding the preparation of its SEC-filed Proxy Materials.

During a trial in Delaware Chancery Court in April, TPL Director Karl Kurz described a portion of TPL's 2022 proxy materials as containing a "false statement". The precise language from the trial transcript is below:

Q: And Glass Lewis opined that TPL does not have sufficient shares to meet its existing obligations; right?

Kurz: That's what it says, correct.

Q: That was a false statement, wasn't it?

Kurz: I think we had -- we had, yeah, I would say we had enough shares to meet our existing obligations.

Q: So that's a false statement; correct, sir?

Kurz: I would say it's a false statement.

Q: And TPL sent this false statement to all of its shareholders before the 2022 annual meeting; didn't it?

Kurz: Looks like it did, yes.

...

Q: Is this an honest way to deal with shareholders of a public company?

Kurz: I would not like to have seen that statement in there.

This episode has left many shareholders with questions regarding the reliability of TPL's proxy materials. Therefore, stockholders request that the Board review the relevant controls and processes in place to ensure future materials are reliable.

Please vote yes.

Proposal # – Review of Proxy Material Preparation Process