



DIVISION OF  
CORPORATION FINANCE

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

May 6, 2025

Xuehui Cassie Zhang  
Tesla, Inc.

Re: Tesla, Inc. (the "Company")  
Incoming letter dated January 14, 2025

Dear Xuehui Cassie Zhang:

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

The Proposal requests that the Company commit to implementing a sustainable tire solution for Company vehicles as soon as possible.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal relates to the Company's ordinary business operations. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(7). In reaching this position, we have not found it necessary to address the alternative basis for omission upon which the Company relies.

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/2024-2025-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Michael R. Stephen



January 14, 2025

**VIA STAFF ONLINE FORM**

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 Michael R. Stephen

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"). Michael R. Stephen, an individual (the "Proponent"), submitted 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.

***Proposal***

The Proposal sets forth the following resolution:

Shareholders request that Tesla, Inc. commit to implementing a sustainable tire solution for Tesla vehicles as soon as possible. This could be developed in-house and/or with partners.

Tesla could define their own sustainable tire criteria, for example:

- 1) Excellent performance and safety.
- 2) Zero pollution from 6PPD-Q and microplastics during use and end-of-life.
- 3) Made of renewable materials.
- 4) Fully-recyclable into new tires.
- 5) Long-lasting.

As Robin [*sic*] Denholm stated during Tesla's 2024 AGM, "Sustainability is not just about avoiding emissions. It needs to take into account the whole lifecycle from the manufacturing of the products to the products' end of life."

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

***Basis for Exclusion***

The Company respectfully requests that the Staff concur in the Company's view that the Proposal may be excluded from the Proxy Materials on the following bases:

- Rule 14a-8(i)(7) because the Proposal inextricably deals with matters relating to the Company’s ordinary business operations; and
- Rule 14a-8(i)(3), because the Proposal is so vague and indefinite as to be inherently misleading.

***Rule and Analysis***

***A. Rule 14a-8(i)(7) – Relates to Ordinary Business Operations***

Rule 14a-8(i)(7) allows the omission of a shareholder 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 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. As discussed in Staff Legal Bulletin No. 14L (November 3, 2021) (the “SLB 14L”), whether or not a proposal seeks to “micro-manage” depends to a significant degree on the level of granularity set forth in the proposal and whether and to what extent the proposal inappropriately limits discretion of the board or management.

The Proponent submitted a substantially similar proposal for the Company’s 2024 Proxy Materials (the “2024 Proposal”) that requested the Company redesign tires used in its vehicles to avoid pollution from harmful chemicals such as 6PPD-Q. The Staff concurred with the Company’s request for no-action relief of the 2024 Proposal on the basis of Rule 14a-8(i)(7), finding that the proposal sought “to micromanage the Company”. See *Tesla, Inc. (March 27, 2004)*. In an attempt to avoid the same result this year, the new Proposal appears to give the Company discretion – it remains focused on tire production but contains “could” statements, such as the tires “could be developed in-house and or/with partners” and “Tesla could define their own sustainable tire criteria.” Upon a closer reading, however, it becomes clear that the Proponent has retained his specific concern with redesigning tires used on Tesla vehicles to avoid 6PPD-Q. Accordingly, the Proposal seeks to impermissibly micromanage the Company.

It is well-established that the Staff considers both the terms of a proposal’s resolution together with its supporting statement when evaluating a proposal under Rule 14a-8(i)(7). See Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005). In this case, despite the apparent discretion afforded the Company in the Proposal’s resolved clause, the supporting statement makes clear that the Proponent is merely seeking to resubmit the 2024 Proposal in a manner designed to avoid exclusion. In addition to the specific mention of “Zero pollution from 6PPD-Q” in the second point of the Proposal’s resolved clause, the second, fourth, fifth and sixth paragraphs of the supporting statement all focus on harms associated with 6PPD-Q. While the supporting statement mentions “tire pollution” generally, the only specific points discussed in the Proposal relate to the chemical 6PPD-Q. In addition, footnote 23 contains a link to a YouTube video interview with the Proponent that features an extensive discussion of his concern with 6PPD-Q in tires. Bafflingly, this footnote is attached to a quote about landing rockets and designing tires – neither of which the Company does. Nevertheless, a reading beyond the most superficial makes clear that the Proposal remains focused on impermissibly asking the Company to design tires without using 6PPD-Q.

In seeking to dictate the Company’s decision on the design of its components by requiring that the new product be designed without certain chemicals, the Proposal micromanages the Company. Determining how a company will engineer its products and its components and the depth of the Company’s involvement in the design of components procured from suppliers (or bringing the design in-house) are fundamental to management’s ability to oversee a company’s ordinary course business operations. These decisions involve a wide array of business considerations, including the complexity of the component, the component’s usefulness and fit in the context of the finished product, changing regulatory requirements and the resources and expertise available internally versus externally. Tires are especially complex and various factors like grip, rolling resistance, efficiency, sustainability, comfort, lateral performance and its effect on steering responsiveness are considerations in determining which tires are used for the build of the vehicle. The ability of management to assess which components are more appropriate for the product as a whole is fundamental to its ability to run the Company on a day-to-day basis and is not appropriate for direct shareholder oversight. Moreover, the Company does not manufacture tires. Decisions concerning the products to manufacture or design and how to do so involve the allocation and development of internal resources and is a highly complex process that is at the most fundamental heart of the Company’s ordinary

Company's ordinary business operations. The Proposal, however, seeks to supplant management's judgment on this complex topic with a mandate to create a new product and includes minute specifications on precisely which chemicals are used in that product. This is the definition of micromanagement and shareholders cannot possibly make an informed judgment about these factors, given that they are not involved in the day-to-day management of the Company.

The Staff has consistently agreed that shareholder proposals attempting to micromanage a company by probing too deeply into matters of a complex nature upon which shareholders, as a group, are not in a position to make an informed judgment are excludable under Rule 14a-8(i)(7). See 1998 Release; see also, e.g., *JPMorgan Chase & Co.* (Mar. 22, 2019); *Royal Caribbean Cruises Ltd.* (Mar. 14, 2019); *Walgreens Boots Alliance, Inc.* (Nov. 20, 2018). The Staff also has permitted exclusion on the basis of micromanagement of shareholder proposals urging the adoption of policies that impose specific methods for implementing complex policies. See *Tesla, Inc.* (March 27, 2024) (concurring in the exclusion, pursuant to Rule 14a-8(i)(7), of a proposal requesting the company redesign vehicle tires to avoid pollution from harmful chemicals such as 6PPD-Q); *Amazon.com, Inc.* (Apr. 7, 2023, recon. denied Apr. 20, 2023) (concurring in the exclusion, pursuant to Rule 14a-8(i)(7), of a proposal that would have required the company to adopt a particular methodology for scope 3 greenhouse gas emissions measuring and reporting that was inconsistent with the company's existing approach); *The Coca-Cola Co.* (Feb. 16, 2022) (concurring in the exclusion, pursuant to Rule 14a-8(i)(7), of a proposal requesting that the company submit any proposed political statement to shareholders at the next shareholder meeting for approval prior to issuing the subject statement publicly); *JPMorgan Chase & Co.* (Mar. 30, 2018) (concurring in the exclusion, pursuant to Rule 14a-8(i)(7), of a proposal that requested a report on the reputational, financial and climate risks associated with project and corporate lending, underwriting, advising and investing for tar sands production and transportation, noting that the proposal sought to "impose specific methods for implementing complex policies"). In addition, it is well established that a proposal that seeks to micromanage a company's business operations is excludable under Rule 14a-8(i)(7) regardless of whether the proposal raises a "significant social policy issue." See Staff Legal Bulletin No. 14E (Oct. 27, 2009) at note 8, citing the 1998 Release for the premise that "a proposal [that raises a significant policy issue] could be excluded under Rule 14a-8(i)(7), however, if it 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."

As in the matters described above, the Proposal is inappropriate for stockholders to express their judgment on because it relates to the Company's core operational strategies. The Company believes that the specific strategies regarding design, engineering, manufacturing and procurement are properly within the purview of management, which has the necessary capability and knowledge to evaluate the particular facts and circumstances of its business operations and take appropriate action. Based on the subject matter of the Proposal as discussed above, the Company believes that the exclusion provided under Rule 14a-8(i)(7) is applicable to the Proposal.

**B. 14a-8(i)(3) – Proposal so vague and indefinite as to be inherently misleading**

Rule 14a-8(i)(3) permits the exclusion of a shareholder proposal if the proposal or supporting statement is contrary to any of the Commission's proxy rules or regulations, including Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials. The Staff consistently has taken the position that overly vague and indefinite shareholder proposals are inherently misleading and therefore excludable under Rule 14a-8(i)(3) because "neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." Staff Legal Bulletin No. 14B (Sept. 15, 2004). See also *Dyer v. SEC*, 287 F.2d 773, 781 (8th Cir. 1961) ("[I]t appears to us that the proposal, as drafted and submitted to the company, is so vague and indefinite as to make it impossible for either the board of directors or the stockholders at large to comprehend precisely what the proposal would entail."); *Home Depot, Inc.* (Mar. 12, 2014) (concurring in the exclusion, pursuant to Rule 14a-8(i)(3), of a proposal that the board prepare a sustainability report, which establishes metrics and benchmark objective footprint information and recommendations on the company's sustainability policies and performance, include information specified in the proposal, including multiple GRI type objective statistical indicators identifying accomplishments, failures and objectives of the company and that the report should be prepared by an independent third party organization, noting that "neither shareholder nor the company could be able to determine with any reasonable certainty exactly what actions or measures the proposal requires"); *Bank of America Corporation* (Feb. 25, 2008) (concurring in the exclusion, pursuant to Rule 14a-8(i)(3), of a proposal that the board amend its greenhouse gas emissions policies to observe moratorium on all financing investment and further involvement in activities that


support MTR coal mining or the construction of new coal-burning power plants that emit carbon dioxide, as vague and indefinite); *Puget Energy Inc. (Mar. 7, 2002)*(concurring in the exclusion, pursuant to Rule 14a-8(i)(3), of a proposal that the board take the necessary steps to implement a policy of “improved corporate governance”, as vague and indefinite).

The Proposal is impermissibly vague and indefinite because it is unclear whether the Proposal truly affords the Company discretion to design tires as requested, or whether it wants to dictate the particulars of tire design. As described above, we believe the Proposal is focused on producing tires without 6PPD-Q. Excluding the supporting statement, however, the Proposal would appear to ask the Company to “commit to implementing a sustainable tire solution for Tesla vehicles as soon as possible.” The Proposal provides that the Company could define its own sustainable tire criteria and provides examples of the criteria that could be used. As referred to in the YouTube video cited by the Proponent in footnote 23, the Company has stated that it has worked with a tire company to make tires “quieter, more efficient, higher grip and better performance laterally”. If the Company is able to define its own sustainability, including, as suggested by the Proposal, “[e]xcellent performance and safety”, it is unclear what the Proposal is seeking the Company to do beyond what the Proponent has said the Company is already doing, making the Proposal vague and indefinite and impossible for the Company and the shareholders to determine when the Company has “commit[ed] to implementing a sustainable tire solution.” If not, the Proposal is another iteration of the 2024 Proposal that sought to micromanage the Company. Thus, due to its lack of clarity the Proposal may be excluded the Company’s Proxy Materials pursuant to Rule 14a-8(i)(3) as it is impermissibly vague and indefinite.

### ***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](mailto: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,



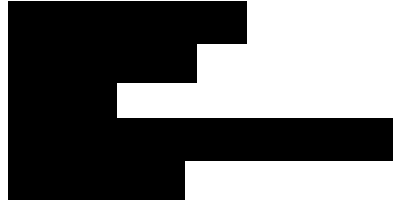
Xuehui Cassie Zhang  
Associate General Counsel

cc: Michael R. Stephen

**EXHIBIT A**

**From:**

Michael R. Stephen



**To:**

Tesla, Inc.  
1 Tesla Road  
Austin, Texas 78725  
Attention: Legal Department  
with a copy sent by e-mail to [shareholdermail@tesla.com](mailto:shareholdermail@tesla.com).

December 13, 2024

Dear Tesla,

I am a long-term Tesla shareholder. Thank you for your tremendous work.

Please see my attached stockholder proposal for inclusion in the Tesla 2025 AGM. I have written this proposal in compliance with the requirements to submit a stockholder proposal set by the Securities and Exchange Commission, under Rule 14a-8 of the Exchange Act.

I have continuously held more than \$25,000 USD in market value of Tesla securities entitled to vote on the proposal for at least the previous year. Please see the attached statement from my broker, Questrade, confirming this.

I intend to hold the entire value of my Tesla securities, including at least \$25,000 USD in value of Tesla shares, through the date of the 2025 Tesla shareholder's meeting.

I can meet with Tesla via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of my shareholder proposal. Specifically, I can meet with Tesla between the hours of 9 am to 11 am Pacific Time on January 8, 9 and 10, 2025. If Tesla wishes to meet, please contact me at least 24 hours in advance to book a time.

My contact information is provided at the top of this letter.

To protect my privacy, please do not publish in your proxy statement my street address or the total number or value of Tesla securities that I hold. You may include my email address, city of residence, and the fact that I hold the minimum number of shares required. I would like to discuss this request with you.

Please see the attached stockholder proposal. Microsoft Word calculates my proposal to have 490 words, including footnotes.

Please also confirm your receipt of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "M Stephen", with a long horizontal flourish extending to the right.

Michael R. Stephen, PAg

*Attachments:*

Shareholder proposal.

Proof of shares held.

**Resolved:**

Shareholders request that Tesla, Inc. commit to implementing a sustainable tire solution for Tesla vehicles as soon as possible. This could be developed in-house and/or with partners.

Tesla could define their own sustainable tire criteria, for example:

- 1) Excellent performance and safety.
- 2) Zero pollution from 6PPD-Q and microplastics during use and end-of-life.
- 3) Made of renewable materials.
- 4) Fully-recyclable into new tires.
- 5) Long-lasting.

As Robin Denholm stated during Tesla's 2024 AGM, "Sustainability is not just about avoiding emissions. It needs to take into account the whole lifecycle from the manufacturing of the products to the products' end of life."<sup>1</sup>

**Supporting Statement:**

Tire pollution is an extremely difficult and urgent global problem that challenges Tesla's mission. None-the-less, Tesla's exceptional engineers already design "Tesla-Approved" tires with suppliers and could meaningfully accelerate the development and production of sustainable tires.<sup>2 3 4</sup>

6PPD-Q is a highly toxic chemical discovered in 2020<sup>5</sup> that leaches from tire rubber and has been found in the air of 15 megacities,<sup>6</sup> surface waters of Canada<sup>7</sup> and Australia,<sup>8</sup> and in South China's drinking water.<sup>9</sup> People and animals inadvertently ingest 6PPD-Q and microplastics that are emitted from the ~2.5 billion tires produced around the globe annually.<sup>10</sup>

Of the ~263 million tires scraped every year in the USA without closed-loop recycling, most are burnt or spread on children's playgrounds and sports fields.<sup>11</sup>

Tire pollution harms children. For example, 6PPD-Q has been found in human urine, including children and pregnant women.<sup>12</sup> Children exposed to 6PPD-Q had reduced body mass index and increased frequency of diarrhea and influenza.<sup>13</sup> Studies of laboratory mice (an experimental model for humans) reveal that 6PPD-Q does the following: has toxic effects on the liver; rapidly crosses the blood-brain barrier; accumulates in organs such as the kidney, lungs, testis, liver, spleen, heart, and muscles; and transfers from mother into the placenta, embryo body and embryo brain.<sup>14</sup>

Tire pollution kills salmon. Coho salmon die when exposed to only 95 ng/L of 6PPD-Q.<sup>15</sup> Road run-off containing 6PPD-Q kills 60% to 100% of coho salmon in some U.S. urban streams, leading to local extinctions.<sup>16</sup> Other fish species worldwide are also impacted.

Tire pollution harms whales and human societies. Iconic Killer Whale populations, which are starving and becoming extinct along the U.S. and Canadian Westcoast, depend upon coho salmon for food.<sup>17</sup> Commercial fishermen have sued tire manufacturers for 6PPD-Q's damage to their fisheries.<sup>18</sup> Indigenous nations and community groups have petitioned governments regarding 6PPD-Q's impacts on salmon abundance for food security and cultural practices.<sup>19 20 21</sup>

A sustainable tire, therefore, would help the entire planet.

Tesla can achieve ambitious goals. Vote YES and let them run.<sup>22</sup>

"If they can land rockets, you'd think they could design a non-toxic tire."<sup>23</sup>

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<sup>1</sup> <https://www.tesla.com/2024shareholdermeeting>

<sup>2</sup> [https://dtsc.ca.gov/scp/motor\\_vehicle\\_tires\\_containing\\_6ppd/](https://dtsc.ca.gov/scp/motor_vehicle_tires_containing_6ppd/)

<sup>3</sup> <https://globalaircylinderwheels.com/>

<sup>4</sup> <https://smarttirecompany.com/>

<sup>5</sup> <https://www.science.org/doi/10.1126/science.abd6951>

<sup>6</sup> <https://www.sciencedirect.com/science/article/pii/S0269749122014208>

<sup>7</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8335451/>

<sup>8</sup> <https://www.sciencedirect.com/science/article/abs/pii/S004896972205567X>

<sup>9</sup> <https://pubmed.ncbi.nlm.nih.gov/36577297/>

<sup>10</sup> <https://oem.news/industry/rubber/tire/tire-market-the-global-tire-industry-analysis/>

<sup>11</sup> <https://www.ustires.org/resources/2019-us-scrap-tire-management-summary-report>

<sup>12</sup> <https://pubs.acs.org/doi/10.1021/acs.estlett.2c00821>

<sup>13</sup> <https://pubmed.ncbi.nlm.nih.gov/38220074/>

<sup>14</sup> <https://www.sciencedirect.com/science/article/abs/pii/S0048969723034654>

<sup>15</sup> <https://www.science.org/doi/10.1126/science.abo5785>

<sup>16</sup> <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0028013>

<sup>17</sup> <https://www.raincoast.org/2023/02/southern-resident-killer-whales-not-getting-enough-to-eat-since-2018/>

<sup>18</sup> <https://earthjustice.org/press/2023/u-s-fishing-groups-sue-tire-manufacturers-over-6ppd-impacts-on-salmon-steelhead>

<sup>19</sup> <https://earthjustice.org/document/affiliated-tribes-of-northwest-indians-6ppd-resolution>

<sup>20</sup> <https://earthjustice.org/press/2023/epa-grants-tribal-nations-petition-to-restrict-6ppd-in-tires>

<sup>21</sup> <https://ecojustice.ca/news/feds-to-investigate-tire-chemical-implicated-in-mass-salmon-deaths-but-urgent-action-needed-environmental-groups-react/>

<sup>22</sup> <https://www.baroncapitalgroup.com/conference-2024/meet-coo-gwynne-shotwell-spacex>

<sup>23</sup> <https://www.youtube.com/watch?v=qfpDKxoq6jE>

February 16, 2025

VIA E-mail to [shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov) and

VIA Web Form at <https://www.sec.gov/forms/shareholder-proposal>

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

Ladies and Gentlemen:

I, Michael R. Stephen (the “Proponent”) am the beneficial owner of shares in Tesla Inc. and have submitted a shareholder proposal (the “Proposal”) to Tesla. I am responding to the letter dated January 14, 2025 (“Company Letter”) sent to the Securities and Exchange Commission by Xuehui Cassie Zhang. In that letter, Tesla says that they intend to exclude my Proposal from its proxy statement for their 2025 annual meeting of shareholders. Please see my following response to aid your review of Tesla’s no-action request. A copy of this letter is being emailed concurrently to Ms. Zhang.

On February 3, 2025, I also submitted a letter through the web form above, and by email to Tesla, stating my intention to respond to Tesla’s no-action letter by today at midnight, Pacific Standard Time. In that letter I asked that if this timeline was not acceptable to the SEC that I please be contacted so I could revise the plan. I am submitting this letter within that timeframe.

The following response demonstrates that Tesla has no basis under Rule 14a-8 for exclusion of the Proposal. I therefore respectfully ask that the Staff not concur Tesla’s no-action letter request.

Nonetheless, I also make a request in the response for a minor edit to the Proposal that could help avoid confusion without changing the Proposal’s substance.

Thank you for your work regulating the securities industry, thereby making it possible for retail investors such as myself to invest in U.S. public companies and to vote on, and contribute to, suitable shareholder proposals.

A copy of this letter and my response are also being emailed to Tesla.

Sincerely,



Michael R. Stephen, PAg  
Vancouver, BC

**Response to No-Action Request of January 14, 2025  
Tesla Shareholder Proposal Regarding Tire Pollution**

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## 1 Introduction

On January 14, 2025, the legal department of Tesla, Inc. (the “Company” or “Tesla”) submitted a no-action letter to the Security and Exchange Commission (the SEC or the Commission) requesting that the SEC take no action against Tesla if they exclude my shareholder proposal (the Proposal) from Tesla’s 2025 Proxy Materials for their upcoming annual general meeting (AGM).

Tesla says they intend to exclude the Proposal on the following bases:

- 1) “Rule 14a-8(i)(7) because the Proposal inextricably deals with matters relating to the Company’s ordinary business operations”; and
- 2) “Rule 14a-8(i)(3), because the Proposal is so vague and indefinite as to be inherently misleading.”

I believe that a fair assessment of the facts will determine that Tesla has not demonstrated a sufficient basis to exclude the Proposal under Rule 14a-8. As a case-by-case, subjective judgment is required, I rely upon the SEC’s mandate to ensure fair dealing and thank them for their work. I also respectfully request that the SEC inform Tesla that it does not concur with Tesla’s request.

To aid the SEC in reaching their determination I offer the following assessment of Tesla’s no-action arguments.

## 2 Summary

Tesla has asked to exclude this Proposal regarding tire pollution by arguing that the Proposal 1) micromanages its ordinary business operations and 2) is too vague. These arguments are constructed with inaccurate and sometimes contradictory claims. Instead, the Proposal addresses a significant policy issue for Tesla that transcends its ordinary business operations. In addition, the Proposal does not micromanage, is not too vague, and provides clear direction that does not interfere with Tesla’s fiduciary obligations to its shareholders.

Two types of tire pollution are mentioned in this Proposal: 1) microplastics from tire wear particles and scrap tires; and 2) the highly toxic chemical 6PPD-Q, which is emitted from tire rubber. Tire microplastics accumulate in the human food chain and are transported widely. 6PPD-Q is highly toxic to aquatic life (especially salmon), accumulates in humans (especially pregnant women), and harms children’s health.

The Proposal's request reads as follows:

Shareholders request that Tesla Inc., commit to implementing a sustainable tire solution for Tesla vehicles as soon as possible. This could be developed in-house and/or with partners.”

This Proposal simultaneously gives Tesla direction and freedom in the following ways:

- 1) A commitment to a high-level goal is requested, not a specific product, service or other action.
- 2) Although a commitment usually leads to a corresponding action, especially for a company with an inspirational mission such as Tesla, it is not necessarily so.
- 3) Although a public commitment would be more consistent with the outward focus of Tesla's mission to influence other companies, it is also possible for the commitment to be made only internally within Tesla or with an external partner, for example.
- 4) The stated timing implies urgency while letting Tesla decide when their solution is ready to implement.
- 5) The solution may involve including sustainability criteria into the tires that Tesla already designs. However, the solution instead could be selected from other potential ways to make tires sustainable, such as dust collection, recycling and water treatment.
- 6) The requested solution is for Tesla vehicles only, thus limiting the scope to areas within Tesla's immediate influence and not necessarily all tires worldwide.
- 7) The solution does not have to apply to all Tesla vehicles. For example, if Tesla had a novel idea that applied to only one version of its vehicles, that would satisfy the Proposal.
- 8) Tesla could implement a solution developed by others or create any portion of it themselves.

Extensive media coverage in recent years has made tire pollution a main-stream topic. Tesla, however, has not publicly addressed the issue despite its sustainability branding and position as a leading manufacturer of tire-dependent vehicles.

Tesla therefore faces the significant policy choice of whether to continue ignoring the issue of tire pollution, or to commit to implementing a solution, thereby better aligning its actions with its sustainability mission. Tesla's commitment would also support the efforts of others who are already searching for a solution, including researchers, governments, and the U.S. Tire Manufacturer's Association.

Therefore, Tesla's arguments against this Proposal are not convincing and instead the Proposal is well within the realm of permitted material. I humbly ask that the SEC not concur with Tesla's request to have the Proposal excluded from Tesla's 2025 Proxy Materials.

### 3 Rule 14a-8(i)(7): Staff Guidance

On February 12, 2025, the U.S. Securities and Exchange Commission's Division of Corporate Finance (the staff) issued Staff Legal Bulletin No. 14M (SLB 14M) which clarifies staff views regarding the scope and application of ordinary business exclusions under Rule 14a-8(i)(7). This bulletin rescinds Staff Legal Bulletin No. 14L and reinstates other sections of guidance that apply to micromanagement.

SLB 14M provides several clarifications which apply to Tesla's exclusion request against this Proposal, including the following:

#### 3.1 SLB 14M Guidance Regarding Ordinary Business

- a) Proposals that raise significant policy issues are evaluated on a "case-by-case basis."
- b) The purpose of the ordinary business exclusion is to allow a company to resolve their ordinary business problems without shareholders trying to solve these problems at annual shareholder meetings.
- c) Proposals that relate to ordinary business matters but "focus[] on a significant policy issue generally are not 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."
- d) "Whether the significant policy exception applies depends upon the particular policy issue raised by the proposal and its significance in relation to the company."
- e) "Analysis will focus on whether the 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."

#### 3.2 SLB 14M Guidance Regarding Micromanagement

- a) Micromanagement is also evaluated on a "case-by-case basis."
- b) Evaluation depends upon 1) "the proposal's subject matter" and 2) "the degree to which the proposal 'micromanages' 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 judgement.'"
- c) Micromanagement may be a problem if the "proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies."
- d) When staff have previously concurred with a micromanagement argument this "does not necessarily mean that the subject matter raised by the proposal is improper for shareholder consideration." Instead, "two proposals focusing on the same subject matter may warrant different outcomes based solely on the level of prescriptiveness with which the proposals approach that subject matter."
- e) "It is the manner in which a proposal seeks to address an issue that results in exclusion on micromanagement grounds."

- f) “If a supporting statement modifies or re-focusses the intent of the resolved clause, or effectively requires some action to achieve the proposal’s central purpose as set out in the resolved clause, we take that into account in determining whether the proposal seeks to micromanage the company.”
- g) “This past season, where we concurred with a company’s micromanagement argument, it was not because we viewed the proposal as presenting issues that are too complex for shareholders to understand. Rather, it was based on our assessment of the level of prescriptiveness of the proposal.”
- h) “When 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.”

## 4 Rule 14a-8(i)(7): Responding to Tesla

Tesla presents arguments in the following order under the heading of Rule 141-8(i)(7):

### 4.1 Proposal Is Not Too Prescriptive

This Proposal differs significantly from a previous proposal which the Proponent submitted last season, and which also concerns tire pollution.

However, Tesla says that because the SEC allowed Tesla to exclude the previous proposal, and both proposals concern tire pollution, that the SEC should exclude the current Proposal. Tesla further claims that the current Proposal is “merely” a re-submission of the earlier proposal except that it “contains ‘could’ statements.” On the contrary, the word “could” also appears several times in the earlier proposal and is not the current Proposal’s differentiating feature.

Nevertheless, As SLB 14M points out, it is the level of prescriptiveness that determines whether a similar proposal may be excluded, not whether two proposals address the same subject. Whereas one proposal may be excluded because it is too prescriptive, another proposal on the same subject would not be excluded if it provides sufficient freedom to the company on how to implement the proposal. Each proposal must be evaluated on a “case-by-case basis.”

The 2025 Proposal’s resolved clause reads as follows:

Shareholders request that Tesla Inc., commit to implementing a sustainable tire solution for Tesla vehicles as soon as possible. This could be developed in-house and/or with partners.”

Tesla could define their own sustainable tire criteria, for example:

- 1) Excellent performance and safety.
- 2) Zero pollution from 6PPD-Q and microplastics during use and end-of-life.
- 3) Made of renewable materials.
- 4) Fully-recyclable into new tires.
- 5) Long-lasting.

This Proposal offers Tesla discretion and freedom in the following ways:

- 1) A *commitment* to implement a solution is requested, not a specific product, service or other action.
- 2) Although a commitment often leads to a corresponding action, especially for a company with an inspirational mission such as Tesla, it is not necessarily so.
- 3) Although a public commitment would be more consistent with the outward focus of Tesla's mission to influence other companies, it is also possible for the commitment to be made only internally within Tesla or with an external partner, for example.
- 4) The requested timing implies urgency while letting Tesla decide when they think their solution is ready to implement.
- 5) The solution is suggested to involve designing a tire with sustainability criteria in mind, which Tesla could determine for themselves. However, the solution could instead be selected from other potential ways to make tires sustainable, such as dust collection, recycling and water treatment.
- 6) The solution is requested to apply to Tesla vehicles only, thus limiting the scope to areas within Tesla's immediate influence and not all tires worldwide.
- 7) The solution does not have to apply to all Tesla vehicles. For example, if Tesla had a novel idea for one version of its vehicles, that would qualify.
- 8) Tesla could implement a solution developed by others or create any portion of it themselves.

#### **4.2 Proposal's Focus on Tire Pollutants is Acceptable**

Tesla makes the seemingly irrelevant claim that "the only specific points discussed in the Proposal relate to the chemical 6PPD-Q." Tesla's statement ignores microplastics, which are another important tire pollutant mentioned in both the Proposal's resolved clause and its supporting statement. Nevertheless, if a proposal were to focus on only one chemical, which this Proposal does not do, that would not in itself be a sufficient reason for exclusion.

#### **4.3 Proposal is Clear and Accurate**

Tesla states that "bafflingly" a footnote in the Proposal "is attached to a quote about landing rockets and designing tires—neither of which the Company does." This statement helpfully points out that the quote could be clearer but also inaccurately denies making tires.

The referenced quote is a viewer's verbal comment to me regarding the footnoted YouTube interview with @DrKnowitallKnows. This interview allocates several minutes, and a full-screen slide, to discussing how SpaceX engineers under the direction of Elon Musk (who is also Tesla's CEO) solved the extremely difficult—and many thought impossible—problem of landing fully re-usable rockets. The interview further discusses similarities between the questions involved in designing a new class of rocket and of designing a sustainable tire.

Furthermore, SpaceX and Tesla share some technologies and staff. For example, the Tesla Cybertruck uses stainless steel developed by SpaceX for rockets. Both companies also share materials science engineers,<sup>1</sup> whose specialty is particularly relevant to tire chemistry and design.

In addition, Tesla's quote inaccurately claims that they do not design tires. This statement ignores the Proposal's observation that "Tesla's exceptional engineers already design 'Tesla-Approved' Tires with suppliers..."<sup>2</sup> The YouTube interview to which Tesla refers also has a full slide in which Tesla's Vice President (VP) of Vehicle Engineering is quoted from a Tesla official video as saying that their "tires are co-developed with Pirelli and us to be quieter, more efficient, higher grip and better performance laterally." This VP also mentions that Tesla's lead tire designer is a F1 (Formula One) engineer.<sup>3</sup>

However, even if the Proposal had included a "baffling" or irrelevant footnote, this would not justify excluding the entire Proposal. Instead, the Company could have requested to have a specific section removed, which they have not. Tesla may address such objections in their statements of opposition to be published with the Proposal in their 2025 Proxy Statement (see SLB 14B, Sept. 15, 2024).

### 4.3.1 Requested Edits

#### 4.3.1.1 Clarity

Notwithstanding the above discussion, I accept Tesla's feedback that the referenced quote regarding rockets could confuse some readers. Therefore, in accordance with Staff Legal Bulletin No. 14B (Sept 15, 2004) I ask the SEC for permission to edit the Proposal's final sentence (while retaining its associated footnote) to read as follows:

As one @DrKnowitallKnows viewer commented, "If they [engineers] can land rockets, you'd think they could design a non-toxic tire."

This edit adds 6 words to the original statement, bringing the Proposal's total word count to 495, including footnotes.

#### 4.3.1.2 Spelling

I apologize for accidentally mis-spelling Robyn Denholm's name in the Proposal. Out of respect for Ms. Denholm, I ask that this error be corrected before including the Proposal in Tesla's 2025 Proxy Materials.

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1 <https://electrek.co/2021/04/22/tesla-creates-new-team-accelerate-use-materials-products/>

2 [https://www.tesla.com/en\\_ca/support/tires](https://www.tesla.com/en_ca/support/tires)

3 <https://www.youtube.com/watch?v=RewrTJqc0wU>

#### 4.4 Proposal Provides Management with Wide Discretion

Tesla claims that the Proposal is micromanaging because it “seeks to supplant management’s judgment on this complex topic with a mandate to create a new product and includes minute specifications on precisely which chemicals are used in that product.” However, the Proposal does not dictate specific product designs, what chemicals are used, or restrict the Company’s daily operations. Instead, this Proposal provides Tesla management with full discretion as to how they commit to implementing a solution and how they choose to implement that commitment.

For example, the Proposal explicitly states that a sustainable tire solution “could be developed in-house and/or with partners.” Furthermore, the Proposal does not stipulate how the company develops any new product, how the Company should engineer any product, nor does it seek to prescribe the specifics of tire material selection or manufacturing processes.

The Proposal simply asks Tesla to “commit to implementing a sustainable tire solution for Tesla vehicles as soon as possible.” That’s it—just a commitment. A commitment that fully aligns with their mission to “accelerate the world’s transition to sustainable energy.” A commitment that is both easy to understand and flexible in its implementation. Any public commitment by Tesla to address tire pollution could spur other companies to also address the problem and to do so more quickly. This is because Tesla has become a globally significant and rapidly growing designer and manufacturer of vehicles and other products—including the most popular vehicle in the world, the Model Y—and their decisions are increasingly emulated by other companies.

Furthermore, although a commitment can be thought of as an external action that alerts others to one’s intention, a commitment made silently within oneself is also valid although often of lesser efficacy and durability. Therefore, this Proposal intentionally gives Tesla discretion as to how they make a commitment. They could commit publicly, internally only, or privately with whomever they choose. Additionally, while the purpose of a commitment is often to help achieve a corresponding action, commitments do not always lead to action. Therefore, while the Proposal’s request for a commitment encourages action, it does not require it or define exactly what the action could be.

While the Proposal encourages Tesla to consider sustainability criteria when designing its tires, the word “solution” leaves room for alternate options to be implemented instead. Many potential solutions might exist that could make tires sustainable, including dust collection, water treatment, recycling and new combined tire/wheel structures. Rather than restricting Tesla’s ability to serve shareholders, the Proposal seeks to help the Company better align with its sustainability mission and address business risks associated with tire pollution.

Finally, SLB 14M states that if a company wishes to exclude a proposal on the grounds of micromanaging, then the staff expect that company to explain how the proposal inappropriately limits the company’s ability to “fulfill their fiduciary duty to shareholders,” Tesla has not fulfilled this staff expectation.

#### 4.5 Shareholders Can Make an Informed Judgement

Tesla goes on to claim that “shareholders cannot possibly make an informed judgement about these factors [whether to create a new product and what chemicals to use], given that they are not involved in the day-to-day management of the Company.”

Regarding investors’ general ability to make an informed decision about a proposal, Staff Legal Bulletin No. 14L (Nov. 3, 2021) says the Commission will consider “the availability of data, and the robustness of public discussion and analysis on the topic.” This Proposal cites numerous publicly available internet sources which shareholders can access to readily obtain further information. In addition, an internet search for the following topics demonstrates increasing global concern for tire pollution and the pressing need for a solution: tire pollution; tires and microplastics; tires and 6PPD; tires and human health; and tires and electric vehicles.

Also, Tesla’s claim above greatly discounts shareholder’s ability to understand this Proposal. In contrast, the Proposal’s question is easily understood: Would shareholders like Tesla to commit to implementing a sustainable tire solution as soon as possible? As the Proposal describes, tire pollution is causing serious and increasing harm to the environment, human culture and human health around the globe.

However, when it comes to Tesla’s own management proposals, Tesla takes the contradictory position that shareholders can make an informed judgement on dramatically more complex material. For example, last year Tesla conducted a major campaign urging shareholders to vote in favour of two extremely detailed and technical proposals supplied by management for their 2024 Proxy Materials. One proposal involved re-approving the Tesla CEO’s 2018 pay package—a package of unprecedented risk, potential reward and importance to the company’s future. The second proposal concerned moving Tesla’s state of incorporation from Delaware to Texas. Together, these proposals occupied 71 pages of Tesla’s 2024 Proxy Statement and contained material arguably beyond the expertise of most people. Probably many shareholders simply evaluated the proposals at a high-level and voted accordingly. In comparison, my Proposal is only two pages including footnotes and has an elementary school level of complexity.

In this same 2024 Proxy Statement, Robyn Denholm, the Chairperson of Tesla’s Board, affirmed shareholders’ decision-making acumen by writing that “Your votes and your voices make critical decisions for the future of our company, and we have and want to continue to listen to you.” She further added that “Corporate democracy and stockholder rights are at the heart of Tesla’s values.”<sup>4</sup> It seems highly contradictory, then, that Tesla is trying to prevent shareholders from voting on this significant sustainability issue. After all, the voting outcome would be non-binding and advisory only.

This apparent discrepancy between Ms. Denholm’s stated values and Tesla’s efforts to exclude this Proposal may indicate that Tesla is overemphasizing operational efficiency

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<sup>4</sup> [https://www.sec.gov/Archives/edgar/data/1318605/000110465924048040/tm2326076d13\\_pre14a.htm](https://www.sec.gov/Archives/edgar/data/1318605/000110465924048040/tm2326076d13_pre14a.htm)

and control at the expense of stockholder democracy. In addition to their no-action letter, Tesla had initially attempted to block the Proposal by claiming that both my broker's proof of share ownership and my written statement of availability to meet with them were not proper. Once these apparent deficiencies were resolved, however, Tesla appeared uninterested in meeting with me as they did not contact me to do so. Therefore, the staff's fair evaluation of no-action requests provides an essential balancing influence upon the sometimes-differing priorities of companies and their shareholders.

#### **4.6 Proposal's Focus is Appropriate for Shareholders' Judgement**

Tesla further claims that "the Proposal is inappropriate for stockholders to express their judgement on because it relates to the Company's core operational strategies ... regarding design, engineering, manufacturing and procurement." Indeed, if proposals were excluded for relating to the broad categories Tesla mentions, that would severely limit potential subject matter for shareholder proposals—and make it nearly zero for an engineering and manufacturing company such as Tesla. Instead, each proposal's subject matter and level of granularity must be evaluated on a "case-by-case basis."

Furthermore, and in contrast to Tesla's quoted statement above, last season the staff affirmed that a proposal which concerns procurement can be appropriate for a shareholder vote and not seek to micromanage a company (see *Tesla Inc. (March 27, 2024)*). Nevertheless, this Proposal provides management with wide discretion regarding all implementation decisions.

### **5 Rule 14a-8(i)(7): Proposal Raises Significant Policy Issues**

This Proposal raises both a significant social policy issue and a significant corporate policy issue, each of which transcend ordinary business. Since the Proposal also provides the Company with wide discretion, the Proposal is not excludable under Rule 14a-8(i)(7).

#### **5.1 Significant Social Policy Issue**

This Proposal addresses the following significant social policy issue for which there is ongoing public dialogue and easily accessed, current data:

Society is struggling with the dire environmental and human consequences of global tire pollution and urgently needs solutions.

As described in the following section, these consequences range from the extinction of endangered, iconic species of salmon and killer whales, to the related economic and cultural devastation experienced by both indigenous and non-indigenous people. Furthermore, tire pollution in the form of microplastics and toxic chemicals such as 6PPD-Q are entering the air we breathe, our food, and our drinking water. While this pollution is known to seriously impact children's health, research also indicates that the human effects are probably more extensive than has yet been documented. This is a

global problem that requires a creative, well-funded and urgent response—a response that squarely fits within Tesla’s capabilities and mission.

The following sections provide further information regarding tire pollution and its effects.

### 5.1.1 Tire Wear Particles & 6PPD-Q

Approximately 3 billion tires are produced each year<sup>5</sup> for use as disposable maintenance items on the world’s 1.6 billion vehicles.<sup>6</sup> The manufacture, use and disposal of tires creates many significant environmental and human health concerns, with two issues most prominent.

First, physical tire wear particles result from friction between tires and roads. This wear contributes between 2.7 and 14.7 lbs. of tread weight into the environment over the useful life of each tire, depending upon the type of tire and vehicle.<sup>7</sup> Tires are therefore a major source of microplastics (plastic pieces < 5 mm in size) and are accumulating around the world, including the oceans, and are entering the human food chain.<sup>8</sup> The European Commission has proposed Euro 7 standards to reduce tire emissions of microplastics, but these standards do not yet address tire chemicals such as 6PPD-Q.

Second, tires contain numerous chemicals that leach directly into the environment as well as transformational chemicals that form when tire ingredients chemically react with another substance. The toxicity of most tire ingredients and transformational products is unknown because their potential effects have not yet been researched.

All tires globally are believed to contain the tire preservative 6PPD, which is designed to protect tire rubber from degradation and cracking due to heat and chemical reaction with ozone at the tire surface. 6PPD is also present in other rubber products such as gaskets and shoes. 6PPD is infused in the tire rubber and migrates to the tire surface over time. The reaction of 6PPD with ozone creates 6PPD-Q which falls or rinses off the tire and travels via tire dust or water into the surrounding environment such as downstream fish habitat.

6PPD-Q was first identified in 2020 as researchers were searching for the cause of premature coho mortality in streams around Seattle, Washington. Since then, numerous studies around the world have been conducted or are underway to measure 6PPD-Q and its impact on other species and human health.

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5 <https://www.sciencedirect.com/science/article/pii/S0048969724012920>

6 <https://www.sciencedirect.com/science/article/pii/S0160412022006420?via%3Dihub>

7 [https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://calsafer.dtsc.ca.gov/documentitem/index/%3Fguid%3Dc006401a-3494-450a-9cca-e6d889f5f266&ved=2ahUKEwil0sXE6ciLAXUWGDQIHVizKxUQFnoECBEQAQ&usg=AOvVaw3Ar1\\_QvfBVloiyWEu5E-DV](https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://calsafer.dtsc.ca.gov/documentitem/index/%3Fguid%3Dc006401a-3494-450a-9cca-e6d889f5f266&ved=2ahUKEwil0sXE6ciLAXUWGDQIHVizKxUQFnoECBEQAQ&usg=AOvVaw3Ar1_QvfBVloiyWEu5E-DV)

8 <https://pubmed.ncbi.nlm.nih.gov/29053641/>

### 5.1.2 Lack of Closed-loop Recycling Increases Tire Pollution

In the absence of closed-loop tire recycling, scrap tire disposal contributes to tire pollution rather than reducing it. For example, in the 1970s, 500,000 scrap tires were deposited off the coast of Florida to create an artificial reef. However, instead of helping fish, these dumped tires seriously harmed fish habitat, and work is currently underway trying to retrieve them.<sup>9</sup>

By 1990, approximately one billion scrap tires were stockpiled throughout the U.S, but by 2021, 95% had been diverted to other uses such as burning for fuel or shredded for land application at locations such as children's playgrounds, artificial turf sport fields, and civil engineering projects including backfill for roads, bridges, retaining walls and septic system drain fields.<sup>10</sup>

Chipping up tires and spreading them on sports fields is like dumping tires in the ocean to create fish habitat: rather than solving the disposal problem it causes more harm and makes proper disposal and/or recycling harder later. In the meantime, athletes playing on artificial turf get the rubber in their hair and mouths and carry it home on their clothes while being exposed to 6PPD-Q as well as known carcinogens, neurotoxicants, and endocrine disrupting chemicals.<sup>11</sup>

### 5.1.3 Background on Fish Affected by 6PPD-Q

6PPD-Q is "very highly toxic" to aquatic organisms and toxic to juvenile coho at the extremely low concentration of 95 ng/L. "That's a pinch of salt in an Olympic pool, basically," according to University of Saskatchewan toxicologist Markus Brinkmann.<sup>12</sup>

In streams which receive water from areas of high vehicle use, 6PPD-Q kills 40-90% or more of coho salmon (*Oncorhynchus kisutch*) before they spawn, threatening some populations with extinction.<sup>13</sup> For example, in 2011 researchers estimated that some Coho populations with a 90% pre-spawn mortality due to contaminated urban stormwater would become extinct within approximately 8 years.<sup>14</sup> In contrast, the premature death rate of salmon spawning in streams without significant road runoff is <1%.<sup>15</sup> When dry periods are followed by heavy rainfall the accumulated tire wear particles and road dust can be rinsed into salmon streams resulting in 6PPD-Q concentrations 30-60 times higher than usual and resulting in salmon deaths within only a few hours.<sup>16</sup>

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9 <https://floridadep.gov/waste/permitting-compliance-assistance/content/osborne-reef-waste-tire-removal-project>

10 See US Scrap Tire Management Report accessed at <https://www.ustires.org/>

11 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10262297/>

12 <https://www.interior-news.com/news/tire-residue-chemical-in-rain-runoff-kills-fish-in-urban-streams-research-finds-6501403>

13 <https://pubmed.ncbi.nlm.nih.gov/21786416/>

14 <https://pubmed.ncbi.nlm.nih.gov/21786416/>

15 <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0028013>

16 <https://globalnews.ca/news/10082602/west-vancouver-fish-kill/>

Coho and Chinook salmon and steelhead trout are anadromous fish, which means they hatch and live in fresh water as juveniles and then return to fresh water to spawn after living the rest of their lives at sea. Within a single species such as coho salmon, salmon exist in distinct populations or genetic groups that spawn in separate streams or tributaries and do not breed with other populations of the same species. These genetically distinct populations provide important diversity and ability to adapt to changing environmental conditions.

Adults return to the same section of stream where they were hatched to reproduce. Females dig a depression in the gravel to deposit their eggs where they are then fertilized by a male, the eggs are covered with the loose gravel and the adults die. Coho and Chinook live in freshwater for at least a year and then migrate to the ocean in the autumn when rainfall increases. Steelhead trout follow the same pattern except that they occasionally return to live in the ocean after spawning and later spawn in their natal stream again.

Individual fish species react to 6PPD-Q differently, with some exhibiting no symptoms and others dying within two hours of exposure to the 6PPD-Q concentrations found in urban streams. Research is ongoing to determine which fish are affected by 6PPD-Q and why. 6PPD is also toxic to some fish, although less-so than 6PPD-Q, and is presently of lower concern.

A common method for determining the short-term toxicity (acute toxicity) to aquatic species is the lethal concentration 50 (LC50) test in which animals are exposed to varying concentrations of a substance to observe at what concentration 50% of the specimens die after a certain period, usually 24 hours.

Among salmon tested so far, 6PPD-Q is most toxic to coho salmon (both spawning adults and juveniles) and can kill coho within only a few hours of exposure to contaminated stormwater runoff from roads. Other species are also fatally affected: white-spotted char, brook trout, rainbow trout/steelhead,<sup>17</sup> and embryonic zebrafish.<sup>18</sup> Chinook salmon<sup>19</sup> have not died when laboratory tested with 6PPD-Q concentrations that are found in streams but do experience some deaths when subjected to undiluted roadway runoff. In another aquatic species, mussels, 6PPD-Q causes serious but sub-lethal impacts in adults<sup>20</sup> and harms their embryonic development.<sup>21</sup> Some fish do not die when exposed to 6PPD-Q in LC 50 experiments. For North American species these are sockeye salmon, Arctic char, Atlantic salmon, and brown trout. For Asian species these are southern Dolly Varden and cherry salmon.<sup>22</sup> However, for nearly all species, both long-term and short-term effects from 6PPD-Q are unknown.

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17 <https://pubs.acs.org/doi/10.1021/acs.estlett.2c00050>

18 <https://www.sciencedirect.com/science/article/abs/pii/S0304389423008841>

19 <https://6ppd.itrcweb.org/>

20 <https://www.sciencedirect.com/science/article/abs/pii/S0269749121006631?via%3Dihub>

21 <https://www.sciencedirect.com/science/article/pii/S0043135419310449>

22 <https://6ppd.itrcweb.org/>

Like other fish around the world, salmon have been greatly harmed by human activities such as excessive commercial fishing, habitat destruction including the paving over of streams, hydroelectric dams that block migration, and pollution discharge. Along the U.S. west coast, 6PPD-Q is also now a major threat to coho salmon's survival because it kills them at the least abundant stage of their life cycle just prior to reproduction. Of all the salmon that embark from the U.S. and Canada into the Pacific Ocean as juveniles, fewer than 5% return to their home streams to spawn. For already struggling salmon populations, this low return makes them extremely vulnerable to any toxin such as 6PPD-Q that could kill or harm them before reproducing.

#### **5.1.4 Species Harmed by 6PPD-Q are Protected by U.S. Endangered Species Act**

Coho salmon and steelhead trout, which are killed by 6PPD-Q flowing into streams, are protected by U.S. law through the Endangered Species Act (ESA). Chinook salmon, which are killed by stormwater runoff from roads, not just 6PPD-Q on its own, are also ESA protected. Populations within three species are listed as "endangered" or "threatened" in the ESA.

Endangered species are defined as "in danger of extinction throughout all or a significant portion of their range." Threatened species are "likely to become endangered in the foreseeable future throughout all or a significant portion of their range."<sup>23</sup> For coho salmon, one population is endangered and three are threatened. For steelhead trout, one population is endangered, ten are threatened, and one is a candidate for ESA protection. For Chinook salmon, two populations are endangered, seven populations are threatened, and three populations are listed as a candidate for ESA protection.<sup>24</sup>

These endangered and threatened fish are critical food for the Southern Resident Killer Whales of the U.S. and Canadian Westcoast, which have themselves been listed as endangered since 2005, meaning that these cultural icons are on the path to extinction. Coho salmon, steelhead trout, and other fish are important prey for these killer whales when their preferred food, Chinook salmon, are not sufficiently available.<sup>25</sup> Tragically, these killer whales have not been getting enough to eat since at least 2018<sup>26</sup> as Chinook body sizes and numbers are low. For example, only approximately 3% of the endangered Columbia River Chinook Salmon population remains compared to before European settlement.<sup>27</sup>

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23 <https://www.fisheries.noaa.gov/topic/laws-policies>

24 [https://www.fisheries.noaa.gov/species-directory/threatened-endangered?oq=&field\\_species\\_categories\\_vocab=1000000031&field\\_species\\_details\\_status=All&field\\_region\\_vocab=1000001126&items\\_per\\_page=25](https://www.fisheries.noaa.gov/species-directory/threatened-endangered?oq=&field_species_categories_vocab=1000000031&field_species_details_status=All&field_region_vocab=1000001126&items_per_page=25)

25 <https://www.fisheries.noaa.gov/feature-story/diversity-fish-species-support-killer-whale-diet-throughout-year>

26 <https://www.raincoast.org/2023/02/southern-resident-killer-whales-not-getting-enough-to-eat-since-2018/>

27 [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwiEwZGInZeEAxX5MDQIHwInBYsQFnoECA0QAQ&url=https%3A%2F%2Fwww.uvm.edu%2F~dstratto%2Fbcor102%2Freadings%2F01\\_salmon2019.pdf&usg=AOvVaw3DEoYBl6D0CU2c17oelkk7&opi=89978449](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwiEwZGInZeEAxX5MDQIHwInBYsQFnoECA0QAQ&url=https%3A%2F%2Fwww.uvm.edu%2F~dstratto%2Fbcor102%2Freadings%2F01_salmon2019.pdf&usg=AOvVaw3DEoYBl6D0CU2c17oelkk7&opi=89978449)

### 5.1.5 Impact on Society

Along the U.S. Westcoast, tribal nations say that the salmon loss caused by 6PPD-Q violates their treaty fishing rights while destroying their traditional food supply and cultural practices which are highly dependent upon healthy and accessible salmon populations. Three Tribes have successfully petitioned the U.S. EPA to begin regulating 6PPD in tires, while the Affiliated Tribes of Northwest Indians and the States of Washington, Oregon, Vermont, Rhode Island and Connecticut have also written to the EPA expressing their support for the petition.<sup>28</sup>

Meanwhile, the largest trade association of commercial fishers on the U.S. Westcoast, the Pacific Coast Federation of Fishermen's Associations, has sued 13 of the largest U.S. tire manufacturers in 2023, arguing that they are killing salmon with 6PPD-Q discharge from tires and thereby harming their multi-generational fishing livelihoods.

### 5.1.6 Impact on Human Health

As stated in the Proposal's supporting statement, research indicates strongly that 6PPD-Q is a major risk to human health. For example, 6PPD-Q has been found in human urine, including children and pregnant women.<sup>29</sup> Children exposed to 6PPD-Q had reduced body mass index and increased frequency of diarrhea and influenza.<sup>30</sup> Additionally, studies of laboratory mice, which are frequently used as a model for humans, reveal that 6PPD-Q does the following: has toxic effects on the liver; rapidly crosses the blood-brain barrier; accumulates in major organs such as the kidney, lungs, testis, liver, spleen, heart, and muscles; and transfers from mother into the placenta, embryo body and embryo brain.<sup>31</sup>

6PPD-Q is emitted from tires worldwide and is now an omnipresent global pollutant with many recent studies documenting this. People in urban environments are regularly exposed to 6PPD-Q through airborne tire dust from roads, contaminated soil and water as well as at playgrounds and sports fields that are landscaped with "crumb rubber" (rubber fragments) made from scrap (end-of-life) tires. For example, 6PPD-Q has been detected in air samples from 15 megacities around the world,<sup>32</sup> and 6PPD-Q and 10 other tire chemicals with "median to high ecological risks in surface waters" have been found in drinking water in South China.<sup>33</sup> 6PPD-Q has also been found in surface waters around Toronto, Canada,<sup>34</sup> urban streams of Australia,<sup>35</sup> and studies to quantify its presence are underway elsewhere such as 20 streams in Metro Vancouver, B.C.<sup>36</sup>

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28 <https://earthjustice.org/press/2023/epa-grants-tribal-nations-petition-to-restrict-6ppd-in-tires>

29 <https://pubs.acs.org/doi/10.1021/acs.estlett.2c00821>

30 <https://pubmed.ncbi.nlm.nih.gov/38220074/>

31 <https://www.sciencedirect.com/science/article/abs/pii/S0048969723034654>

32 <https://www.sciencedirect.com/science/article/pii/S0269749122014208>

33 <https://pubmed.ncbi.nlm.nih.gov/36577297/>

34 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8335451/>

35 <https://www.sciencedirect.com/science/article/abs/pii/S004896972205567X>

36 <https://globalnews.ca/news/10173723/tire-chemical-salmon-funidng-research/>

## 5.2 Significant Corporate Policy Issue

These environmental and societal concerns are directly pertinent to Tesla's mission and vehicle business. In fact, this is why many people become Tesla investors: to help accelerate the world towards a more sustainable future.

### 5.2.1 Proposal Helps Tesla Align with Its Mission and Goals

The Proposal addresses a significant corporate policy issue for Tesla:

Tesla must choose whether to continue remaining silent regarding tire pollution and thereby act contrary to their sustainability mission, or to commit to implementing a solution as is requested by the Proposal.

Tesla's silence is glaringly inconsistent with its mission and goals, especially given the extensive media coverage regarding tire pollution, and public efforts by government, researchers and tire manufacturers to address the issue. What is more, Tesla has fought to exclude two pertinent shareholder proposals while also ignoring the Proponent's 2022 suggestion to address tire sustainability in an impact report (see Appendix).<sup>37</sup>

Although Tesla's most recent *2023 Impact Report Highlights* acknowledges tires for their periodic replacement cost, no reference is made of tire sustainability topics. Tesla's full-length *2023 Impact Report* doesn't mention tires at all.

Therefore, the Proposal seeks to help align Tesla's approach to tires with Tesla's mission "to accelerate the world's transition to sustainable energy" and the Company's supporting goals to "design products ... source and manufacture them as sustainably as possible."<sup>38</sup>

### 5.2.2 Proposal Helps Protect Tesla from Risk

In addition, tire pollution presents risks to Tesla's business such as potential brand harm, consumer preference shifting away from electric vehicles, and government regulation. For example, California is requiring tire companies that sell tires in their state to assess the risks of 6PPD and to search for replacements. Also, the European Union is regulating tires to reduce vehicle emissions, including microplastics, through the *Euro 7* regulation.<sup>39</sup>

This European regulation is particularly significant to Tesla because electric vehicles are promoted as being "zero direct emission."<sup>40</sup> However, the extra battery weight and high instant torque of electric vehicles cause these vehicles to wear through tires faster than

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<sup>37</sup> Tesla's 2023 Impact Report states "Tesla aspires to do the right thing, and we are constantly looking for ways to do better. If you have suggestions about how our company can improve in anyway, feel free to send your ideas to [impactreport@tesla.com](mailto:impactreport@tesla.com)." See Appendix for email to [impactreport@tesla.com](mailto:impactreport@tesla.com)

<sup>38</sup> [https://www.tesla.com/ns\\_videos/2023-tesla-impact-report.pdf](https://www.tesla.com/ns_videos/2023-tesla-impact-report.pdf)

<sup>39</sup> <https://www.consilium.europa.eu/en/press/press-releases/2024/04/12/euro-7-council-adopts-new-rules-on-emission-limits-for-cars-vans-and-trucks/>

<sup>40</sup> [https://www.tesla.com/ns\\_videos/2023-tesla-impact-report.pdf](https://www.tesla.com/ns_videos/2023-tesla-impact-report.pdf)

equivalent gas models,<sup>41 42</sup> resulting in more microplastic and 6PPD-Q pollution and more scraped tires.<sup>43</sup> While contributing factors such as weight and applied torque will likely be reduced for vehicles such as Tesla’s mass-market Robotaxi, these reductions will be counteracted as low-cost electric taxis increase the total annual distances driven. Therefore, until a sustainable tire solution is implemented, further government intervention and other complications could disrupt the supply and cost of tires upon which Tesla’s vehicles depend.

### **5.2.3 Proposal Mirrors the Language and Message of Tesla’s Publications**

Regarding implementation timing and high-level goal setting, the Proposal mirrors language in Tesla’s *2023 Sustainability Report* which says that Tesla has an “ambitious stance” for greenhouse gas emissions (GHG) and “[s]trives...to achieve net-zero emissions as soon as possible.” At the same time, this publication demonstrates Tesla’s willingness to commit to broad sustainability goals without first having a clear plan. For instance, they report having only “made meaningful progress on building a plan” to achieve their GHG goal and that “there remains work to do to finalize this plan.” Likewise, similar statements could be made about addressing tire pollution if Tesla chose to commit to such a solution.

### **5.2.4 Proposal Supports Tesla’s Mission to Influence Other Companies**

Furthermore, making a sustainable tire commitment is consistent with the outward focus of Tesla’s mission to competitively push other companies to accelerate their deployment of sustainable energy and transportation products. For example, regarding aluminum Tesla says they are “Pushing for the Industry to Respect Rights and Lower Emissions.”<sup>44</sup>

### **5.2.5 Proposal Supports Tesla’s Commitment to Human Rights**

Tesla’s *2023 Impact Report* says that “Human Rights Are Core To Our Mission” and that “We seek to avoid causing or contributing to actual or potentially adverse human rights impacts, and we expect our suppliers to support and promote these values in their own operations and those of their suppliers.”

It seems contradictory then, that Tesla seeks to exclude this Proposal which defends indigenous tribes and fishermen whose cultures and livelihoods are being devastated by tire pollution’s toxicity to salmon. In fact, as described earlier, numerous U.S. tribal nations claim that tire pollution kills so many salmon that it violates their treaty fishing rights and cultural practices. Similarly, one of the largest associations of U.S. commercial fishermen have sued tire manufacturers because they say tire pollution is destroying their livelihoods.

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41 <https://www.continental-tires.com/products/b2c/tire-knowledge/electric-vehicle-tires/> (accessed Feb. 15, 2025)

42 <https://www.michelinman.com/auto/electric-vehicles-faq> (accessed Feb. 15, 2025)

43 <https://pmc.ncbi.nlm.nih.gov/articles/PMC5664766/>

44 [https://www.tesla.com/en\\_ca/impact](https://www.tesla.com/en_ca/impact)

## 6 Rule 14a-8(i)(3): The Proposal Is Not Misleading

Tesla asserts that the Proposal is “impermissibly vague and indefinite” by presenting three arguments under the heading of Rule 141-8(i)(3).

### 6.1 Rule 14a-8(i)(3): Staff Guidance

Staff Legal Bulletin No. 14B (September 15, 2004) makes the following statements regarding exclusion or modification of a proposal:

Specifically, reliance on rule 14a-8(i)(3) to exclude or modify a statement may be appropriate where:

... The resolution contained in the proposal is so inherently vague or indefinite that neither the stockholders voting on the proposal, nor the company implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires – this objection also may be appropriate where the proposal and the supporting statement, when read together, have the same result...

...As such, the staff will concur in the company’s reliance on rule 14a-8(i)(3) to exclude or modify a proposal or statement only where that company has demonstrated objectively that the proposal or statement is *materially* false or misleading.

### 6.2 Proposal Provides a Clear Level of Discretion

Tesla repeats their earlier arguments regarding Rule 14a-8(i)(7) by stating that “it is unclear whether the Proposal truly affords the Company discretion to design tires as requested, or whether it wants to dictate the particulars of tire design” and then claims to “believe that the Proposal is focussed on producing tires without 6PPD-Q.” Tesla’s alleged confusion is unfounded: the Proposal is not focussed only on 6PPD-Q and, yes, the Company is given wide discretion as described earlier.

### 6.3 Proposal Has Clear Request

Tesla then argues that it would be “impossible for the Company and the shareholders to determine when the Company has ‘commit[ed]’ to implementing a sustainable tire solution.” To support this argument, Tesla admits to designing tires whereas in their Rule 14a-8(i)(7) arguments they state the opposite—that they do not design tires.

On one hand, therefore, Tesla claims that designing tires is beyond their business scope, while on the other hand they claim that it is unclear whether the tire designing that they already do is sufficient to satisfy the Proposal. If Tesla believed that they may have already implemented the essential elements of the Proposal, then they could have asked the SEC for a substantial implementation exclusion. Their choice not to do this indicates that their argument is baseless.

#### 6.4 Proposal Provides Clear Guidance

Lastly, Tesla says that because the Proposal lists “[e]xcellent performance and safety” as the first of five suggested criteria for a sustainable tire, it is unclear to them what more they are being asked to do beyond their existing tire design work. The straightforward answer to this is that they could read the Proposal’s remaining four suggested sustainability criteria and consider those. Tesla’s reasoning here seems incongruous with their hard-core engineering identity.<sup>45</sup>

Contrary to Tesla’s stated uncertainty, the goals of safety and performance will be present in *any* reasonable list of tire design criteria, with additional metrics such as for sustainability following thereafter, just as is presented in the Proposal.

Tesla’s attempt to portray the Proposal as being impermissibly vague and indefinite are unconvincing. Instead, the Proposal is appropriate and easily understood by an average person, including Tesla investors.

Therefore, Tesla **may not** exclude this Proposal based on Rule 14a-8 because Tesla has not demonstrated objectively that this Proposal is *materially* false or misleading.

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<sup>45</sup> <https://www.youtube.com/watch?v=6oOnTkIrtPw>

## 7 Conclusion

The Proposal asks Tesla to “commit to a sustainable tire solution for Tesla vehicles as soon as possible. This could be developed in-house and/or with partners.”

Tesla seeks to exclude this Proposal from its Proxy Materials using two bases:

- 1) Rule 14a-8(i)(7), claiming that the Proposal concerns ordinary business operations and is micromanaging.
- 2) Rule 14a-8(i)(3), claiming that the Proposal is so vague and indefinite as to be inherently misleading.

However, an analysis of these arguments in the context of staff guidance, especially Staff Legal Bulletin No. 14M (Feb. 12, 2025) and Staff Legal Bulletin No. 14B (Sept. 15, 2004), reveal that Tesla’s arguments are unconvincing.

Regarding Rule 14a-8(i)(7), Tesla’s arguments do not withstand examination because they are inaccurate, sometimes contradictory, and because the Proposal has the following key characteristics:

- The Proposal is sufficiently specific so that Tesla can follow it, and shareholders can make an informed judgement about it.
- The Proposal is flexible and high-level enough to not interfere in Tesla’s day-to-day, ordinary business decisions and to not impair the ability of management or directors to fulfill their fiduciary responsibilities to shareholders.
- The Proposal is directly pertinent to Tesla’s business as well as to its sustainable mission priorities such as protecting human rights and preserving biodiversity on water and land.<sup>46</sup>
- The Proposal is focused on a significant societal issue, that of tire pollution’s serious impact on human health, human culture and the environment.
- The Proposal relates this societal issue with a significant policy issue for Tesla, the choice of whether to commit to implementing a sustainable tire solution and thereby better align their stance regarding tire pollution with their mission.

Regarding Rule 14a-8(i)(3), Tesla does not demonstrate objectively that the Proposal is materially false or misleading.

I therefore respectfully request that the staff inform Tesla that they do not concur with Tesla’s request to exclude this Proposal from Tesla’s 2025 Proxy Materials.

I also remain optimistic that Tesla may identify room for improvement in their initial opposition and decide to support the Proposal. That would be a terrific win for Tesla.

Submitted with sincere gratitude for the opportunity to present this material,

Michael R. Stephen, PAg

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<sup>46</sup> [https://www.tesla.com/ns\\_videos/2023-tesla-impact-report.pdf](https://www.tesla.com/ns_videos/2023-tesla-impact-report.pdf)

## Appendix

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### microplastics from tire wear in 2021 Impact Report

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**From** Michael Stephen <[REDACTED]>  
**Date** Tue 2022-02-01 1:11 PM  
**To** impactreport@tesla.com <impactreport@tesla.com>

Dear Tesla,

Thank you for your informative and expanded 2020 Impact report! I'm a proud TLISA shareholder who refers my friends to this important document.

Please consider measuring and including the impact of vehicle tire wear in your 2021 Impact Report. Tire wear and road wear contribute microplastics/micropolymers into the world's air, soil and water. These particles harm living organisms through chemical leaching and physical disruption of diet and internal tissues etc.

Tire wear is a crucial subject for Tesla to address as FSD will greatly increase the vehicle distances driven. Elon has even predicted that people will choose robotaxi over bus or subway.

In addition, the greater acceleration and handling of Tesla vehicles, as well of other EV's, compared to ICE vehicles contributes to aggressive (faster-wearing) driving and selection of faster-wearing sport tires.

A great future must include less plastic pollution.

Thank you for your great work. Go Tesla team!

Sincerely,  
Michael Stephen