ConocoPhillips

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[redacted]

June 17, 2022

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Re: The Enhancement and Standardization of Climate-Related Disclosures for Investors; File No. S7-10-22

ConocoPhillips is the world's largest independent exploration and production ("E&P") company based on production and proved reserves, headquartered in Houston, Texas, with operations and activities in 13 countries. We respectfully submit this letter in response to the U.S. Securities and Exchange Commission's (the "Commission") rulemaking proposal on climate-related disclosures (the "Proposal").

We acknowledge the findings of the Intergovernmental Panel on Climate Change that greenhouse gases from the use of fossil fuels contribute to increases in global temperatures. We support the Paris Agreement and believe meeting its central aim is a worldwide imperative for companies and governments alike. While the energy transition will be complex, with many possible pathways and uncertainties—more likely an evolution than a near-term step-change—we recognize the importance of limiting global average temperature increases.

We believe ConocoPhillips is playing a valuable role in the energy transition. We are guided by our triple mandate that simultaneously calls for us to reliably and responsibly deliver oil and gas production to meet energy transition pathway demand, deliver competitive returns on and of capital, and do so with a resilient and sustainable portfolio that enables us to achieve our net-zero operating emissions ambition. To that end, we have been applying our strategic capabilities and resources to meet this challenge in an economically viable, accountable and actionable way that balances the interests of our stakeholders.

We believe providing stakeholders with information on climate-related risks is an important step towards transparency, accountability and action on climate change. In addition to disclosing information on climate-related risks material to our investors in our filings with the Commission, we have taken steps to provide our stakeholders with disclosures aligned with the recommendations of the Task Force on Climate-related Financial Disclosures ("TCFD"), covering, among other things, our Board and management's oversight of our climate-related risk processes and mitigation plans, our scenario analyses based on different energy transition scenarios, and the transition plans, goals and targets buttressing our ambition to reach a net-zero operational emissions target by 2050. Our existing disclosures serve both our investors and our broader internal and external stakeholders—employees, customers, suppliers, advocacy groups, governments and communities—and include disclosures that extend beyond information that may be deemed material under the long-standing materiality standard articulated by the U.S. Supreme Court and the Commission.

We are concerned about the fundamental shift the Proposal will have on current sustainability reporting practices that have been endorsed by stakeholders. We already provide extensive public disclosures on climate and ESG matters where such matters are material to our investors. Our disclosures are aligned with current investor expectations and have evolved to reflect feedback from our regular engagement with our investors. We believe the Proposal seeks to elicit disclosures that are far more extensive than what would be considered material by reasonable investors, particularly the prescriptive aspects of the Proposal which demand extremely granular disclosures. While we have in certain instances provided information in our sustainability reports that goes beyond what our investors would deem material, such practice reflects the broader audience of our sustainability reports and should not be used to determine the scope of disclosures required for filings with the Commission. We believe the materiality standard that has long guided the Commission's rulemaking on public disclosures, and which is consistent with well-established and time-tested Supreme Court precedents, is the appropriate basis for any climate-related disclosures.

We are also concerned about the cost, complexity and practicability of complying with parts of the Proposal (in particular, the proposed amendments to Regulation S-X) that will be borne by registrants of all sizes, and which we believe, will significantly exceed the estimates set forth in the Proposal. Our company expects implementation costs in the $100-500 million range, and annual costs for on-going compliance in the $10-25 million range—costs that will ultimately be borne by investors and the public markets.

We also note that certain aspects of the Proposal demand even more refined and disparate information than existing regulatory disclosure requirements. For example, the U.S. Environmental Protection Agency's ("EPA") Greenhouse Gas Reporting Program is already yielding comprehensive and comparable emissions information to meet the needs of investors. Several other international jurisdictions also already have similar emissions reporting requirements. The additional emissions disclosures contemplated by the Proposal will impose more onerous and burdensome disclosure requirements on registrants without delivering meaningful incremental value to investors.

Notwithstanding our aforementioned concerns, we have set forth below our recommendations on the Proposal. We believe these recommendations, if implemented, will help lead to rules that will provide investors with consistent, comparable and material information, and facilitate the effective and efficient disclosure of climate-related risks.

Materiality

We believe that climate-related risks should be disclosed based on the materiality standard that has been used by the Commission for many years and which is consistent with well-established and time-tested Supreme Court precedents.[1] As we have stated in our previous letter[2] to the Commission on climate change disclosures, we believe the concept of "materiality" for climate-related disclosures should maintain the well-established definition stated in *TSC Industries, Inc.* v. *Northway, Inc.* that information is material if there is a substantial likelihood that a reasonable investor would consider it important in deciding how to vote, or would consider disclosure of an otherwise omitted fact as significantly altering the total mix of information available to investors. This definition of materiality is foundational to the function of U.S. capital markets. Other frameworks for ESG disclosure have competing and non-aligned definitions of materiality when compared to the SEC's well-established precedent mentioned above, and we believe disclosures effectively requiring a different materiality framework are likely to create confusion and uncertainty for investors and registrants alike. Using the *TSC Industries* definition of materiality would ensure that investors receive the information needed to make informed investment and voting decisions. Disclosures should be tiered or scaled based only on the materiality of the risk to the company, its investors, or their voting decisions.

It cannot be presumed that all information published in other forums such as sustainability reports is material to investors. The information shared in sustainability reports is not provided to investors to make investment decisions but rather is intended to provide a broad range of interested stakeholders, not all of whom are investors, information that may be relevant to their particular interest or concerns. We believe registrants should be permitted to undertake their own determination of the materiality of climate-related risks to investors and address and appropriately tailor disclosures related to those risks in the context of the facts and circumstances specific to such registrants, which many, including ConocoPhillips, have already undertaken to do so in reports filed with the Commission.

We believe the *TSC Industries* definition of materiality should be uniformly applied to all the climate-related risks and disclosures contemplated by the Proposal. As currently drafted, parts of the Proposal require many disclosures that are unlikely to be material to a registrant and its business. For example, registrants would be required to disclose the zip codes where at-risk assets are located and provide disaggregated line-item disclosures of climate-related financial impacts that exceed one percent of total applicable line item. Registrants would also be required to disclose all climate-related targets and goals and any processes for identifying and assessing climate-related risks. Moreover, the Proposal asks registrants to disclose all categories of emissions, including emission categories that may be immaterial. Such sweeping disclosure requirements will impose significant and unnecessary costs on registrants, lead to the disclosure of irrelevant information, and make it more difficult for investors to ascertain what disclosures are truly material.

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[1] *See* Proposing Release, 87 Fed. Reg. at 21,351 (stating "as defined by the Commission and consistent with Supreme Court precedent, a matter is material if there is a substantial likelihood that a reasonable investor would consider it important when determining whether to buy or sell securities or how to vote").

[2] Letter from Kelly B. Rose, Senior Vice President, Legal and General Counsel, ConocoPhillips to Vanessa A. Countryman, Secretary, Securities & Exchange Commission (June 11, 2021), available at https://www.sec.gov/comments/climate-disclosure/cll12-8906881-244210.pdf.

Liability Exposure and Safe Harbors

We believe the Commission should apply existing liability protections and safe harbors found in current reporting regulations to all climate-related information. In addition, any prospective information disclosed should continue to benefit from existing safe-harbor provisions, such as those contained in the Private Securities Litigation Reform Act, which protect reporting companies and management from liability for making good-faith projections and forecasts.

In view of the ever-evolving nature of climate-related disclosures and measurement methodologies and the significant estimates and judgments that are inherent in such disclosures, we believe that climate-related disclosures should be furnished, rather than filed under the Securities Exchange Act of 1934. The Proposal notes the Commission's view that requiring data to be filed rather than furnished could help to promote accuracy and reliability of such disclosures. We do not agree with this view, as we strive to ensure that our sustainability report, and all of our public disclosures, regardless of whether they are filed or furnished, are accurate and reliable. We are incentivized to apply rigorous standards to compile and publish climate-related disclosures whether they are furnished, filed or disclosed through other channels. We also recommend that registrants be provided with time-limited safe harbors that would permit amendments and/or updates to previously disclosed greenhouse gas ("GHG") emissions data and other qualitative climate-related disclosures in light of the complexity of gathering, processing and verifying such information and the evolving technical landscape for measuring emissions.

While we believe that climate-related risks should be subject to robust board review and governance, the proposed requirement that registrants disclose whether any member of the board of directors or management has expertise in climate-related risks and the nature of such expertise is not necessary and could work against broad strategic oversight of climate risk at the board level. As is the case with many other strategic risks, we strive to ensure our entire board and our management team are well informed and educated on climate matters and work together to address issues and manage related risks. However, effectively managing those risks does not require that they become subject matter experts. In addition, this requirement could imply that assessing and managing climate-related risks is the responsibility of just one director or officer, and could also lead to persons who have actual subject matter expertise to shy away from serving on a public company board. And while the proposal does not specifically require that any board member have climate-related expertise, the disclosure requirement will imply that such expertise is necessary, or at the very least, a best practice. Finally, should the disclosure requirement be retained, and in light of our continuously evolving understanding of the impact of climate change and related risks, we respectfully ask the Commission to clarify that any director or officer who is determined to have expertise on this subject matter not be deemed an expert for any purpose, including, without limitation, for purposes of Section 11 of the Securities Act. The Commission has adopted such approach with respect to its proposed rules on cybersecurity disclosures[3] on the basis that it would alleviate concerns of cybersecurity experts considering board service and also ensure that all members of the board are responsible for oversight of cybersecurity. The same rationale should

[3] Proposed Rule on Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure, Release Nos. 33-11038; 34-94382 at 45 (Mar. 9, 2022).

apply to directors with climate-related expertise, particularly given the immense challenges we are looking to address.

Alignment with Key Existing Standards

We do not object to the Commission's decision to base the Proposal on the recommendations of the TCFD and the GHG Protocol. ConocoPhillips, along with many other companies, issues sustainability reports generally aligned with the TCFD framework and reports greenhouse gas emissions in accordance with the GHG Protocol, and we expect to continue to do so, in addition to any disclosures that will be required by the Commission. However, global reporting standards on climate disclosures continue to evolve, along with investor expectations. For example, the GHG Protocol is currently reviewing and updating its reporting standards. The International Sustainability Standards Board ("ISSB") recently released proposals on climate and sustainability-related disclosures.[4] We are also seeing the ongoing convergence of other key ESG reporting frameworks promulgated by the Sustainability Accounting Standards Board, the Global Reporting Initiative, the Climate Disclosure Standards Board, CDP and the International Integrated Reporting Council.[5]

The dynamic nature of climate change and related impacts, as well as evolving technologies for measuring greenhouse gas emissions, will require that the Commission's rules on climate-related disclosures to evolve over time. Registrants will require additional guidance from the Commission ahead of the effective date and initial implementation of disclosures, as well as the manner and extent to which changes in future ESG and climate-risk trends within the key frameworks will influence these disclosures. Specifically, we would like to address the following areas requiring additional clarification and understanding:

- Much of the Proposal's disclosure requirements are based upon principles within the TCFD framework as it stands today; similarly, much of public-company sustainability reporting provided on a voluntary basis is also aligned with TCFD. How does the Commission intend to address a potential divergence between the current Proposal's disclosure requirements in Commission filings and future developments in the TCFD framework, which will likely influence voluntary sustainability reporting?

- Similarly, the Proposal instructs registrants to use the GHG Protocol estimation methodology for Scope 1 and Scope 2 emissions. Considering that the GHG Protocol is revisiting and potentially updating their methodology approach, how should registrants handle future changes in the estimation methodology, specifically in consideration of the need to recast or restate historical emissions reporting in Commission filings?

[4] International Sustainability Standards Board, Exposure Draft: IFRS S2 Climate-related Disclosures (Mar. 31, 2022) and International Sustainability Standards Board, Exposure Draft: IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information (Mar. 31, 2022).

[5] Statement of Intent to Work Together Towards Comprehensive Corporate Reporting (Sept. 2020), available at https://29kjwb3armds2g3gi4lq2sx1-wpengine netdna-ssl.com/wp-content/uploads/Statement-of-Intent-to-Work-Together-Towards-Comprehensive-Corporate-Reporting.pdf.

- The number of external frameworks for climate and ESG reporting continues to grow, and disclosures under these frameworks continue to advance. What oversight will the Commission maintain to ensure there is adequate technical expertise in this subject-matter to identify inflection points in future developments of frameworks and appropriately update climate-related disclosures for registrants?

- Lastly, in recognition of future updates to the Commission's climate-related disclosures that may be necessary, how will registrants and other stakeholders be engaged for input to ensure additional disclosures or changes to existing disclosures would promote consistency and comparability, and, just as importantly, are capable of practical application?

Comment Period and Implementation and Reporting Timeline

We greatly appreciate the Commission's decision to extend the comment window for the Proposal. However, we would also like to note that the extended comment window remains insufficient for many companies, including ConocoPhillips, to complete an analysis of the full impact and cost of implementing the Proposal. The Proposal, which is over 500 pages in length and is accompanied by over 200 questions (not including the Commission's additional requests for comment on its economic analysis, proposed information collection requirements, and initial regulatory flexibility analysis) and over 1,000 footnotes, will, if adopted, transform and reorder the present disclosure regime on climate-related risks. In comparison, the ISSB's recently released 60-page exposure draft on climate-related disclosures provided for a 120-day comment period.[6]

The Proposal, if adopted, will create significant compliance burdens for all registrants. Companies will need time to design and implement processes, controls and systems, and will need to hire and upskill personnel to comply with the new disclosure regime. This burden will be acute and long-term not only for companies that have yet to publish disclosures aligned with the recommendations of TCFD, but also for larger companies that have published TCFD reports but will now need to not only provide much more detailed disclosures than are contemplated in the TCFD framework, but also seek input from consultants and a limited existing pool of qualified GHG assurance providers. While we currently provide sophisticated disclosures aligned with the TCFD's recommendations and are familiar with many of the concepts in the Proposal that are based on the TCFD framework, fully implementing the Proposal will remain a challenge for us. While we have had insufficient time to complete a full assessment of the impact of the Proposal on our systems and processes, we know that we will need to upgrade our current systems and processes to capture the required level of granularity of data to be disclosed, adapt additional controls and procedures, and implement significant training in order to upskill our workforce.

Additional impacts involve coordination with third parties, such as operating partners and vendors, as well as assurance providers, to enable us to produce the required information to comply with the disclosure requirements as proposed. And similar to previous rulemaking, there will be other unforeseeable compliance costs to our company apart from any new system requirements, and the cost of adapting current systems, processes, and enhancing training will be significant. These costs only increase if we are required to pressure our third parties and accelerate internal

[6] *See supra* note 4.

implementation to meet the compressed timeline currently contemplated in the Proposal. We therefore respectfully ask the Commission to review and consider delaying the implementation timeline for all registrants and the phase-in periods for Scopes 1 and 2 emissions disclosure and assurance to at least five (5) years[7] following the adoption of the final rules. This recommendation is consistent with the implementation timeline adopted for major recent changes to financial reporting standards such as the Financial Accounting Standards Board's (FASB) implementation timeline for each of the revenue recognition and lease accounting standards, each of which provided public companies with significantly longer implementation timelines: lease accounting rules became effective approximately three (3) years following the rule adoption while revenue recognition became effective over three (3) years following the rule adoption. And prior to their issuance, the FASB worked for several years with stakeholders, including the financial statement preparer community, to finalize these rules. Neither rule contemplated changes that are as significant as those set forth in the Proposal.

The Proposal's requirement for all climate-related disclosures to be provided in a registrant's annual report on Form 10-K will prove challenging. Registrants already face significant pressure to meet existing annual and quarterly reporting deadlines, and the addition of climate-related disclosures, particularly quantitative disclosures that will need to be accompanied by assurance, will only increase such pressures. Moving GHG emissions disclosures and assurance to a separate report, such as furnishing within a specialized disclosure in Form SD with a later reporting deadline in the calendar year, will provide companies with additional time to properly collect GHG emissions data and assurance providers sufficient time to render their opinions. As an alternative, it may also be advisable to report GHG emissions on a one-year lag to ensure sufficient time for reporting and assurance.

We also believe that delaying the reporting of GHG emissions disclosures until later in the year will help further ease the challenges of collecting information across multiple jurisdictions and better aligns with existing processes for other emissions reporting requirements. This is particularly important for companies with international operations. For example, our Canadian operations reports Alberta jurisdictional emissions by the end of June and British Columbia jurisdictional emissions by the end of May for each prior calendar year while our Australian operations report in October each year for the prior fiscal period of July through June.

Amendments to Regulation S-X

We are particularly concerned about the Proposal's amendments to Regulation S-X to require registrants to disclose in a note to their financial statements certain disaggregated climate-related financial statement metrics that are mainly derived from existing financial statement line items, and to include corresponding disaggregated disclosures of climate-related impacts and expenditures in their financial statements. There are several elements of this disclosure that will be particularly difficult, if not impossible, to implement:

(1) We, along with many other companies, do not segregate and track in our systems the costs and benefits of climate-related risks or events, the costs of mitigating such risks, or the

[7] A three (3)-year implementation timeline could be feasible if the recommendations set forth in this letter are adopted.

estimates and assumptions underlying such metrics. Compliance with the proposed rules, and particularly at the level of granularity required for financial statement line items under the proposed rules, will require registrants to implement an entirely separate and additional set of books or ledgers of activity-based costing, which will be costly and time-consuming. For instance, systems and processes for tagging and tracking costs across our entire supply chain would need to be redesigned. There will also be reporting lags for discrete events that cannot be tagged until they have concluded.

(2) With respect to our business, one of the largest event-driven impacts to our financial statements is from the movement in commodity prices, which are directly and indirectly impacted in any given period by a multitude of supply, demand and other factors. Thus, it is impossible for us to measure and determine the impact of a single climate or weather-related event on our revenues and certain other financial statement line items or on commodity prices, nor can we bifurcate the impact of macroeconomic events from climate change events. This would be impractical to measure and report even if the Commission were to raise the threshold for reporting from one percent to a higher percentage threshold.

(3) The proposed one percent threshold for disclosure of climate-related impacts and expenditures is not consistent with the determination of materiality for other disclosures in the Proposal and we believe is too low and will likely lead to conflating immaterial events as material to the detriment of investors and will add significant costs to comply.

(4) Determining, in the first instance, what are climate-driven events is highly subjective (e.g., for a hurricane event, registrants will need to quantify the extent to which damage arose from climate change as opposed to damage that would have otherwise occurred in the ordinary course or alternatively assume that any weather event is climate-driven) and may lead to great variability among companies and result in disclosures that are not consistent, comparable or material to investors.

(5) We, along with many other companies, conduct a considerable portion of our operations through third parties (e.g., joint venture/operating partners) who are not contractually obligated to share with us records that will be required to make the disclosures contemplated under the proposed rules and are not subject to the Commission's jurisdiction. Consequently, to obtain such information, we expect that we will need to renegotiate at least 4,000 joint operating agreements with our third-party operators, requiring tens of thousands of hours from our workforce and additional costs from third-party consultants and experts, such as external legal counsel. Furthermore, there is no guarantee that all agreements could be successfully renegotiated, particularly for non-publicly traded operating partners who are not subject to the Proposal's reporting requirements. It may take years before this data could be reliably provided by partners and it is highly unlikely this information will be available by the implementation timeline currently contemplated under the Proposal. We are also opposed to renegotiating our joint operating agreements simply to meet with new compliance regulations in a compressed timeframe, as an unintended consequence may be partners wanting to renegotiate other parts of our operating agreements, potentially putting us at a competitive disadvantage.

If the intent of the proposed note to the financial statements is to disclose material climate-related impacts to each registrant's results of operations, we believe Item 303 (MD&A) of Regulation S-K already provides registrants with the requirement to discuss material climate-related impacts. ConocoPhillips has previously provided such disclosures in connection with weather events such as Hurricane Harvey and Winter Storm Uri that impacted our financial condition and results of operations. We also disclose in each period detailed information related to commodity prices, including the impact of prices on our revenue and realizations and general trends related to commodity price movements.

Scopes 1, 2 and 3 Disclosures

As an E&P company, we currently report our GHG emissions in accordance with the Greenhouse Gas Reporting Program[8] ("GHGRP") promulgated by the EPA as well as other reporting standards required by regulators globally. In jurisdictions that do not have regulatory reporting standards, we estimate GHG emissions using our own company reporting practice that is based on the GHG Protocol and utilizes API methodologies and emission factors. According to the EPA, approximately 85-90% of all U.S. GHG emissions are covered under its reporting program with the remainder coming from agricultural sources and land use changes.[9] GHG emissions data supplied to the EPA is also reviewed directly by the EPA.[10] Based on feedback that we have received from our investors and other stakeholders, our current emissions disclosures made in our reports to regulators and in our public sustainability reports already satisfy their information needs. We do not believe additional and duplicative Scope 1 and 2 emissions disclosures will be useful or material to investors in many instances.

Setting aside our view that Scope 1 and 2 emissions should not be made mandatory, there are also several practical challenges with making such disclosures. The requirement for reporting Scope 1 and 2 emissions using the Proposal's organizational boundaries approach is problematic and will create additional reporting burdens for companies like ConocoPhillips that have already made comprehensive emissions disclosures that meet regulatory requirements and stakeholder expectations. Rather than requiring reporting on an equity ownership basis, we believe the operational basis of the EPA's GHG reporting model should be the basis for building a standardized domestic GHG disclosure framework. Emissions disclosures should be made on an aggregate basis and include, on a disaggregated basis, the constituent greenhouse gases, only to the extent they are a material component of the registrant's overall emissions. We also believe that, where appropriate, GHG disclosure regimes in other jurisdictions with similarly broad existing GHG emissions coverage should form the basis of GHG emissions disclosure. Taking this approach will significantly reduce compliance burdens for companies while providing consistent and comparable levels of disclosure and transparency that our investors and stakeholders are interested in.

[8] 4 CF Part 8 (2022).
[9] E A, GH RP Repor ed D ta (202), availa le at https://www.epa.gov/ghgreporting/ghgrp-reported-data.
[10] PA, EPA act Sh et: Greenh use G ses Repor ing Program Implement tion (2 13), avai able at https://www.epa.gov/sites/default/files/2014-09/documents/ghgfactsheet.pdf.

In addition, the Proposal's reporting of emissions using organizational boundaries of a net or equity-basis approach is distinct from current jurisdictional reporting, which utilizes a gross operational ownership approach. As such, the change in reporting methodology is likely to create significant costs and burdens for publicly traded companies aiming to comply with the proposed emissions disclosure requirements. Many companies, including ours, conduct business through partners over whom we have limited control and oversight. As such, it is difficult if not impossible to collect and verify GHG emissions data on an equity ownership basis, which is the approach currently tabled in the Proposal. We rely on the goodwill of our close partner relationships in order to obtain non-operated emissions estimates and where we cannot obtain the information, we estimate those emissions based on our knowledge of partner operations. It is not industry practice to provide this information to each partner and companies such as ours do not require the reporting of GHG emissions in joint-venture and operating agreements. As we alluded to earlier in our discussion, in order to obtain this data from our partners, we will likely need to renegotiate at least 4,000 joint operating agreements with our third-party operators. If our partners were to provide such information for reporting in our public filings with the Commission in the compliance timeline proposed, they will likely require some degree of third-party liability protection for such disclosed information.

We do not believe that Scope 3 disclosures are material and have heard the same from our largest investors with respect to ConocoPhillips. Recent industry trends and investor feedback during the latest proxy season align with this view.[11] Scope 3 emissions represent the use of our production volumes further down the value chain, and we have neither visibility nor control over their ultimate end-use. Accordingly calculating Scope 3 requires significant assumptions around end-use of our products, and are inherently imprecise and potentially misleading.

Chief among our concerns regarding Scope 3 disclosures is the absence of rigorous and standardized methodologies for calculating such emissions and the guaranteed double counting of emissions (i.e., Scope 3 emissions for one company may be counted as Scope 1 for another and may be counted as Scope 3 for multiple companies). The GHG Protocol, upon which the Commission has based its proposed GHG emissions disclosures, remains under review and is subject to further change. There are no precise methods that exist for calculating Scope 3 emissions. On the contrary existing methodologies providing estimates for Scope 3 emissions are nascent, especially in the oil and gas sector where there are many companies involved along the value chain. The multiple counting of emissions and inconsistent methodologies result in Scope 3 emissions values that are imprecise and not comparable between companies, potentially misleading, and therefore unlikely to be useful for investors. For example, a common approach in estimating is to apply emissions factors (for transportation, distribution, and processing) on our production volumes to extrapolate total Scope 3 emissions, due to the lack of visibility in where our outputs move through various channels of the value chain. As such, our estimate inherently lacks the precision presumed for disclosure in an SEC filed document.

There are also notable administrative challenges in gathering the data and assembling sufficient internal and external expertise to process such data. Requiring registrants to disclose Scope 3 emissions would require further expansion of current emissions estimation and reporting

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[11] ConocoPhillips, 2022 Proxy Statement at 26, available at https://static.conocophillips.com/files/resources/conocophillips-2022-proxy-statement.pdf.

systems and resul in significant additio al cos s, with ut necessar ly delivering material data to investors. Furthe more, while S ope 3 emi sion da a ay be f se in ass ssing tran ition risks, inv stor w ll b a le t mak such asses ments ba ed on disclosures already req ired, if material, i s ctions of t e Fo m 0-K uch as Ris Facto s. In shor , we e ieve Scope 3 disclos res, whi h a e expected to be tim -consu in and cos ly o compil , re unlikely to be sufficiently acc ra e, consiste t r om ara le to be of use to i vestors.

We als question whe her requi in th reporting of GHG in en i y, ex resse as a rat o o GHG mi sions pe unit of e onomi value, wi l ield meani gful or ctionable dat for inv stor . Fo exa ple, over t e l st five y ars, our mi sions in en ity as easured by ou GH emissi ns o e our r venue has a spr ad when co par ng the highest an l west val s) of 98 erce t. e believe suc wi d fl ctuations re mor indicativ o the vola ility f c mmo ity price and re of limited val e in as es ing our ffo ts to it gate th impact f clima e change. Inde d, a b tter measu e f HG inte sity fo ur ind stry wou d be to measure emiss on ou put a ain t production, s this im ts the d sto tionary i pacts of externa and unr late market for es and it is the mos appropr ate in un ers anding the changing nature of our portf lio.

Assu ance

Th propos d assuranc t meline pres nts several challe es for re istrants nd ass rers alike Curr ntly, ass ra c of G G emi sions is only unde ta en by a limit d number of companies, an ther is limited capacity and subje t-matter expe tise among attestati n prov ders Capaci y bu ldi g will take time, and it will ik ly ake longer han t e attestati n t melines se forth in the Proposal. As suc , e recommen he Commissi n extend the imp em ntation imeline or attestation o G G emiss ons to requir ssu ance no arlie than t ree (3) years follo ing the initial implementati n f the disclos re rules to permit apacity building an align ecord-kee ing.

Finally, a noted arlier, cha en es rem in or compani s looki g o report emi sio s from non-ope at d p rtner f cilities To redu e the compl anc burden, we res ec fully ask the Commission to also conside limiting attest tion to nly cover GHG emissions provid d n an operational control basis.

Cli ate-Relate Risks

The roposal requires ext ns ve additional disclos re of climate-related risks. Risks, t the exten they are mat rial, are rr ntly di closed in the Ri k Factors sec ion of our p riod c reports and re istrati n statements filed with he Commission. We b lieve certain aspe ts of the P oposal’s climate-relat d risk disclo ures that equire pre cr ptive d sclos res wil creat compliance challenges and le d to volumes of info mation im ateri l t investors F r exampl , the requir ment o disclose risks over the near-, edium- nd long ter pre ents a pa tic larl trick hallenge given the com lexity of modeling scenarios and making materiality determinations over extended periods of time, and such assessments may only serve to obscure material near-term risks.

The level of granularity required for certain physical risk disclosures (e.g., disclosures by zip code) will not likely yield more valuable information for investors compared with higher level disclosures. We believe registrants should be given the discretion to determine the level of detail that would be material enough to warrant disclosure. In addition, there may be competitive or other reasons why zip-code level disclosure is inappropriate. For example, there may be certain cases where public disclosure of the zip codes of climate-vulnerable assets could pose a national security threat, as it would provide bad actors a roadmap to locations of critical infrastructure.

Certain disclosures required under the Proposal such as internal carbon price and scenario analyses constitute competitive differentiators, the disclosure of which could cause competitive harm. Effective scenario analysis requires business plans and forecasts to assess the company's exposure to climate-related risks and plan for transition scenarios. Disclosing this information would divulge sensitive information to the public and competitors. We therefore request the Commission consider providing additional safeguards or exclusions for information that a company deems to be competitively sensitive.

Targets and Goals

While we believe the disclosure of targets and goals can be an important driver of accountability and action with respect to climate change, we also believe the targets and goals that best enable stakeholders to evaluate progress in addressing climate change risk are short-term and accurately measurable. As such, we recommend disclosures of targets and goals focus on Scope 1 and 2 emissions reductions and GHG intensity, to the extent material and in each case measured on an operational control basis. We believe companies should also be encouraged to set other targets and goals, which can be separately disclosed in stand-alone voluntary sustainability reports not filed or furnished with the Commission.

We further believe registrants should disclose plans and progress toward meeting material short-term targets and goals only, (i.e., those set within the next five (5) years) where it is possible to make definitive plans. These short-term plans should continue to benefit from safe-harbor provisions, such as those contained in the Private Securities Litigation Reform Act, which protect reporting companies and management from liability for making good-faith projections and forecasts. Plans and progress toward meeting long-term targets and goals are inherently less certain and are very likely to evolve over time as circumstances and technologies improve, and we have a number of options to meet these objectives, but have not yet committed to one path. Therefore, we believe that detailed disclosures on medium- and long-term goals and targets would not be material to investors and could potentially be misleading.

The Proposal's requirement that registrants disclose "any targets or goals related to the reduction of GHG emissions, or any other climate-related target or goal" is too expansive and will capture granular and immaterial details that are unlikely to be of help to investors. As noted earlier in this letter, we recommend disclosures be guided by materiality, as determined by the registrant. Moreover, it would be helpful to further define what the Commission deems to be an in-scope "goal" or a "target"—for example, should goals be established and approved through internal governance processes and externally communicated to shareholders before they are deemed as such?

Governance

We already provide expansive disclosures about our Board and management oversight of climate- and ESG- related matters in our voluntary sustainability reports and annual proxy statements filed with the Commission.[12] We are not an outlier in this respect; a growing number of companies are providing such disclosures, particularly as they adopt TCFD-aligned reporting. However, we do not believe inclusion of these disclosures is warranted in periodic reporting, specifically our Form 10-K, because these disclosures are intended to be informative for a wide range of stakeholders and not specifically impactful for investor decision-making. We also are uncertain whether requiring disclosure of board-level or management expertise on climate or climate-related risks may subject certain members of the board or officers to heightened scrutiny and possible additional legal liability, when we believe the responsibility for risk oversight lies with the entire board and management. As noted earlier in this letter, we recommend that the Commission expressly clarify that directors or officers identified to have expertise in climate-related risks are not deemed "experts" for any purpose, including, for purposes of Section 11 of the Securities Act.

Overall Cost Benefits Analysis

We respectfully ask the Commission to conduct additional cost-benefit analysis with respect to the Proposal to ensure efficient and effective disclosure that does not unduly burden registrants. We believe our existing disclosures already meet the needs of our investors and stakeholders, based on the feedback we have received from our ongoing engagement and outreach. Consequently, it is difficult to ascertain what benefits the Proposal will deliver to our investors. As we have noted elsewhere in this letter, parts of the Proposal require highly granular or speculative disclosures that are unlikely to create more comparable, consistent, and reliable disclosures with respect to registrants' climate-related risks. The Commission has also noted potential long-term cost savings arising from the reduction of duplicative effort in registrants' production and acquisition of information. Since the Proposal significantly expands the scope of current climate-related disclosure practices, the savings from reducing duplicative reporting would be vastly outweighed by the new reporting burdens. In addition, the Proposal does not actively seek to reduce duplicative information: for instance, companies that already report GHG emissions to the EPA and other regulators, will be required to provide additional scope 1, 2 and possibly 3 emissions data.

We expect the overall costs of implementing the Proposal will far outweigh any such savings and, in many cases, will impose reporting burdens and disclosures on registrants beyond what investors currently desire or require. The key drivers of both near and longer-term costs include:

[12] *See* ConocoPhillips, 2020 Sustainability Report at 7 (2020), available at https://static.conocophillips.com/files/resources/conocophillips-2020-sustainability-report.pdf;

(1) reporting requirements that are far more granular than the TCFD framework that companies have begun to adopt, including, for example, providing climate-risked assets by zip code;

(2) compliance with the proposed amendment to Regulation S-X to provide discrete impacts of climate-related events and activities at the exceptionally low threshold of 1% of a financial statement line item will require a new and granular activity-based costing system to be implemented across a company's entire business;

(3) the requirement to report emissions using the organizational boundaries of a net or equity-basis creating additional data gathering and reporting burdens for companies already meeting regulatory requirements and stakeholder expectations utilizing a gross ownership approach;

(4) contracts with third parties will need to be amended to require sharing of climate-related data that will at best be based on approximations due to assumptions and estimates. For our company, this would require renegotiations of over 4,000 joint operating agreements requiring tens of thousands of hours by our workforce and additional costs for consultants and experts;

(5) the need for companies to significantly expand and upskill their workforce and also rely on external service providers, consultants, experts in implementing new systems, controls, and procedures;

(6) the availability of assurance providers is currently insufficient to meet demand and will likely trigger a surge in costs: the current estimate for assurance costs reflected within the Proposal of $15,000 is grossly underestimated; when comparing to current assurance services of a similar size provided by our external financial statement auditors, costs could easily be many orders of magnitude larger than the amount estimated within the Proposal;

(7) the current compressed timeline will exacerbate the costs mentioned above as public companies compete for scarce resources; and

(8) similar to previous rulemaking, there will be other unforeseeable compliance costs and we expect these costs will drastically exceed the current estimates contemplated in the Proposal.

The items above represent only the most significant drivers of costs for our company to implement and comply. As noted above, even the extended comment period afforded by the Commission proved insufficient for ConocoPhillips to complete a full impact analysis of the cost of implementing the proposed rules. However, based on our understanding of the lack of capabilities of our Enterprise Resource Planning system for the current requirements and the current lack of available solutions from our vendors and suppliers, we expect implementation costs for our company to be in the $100-500 million range, with on-going annual compliance costs in the $10-25 million range. In short, many companies will bear significant costs producing information for which their investors have not indicated a need, and which is likely to be immaterial to investors. These significant costs will ultimately be borne by shareholders and the public markets.

Summary

Notwithstanding our aforementioned concerns, should the Proposal be adopted, we believe the implementation of our recommendations, as summarized below, would help lead to rules that deliver the consistent, comparable and material information investors require.

- *Adopt the Materiality Threshold for All Risks and Related Disclosures*. We recommend registrants should only be required to make climate-related disclosures if such disclosures are material, based on the materiality standard that has been used by the Commission for many years and which is consistent with well-established and time-tested Supreme Court precedents.

- *Extend Safe Harbors to Registrants and Directors.* The Commission should apply existing liability protections and safe harbors found in current reporting regulations to climate-related information and permit disclosures be furnished and not filed. We also ask the Commission to clarify that directors identified to have expertise in climate-related risks are not deemed "experts" for any purpose, including for purposes of Section 11 of the Securities Act of 1933.

- *Clarify Alignment of Disclosures with Key Standard Setters.* We respectfully request the Commission to clarify its plans for oversight of future developments in sustainability reporting frameworks, specifically how registrants and stakeholders will be engaged for input and other due process activities to ensure future updates will promote consistency and comparability of material disclosures balanced with practical application.

- *Extend the Implementation and Reporting Timeline.* The Commission should extend the implementation and annual reporting timelines to ensure registrants have sufficient time to build reporting capacity and gather and verify disclosable data.

- *Remove Financial Statement Disclosures.* We believe the proposed amendments to Regulation S-X, particularly the disclosure of disaggregated climate-related costs and benefits on financial statement line items will be particularly difficult, if not impossible, to implement, and will result in disclosure of information that is not material to investors.

- *Revise Scope 1 & 2 Disclosures.* We believe GHG disclosure regimes established by the EPA and regulators in other jurisdictions with broad existing GHG emissions coverage should form the basis of GHG emissions disclosure and do not believe additional and duplicative Scope 1 and 2 emissions disclosures will be useful or material to investors in many instances.

- *Remove Scope 3 Disclosures.* We believe Scope 3 disclosures are not material to investors. Recent industry trends and investor feedback in the latest proxy season align with this view.

In addition, Scope 3 disclosures are likely to be misleading as to the larger picture of the overall emissions as they will double count emissions that are disclosed as Scope 1 and 2 for others. Disclosures for Scope 3 emissions will also require using very broad assumptions about end-use, reliance on data that third parties have no legal obligation to provide and are unable to verify with any accuracy, which also may be misleading. Further, Scope 3 disclosures are unlikely to be sufficiently consistent or comparable to be of value to investors as methodologies for calculating such emissions are varied and evolving.

- *Extend Assurance Implementation Timeline.* We recommend the Commission extend the implementation timeline for attestation of GHG emissions to require assurance no earlier than three (3) years following the initial implementation of the disclosure rules to permit capacity building and align internal record-keeping.

- *Reduce Scope of Climate-Related Risk Disclosures.* We believe certain aspects of the Proposal's climate-related risk disclosures requiring prescriptive disclosures, such as providing near-, medium-, and long-term risks, will create compliance challenges. We are also concerned other requirements may lead to the disclosure of immaterial information to investors.

- *Clarify Scope of Targets & Goals.* We believe companies should focus on disclosing plans for meeting short-term targets and goals, to the extent material, as the potential paths for meeting medium- and long-term targets and goals are more numerous and are more likely to change as technologies evolve.

- *Review Governance and Oversight*. We believe the Proposal's requirements on governance disclosures are not warranted in periodic reports filed with the Commission, are duplicative in part of governance disclosures required by the existing reporting regime, and instead should be voluntarily disclosed in registrants' sustainability reports, if requested by and tailored to the requests of their specific stakeholders.

- *Conduct a Comprehensive Cost/Benefit Analysis.* We request the Commission to conduct additional cost-benefit analysis with respect to the Proposal to ensure efficient and effective disclosure that does not unduly burden registrants.

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We appreciate the opportunity to provide these comments. As stated above, we believe that our existing disclosures meet the needs of investors and other stakeholders. While we believe providing stakeholders with information on climate-related risks is an important step towards transparency, accountability and action on climate change, the Proposal exceeds a reasonable approach to advance consistent, comparable and material disclosures on climate-related risks.

We stand ready to respond to any questions you may have with respect to this letter or our views regarding climate-related disclosures. If you have any questions or would like to discuss more generally, please contact the undersigned at [redacted], Shannon Kinney at [redacted], or Kontessa Haynes-Welsh at [redacted].

Very truly yours,

Kelly B. Rose
Senior Vice President, Legal and General Counsel