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

DIVISION OF
CORPORATION FINANCE

April 11, 2019

David Johansen
White & Case LLP
djohansen@whitecase.com

Re: Hess Corporation
Incoming letter dated February 5, 2019

Dear Mr. Johansen:

This letter is in response to your correspondence dated February 5, 2019 and March 29, 2019 concerning the shareholder proposal (the "Proposal") submitted to Hess Corporation (the "Company") by the Park Foundation (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. We also have received correspondence on the Proponent's behalf dated March 11, 2019 and April 5, 2019. Copies of all of the correspondence on which this response is based will be made available on our website at http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

M. Hughes Bates
Special Counsel

Enclosure

cc: Sanford J. Lewis
sanfordlewis@strategiccounsel.net

April 11, 2019

Response of the Office of Chief Counsel
<u>Division of Corporation Finance</u>

Re: Hess Corporation
Incoming letter dated February 5, 2019

The Proposal requests that the Company issue a report on how it can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius.

There appears to be some basis for your view that the Company may exclude the Proposal under rule 14a-8(i)(10). Based on the information presented, it appears that the Company's public disclosures compare favorably with the guidelines of the Proposal and that the Company has, therefore, substantially implemented the Proposal. 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)(10). In reaching this position, we have not found it necessary to address the alternative bases for omission upon which the Company relies.

Sincerely,

Lisa Krestynick
Attorney-Adviser

DIVISION OF CORPORATION FINANCE
INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matters under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the company in support of its intention to exclude the proposal from the company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes and rules administered by the Commission, including arguments as to whether or not activities proposed to be taken would violate the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversarial procedure.

It is important to note that the staff's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholder proposals in its proxy materials. Accordingly, a discretionary determination not to recommend or take Commission enforcement action does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the company's management omit the proposal from the company's proxy materials.

SANFORD J. LEWIS, ATTORNEY

Via electronic mail

April 5, 2019

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

Re: Shareholder Proposal to Hess Inc. Regarding Climate Change
on Behalf of the Park Foundation - Supplemental Reply to No Action Request

Ladies and Gentlemen:

The Park Foundation ("Proponent") is beneficial owner of common stock of Hess Inc. (the "Company") and previously wrote on March 11 in defense of the shareholder proposal (the "Proposal") submitted to the Company. I have been asked by the Proponent to respond to the supplemental no action letter dated March 29, 2019 ("Supplemental Letter") sent to the Securities and Exchange Commission by David Johansen of White & Case. A copy of this letter is being sent to Mr. Johansen.

1. The Essential Objective of the Proposal is that Hess Report on How It Can Reduce Its Carbon Footprint (Scope 1-3) in Alignment with the Paris Goal of Maintaining Global Warming Well Below 2 Degrees Celsius

A. The Term "Carbon Footprint" includes Emissions Associated with the Company's Products

The Proposal's Resolved clause asks Hess to issue a report on "how it can reduce its carbon footprint in alignment" with Paris goals. A carbon footprint measures the total greenhouse gas emissions caused directly *and indirectly* by a company, including product emissions.[1] If the Company's report is limited to addressing only a portion of the greenhouse gas emissions it creates (operational emissions), as the Supplemental Letter suggests, it would not serve shareholders' request. Instead, the Proposal seeks to understand whether the Company is decreasing the whole range of its greenhouse gas emissions, thus decreasing risk to shareholders portfolios, or whether it is continuing to contribute significantly to climate change.

The Supplemental Letter argues that Proponent is recasting the essential purpose of the Proposal by asking the Company to account for its carbon footprint inclusive of product emissions. In fact, the Supporting Statement defines what the Proposal intends by the term "carbon footprint". The Supporting Statement asks the Company, among other issues, to discuss the relative benefits and

[1] https://www.carbontrust.com/resources/guides/carbon-footprinting-and-reporting/carbon-footprinting/

drawbacks of "otherwise diversifying its operations to reduce the Company's carbon footprint (from exploration, extraction, operations, **and product sales)**." (Emphasis added). The first two bullets of the Supporting Statement further elucidate the objective of the Proposal by asking the Company to discuss the benefits and drawbacks of the type of products the Company might sell including investments "in renewable resources," and "reducing capital investments in oil and/or gas resources," both of which are areas that pertain to Scope 3 indirect emissions.

The discussion throughout the rest of the Proposal further clarifies that the Proposal is focused on emissions associated with *fossil fuels*. From the Supporting Statement's discussion of investments in oil and gas, to the Whereas clause's discussion of the climate harms associated with Hess' investment in fossil fuels, to the reference to peer company's adoption of renewables and reductions in Scope 3 product emissions, the objective of the Proposal is clearly that the Company address the full range of greenhouse gas emissions associated with its exploration, extraction, operations, *and product*s. **No reasonable reading of the Proposal limits the scope of the Company response sought to reducing its limited operational greenhouse gas emissions.**

The Supplemental Letter, finally, attempts to claim that, because this Proposal differs slightly from a prior proposal filed at Anadarko, it must therefore be seeking a different and more limited outcome. There is no basis for this assumption. While the earlier Anadarko proposal includes the redundant term "full" in front of "climate footprint", the authors' choice to edit the redundancy in no way signals an intent to limit the scope of the greenhouse gas emissions at issue in this Proposal. The two proposals are nearly identical in their request, justification, and purpose. Further, there is no reason why shareholders would care less about Hess' product emissions than about Anadarko's – both companies' product emissions contribute to the problem of climate change.

2. Rule 14a-8(i)(10) - Because Hess' GHG Emission Plans Address Only Operational Emissions, the Company Has Not Substantially Implemented the Proposal

Hess does not deny that the GHG emission reductions target it has set is limited to reducing operational emissions. As the Supplemental Letter states, "the Company has focused on reducing its direct carbon footprint, which includes Scope 1 and Scope 2 emissions . . . ." Because the Proposal seeks a report on how the Company plans to reduce its carbon footprint, i.e., Scope 1-3 emissions, where Scope 3 emissions represent the largest portion of the Company's emissions, the Company has not substantially implemented the Proposal.

The Supplemental Letter further claims that the Company's planned Scope 1 and 2 emissions reductions goals are consistent with the International Energy Agency's Sustainable Development Scenario[2] ("SDS"), which it states is an equivalent to the Paris Agreement. However, under the

[2] The SDS goal is "is consistent with a 50 percent chance of limiting the concentration of carbon dioxide in the atmosphere to around 450 parts per million." http://www.hess.com/sustainability/climate-change-energy/carbon-asset-risk-report. The IEA SDS page states that the emissions trajectory of the SDS is at the lower end of other decarbonisation scenarios projecting a median temperature rise in 2100 of around 1.7 °C to 1.8 °C.

SDS, energy-related GHG emissions peak around 2020 and then decline rapidly. By 2040, they are at around half of today's level and on course toward net-zero emissions by 2070, in line with the goals of the Paris Agreement.[3]

The Company fails to meet this standard. The SDS requires absolute reductions in GHG emissions; Hess' has set a GHG *intensity* target which does not require or ensure absolute reductions in the Company's greenhouse gas emissions. An intensity standard measures GHG reductions per unit of energy produced. Thus, the Company could implement production efficiency measures, decreasing its GHG emissions intensity slightly, while tripling its production and sales of oil and gas. The intensity improvements would likely not outweigh the absolute increase in emissions associated with producing and selling far more fossil fuel products.

In addition, the Company has set forth no plans for aligning with the 2040 and 2070 SDS goals. The Company therefore has not provided shareholders with information as to how it plans to align with the full SDS/Paris goal.[4]

The Supplemental Letter further argues that the Company has no ability to reduce its Scope 3 emissions because it does not control product use. Yet, the Supplemental Letter states that over the past 10 years, "[t]he Company's combined Scope 1, 2, and 3 absolute emissions have been reduced by 26% through a combination of emissions reduction activities, asset sales, and refinery shutdowns." This success demonstrates that, as set forth in the Proposal, there are a variety of ways for a company to achieve alignment with Paris goals without having control over third parties. Such options may indeed require the Company to change its actions and plans, but addressing the climate crisis is critically important; significant changes will be required, especially of oil and gas companies like Hess that are contributing some of the largest emissions.

Disclosure Concerning the Company's Alignment with Paris Goals Is Critically Important to Shareholders

The Supplemental Letter demonstrates, in a nutshell, why a report describing how the Company will align with Paris goals is necessary. On the one hand, the Company's Supplemental Letter argues that it *is already aligned with Paris goals* and has substantially implemented the Proposal. It justifies this statement by referring to past GHG reductions it has made through divesting assets, reducing sales (presumably due to low commodity prices), and certain operational efficiencies; it further notes that by 2025 it will have achieved the remaining 2% of the intensity target it set for operational greenhouse gas reductions. At the same time, the Supplemental Letter

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https://www.iea.org/weo/weomodel/sds/.

[3] https://www.iea.org/weo/weomodel/sds/

[4] The SDS provides a schedule for emissions reductions of approximately 22% by 2030, 50% by 2040, and net zero emissions by 2070. The Supplemental Letter argues that the Company has already met the SDS' 2030 reduction goal. However, the SDS sets an absolute emissions reduction goal, not an intensity goal. The Company has set forth no plans for aligning with the further 2040 and 2070 SDS goals.

argues that shareholders are micromanaging its activities and inappropriately asking it to change its operations to align with Paris goals. Such contradictory statements underscore the lack of consistency in Company disclosures on this issue.

The Company's Carbon Asset Risk report[5] similarly fails to provide the requested information. It informs that the Company will adjust its capital expenditures and reduce costs to avoid stranded assets under a variety of climate change scenarios, including the SDS, implying that it is therefore aligned with those scenarios. But remaining viable and in business in a low carbon scenario is a far cry from a plan to reduce the Company's carbon footprint, including Scope 3 product emissions, in alignment with Paris goals to help reduce or avoid a warming climate.

The information requested in the Proposal is fundamentally important to shareholders interested in reducing climate risk to their portfolios. To make informed investment decisions, shareholders must have full disclosure about how a company plans to align its footprint with Paris goals or that it does not intend to so align. This is particularly important in an industry where some oil and gas companies are affirmatively adopting targets and taking actions to align with Paris goals, while others are not. Shareholders need full information to benchmark and compare company actions. This Proposal is intended to elicit such existentially important information.

3. Rule 14a-8(i)(7) - The Proposal does not micromanage.

A. The Proposal Asks the Company to Report on How It Can Reduce its Carbon Footprint in Alignment with Paris Goals.

The proposal asks the Company to issue a report on how it can reduce its carbon footprint in alignment with the Paris goal of maintaining warming well below catastrophic levels. As described in the Proposal, and addressed above, such information is critical in maintaining a livable climate and in maintaining the value of shareholder portfolios. In an environment where certain oil and gas companies are taking action to align with such goals, and others are not, the information is fundamentally important to shareholders.

B. Asking the Company to Address How it Plans to Reduce Its Carbon Footprint Is Permissible

The question raised by the Company's Supplemental Letter is whether a shareholder proposal can ask a company to fundamentally redirect its operations to respond to critical environmental impact concerns. Staff decisions and Commission publications are conclusive on this point; the determination regarding whether a proposal may request a company to make changes responsive to environmental and safety concerns is not constrained by the level of complexity or intricacy of the related operations.

[5] http://www.hess.com/sustainability/climate-change-energy/carbon-asset-risk-report

For example, the Commission has been very clear that proposals asking for a *phase out of nuclear power* are permissible.

The Commission's 1976 Release stated:

> …. the term ordinary business operations has been deemed on occasion to include certain matters which have significant policy, economic or other implications inherent in them. For instance, a proposal that a utility company not construct a proposed nuclear power plant has in the past been considered excludable [as relating to ordinary business]. In retrospect, however, it seems apparent that the economic and safety considerations attendant to nuclear power plants are of such magnitude that a determination whether to construct one is not an ordinary business matter. Accordingly, proposals of that nature, **as well as others that have major implications**, will in the future be considered beyond the realm of an issuers ordinary business operations, and future interpretative letters of the Commission's staff will reflect that view.[6]

The kinds of actions permissible in nuclear phaseout proposals pursuant to the 1976 release have been no less redirecting than the current proposal, and involved operations that are of equal complexity to oil and gas company operations. For instance, the General Electric company which has had major segments devoted to design and construction of nuclear power plants would be a close analog to a fossil fuel company. But in *General Electric Co.* (January 17, 2012) the proposal urged the company to change direction – literally to "reverse its nuclear energy policy and as soon as possible phase out all its nuclear activities, including proposed fuel reprocessing and uranium enrichment." In rejecting the ordinary business claim, the Staff made specific reference to the fact that that **economic and safety considerations attendant to nuclear power plants are significant policy issues and that the proposal may focus on these significant**

[6] In the 1976 Release, the Commission made it clear that any proposal that ***required*** an outcome would be scrutinized closely for the potential to conflict with state law that reserves the discretion and operation of the company to the board and management. Therefore, the Commission established in the Note to Rule 14a-8(i)(1), that "**In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law.** Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise. [emphasis added] The underlying rationale of this limitation in the note, expressed in the 1976 Release was specifically, *preservation of the discretion of the Board of Directors to take action*. The 1976 Release also explained why advisory proposals like the present one do not interfere with board and management discretion: "… it is the Commission's understanding that the laws of most states do not, for the most part, explicitly indicate those matters which are proper for security holders to act upon but instead provide only that the business and affairs of every corporation organized under this law shall be managed by its board of directors, or words to that effect. Under such a statute, the board may be considered to have exclusive discretion in corporate matters, absent a specific provision to the contrary in the statute itself, or the corporations charter or bylaws." In light of this 1976 determination to interpret proposals with requests for specified action as advisory proposals, the concept of micromanagement evolved to address a different issue – where a shareholder proposal set forth an excessively detailed set of guidelines (the equivalent of regulations) outside of the shareholders' expertise. The present proposal does not cross that line, nor is it as "micromanaging" as recently excluded proposals, such as *Exxon Mobil* (NYSCRF) (April 3, 2019) which requested that the company disclose short medium and long-term targets to bring its GHG emissions into alignment with the temperature containment goals of the Paris Agreement.

policy issues.[7]

Today, society is confronted with major economic and safety considerations regarding the fossil fuel industry and its central role in climate change. The fossil fuel industry is in a similar position to that of nuclear power - many believe the perpetuation of oil exploration and development poses an existential threat to the world. As such, the same considerations regarding nuclear power apply now to fossil fuels. Any proposals that ask oil and gas companies whether they plan to *phase out* fossil fuel development will have the same status as the nuclear proposals – raising a significant policy issue that transcends ordinary business.

C. The Current Proposal Does Not Require the Company to Phase Out Its Exploration and Production Activities'

Although as explained above, the Proponent believes it would be permissible under the ordinary business rule to ask the Company to phase out fossil fuels development, the Company's Supplemental Letter overstates the case that the current proposal *requires* the Company to phase out its fossil fuels operations. Instead, the proposal asks only that the Company assess potential pathways for action how it ***can*** align with the Paris agreement.[8] In this instance, it does not dictate action, but only the scope of a report. This is in contrast to other reporting and disclosure proposals that, while phrased in terms of being a "report" or "disclosure", were found by recent staff decisions as effectively action forcing in, for instance, requiring a company to set targets for GHG reduction.[9]

Although the current Proponent likely would appreciate the Company making the pivot to clean energy, the request of the proposal exercises restraint – it withholds necessitating action other than the consideration of a pathway that the Company "can" take. In particular, it asks for a report from the Company "on how it can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius." It doesn't require the Company to take that path, instead requesting the Company describe "at board and management discretion" the relative benefits and

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[7] a See also *Northern States Power Co.* (February 9, 1998) the proposal recommended that the company's board commission a study of the economic feasibility of converting the Prairie Island Nuclear Power Plant to a natural gas power plant and provide shareholders with such study and recommendations for board action. The ordinary business claim was rejected. The same logic regarding economic and safety considerations has been applied to lesser requests, such as that the board adopt and implement a policy to better manage the dangers that might arise from an accident or sabotage of stored spent nuclear fuel and report to shareholders. *NextEra Energy, Inc.* (January 4, 2013).

[8] As we noted in our prior response, there is an array of possible scenarios for the company to reduce and align its carbon footprint. The Proposal, in asking "how the company can reduce," leaves flexibility for the board and management to assess a range of alternatives they might consider for the company, but does not require the company to take action to implement the alternatives.

[9] For instance, the exclusions in *Devon Energy* (March 4, 2019) and *Exxon Mobil* (April 3, 2019) could potentially be grounded in an inference that while the proposals were framed in terms of "disclosure" as a practical matter implementation would require the company to take a specific action, namely to set greenhouse gas reduction targets in alignment with the Paris climate agreement temperature containment goals. In contrast, the present Proposal does not require a specific action other than the issuance of a report.

drawbacks of transitioning its operations and investments through investing in low carbon energy resources, reducing capital investments in oil and/ or gas resource development that is inconsistent with a well below 2 degree pathway, or otherwise diversifying its operations to reduce the Company's carbon footprint (from exploration, extraction, operations, and product sales).

As we documented in our prior reply, the approach of the Proposal is far less directive than numerous staff precedents in the oil and gas sector in which greenhouse gas emission related proposals have asked a company to address particular technological areas of vulnerability or address climate change issues and on which the Staff has consistently rejected such Rule 14a-8(i)(7) assertions by companies. For instance, Exxon Mobil Corporation (March 23, 2000) asked the Company to adopt a policy to promote renewable energy sources, develop plans to help bring bioenergy and other renewable energy sources into Exxon's energy mix, and advise shareholders regularly on these efforts. Similarly, Exxon Mobil Corporation (March 12, 2007) requested that the board adopt a policy of significantly increasing renewable energy sourcing globally as a percentage of renewables in generation portfolio. *Exxon Mobil Corp.* (March 23, 2007) (adopt quantitative goals for GHG reduction). In all of these instances, the Staff rejected both the "choice of technology" and "sale of a particular product" lines of argument.

In each instance, the companies argued as Hess is attempting here, that the proposal engaged in micromanagement, and focused on "choice of technology" or "sale of a particular product." The Staff has consistently found that where a proposal focuses on reducing greenhouse gas emissions it is not excludable under Rule 14a-8(i)(7).

D. The Company's Board of Directors Has Not Documented a Basis for Exclusion under Rule 14a-8(i)(7)

The Supplemental Letter notes that the Board's Corporate Governance and Nominating Committee has considered the Proposal. However, instead of providing a board opinion or the board's evidence for considering the Proposal insignificant to the Company consistent with the invitation to submit such opinions under Staff Legal Bulletins 14I and 14 J, the letter includes a scant description of the board process, concluding with the statement that the board supports the no action request. This posture attempts to weigh in on the proposal without making the requisite fiduciary assessment of whether the subject matter of the proposal is significant to the Company.

Although a board opinion is not mandatory for exclusion, the apparent failure or reluctance of the board to conclude that the Proposal addresses an issue insignificant for the Company is noteworthy, and we urge the Staff to take this into account in its decision-making. This Staff has previously denied exclusions where the materials submitted by the Board provided scant evidence for excludability under Rule 14a-8(i)(7). *AmerisourceBergen* (January 11, 2018), *Entergy Corporation* (March 14, 2018), *Goldman Sachs Group Inc.* (March 12, 2018), and where the board provided no analysis, as in the current matter. *General Motors Inc.* (April 18, 2018), *Verizon Communications* (March 8, 2018) and *Verizon Communications* (March 7, 2018).

Consistent with our prior correspondence, we believe it is very clear that the Company has provided no basis for excluding the proposal. We respectfully request that the Staff inform the Company that it is denying the no action letter request.

Sincerely,

Sanford Lewis

cc:
Barry Schachter, Hess
David Johansen, White & Case
Danielle Fugere, As You Sow

WHITE & CASE

March 29, 2019

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VIA E-MAIL

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
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Via e-mail: shareholderproposals@sec.gov

Re: *Hess Corporation*
Shareholder Proposal Submitted by As You Sow
Securities Exchange Act of 1934 – Rule 14a-8

This letter is submitted on behalf of our client, Hess Corporation (the "**Company**"), in response to the letter dated March 11, 2019, received from Sanford J. Lewis (the "**Response Letter**"), a copy of which is attached as Exhibit A hereto, with respect to a shareholder proposal and related supporting statement (together, the "**Proposal**") sponsored by As You Sow on behalf of Park Foundation, Inc., as proponent (the "**Proponent**"). This letter supplements our letter dated February 5, 2019 (the "**No-Action Request**"), requesting that the Staff of the Division of Corporation Finance (the "**Staff**") concur with our view that the Company may exclude the Proposal from its proxy statement and form of proxy for its 2019 Annual Meeting of Shareholders (collectively, the "**2019 Proxy Materials**").

The No-Action Request sets forth the bases for our view that the Proposal may be excluded from the 2019 Proxy Materials pursuant to: (i) Rule 14a-8(i)(10) because the Company has substantially implemented the Proposal, (ii) Rule 14a-8(i)(7) because the Proposal relates to the Company's ordinary business operations and (iii) Rule 14a-8(i)(3) because the Proposal is vague and indefinite. The Response Letter does not change the correct analysis that the Proposal is excludable pursuant to Rule 14a-8. Nevertheless, this letter addresses certain of the arguments raised in the Response Letter.

Pursuant to Staff Legal Bulletin No. 14D (November 7, 2008) ("**SLB 14D**"), we are submitting this letter to the Staff via e-mail at shareholderproposals@sec.gov. In accordance with Rule 14a-8(j) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), copies of this letter are concurrently being sent to the Proponent. We take this opportunity to inform the Proponent that if it elects to submit additional correspondence to the Staff or the Securities and Exchange Commission with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company in accordance with Rule 14a-8(k) of the Exchange Act and SLB 14D.

ANALYSIS

The Proponent in the Response Letter argues that the essential objective of the Proposal is to seek "a discussion of how the Company plans to reduce its ***full carbon footprint***, ***including from its products***, in line with global goals" with a particular focus on Scope 3 greenhouse gas ("**GHG**") emissions. However, this is inconsistent with a plain reading of the Resolution and the Proposal as a whole, particularly in light of proposals the Proponent submitted to other companies prior to the Proposal. As we explain below, we continue to believe that the Proposal, as drafted, has been substantially implemented by the Company and is therefore excludable under Rule 14a-8(i)(10). Further, the Response Letter supports our view that the Proposal relates to the Company's choice of products offered for sale and technology used in its operations, which is excludable under Rule 14a-8(i)(7) as micromanaging the Company.

I. The Proposal May Be Excluded Under Rule 14a-8(i)(10) Because the Company Has Substantially Implemented the Proposal.

A. Introduction

The Proposal is excludable under Rule 14a-8(i)(10) because the Company has substantially implemented the Proposal as drafted by publishing information about the Company's efforts to reduce its carbon footprint by reducing its GHG emissions in accordance with the Paris Agreement. This disclosure addresses the essential objective of the report requested in the Proposal and "compares favourably with the guidelines" of the Proposal. The Response Letter attempts to recast the entire Proposal by focusing on a single sentence at the end of the Whereas clause, however, that is not the plain reading of the Resolution and the Proposal as a whole. By attempting to shift the focus of the Proposal to the Company's Scope 3 emissions, which are emissions associated with end use consumption of petroleum products by others, the Proponent is effectively changing the essential objective of the Proposal as drafted.

B. The Company has substantially implemented the essential objective of the Proposal as drafted by reporting on how it can reduce its carbon footprint by reducing its GHG emissions in accordance with the Paris Agreement.

The Proposal's essential objective as outlined in the Resolution is that the Company "issue a report [...] on how it can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius." The Company, in its Public Disclosure (as defined in the No-Action Request), already reports on its efforts to reduce its carbon footprint and its achievements, as more fully discussed on pages 4, 7 and 8 of the No-Action Request. In short, as described in the No-Action Request, the Company has focused on reducing its direct carbon footprint, which includes Scope 1 and Scope 2 emissions, by setting targets to reduce the GHG emissions intensity of its operated assets by 25% by 2020 compared to its 2014 emissions baseline. Since 2014, when the Company completed divesting its downstream businesses, the Company has had limited control over Scope 3 emissions, which are emissions from the end use of its products, as it has limited influence over how the oil and gas it produces are processed and used. Through 2017, the Company has reduced GHG emissions intensity by 23% from its 2014 baseline and is on track to achieve its 2020 target. These emission reductions are consistent with the International Energy Agency's Sustainable Development Scenario, which suggests that by 2030 an overall emissions intensity reduction of approximately 22% would be required to meet the Paris Agreement's central aim. Over the past 10 years, the Company has reduced its absolute Scope 1 and Scope 2 emissions by 63%, on an equity basis. During the same period, using the same methodology as the Proponent, Scope 3 emissions have decreased by 19%. The Company's combined Scope 1, 2 and 3 absolute emissions have been reduced by 26% through a combination of emissions reduction activities, asset sales and refinery shutdowns. These disclosures meet the essential objective of the Proposal and the Company has therefore substantially implemented the Proposal pursuant to Rule 14a-8(i)(10).

March 29, 2019

The Proponent notes in the Response Letter that the Company "cites at great length to the [GHG] emissions reductions programs it is implementing to reduce operational emissions"[1] but did not "address the *full* scope of its carbon emissions" such as its Scope 3 emissions (*emphasis added*). The Proposal references the Company's Scope 3 emissions reporting only once, at the very end of the Whereas clause (see Exhibit B, *emphasis added*) and the Proponent asks the Staff to focus on this one sentence as the essential objective of the Proposal. The Proponent is effectively asking the Staff to ignore the plain reading of the Proposal as drafted. If the Proponent was truly seeking a report specifically on how the Company can reduce its Scope 3 carbon footprint, the Proponent could have simply reflected that request in the Resolution and Supporting Statement. In fact, the Proponent did just that in a proposal submitted to one of the Company's peers.

In *Anadarko Petroleum Corporation* (Mar. 4, 2019), the Proponent specifically requested in the Resolution "the company to issue a report describing if, and how, it plans to reduce its *total* contribution to climate change and align its operations and investments with the Paris Agreement's goal" (*emphasis added*). This language is absent from the Proposal. Furthermore, the supporting statement in Anadarko explicitly referred to "adopting overall greenhouse gas emissions reduction targets for the Company's *full* carbon footprint inclusive of *operational and product related emissions*" (*emphasis added*) which the Proponent could have, but did not, similarly include in the Proposal. The Proponent admits the Anadarko proposal is a "more specific ask 'than the Proposal.'"[2]

The Staff has previously considered a no-action request in which the proponent attempted to alter the scope of the proposal and ultimately concurred in excluding the proposal based on its plain language. In *Entergy Corporation* (Feb. 14, 2014), the proposal requested that the company prepare a report on policies it could adopt to reduce its greenhouse gas emissions consistent with the national goal of 80% reduction in greenhouse gas emissions by 2050. The Staff concurred with the company that the proposal could be excluded under 14a-8(i)(10) based on the plain reading of the proposal as written, noting that the company's public disclosures, which included descriptions of its policies to reduce GHG emissions, compared favorably with the guidelines of the proposal. The Staff rejected the proponent's claims that the core focus of the proposal was a tangential discussion in the supporting statement.

In addition, as set forth in the No-Action Request, the Company can substantially implement the Proposal without taking the exact action requested by the Proponent. The Staff has provided no-action relief under Rule 14a-8(i)(10) when an issuer has substantially implemented a proposal even if the issuer did not take the exact actions requested by the proponent, did not implement the proposal in every detail or exercised discretion in determining how to implement the proposal. The Company has similarly addressed in its Public Disclosures its efforts and achievements in reducing its carbon footprint in line with the emissions reductions necessary to meet the central aim of the Paris Agreement, thereby substantially implementing the Proposal.

The Company does not believe that the report requested by Proponent would add meaningful information to the total mix of information already publicly available regarding the Company's efforts to reduce its carbon footprint in accordance with the Paris Agreement. The essential objective of the Proposal, as drafted, is substantially met by the Company's existing reporting. As a result, the Company has substantially implemented the Proposal. We respectfully request that the Staff concur with our view that the Proposal may be excluded pursuant to Rule 14a-8(i)(10).

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[1] Page 7.

[2] Page 10.

March 29, 2019

II. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because It Concerns the Products and Services Offered by the Company and Deals With Matters Related To The Company's Ordinary Business Operations.

A. Introduction

The Proponent's attempts to recast the Proposal further support our analysis in the No-Action Request that the Proposal is excludable under Rule 14a-8(i)(7) because it micromanages the Company's ordinary business operations. We continue to believe, and the Staff has consistently held, that (i) proposals concerning the sale of particular products and services are generally excludable, (ii) the proposal being framed in the form of a request for a report does not change the nature of the proposal, and (iii) the Proposal micromanages the Company by probing too deeply into matters of a complex nature when it requests that the Company change the manner it chooses assets to explore and develop and where to invest in product development, which is further addressed below.

The fact that the Proposal relates to climate change does not prevent exclusion of the Proposal if it micromanages the company, including a proposal that micromanages an energy company by interfering with its choice of technology and its discretion in the sale of a particular product.

B. The Staff's "choice of technology" and "sale of a particular product" lines of argument apply in the energy sector and especially so in the E&P context.

The Proponent cites several precedents supporting the proposition that the Staff rejects the "choice of technology" and "sale of a particular product" arguments in the energy sector and does not view adoption of a particular "energy generation strategy" as micromanaging. However, by attempting to change the focus of the Proposal to the Company's Scope 3 emissions, the Proponent effectively is asking the Company to change the product it sells to its customers, which is far more intrusive. The Proposal as outlined in the Response Letter micromanages the Company's ordinary business operations "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" (*emphasis added*).[3]

In the Response Letter, the Proponent refers to the Goldman Sachs Group October 2018 report, "Re-Imagining Big Oils," which identifies five main areas of action that can, if all levers are implemented, drive Scope 3 carbon intensity reduction consistent with the central aim of the Paris Agreement. Almost all of these levers would require the Company to make significant changes to the product it produces and sells, and for certain of these recommended actions, would require the Company to undergo a significant transformation from an exploration and production ("**E&P**") company into a downstream energy business.

By asking the Company to change the product it sells to focus away from its core business of developing and producing crude oil and natural gas, the Proposal as outlined in the Response Letter does probe *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 by inappropriately delving into the Company's day-to-day decision-making. As discussed in the No-Action Request, the Proponent asks the Company to focus on "low carbon energy resources." In the Response Letter, the Proponent further asks the Company to re-evaluate the way carbon emissions are considered in selecting projects by factoring in the environmental impact of operations (which the Proponent admits the Company already does) *and* the environmental impact of the *product* as used by consumers. As discussed in the No-Action Request, determining which projects to pursue is an integral part of the work of a global E&P

[3] 1998 Release (as defined in the No-Action Request).

company. In essence, the Proponent admits that the Proposal seeks to replace the complex environmental "cost of carbon" analysis implemented by the Company in evaluating proposed projects ("factoring in projected revenues from product sales" across its operations) with a new formula of the Proponent's design ("apply[ing] carbon costs across those same products" and factoring in "the *full* scope of its carbon footprint, including *product emissions*"[4]) that is effectively altering the Company's product mix. Similarly, on page 7 of the Response Letter, the Proponent explains that the supporting statement requests assessment of a series of items, each of which is directed toward the idea of "transitioning its operations and investments" by a list of activities, *each of which involves reducing the greenhouse gas emissions associated with the company's products*, rather than its operations. As an E&P company, the Company's core business is producing and selling crude oil and natural gas, and therefore the Proponent is seeking to micromanage the Company's choice of *products offered for sale*.

By contrast, the proposals cited by the Proponent were far less intrusive or involved a different type of business for which such initiatives did not constitute a core activity.

In *Exxon Mobil* (Mar. 12, 2007), the proposal related to labeling the fuel pump with information on CO2 emissions to educate customers. Exxon's fundamental business and initiatives, including its products and technologies, were not at issue, rather the proposal only touched on the collateral issue of what information should accompany the product at the point of delivery.

The remaining precedents cited by the Proponent involve companies primarily engaged in power production and the sale and distribution of electricity, including *DTE Energy* (Jan 26, 2015), *NorthWestern Corporation* (Feb. 22, 2016), *Duke Energy* (Feb. 22, 2016) and *Entergy Corporation* (Mar. 14, 2018). Unlike an E&P company, power production uses oil and gas as an input, rather than an end-product. Producers and providers of electricity can select a different mix of fuels without fundamentally changing the product they sell: electricity. The Company, as an E&P company further upstream in the production process, instead produces and sells crude oil and natural gas. The Proponent notes in the Response Letter that management and the board of directors of the Company are already engaged in finding ways to produce crude oil and natural gas with the least environmental impact possible, as "cite[d] at great length"[5] in the No-Action Request, but the Proposal, as outlined in the Response Letter requests the Company to alter its end product entirely against the current demands of its customers, which is excludable under rule 14a-8(i)(7) as micromanaging the Company.

Moreover, even within the power production sector, the Staff continues to support the "particular product" and "choice of technology" arguments in permitting no-action relief where a proposal delves too deep into matters of ordinary business, noting that "proposals concerning the sale of particular products and services are generally excludable under rule 14a-8(i)(7)." See *EOG Resources* (Feb. 26, 2018) (concurring in the exclusion under rule 14a-8(i)(7) of a proposal requesting company-wide, quantitative, time-bound targets for reducing greenhouse gas emissions and issue a report discussing its plans and progress toward achieving these targets, noting the proposal sought to micromanage the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment); *Dominion Resources* (Feb. 19, 2014) (concurring in the exclusion under rule 14a-8(i)(7) of a proposal requesting the company to provide information to customers on renewable energy); *First Energy Corporation* (Mar. 8, 2013) (concurring in the exclusion under rule 14a-8(i)(7) of a proposal requesting a report on diversifying the company's energy resources to include renewable resources, noting that "proposals that concern a company's choice of technologies for use in its operations are generally excludable"); *Pepco Holdings* (Feb. 18, 2011) (concurring

[4] Page 8 of the Response Letter.

[5] Page 7.

in the exclusion under rule 14a-8(i)(7) of a proposal requesting the company "pursue the solar market"); *Dominion Resources* (Feb. 22, 2011) (concurring in the exclusion under rule 14a-8(i)(7) of a proposal requesting the company to offer customers the option of purchasing electricity produced from renewable energy).

The Proponent also refers to *Chevron Corporation* (March 28, 2018) (the "**Chevron Letter**") in the Response Letter and the Proponent specifically argues that:

> "the Staff did not allow the Company [, Chevron,] to exclude under Rule 14a-8(i)(7) a proposal that requested a report describing how the Company could adapt its business model to align with a decarbonizing economy by altering its energy mix to substantially reduce dependence on fossil fuels, including options such as buying, or merging with, companies with assets or technologies in renewable energy, and/or internally expanding its own renewable energy portfolio, as a means to reduce societal greenhouse gas emissions and protect shareholder value."[6]

However, the Chevron Letter primarily revolved around whether the proposal micromanaged the company's litigation strategy as it related to eight lawsuits filed around the time the proposal was received. In such lawsuits, the plaintiffs were seeking relief for alleged climate change injuries. Specifically, the company argued that the proposal directly interfered with the company's defence of the claims. Micromanaging litigation strategy is not at issue here.

C. *The Company's Board of Directors and its committees are well situated to determine whether the Proposal, as drafted and as outlined in the Response Letter, would be appropriate for a shareholder vote and the No-Action Request and this letter reflect the view of the members of the Corporate Governance and Nominating Committee.*

In Staff Legal Bulletin No. 14I (November 1, 2017) ("**SLB 14I**"), the Staff explained that a company's board of directors is "well situated to analyze, determine and explain whether a particular issue is sufficiently significant because the matter transcends ordinary business and would be appropriate for a shareholder vote." Staff Legal Bulletin No. 14J (October 23, 2018) ("**SLB 14J**") further set forth the Staff's views that "a well-developed discussion of the board's analysis of whether the particular policy issue raised by the proposal is sufficiently significant in relation to the company, in the case of Rule 14a-8(i)(7), can assist the staff in evaluating a company's no-action request." Consistent with the direction provided by the Staff in SLB 14I and SLB 14J, part of the discussion below reflects the analysis of the Company's board of directors (the "**Board**") and includes a description of the Board's processes in conducting its analysis.

The Company is mindful that the Board's input can assist the Staff and is significant to a company's reliance on 14a-8(a)(7). See *General Motors Company* (Apr. 18, 2018) (noting the no-action request did not include a discussion of the board's analysis in its denial of the company's no-action request).

We note that the Board and its committees, in particular the Corporate Governance and Nominating Committee (the "**Committee**") and the Audit Committee's Environmental, Health and Safety subcommittee, are actively engaged in overseeing the Company's governance and sustainability practices, including regarding climate change, and work alongside senior management to ensure focus on the topics raised in the Proposal and that such topics are taken into account in strategic decisions. The Board and its committees, particularly the Committee, have considered the points raised by the Proposal. In February and March 2019, the Committee met to consider, among other things, the Proposal, and responses thereto. During such meetings, management updated the Committee on the Proposal, potential responses thereto and related considerations. The Committee

[6] Page 10.

engaged in an open discussion about the Proposal and supported management's submission of the No-Action Request.

We respectfully request that the Staff concur with our view that the Proposal may be excluded pursuant to Rule 14a-8(i)(7).

***

CONCLUSION

Based upon the analysis set forth in the No-Action Request, as supplemented hereto, we respectfully request that the Staff concur with our view that the Company may properly omit the Proposal from its 2019 Proxy Materials in reliance on Rule 14a-8. Should the Staff disagree with this conclusion, we would appreciate the opportunity to confer with the Staff prior to the issuance of the Staffs response.

Please do not hesitate to contact me at (212) 819-8509 or djohansen@whitecase.com if you have any questions or require any additional information.

Very truly yours,

David Johansen

Attachments

cc: Barry Schachter, Hess Corporation
Danielle Fugere, As You Sow
Jon M. Jensen, Executive Director, Park Foundation, Inc. (c/o As You Sow)

Exhibit A

See Attached

SANFORD J. LEWIS, ATTORNEY

Via electronic mail
March 11, 2019
Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Shareholder Proposal to Hess Inc. Regarding Climate Change
on Behalf of the Park Foundation

Ladies and Gentlemen:

The Park Foundation (the "Proponent") is beneficial owner of common stock of Hess Inc. (the "Company") and has submitted a shareholder proposal (the "Proposal") to the Company. I have been asked by the Proponent to respond to the letter dated February 5, 2019 ("Company Letter") sent to the Securities and Exchange Commission by Barry Schachter of Hess with David Johansen of White & Case. In that letter, the Company contends that the Proposal may be excluded from the Company's 2019 proxy statement.

I have reviewed the Proposal, as well as the letter sent by the Company, and based upon the foregoing, as well as the relevant rules, it is my opinion that the Proposal must be included in the Company's 2019 proxy materials and that it is not excludable under Rule 14a-8. A copy of this letter is being emailed concurrently to Messrs. Schachter and Johansen.

SUMMARY

The Proposal asks the Company to issue a report describing how it plans to reduce its total contribution to climate change and align its operations and capital expenditures with the Paris Agreement's goal of maintaining global temperatures *well below* 2 degrees Celsius. (emphasis added). The supporting statement seeks information, at board and management discretion, on the relative benefits and drawbacks of adopting greenhouse gas reduction targets, reducing capital investments in oil and gas resource development, or investing in renewable energy resources.

The Company Letter asserts first that the Proposal is substantially implemented under Rule 14a-8(i)(10) by its actions to reduce its *operational emissions*. While reducing operational emissions is an important first step, the bulk of its carbon footprint is through product sales. Reading the proposal in its entirety, it is clear that the Proposal seeks a discussion of how the Company plans to reduce its ***full carbon footprint, including from its products,*** in line with global goals -- thereby protecting the company and reducing its impact on climate. This approach is consistent with numerous investor efforts in the oil and gas sector to address the carbon footprint of companies in the sector.

The Company's existing scenario analyses and operational emissions reduction plans, while important first steps, do not constitute substantial implementation of the Proposal and therefore the Proposal is not excludable pursuant to Rule 14a-8(i)(10).

The Company also argues for exclusion on the basis of micromanagement under Rule 14a-8(i)(7), claiming that the Proposal probes too deeply into matters on which stockholders are not in a position to make an informed judgement. To the contrary, the Proposal does not meet the standards for micromanagement. It does not dictate minutia, mandate how or what actions or methods the Company must use, or predetermine what path must occur. Nor does it substitute shareholder judgment for management. Instead it asks the Company to describe how it could align its total climate change contribution with the global Paris climate agreement and to discuss the relative benefits and drawbacks of different paths for doing so. The Proposal is consistent with a recent Staff decision in Anadarko (March 4, 2019), in which a proposal directed toward another oil and gas company essentially made the same asks. The Staff found that the proposal was not excludable under Rule 14a-8(i)(7) rejecting the company's micromanagement argument.

The question of whether the Company should report on how it can bring its total carbon footprint in line with Paris goals is a matter on which shareholders are well equipped to make an informed judgment. It is matter which shareholders consider when making investment decisions and which they are well equipped to understand. There is compelling investment market guidance, analysis, strategies and legal liabilities that drive shareholders' affirmative consideration of this issue in their investment decision making, especially institutions with a fiduciary duty to consider the interests of their beneficiaries. Given the impact of climate change on the economy, the environment, and human systems, and the short amount of time in which to address it, proponents believe that Hess has a clear responsibility to its investors to account for whether and how it plans to reduce its ongoing climate contributions.

The Proposal does not impose specific time-frames or methods for implementing the request but instead requests information on potential company plans. It does not impose unreasonable time frames, details or methods. As such it is appropriate and practical for investors to weigh in on this issue which is of pivotal concern to a significant portion of investors. Therefore, the proposal does not micromanage and is not excludable pursuant to Rule 14a-8(i)(7).

Finally, the Company Letter asserts that the Proposal is vague and misleading and excludable under Rule 14a-8(i)(3). However, the Company's assertions regarding Rule 14a-8(i)(3) are the kind of assertions that Staff Legal Bulletin 14 B clarified as appropriate for companies to address through an opposition statement that appears on the proxy statement. The points raised do not demonstrate facts that are objectively false or materially misleading, nor is the proposal written in a manner in which the board, management, or shareholders would be unable to understand how it can be implemented. For instance, the Company takes issue with a study cited by the Proposal ranking the company's emissions among other oil and gas companies, it also complains that the Proposal refers to some integrated oil and gas companies as "peers," despite the Company having recently become a "pure play exploration and production company". From the standpoint of shareholders reading the Proposal, the Company's changes in its business model do not alter the reality that it remains a major source of GHG emissions. About 80% of the Company's carbon footprint is due to indirect Scope 3 emissions, including emissions associated with the Company's products. Further, the referenced issues do not fundamentally alter consideration of the proposal. Even if the Company's ranking or peer category had changed somewhat, the new information would not be likely to substantially alter shareholders' understanding or assessment of the Proposal. The Company is still contributing significantly to climate change and creating risk for shareholders. The Proposal is clear and consistent from start to finish in asking the Company how it can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius. Therefore, the Proposal is not excludable pursuant to Rule 14a-8(i)(3).

THE PROPOSAL

WHEREAS: The Intergovernmental Panel on Climate Change released a report[1] finding that "rapid, far-reaching" changes are necessary in the next decade to avoid disastrous levels of global warming. Specifically, it instructs that net emissions of carbon dioxide must fall 45 percent by 2030 and reach "net zero" by 2050 to maintain warming below 1.5 degrees Celsius.

Climate change impacts present systemic portfolio risks to investors. A warming climate is associated with supply chain dislocations, reduced resource availability, lost production, commodity price volatility, infrastructure damage, energy disruptions, among others.

The Fourth National Climate Assessment report[2] finds that with continued growth in greenhouse gas emissions, "annual losses in some U.S. economic sectors are projected to reach hundreds of billions of dollars by 2100 —more than the current gross domestic product of many U.S. states." Other studies estimate global losses at over 30 trillion dollars.[3]

The fossil fuel industry is one of the most significant contributors to climate change; Hess is among the top 100 largest industrial contributors.[4] Hess' investment choices matter. Every dollar Hess invests in fossil fuel resources increases risk to the global economy and investors' portfolios. Yet, Hess recently announced it is increasing its capital expenditure for oil exploration up to 2.9 billion dollars, with a projected resulting increase in production.[5]

A number of peer oil and gas companies have announced policies to reduce their climate footprint in support of Paris goals.[6] Shell announced scope 3 greenhouse gas intensity reduction ambitions. Total has invested substantially in solar energy and is reducing the carbon intensity of its energy products.[7] Equinor

[1] https://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf
[2] https://nca2018.globalchange.gov/
[3] https://www.theguardian.com/environment/2018/may/23/hitting-toughest-climate-target-will-save-world-30tn-in-damages-analysis-shows
[4] https://www.theguardian.com/sustainable-business/2017/jul/10/100-fossil-fuel-companies-investors-responsible-71-global-emissions-cdp-study-climate-change
[5] https://www.marketwatch.com/story/hess-corp-to-spend-about-29-billion-in-capex-in-2019-from-21-billion-in-2018-2018-12-10
[6] https://www.shell.com/media/news-and-media-releases/2018/leading-investors-back-shells-climate-targets.html
[7] https://www.total.com/sites/default/files/atoms/files/total_climat_2018_en.pdf

rebranded itself from 'StatOil' and is diversifying into renewable energy development.[8] Orsted, previously a Danish oil and gas company, sold its oil and gas portfolio.[9]

In contrast, Hess is planning reductions only to its own operational emissions, including reduced flaring and methane reductions;[10] operational emissions however account for less than 20 percent of the Company's climate footprint. Hess has not adopted Paris-aligned targets[11] or actions to reduce the full climate impact of its investments in fossil fuel energy sources, including zero planned reductions in its scope 3 emissions.[12]

BE IT RESOLVED: Shareholders request that Hess issue a report (at reasonable cost, omitting proprietary information) on how it can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius.

SUPPORTING STATEMENT: In the report shareholders seek information, among other issues at board and management discretion, on the relative benefits and drawbacks of transitioning its operations and investments through the following actions:

- Investing in low carbon energy resources
- Reducing capital investments in oil and/ or gas resource development that is inconsistent with a well below 2 degree pathway
- Otherwise diversifying its operations to reduce the company's carbon footprint (from exploration, extraction, operations, and product sales).

BACKGROUND

The Paris Agreement, reached in 2015 at the COP21 conference, set a worldwide goal of maintaining global warming well below 2 degrees Celsius and pursuing efforts to limit the temperature increase to 1.5° C. It also set various mechanisms in place for implementing the agreement, including "redirecting financial flows" consistent with reducing greenhouse gases consistent with the global temperature goals.

From 2015-2018, the world experienced a series of unprecedented extreme weather events, of the kind anticipated to occur with greater frequency as a result of climate change. In October 2018, the Intergovernmental Panel on Climate Change (IPCC) released a report, "Global Warming of 1.5° C", reassessing the trajectory of global warming, and outlining the large difference in damage to habitability of the earth caused by relative increases of temperature – the

[8] https://www.equinor.com/en/how-and-why/climate-change.html
[9] https://orsted.com/en/Company-Announcement-List/2017/05/1575869
[10] http://www.hess.com/docs/default-source/sustainability/hess-cdp-final.pdf
[11] http://www.lse.ac.uk/GranthamInstitute/tpi/new-research-shows-only-two-large-oil-gas-companies-have-long-term-low-carbon-ambitions/
[12] http://www.hess.com/docs/default-source/sustainability/hess-cdp-final.pdf

difference between 1.5° C and 2° C.

It has been estimated that $30 trillion in global damages can be avoided simply by maintaining warming under 1.5°C rather than 2°C.[13] The capital markets have begun to register and implement this mandate by including carbon risk in portfolio analysis and, through engagements with portfolio companies, requesting disclosure and improved performance in aligning company emissions with the global climate goal.

Chapter 2 of the IPCC report, "Mitigation Pathways Compatible with 1.5°C in the Context of Sustainable Development", concluded "that net emissions of carbon dioxide must fall 45% by 2030 and reach net zero by 2050 to maintain warming below 1.5 degrees Celsius."

Hess and its Investors

Oil and gas companies are major contributors to global warming. Reducing their full carbon footprint will require substantial changes in their business model, a process which requires long planning horizons and implementation timelines.

The October 2018 Goldman Sachs Group report "Re-Imagining Big Oils"[14] noted that for oil companies, Scope Three GHG emissions (product related emissions) constitute 86% of total "well-to-wheel emissions." The Goldman Sachs Group identified possible pathways, including adjusting the companies' investment and product mix, to result in consistency with the 2° scenario, and to allow even the largest oil companies to transition to being "Big Energy" companies.

As noted in the Proposal, some leading oil and gas companies have already announced policies to reduce their climate footprints and to begin aligning with Paris goals in various ways, including setting product carbon intensity reduction targets, investing in solar and/or wind energy, and selling oil and gas assets.

In the face of global climate change and the Paris Climate Agreement, two major strategic questions face every company that is deeply invested in fossil fuels:

1. What are the risks to the company associated with remaining on the current path of product and development efforts that are not aligned with global goals to reduce carbon emitting energy sources?

2. Whether to take responsibility for reducing the company's climate footprint at the scale and pace necessary to reach global goals to contain the increase in warming?

To date, Hess has focused on discussing the first question through risk scenarios. While it has taken steps to

[13] https://www.theguardian.com/environment/2018/may/23/hitting-toughest-climate-target-will-save-world-30tn-in-damages-analysis-shows
[14] https://www.goldmansachs.com/insights/pages/re-imagining-big-oils.html

reduce a portion of its operational emissions, it has failed to develop a strategy that is consistent with aligning its full carbon footprint with the Paris Agreement goals.

ANALYSIS

I. THE PROPOSAL IS NOT SUBSTANTIALLY IMPLEMENTED

The Company argues that it has substantially implemented the Proposal consistent with Rule 14a-8(i)(10), stating that a series of actions it has taken to reduce its *operational* emissions satisfies Proponent's request. This demonstrates a fundamental misunderstanding of the Proposal, which asks how the Company is planning to reduce its full carbon footprint, inclusive of Scope 1-3 emissions, in line with Paris goals. Hess' total operational emissions account for approximately 20 percent of its carbon footprint. Thus, while its current actions are a step in the right direction, they do not address the Company's full carbon footprint and thus do not substantially implement the Proposal.

In order for a Company to meet its burden of proving substantial implementation pursuant to Rule 14a-8(i)(10), the actions in question must compare favorably with the guidelines and essential purpose of the Proposal. The Staff has noted that a determination that a company has substantially implemented a proposal depends upon whether a company's particular policies, practices, and procedures compare favorably with the guidelines of the proposal. *Texaco, Inc.* (Mar. 28, 1991). Substantial implementation under Rule 14a-8(i)(10) requires a company's actions to have satisfactorily addressed *both* the proposal's guidelines and its essential objective. See, e.g., *Exelon Corp.* (Feb. 26, 2010). Thus, when a company can demonstrate that it has already taken actions that meet most of the guidelines of a proposal and meet the proposal's essential purpose, the Staff has concurred that the proposal has been "substantially implemented." In the current instance, the Company has substantially fulfilled *neither* the guidelines nor the essential purpose of the Proposal, and therefore the Proposal cannot be excluded.

<u>The Proposal requires addressing the carbon footprint from products as well as operations</u>

Examining the language of the Proposal, it is clear that the Proposal is intended in its essential purpose and guidelines to address both the operations and the products of the company. The theme repeats throughout the whereas clauses, resolved, and supporting statement. *Scope three emissions* are the emissions associated with products rather than operations. In the whereas clauses, the Proposal's discussion of other companies notes the focus of other companies on their reduction of GHG's from products:

> A number of peer oil and gas companies have announced policies to reduce their climate footprint in support of Paris goals.[15] Shell announced scope 3 greenhouse gas intensity reduction ambitions. Total

[15] https://www.shell.com/media/news-and-media-releases/2018/leading-investors-back-shells-climate-targets.html

> has invested substantially in solar energy and is reducing the carbon intensity of its energy products.[16] Equinor rebranded itself from 'StatOil' and is diversifying into renewable energy development.[17] Orsted, previously a Danish oil and gas company, sold its oil and gas portfolio.[18]

Then the whereas clauses contrast the less effective efforts of Hess:

> In contrast, Hess is planning reductions only to its own operational emissions, including reduced flaring and methane reductions;[19] operational emissions however account for less than 20 percent of the Company's climate footprint. Hess has not adopted Paris-aligned targets[20] or actions to reduce the full climate impact of its investments in fossil fuel energy sources, including zero planned reductions in its scope 3 emissions.[21]

In the resolved clause, the Proposal requests that the company "issue a report (at reasonable cost, omitting proprietary information) on how it can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius." The supporting statement requests assessment of a series of items, each of which is directed toward the idea of "transitioning its operations and investments" by a list of activities, *each of which involves reducing the greenhouse gas emissions associated with the company's products*, rather than its operations:

- Investing in low carbon energy resources
- Reducing capital investments in oil and/ or gas resource development that is inconsistent with a well below 2 degree pathway
- Otherwise diversifying its operations to reduce the company's carbon footprint (from exploration, extraction, operations, and product sales).

There is good reason for this focus. Most of the Company's carbon footprint is from its products."[22]

<u>Hess' GHG reduction focuses only on operations, not full carbon footprint</u>

The Company cites at great length to the greenhouse gas ("GHG") emissions reductions programs it is implementing to reduce operational emissions. As noted, these operational reductions are important, but

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[16] https://www.total.com/sites/default/files/atoms/files/total_climat_2018_en.pdf
[17] https://www.equinor.com/en/how-and-why/climate-change.html
[18] https://orsted.com/en/Company-Announcement-List/2017/05/1575869
[19] http://www.hess.com/docs/default-source/sustainability/hess-cdp-final.pdf
[20] http://www.lse.ac.uk/GranthamInstitute/tpi/new-research-shows-only-two-large-oil-gas-companies-have-long-term-low-carbon-ambitions/
[21] http://www.hess.com/docs/default-source/sustainability/hess-cdp-final.pdf
[22] One leading framework for analysis of companies' targets for GHG emissions, the Science-based Targets initiative, requires companies to set targets for scope three emissions when they exceed 40% of the Company's carbon footprint. "If a company's scope 3 emissions are 40% or more of total scope 1, 2, and 3 emissions, a scope 3 target is required." https://sciencebasedtargets.org/wp-content/uploads/2017/02/SBTi-criteria.pdf.

insufficient to address the thrust of the Proposal – to reduce the Company's carbon footprint in line with global goals to maintain global temperatures well below 2° C. A company's carbon footprint accounts for the total greenhouse gases produced by a company inclusive of direct Scope 1 (operational emissions), indirect Scope 2 (energy use emissions), and Scope 3 (product & other indirect emissions).[23] The Company has not implemented measures or otherwise stated an intent to address the full scope of its carbon emissions, thus the objective of the Proposal has not been implemented.

Specifically, the Company's No-Action letter, p.5, makes clear that the Company's intensity targets address only its "operated assets" as do its goals to reduce flaring emissions intensity. The Company's "innovation and efficiency" measures are limited to actions taken "across our operations." Likewise, in applying a 'cost of carbon' to project proposals, the Company applies a carbon price only to the Company's own emissions, not to the full scope of its carbon footprint, including product emissions. Applying a cost of carbon in this manner -- factoring in projected revenues from product sales while failing to apply carbon costs across those same products – will rarely prevent a project from being sanctioned (the cost impact is too low) and so does not effectively serve to reduce carbon emissions at the scale necessary to meet Paris goals.

If the Company were to fully eliminate its operational emissions, which is impracticable, **around 80% of its carbon footprint would remain**.[24] It is this footprint that is the subject matter of this Proposal. Because the Company is not addressing its full climate footprint and impact, the Proposal is not substantially implemented.

The Company's scenario analyses do not answer the question of how the Company can reduce its carbon footprint in alignment with the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius

The Company suggests that the scenario analyses it has undertaken substantially implements the "essential objective" of the Proposal. (p.5) The scenario analysis Hess has conducted, however, does not satisfy the essential objective of the Proposal. The purpose of a scenario analysis is to assess risk *to the Company* from a given scenario. It does not analyze the risk the company is causing *to the climate*, nor is it a plan for carbon reductions. Such a plan might follow from the conclusions and lessons learned from a strong scenario analysis, but on its own the scenario analysis did not contain strategy, plans or implementation to align the company's carbon emissions with the global goal of keeping temperatures below 2° C. Hess has disclosed no such specific follow-on action from its scenario analysis, except the operational emission reductions described above.

II. The Proposal may not be excluded under Rule 14a-8(i)(7) where it exclusively addresses matters related to the significant policy issue of climate change and does not micromanage.

[23] https://ghgprotocol.org/scope-3-technical-calculation-guidance; https://www.carbontrust.com/resources/guides/carbon-footprinting-and-reporting/carbon-footprinting/

[24] *See* Hess greenhouse gas CDP reporting.

The Proposal is not excludable under Rule 14a-8(i)(7) because it directly and solely focuses on a significant policy issue facing the Company and the economy: climate change. The proposal focuses on an essential aspect of this issue for shareholders – whether the Company plans to reduce its investments and loans in projects that maintain or increase global greenhouse gas emissions.

The Proposal is not excludable under Rule 14a-8(i)(7) because it directly and solely focuses on a significant policy issue facing the Company and the economy: climate change. It has been well settled in prior Staff determinations that proposals addressing the subject matter of climate change fall within a significant policy issue that transcends ordinary business, and that the subject matter of climate change has a clear nexus to oil and gas companies.

The only potential constraint on the proposal under Rule 14a-8(i)(7) is whether the proposal micromanages. The Commission, in the preamble to the 1998 Release, made it clear that where large differences are at stake as between the actions sought by a proposal and actions taken by the company, and where the proposal contains only reasonable details and methods, the proposal is not excludable as micromanagement.[25] These factors apply to the Proposal.

The Proposal here is analogous to proposal in recent *Anadarko* decision which was not found to micromanage

The current Proposal is analogous to another proposal recently challenged on the basis of micromanagement and found not to micromanage. In *Anadarko Petroleum Corporation* (March 4, 2019) in which a claim of micromanagement was rejected, the proposal largely raised the same issues, methods, and details as the current proposal, albeit in a different order. The *Andadarko* decision similarly asked the company to issue a report describing if, and how, it plans to reduce its total contribution to climate change and align its operations and investments with the Paris Agreement's goal of maintaining global temperatures well below 2 degrees Celsius. The supporting statement similarly asked the company to address the relative benefits and drawbacks of integrating actions including reducing capital investments in oil and/or gas resource development, investing in renewable energy resources, with the addition of adopting overall

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[25] The Commission in the preamble to the 1998 Release, Release No. 34-40018 (May 26, 1998), made it clear that requests regarding methods and timelines are not prohibited as micromanagement:

> . . . . in the Proposing Release we explained that one of the considerations in making the ordinary business determination was the degree to which the proposal seeks to micromanage the company. We cited examples such as where the proposal seeks intricate detail, or seeks to impose specific timeframes or to impose specific methods for implementing complex policies. **Some commenters thought that the examples cited seemed to imply that all proposals seeking detail, or seeking to promote timeframes or methods, necessarily amount to ordinary business. . . We did not intend such an implication. Timing questions, for instance, could involve significant policy where large differences are at stake, and proposals may seek a reasonable level of detail without running afoul of these considerations. (*Emphasis added*).**

greenhouse gas emission reduction targets for the company's full carbon footprint, inclusive of operational and product-related emissions, a more specific ask than the third component of the current Proposal's supporting statement which more generally asked about "otherwise diversifying its operations."

Similarly, in *Chevron Corporation* (March 28, 2018) the Staff did not allow the Company to exclude under Rule 14a-8(i)(7) a similar proposal that requested a report describing how the Company could adapt its business model to align with a decarbonizing economy by altering its energy mix to substantially reduce dependence on fossil fuels, including options such as buying, or merging with, companies with assets or technologies in renewable energy, and/or internally expanding its own renewable energy portfolio, as a means to reduce societal greenhouse gas emissions and protect shareholder value.

The framework of the proposal allows a flexible response

The Company states that it is a global exploration and production company that focuses on developing and producing crude oil and natural gas. The Company maintains that the Proposal's focus and underlying subject matter is to ask the Company to change its business strategy to focus away from its core business of developing and producing crude oil and natural gas towards developing "low carbon energy resources."

But the plain language of the Proposal offers flexibility for the company to discuss *"how it can* reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius." In short, this form of report does not require the company to change its policies but only to discuss "how it can" change the policies, an assessment which remains in management's discretion.

There is an array of possible scenarios for the Company to reduce and align its carbon footprint. The Proposal, in asking "how the Company can reduce," leaves flexibility for the board and management to assess a range of alternatives they might consider for the company. As the Goldman Sachs Group has noted in its October 2018 report, "Re-Imagining Big Oils",[26] there are various actions oil companies can take to achieve consistency with the global temperature containment goals including revising long-term investment and product mix by 2030:

> We see five main areas of action that can drive scope 3 carbon intensity reduction . . . : (1) the shift of production from oil towards gas (including LNG); (2) the shift of downstream oil from refining to petrochemicals; (3) an expansion downstream in gas (similar to what Big Oils have always had in oil, with production/refining/retail marketing) to gas & power retail, including power supplied through CCGTs and renewables; (4) increased sales of biofuels; (5) carbon capture and natural sinks (re-forestation), to reduce net emissions. If Big Oils use all these levers, on our estimates they can achieve a c.21% reduction in scope 3 carbon intensity, allowing an overall 'well-to-wheel' reduction in line with the IEA SDS ambitions.

[26] https://www.goldmansachs.com/insights/pages/re-imagining-big-oils.html

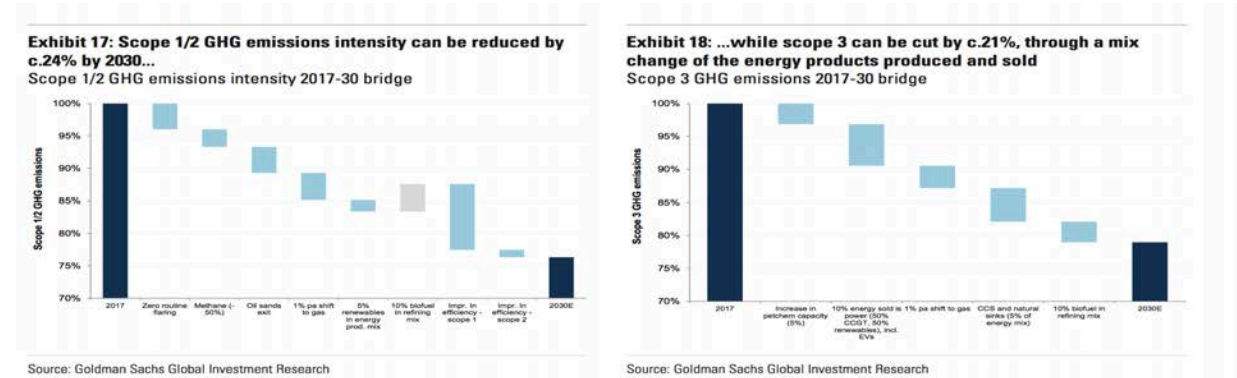

Figure 1 Source: Re-Imagining Big Oil, Goldman Sachs Group, October 2018.

The Proposal does not prejudge how the Company could go about reaching alignment with a below 2° scenario, but asks that it does consider and report on how the necessary greenhouse gas emission reductions might be accomplished.

Prior decisions do not support exclusion of the Proposal

Hess' No-Action Letter alleges that the Proposal micromanages or prescribes the sale of particular products and services, thereby leading to an exclusion under Rule 14a-8(i)(7). But the Proposal is consistent with numerous proposals in the energy sector previously found non-excludable under Rule 14a-8(i)(7) despite company assertions of micromanagement or that the proposal impermissibly relates to a particular product or technology.

The examples below demonstrate that a proposal could be far more directive in what it asks the company to do, report, or explore with regard to technology choices before it would be considered micromanagement. For example, in *Entergy Corporation* (March 14, 2018) the Staff rejected exclusion under Rule 14a-8(i)(7) for a request for a report describing how the Company could adapt its enterprise-wide business model to significantly increase deployment of distributed-scale non-carbon-emitting electricity resources as a means of reducing greenhouse gas emissions consistent with limiting global warming to no more than 2 degrees Celsius over pre-industrial levels. In contrast, the present Proposal does not suggest any particular direction of technology choice for the Company, asking broadly how the Company can come into alignment with global temperature goals. Thus, as set forth below, the proposal is far less restrictive and directive than proposals that have already been found to be non-excludable under Rule 14a-8(i)(7) in addressing climate goals.

Entergy followed several other precedents in energy sectors where arguments similar to the Company's were made. The Staff has rejected both the "choice of technology" and "sale of a particular product" lines of argument, despite the proposals' focus on the degree to which the company was adopting a particular energy generation strategy. This includes *DTE Energy* (Jan. 26, 2015), *Duke Energy* (February 22, 2016) and *Northwestern Energy* (January 8, 2016).

Similarly, in *Exxon Mobil Corp*. (March 12, 2007) the proposal asked the board to adopt a policy significantly increasing renewable energy sourcing globally, and the proposal was found not excludable under Rule 14a-8(i)(7).

The Proposal is in alignment with investor needs and expectations for engagement and monitoring of climate change impacts

There is nothing impractical about shareholders encouraging the Company to investigate and plan to timely and expeditiously reduce the full range of its greenhouse gas emissions in line with Paris goals. This basic issue is neither outside the expertise of shareholders, nor does it delve too deeply into intricate details best left to management. In fact, as indicated by the growing number and type of shareholder actions around climate change, ***information about the scale and pace of a Company's greenhouse gas reduction activities is fundamental to good investment planning***.

Shareholders have a long-standing and appropriate role of engaging with portfolio companies through the shareholder proposal process. Proposals directed toward guiding and even redirecting business strategy decisions on significant policy issues have long been at the core of the shareholder proposal process, and not a basis for exclusion.

A state of the industry report, "Tipping Points 2016,"[27] collected data from a group of 50 institutions, including 28 asset owners and 22 asset managers selected based on their diversity. The report found that institutional investors (1) consider and manage their impacts on environmental, societal, and financial systems, and (2) consider those systems' impacts on their portfolios, with financial returns and risk reduction being two primary motivators for approaching investment decisions on a systemic basis. The report shows asset owners not only consider the financial risks they perceive from environmental, social, and governance risk at the level of specific securities and industries, but are also concerned with measuring and managing climate risk on a portfolio basis. Nowhere is this more the case than with climate change. Investor portfolios commonly hold investments from a wide spectrum of economic sectors. The combined effect of climate change across the economy is projected to have substantial negative, long-term, portfolio-wide implications.

Discussion of GHGs, the Paris Agreement and other elements of the Proposal are well understood and commonplace on proxy statements. These concepts are not alien or confusing to investors. In the investment community in particular, the focus of a proposal on alignment with global climate goals is well understood. Support for the proposals is consistent with investor demand for climate disclosures in general, and alignment with the Paris Agreement specifically, both of which have increased substantially as the risks have become more apparent.[28] For instance:

[27] http://tiiproject.com/tiiping-points-2016
[28] *"What Investors are Saying," Science Based Targets. http://sciencebasedtargets.org/what-investors-are-saying/*

> Anne Simpson, Investment Director, Sustainability, at California Public Employees' Retirement System stated: "Mapping a company's carbon footprint, or the emissions it produces, and measuring its progress in this area is an important and growing part of our portfolio analysis. Over the long-term investors are saying to these companies that we want them to align their business strategy with the Paris Agreement."

> Andy Howard, Head of Sustainable Research at Schroders stated: "We want to know how exposed a particular business is to the changing context on climate and what it is practically doing to make the changes required; including its targets, timeframes and the extent of its ambition."

Numerous investing institutions have begun to track the carbon footprint and carbon trajectory of equities portfolios.

For example, the United Nations-supported Principles of Responsible Investment (PRI) launched the Montréal Carbon Pledge at its annual conference in September 2014. The pledge commits those that sign it to measure and disclose the carbon footprint of part or all of their equities portfolio. Such a footprint helps investors better understand, quantify and manage climate change-related impacts, risk and opportunities. **<u>The Pledge has attracted commitment from over 120 investors with over USD 10 trillion in assets under management, as of the United Nations Climate Change Conference (COP21) in December 2015 in Paris</u>**. Support for the Montréal Carbon Pledge comes from investors across Europe, the U.S., Canada, Australia, Japan, Singapore and South Africa. Signatories include Establissement du Régime Additionnel de la Fonction Publique (ERAFP), PGGM Investments, Bâtirente, CalPERS and University of California.[29]

Building on the Montréal Carbon Pledge, the global Portfolio Decarbonization Coalition currently has members representing $800 billion in assets under management that are taking decarbonization approaches to their portfolios to support the transition to a low-carbon economy. PDC's members implement decarbonization commitments including formal decarbonization related objectives and targets covering some or all of their investment portfolios, and measurement and periodic disclosure of their carbon exposure (or 'footprint') — the carbon intensity of their capital.[30]

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[29] *See Montréal Pledge campaign website https://montrealpledge.org/.*
[30] https://unepfi.org/pdc/

The largest investing institutions are also being monitored by **the Asset Owners Disclosure Project (AODP)**, based in the UK, which rates and ranks the world's largest institutional investors and assesses their response to climate-related risks and opportunities.

Task Force on Climate-Related Financial Disclosures (TCFD). The Financial Stability Board (FSB) set up the Task Force on Climate-Related Financial Disclosures (TCFD) under the chairmanship of Michael Bloomberg. The report focuses on recommendations for disclosure of climate risk in annual financial reports. The goal of the TCFD is to develop recommendations for voluntary climate-related financial disclosures that are consistent, comparable, reliable, clear, and efficient, and provide decision-useful information to lenders, insurers, and investors. The TCFD released its final recommendations report in June 2017.

Principles of Responsible Investment (PRI) "Inevitable Policy Response" Investment Strategy for portfolio allocation, anticipates the disruptive economic impacts of global regulatory responses as climate change worsens, and therefore provides strategies for diversification, engagement and risk transfer to protect the investors long-term portfolio value. The PRI, supported by investors with $80 trillion in assets under management, has begun a focus on the implications for investors of the "***inevitable policy response***" (IPR) when national and global policymakers come to realize that they must impose rapid, stringent carbon constraints to head off a worsening global climate change catastrophe.[31]

The Transition Pathway Initiative (TPI) is a global investor initiative that assesses companies' preparedness for the transition to a low-carbon economy by: evaluating companies' management

[31] PRI notes: In effect, an IPR is what would need to happen if the world was to move towards a target of 1.5-1.75°C with 50-66% probability. Indeed, if policy actions do not ratchet up from current levels, we would need urgent and forceful policy action today to achieve anything close to attaining a 1.5°C outcome. IPR can thus be considered a "backstop" scenario — and a call to action — to accelerate current efforts to align with the Paris Agreement. An IPR trajectory is not being actively considered by most corporations and investors, hence the PRI's support for assessing its effects and the preparatory actions that are needed. There are many permutations for an IPR in terms of when and what will occur. This outline contains assumptions about an announcement in 2025 for a 2030 implementation to address the overshoot, and specific policies that could be considered.
The PRI has prepared papers to assist investors concerned with this future market disruption, including a paper on projecting the timelines and severity of the inevitable policy response:
At its simplest level, an IPR would precipitate (in aggregate) substantial shifts in capital from high- to low-carbon activities that require preparatory actions for investors to take today. The technical papers build a framework for exploring the policy and technology pathways that would deliver a rapid economic transition. They also consider the investment risk and return implications at the sector and asset level to integrate an IPR into strategic asset allocation (SAA) and portfolio construction frameworks. Finally, the papers consider the actions that investors would need to take both prior to, during and in the aftermath of an IPR, in terms of reviewing governance arrangements, risk management processes and engagement activities, including the management of stranded assets. … It is evident that the longer the delay in reducing emissions, the higher will be the need for rapid transition and forceful policy action. … We believe this work bolsters the rationale for an escalation in actions now to refine and make decisions more efficiently, and to ultimately improve the resilience of investment portfolios and decision-making processes to what could soon be a more volatile environment."
"The Inevitable Policy Response: When, What and How; Policy pathways to below 2° and estimating the financial impacts," Vivideconomics (September 2018), *https://www.unpri.org/download?ac=5368*.

of GHG emissions, management of climate-related risks and opportunities; evaluating how planned or expected future carbon performance compares to the Paris Agreement; and by publishing the analyses through a publicly-available tool hosted by its academic partner, the Grantham Research Institute on Climate Change and the Environment at the London School of Economics and Political Science.[32] The TPI was launched in January 2017 and is currently supported by investors with $13.3 trillion AUM (as of Feb 2019).

Sustainable Energy Investment (SEI) Metrics, 2018, had **tested $500 billion of equity for 2° C alignment** (SEI Metrics, 2018). SEI Metrics covers a limited number of sectors with public equity and corporate portfolios. The project was recently relaunched as Paris Agreement Capital Transition Assessment (PACTA), which aims to measure the current and future alignment of investment portfolios with a 2° C scenario analysis, allowing investors to measure climate performance and address the challenge of shifting capital towards clean energy investments. Since its launch, over 2,000 portfolios have been tested for 2° C alignment with over $3 trillion in assets under management. **Of the 25% of surveyed investors involved in the road-test, 88% said they were likely or very likely to use the assessment in portfolio management, engagement, and / or investment mandate design**.[33]

International Standards Organization in 2019 is developing a climate finance standard: ISO 14097, which will track the impact of investment decisions on GHG emissions; measure the alignment of investment and financing decisions with low-carbon transition pathways and the Paris Agreement; and identify the risk from international climate targets or national climate policies to financial value for asset owners. The standard will help define benchmarks for decarbonization pathways and goals, and track progress of investment portfolios and financing activities against those benchmarks; identify methodologies for the definition of science-based targets for investment portfolios; and develop metrics for tracking progress.

In light of all of these initiatives, the Proposal does not represent a context in which shareholders, board or management would lack sufficient understanding regarding how to interpret or implement the Proposal. The Proposal does not delve too deeply for shareholder consideration – it is aligned with the expectations and needs of the market.

III. The Proposal is Neither Vague nor Misleading

The Proposal does not misrepresent the Company.

Hess alleges that the Proposal materially misrepresents the Company. First it takes issue with the Proposal

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[32] *Grantham Research Institute on Climate Change and the Environment at the London School of Economics and Political Science Transition Pathway Initiative, http://www.lse.ac.uk/GranthamInstitute/tpi/about/.*
[33] *SEI Metrics Project, https://2degrees-investing.org/sei-metrics/. In 2017, the model was expanded to corporate bonds and credit, as well as a broader range of sectors.*

citing to a study that ranks the Company's emissions from 1998 through 2015.[34] The fact that the Company materially changed its strategy in 2015 to become a pure play exploration and production company does not change its historical emissions or the ranking of those emissions in the given time period. The study does not make allegations as to Hess' ranking post-2015.

Second, Hess complains that the Proposal misrepresents "peer" companies when citing to other oil and gas companies that have changed or announced fundamental changes in their business plans and begun moving toward Paris compliance. The fact that Hess has been a 'pure play' company for four years now does not mean that its actions should become untethered from the Paris goals or that it should not be compared to other oil and gas companies that *are* taking action to align with the Paris Agreement. In fact, the company's narrow focus on exploration and production makes it more likely to continue contributing to climate change at a higher intensity than oil and gas companies that are making strategic changes. It is therefore reasonable for investors to consider the strategies of a variety of oil and gas companies and benchmark them against one another on the issue of response to global climate imperatives.

Finally, Hess has changed its business strategy once; there is no requirement that investors should consider the Company to be locked into an exploration and production strategy into the future.

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The Proposal accurately describes its requested goal.

Finally, the Company Letter attempts to argue that the Proposal is vague and misleading due to the Proposal's reference to an IPCC report that sets forth carbon reduction goals necessary to achieve a below 1.5 degree goal. The IPCC reference is not inconsistent with the Paris Agreement or the Proposal's request. The Paris Agreement includes the following objective:

> [To hold] the increase in the global average temperature to **well below** 2 °C above pre-industrial levels and **[pursue] efforts to limit the temperature increase to 1.5 °C** above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change."[35]

The IPCC report underscores the importance of keeping warming below 1.5 degrees and provides evidence that achieving the Paris Agreement's 1.5 degree goal rather than 2 degrees will not only avoid catastrophic impacts, but will save billions in costs associated with climate change.

The two references are not inconsistent or impermissibly vague and in fact should be read together. The recent IPCC report underscores the importance of keeping warming below 1.5 degrees and provides evidence that achieving the Paris Agreement's 1.5 degree goal rather than 2 degrees will

[34] Hess suggests that the Proposal misrepresents its emissions ranking by suggesting that it is one of the top emitters in the world, not just in the fossil fuel industry. The first clause of the sentence however is intended to orient the statement as relating to fossil fuel producers. "The fossil fuel industry is one of the most significant contributors to climate change; Hess is among the top 100 largest industrial contributors." Moreover, a review of the provided citation makes it clear that the study relates to fossil fuel producers.
[35] https://unfccc.int/process-and-meetings/the-paris-agreement/what-is-the-paris-agreement

not only avoid catastrophic impacts, but will save billions in costs associated with climate change. The two references are therefore not inconsistent or impermissibly vague.

The Company further implies that the Proposal asks for two goals. This is not an accurate characterization. The Proposal is clear in consistently asking the Company how it "can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming **well below** 2 degrees Celsius." The Proposal never asks the Company to align with a 2 degree goal.

The Company next argues that there are no scenarios by outside agencies for a below-2 degree outcome. If the Company or others in the industry have not yet formulated a scenario for aligning oil and gas operations and products with the goal of keeping global temperature increases well below 2 degrees, this does not make the Proposal vague or indefinite. In fact, were Proponents to tell Hess exactly how to align itself, the Proposal would likely be found to be micromanaging.

We do, however, note that the IPCC report provides clear guidelines in the scope and rate of emissions reduction that must be achieved to maintain warming below 1.5 degrees. There must be a 45% reduction by 2030 and net zero emissions by 2050. The Company can assess its own carbon footprint trajectory to align with this downward trajectory.[36]

Accordingly, the Proposal is not excludable pursuant to Rule 14a-8(i)(3).

CONCLUSION

We believe it is clear that the Company has provided no basis for the conclusion that the Proposal is excludable from the 2018 proxy statement pursuant to Rule 14a-8. As such, we respectfully request that the Staff inform the company that it is denying the no action letter request.

Sincerely,

Sanford Lewis

cc:
Barry Schachter, Hess
David Johansen, White & Case
Danielle Fugere, As You Sow

[36] The company could also consider using the Faster Transition Scenario offered by the WEO. "This scenario, developed in 2017, plots an emissions pathway to "net zero" energy sector CO2 emissions in 2060, resulting in lower emissions than the SDS in 2040."https://www.iea.org/weo/weomodel/

Exhibit B

See Attached

Resolved: Shareholders request that Hess issue a report (at reasonable cost, omitting proprietary information) on how it can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius.

Supporting Statement: In the report shareholders seek information, among other issues at board and management discretion, on the relative benefits and drawbacks of transitioning its operations and investments through the following actions:

- Investing in low carbon energy resources
- Reducing capital investments in oil and/ or gas resource development that is inconsistent with a well below 2 degree pathway
- Otherwise diversifying its operations to reduce the company's carbon footprint (from exploration, extraction, operations, and product sales).

Whereas: The Intergovernmental Panel on Climate Change released a report finding that "rapid, far-reaching" changes are necessary in the next decade to avoid disastrous levels of global warming.[1] Specifically, it instructs that net emissions of carbon dioxide must fall 45 percent by 2030 and reach "net zero" by 2050 to maintain warming below 1.5 degrees Celsius.

Climate change impacts present systemic portfolio risks to investors. A warming climate is associated with supply chain dislocations, reduced resource availability, lost production, commodity price volatility, infrastructure damage, energy disruptions, among others.

The Fourth National Climate Assessment report finds that with continued growth in greenhouse gas emissions, "annual losses in some U.S. economic sectors are projected to reach hundreds of billions of dollars by 2100 —more than the current gross domestic product of many U.S. states."[2] Other studies estimate global losses at over 30 trillion dollars.[3]

The fossil fuel industry is one of the most significant contributors to climate change; Hess is among the top 100 largest industrial contributors.[4] Hess' investment choices matter. Every dollar Hess invests in fossil fuel resources increases risk to the global economy and investors' portfolios. Yet, Hess recently announced it is increasing its capital expenditure for oil exploration up to 2.9 billion dollars, with a projected resulting increase in production.[5]

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[1] https://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf
[2] https://nca2018.globalchange.gov/
[3] https://www.theguardian.com/environment/2018/may/23/hitting-toughest-climate-target-will-save-world-30tn-in-damages-analysis-shows
[4] https://www.theguardian.com/sustainable-business/2017/jul/10/100-fossil-fuel-companies-investors-responsible-71-global-emissions-cdp-study-climate-change
[5] https://www.marketwatch.com/story/hess-corp-to-spend-about-29-billion-in-capex-in-2019-from-21-billion-in-2018-2018-12-10

A number of peer oil and gas companies have announced policies to reduce their climate footprint in support of Paris goals. Shell announced scope 3 greenhouse gas intensity reduction ambitions.[6] Total has invested substantially in solar energy and is reducing the carbon intensity of its energy products.[7] Equinor rebranded itself from 'StatOil' and is diversifying into renewable energy development.[8] Orsted, previously a Danish oil and gas company, sold its oil and gas portfolio.[9]

In contrast, Hess is planning reductions only to its own operational emissions, including reduced flaring and methane reductions;[10] operational emissions however account for less than 20 percent of the Company's climate footprint. Hess has not adopted Paris-aligned targets or actions to reduce the full climate impact of its investments in fossil fuel energy sources, including zero planned reductions in its scope 3 emissions.[11, 12]

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[6] https://www.shell.com/sustainability/sustainability-reporting-and-performance-data/performance-data/greenhouse-gas-emissions/_jcr_content/par/tabbedcontent/tab/textimage.stream/1534322148157/faafbe2d44f8f9ade10d1202b31b8552a67d1430dc3ae7ddc192fc83e9f835c8/2018-cdp-climate-change-submission-180815.pdf, C4.1b

[7] https://www.total.com/sites/default/files/atoms/files/total_climat_2018_en.pdf, p.6

[8] https://www.equinor.com/en/how-and-why/climate-change.html

[9] https://www.ft.com/content/57482c0b-db29-3147-9b7e-c522aea02271

[10] http://www.hess.com/docs/default-source/sustainability/hess-cdp-final.pdf, C4.1b

[11] http://www.lse.ac.uk/GranthamInstitute/tpi/new-research-shows-only-two-large-oil-gas-companies-have-long-term-low-carbon-ambitions/

[12] http://www.hess.com/docs/default-source/sustainability/hess-cdp-final.pdf, C4.1b

SANFORD J. LEWIS, ATTORNEY

Via electronic mail
March 11, 2019
Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Shareholder Proposal to Hess Inc. Regarding Climate Change
on Behalf of the Park Foundation

Ladies and Gentlemen:

The Park Foundation (the "Proponent") is beneficial owner of common stock of Hess Inc. (the "Company") and has submitted a shareholder proposal (the "Proposal") to the Company. I have been asked by the Proponent to respond to the letter dated February 5, 2019 ("Company Letter") sent to the Securities and Exchange Commission by Barry Schachter of Hess with David Johansen of White & Case. In that letter, the Company contends that the Proposal may be excluded from the Company's 2019 proxy statement.

I have reviewed the Proposal, as well as the letter sent by the Company, and based upon the foregoing, as well as the relevant rules, it is my opinion that the Proposal must be included in the Company's 2019 proxy materials and that it is not excludable under Rule 14a-8. A copy of this letter is being emailed concurrently to Messrs. Schachter and Johansen.

SUMMARY

The Proposal asks the Company to issue a report describing how it plans to reduce its total contribution to climate change and align its operations and capital expenditures with the Paris Agreement's goal of maintaining global temperatures *well below* 2 degrees Celsius. (emphasis added). The supporting statement seeks information, at board and management discretion, on the relative benefits and drawbacks of adopting greenhouse gas reduction targets, reducing capital investments in oil and gas resource development, or investing in renewable energy resources.

The Company Letter asserts first that the Proposal is substantially implemented under Rule 14a-8(i)(10) by its actions to reduce its *operational emissions*. While reducing operational emissions is an important first step, the bulk of its carbon footprint is through product sales. Reading the proposal in its entirety, it is clear that the Proposal seeks a discussion of how the Company plans to reduce its ***full carbon footprint, including from its products,*** in line with global goals -- thereby protecting the company and reducing its impact on climate. This approach is consistent with numerous investor efforts in the oil and gas sector to address the carbon footprint of companies in the sector.

The Company's existing scenario analyses and operational emissions reduction plans, while important first steps, do not constitute substantial implementation of the Proposal and therefore the Proposal is not excludable pursuant to Rule 14a-8(i)(10).

The Company also argues for exclusion on the basis of micromanagement under Rule 14a-8(i)(7), claiming that the Proposal probes too deeply into matters on which stockholders are not in a position to make an informed judgement. To the contrary, the Proposal does not meet the standards for micromanagement. It does not dictate minutia, mandate how or what actions or methods the Company must use, or predetermine what path must occur. Nor does it substitute shareholder judgment for management. Instead it asks the Company to describe how it could align its total climate change contribution with the global Paris climate agreement and to discuss the relative benefits and drawbacks of different paths for doing so. The Proposal is consistent with a recent Staff decision in Anadarko (March 4, 2019), in which a proposal directed toward another oil and gas company essentially made the same asks. The Staff found that the proposal was not excludable under Rule 14a-8(i)(7) rejecting the company's micromanagement argument.

The question of whether the Company should report on how it can bring its total carbon footprint in line with Paris goals is a matter on which shareholders are well equipped to make an informed judgment. It is matter which shareholders consider when making investment decisions and which they are well equipped to understand. There is compelling investment market guidance, analysis, strategies and legal liabilities that drive shareholders' affirmative consideration of this issue in their investment decision making, especially institutions with a fiduciary duty to consider the interests of their beneficiaries. Given the impact of climate change on the economy, the environment, and human systems, and the short amount of time in which to address it, proponents believe that Hess has a clear responsibility to its investors to account for whether and how it plans to reduce its ongoing climate contributions.

The Proposal does not impose specific time-frames or methods for implementing the request but instead requests information on potential company plans. It does not impose unreasonable time frames, details or methods. As such it is appropriate and practical for investors to weigh in on this issue which is of pivotal concern to a significant portion of investors. Therefore, the proposal does not micromanage and is not excludable pursuant to Rule 14a-8(i)(7).

Finally, the Company Letter asserts that the Proposal is vague and misleading and excludable under Rule 14a-8(i)(3). However, the Company's assertions regarding Rule 14a-8(i)(3) are the kind of assertions that Staff Legal Bulletin 14 B clarified as appropriate for companies to address through an opposition statement that appears on the proxy statement. The points raised do not demonstrate facts that are objectively false or materially misleading, nor is the proposal written in a manner in which the board, management, or shareholders would be unable to understand how it can be implemented. For instance, the Company takes issue with a study cited by the Proposal ranking the company's emissions among other oil and gas companies, it also complains that the Proposal refers to some integrated oil and gas companies as "peers," despite the Company having recently become a "pure play exploration and production company". From the standpoint of shareholders reading the Proposal, the Company's changes in its business model do not alter the reality that it remains a major source of GHG emissions. About 80% of the Company's carbon footprint is due to indirect Scope 3 emissions, including emissions associated with the Company's products. Further, the referenced issues do not fundamentally alter consideration of the proposal. Even if the Company's ranking or peer category had changed somewhat, the new information would not be likely to substantially alter shareholders' understanding or assessment of the Proposal. The Company is still contributing significantly to climate change and creating risk for shareholders. The Proposal is clear and consistent from start to finish in asking the Company how it can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius. Therefore, the Proposal is not excludable pursuant to Rule 14a-8(i)(3).

THE PROPOSAL

WHEREAS: The Intergovernmental Panel on Climate Change released a report[1] finding that "rapid, far-reaching" changes are necessary in the next decade to avoid disastrous levels of global warming. Specifically, it instructs that net emissions of carbon dioxide must fall 45 percent by 2030 and reach "net zero" by 2050 to maintain warming below 1.5 degrees Celsius.

Climate change impacts present systemic portfolio risks to investors. A warming climate is associated with supply chain dislocations, reduced resource availability, lost production, commodity price volatility, infrastructure damage, energy disruptions, among others.

The Fourth National Climate Assessment report[2] finds that with continued growth in greenhouse gas emissions, "annual losses in some U.S. economic sectors are projected to reach hundreds of billions of dollars by 2100 —more than the current gross domestic product of many U.S. states." Other studies estimate global losses at over 30 trillion dollars.[3]

The fossil fuel industry is one of the most significant contributors to climate change; Hess is among the top 100 largest industrial contributors.[4] Hess' investment choices matter. Every dollar Hess invests in fossil fuel resources increases risk to the global economy and investors' portfolios. Yet, Hess recently announced it is increasing its capital expenditure for oil exploration up to 2.9 billion dollars, with a projected resulting increase in production.[5]

A number of peer oil and gas companies have announced policies to reduce their climate footprint in support of Paris goals.[6] Shell announced scope 3 greenhouse gas intensity reduction ambitions. Total has invested substantially in solar energy and is reducing the carbon intensity of its energy products.[7] Equinor

[1] https://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf
[2] https://nca2018.globalchange.gov/
[3] https://www.theguardian.com/environment/2018/may/23/hitting-toughest-climate-target-will-save-world-30tn-in-damages-analysis-shows
[4] https://www.theguardian.com/sustainable-business/2017/jul/10/100-fossil-fuel-companies-investors-responsible-71-global-emissions-cdp-study-climate-change
[5] https://www.marketwatch.com/story/hess-corp-to-spend-about-29-billion-in-capex-in-2019-from-21-billion-in-2018-2018-12-10
[6] https://www.shell.com/media/news-and-media-releases/2018/leading-investors-back-shells-climate-targets.html
[7] https://www.total.com/sites/default/files/atoms/files/total_climat_2018_en.pdf

rebranded itself from 'StatOil' and is diversifying into renewable energy development.[8] Orsted, previously a Danish oil and gas company, sold its oil and gas portfolio.[9]

In contrast, Hess is planning reductions only to its own operational emissions, including reduced flaring and methane reductions;[10] operational emissions however account for less than 20 percent of the Company's climate footprint. Hess has not adopted Paris-aligned targets[11] or actions to reduce the full climate impact of its investments in fossil fuel energy sources, including zero planned reductions in its scope 3 emissions.[12]

BE IT RESOLVED: Shareholders request that Hess issue a report (at reasonable cost, omitting proprietary information) on how it can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius.

SUPPORTING STATEMENT: In the report shareholders seek information, among other issues at board and management discretion, on the relative benefits and drawbacks of transitioning its operations and investments through the following actions:

- Investing in low carbon energy resources
- Reducing capital investments in oil and/ or gas resource development that is inconsistent with a well below 2 degree pathway
- Otherwise diversifying its operations to reduce the company's carbon footprint (from exploration, extraction, operations, and product sales).

BACKGROUND

The Paris Agreement, reached in 2015 at the COP21 conference, set a worldwide goal of maintaining global warming well below 2 degrees Celsius and pursuing efforts to limit the temperature increase to 1.5° C. It also set various mechanisms in place for implementing the agreement, including "redirecting financial flows" consistent with reducing greenhouse gases consistent with the global temperature goals.

From 2015-2018, the world experienced a series of unprecedented extreme weather events, of the kind anticipated to occur with greater frequency as a result of climate change. In October 2018, the Intergovernmental Panel on Climate Change (IPCC) released a report, "Global Warming of 1.5° C", reassessing the trajectory of global warming, and outlining the large difference in damage to habitability of the earth caused by relative increases of temperature – the

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[8] https://www.equinor.com/en/how-and-why/climate-change.html
[9] https://orsted.com/en/Company-Announcement-List/2017/05/1575869
[10] http://www.hess.com/docs/default-source/sustainability/hess-cdp-final.pdf
[11] http://www.lse.ac.uk/GranthamInstitute/tpi/new-research-shows-only-two-large-oil-gas-companies-have-long-term-low-carbon-ambitions/
[12] http://www.hess.com/docs/default-source/sustainability/hess-cdp-final.pdf

difference between 1.5° C and 2° C.

It has been estimated that $30 trillion in global damages can be avoided simply by maintaining warming under 1.5°C rather than 2°C.[13] The capital markets have begun to register and implement this mandate by including carbon risk in portfolio analysis and, through engagements with portfolio companies, requesting disclosure and improved performance in aligning company emissions with the global climate goal.

Chapter 2 of the IPCC report, “Mitigation Pathways Compatible with 1.5°C in the Context of Sustainable Development”, concluded “that net emissions of carbon dioxide must fall 45% by 2030 and reach net zero by 2050 to maintain warming below 1.5 degrees Celsius."

<u>Hess and its Investors</u>

Oil and gas companies are major contributors to global warming. Reducing their full carbon footprint will require substantial changes in their business model, a process which requires long planning horizons and implementation timelines.

The October 2018 Goldman Sachs Group report “Re-Imagining Big Oils”[14] noted that for oil companies, Scope Three GHG emissions (product related emissions) constitute 86% of total “well-to-wheel emissions.” The Goldman Sachs Group identified possible pathways, including adjusting the companies’ investment and product mix, to result in consistency with the 2° scenario, and to allow even the largest oil companies to transition to being “Big Energy” companies.

As noted in the Proposal, some leading oil and gas companies have already announced policies to reduce their climate footprints and to begin aligning with Paris goals in various ways, including setting product carbon intensity reduction targets, investing in solar and/or wind energy, and selling oil and gas assets.

In the face of global climate change and the Paris Climate Agreement, two major strategic questions face every company that is deeply invested in fossil fuels:

1. What are the risks to the company associated with remaining on the current path of product and development efforts that are not aligned with global goals to reduce carbon emitting energy sources?

2. Whether to take responsibility for reducing the company’s climate footprint at the scale and pace necessary to reach global goals to contain the increase in warming?

To date, Hess has focused on discussing the first question through risk scenarios. While it has taken steps to

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[13] https://www.theguardian.com/environment/2018/may/23/hitting-toughest-climate-target-will-save-world-30tn-in-damages-analysis-shows
[14] https://www.goldmansachs.com/insights/pages/re-imagining-big-oils.html

reduce a portion of its operational emissions, it has failed to develop a strategy that is consistent with aligning its full carbon footprint with the Paris Agreement goals.

ANALYSIS

I. THE PROPOSAL IS NOT SUBSTANTIALLY IMPLEMENTED

The Company argues that it has substantially implemented the Proposal consistent with Rule 14a-8(i)(10), stating that a series of actions it has taken to reduce its *operational* emissions satisfies Proponent's request. This demonstrates a fundamental misunderstanding of the Proposal, which asks how the Company is planning to reduce its full carbon footprint, inclusive of Scope 1-3 emissions, in line with Paris goals. Hess' total operational emissions account for approximately 20 percent of its carbon footprint. Thus, while its current actions are a step in the right direction, they do not address the Company's full carbon footprint and thus do not substantially implement the Proposal.

In order for a Company to meet its burden of proving substantial implementation pursuant to Rule 14a-8(i)(10), the actions in question must compare favorably with the guidelines and essential purpose of the Proposal. The Staff has noted that a determination that a company has substantially implemented a proposal depends upon whether a company's particular policies, practices, and procedures compare favorably with the guidelines of the proposal. *Texaco, Inc.* (Mar. 28, 1991). Substantial implementation under Rule 14a-8(i)(10) requires a company's actions to have satisfactorily addressed *both* the proposal's guidelines and its essential objective. See, e.g., *Exelon Corp.* (Feb. 26, 2010). Thus, when a company can demonstrate that it has already taken actions that meet most of the guidelines of a proposal and meet the proposal's essential purpose, the Staff has concurred that the proposal has been "substantially implemented." In the current instance, the Company has substantially fulfilled *neither* the guidelines nor the essential purpose of the Proposal, and therefore the Proposal cannot be excluded.

<u>The Proposal requires addressing the carbon footprint from products as well as operations</u>

Examining the language of the Proposal, it is clear that the Proposal is intended in its essential purpose and guidelines to address both the operations and the products of the company. The theme repeats throughout the whereas clauses, resolved, and supporting statement. *Scope three emissions* are the emissions associated with products rather than operations. In the whereas clauses, the Proposal's discussion of other companies notes the focus of other companies on their reduction of GHG's from products:

> A number of peer oil and gas companies have announced policies to reduce their climate footprint in support of Paris goals.[15] Shell announced scope 3 greenhouse gas intensity reduction ambitions. Total

[15] https://www.shell.com/media/news-and-media-releases/2018/leading-investors-back-shells-climate-targets.html

> has invested substantially in solar energy and is reducing the carbon intensity of its energy products.[16] Equinor rebranded itself from 'StatOil' and is diversifying into renewable energy development.[17] Orsted, previously a Danish oil and gas company, sold its oil and gas portfolio.[18]

Then the whereas clauses contrast the less effective efforts of Hess:

> In contrast, Hess is planning reductions only to its own operational emissions, including reduced flaring and methane reductions;[19] operational emissions however account for less than 20 percent of the Company's climate footprint. Hess has not adopted Paris-aligned targets[20] or actions to reduce the full climate impact of its investments in fossil fuel energy sources, including zero planned reductions in its scope 3 emissions.[21]

In the resolved clause, the Proposal requests that the company "issue a report (at reasonable cost, omitting proprietary information) on how it can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius." The supporting statement requests assessment of a series of items, each of which is directed toward the idea of "transitioning its operations and investments" by a list of activities, *each of which involves reducing the greenhouse gas emissions associated with the company's products*, rather than its operations:

- Investing in low carbon energy resources
- Reducing capital investments in oil and/ or gas resource development that is inconsistent with a well below 2 degree pathway
- Otherwise diversifying its operations to reduce the company's carbon footprint (from exploration, extraction, operations, and product sales).

There is good reason for this focus. Most of the Company's carbon footprint is from its products."[22]

<u>Hess' GHG reduction focuses only on operations, not full carbon footprint</u>

The Company cites at great length to the greenhouse gas ("GHG") emissions reductions programs it is implementing to reduce operational emissions. As noted, these operational reductions are important, but

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16 https://www.total.com/sites/default/files/atoms/files/total_climat_2018_en.pdf
17 https://www.equinor.com/en/how-and-why/climate-change.html
18 https://orsted.com/en/Company-Announcement-List/2017/05/1575869
19 http://www.hess.com/docs/default-source/sustainability/hess-cdp-final.pdf
20 http://www.lse.ac.uk/GranthamInstitute/tpi/new-research-shows-only-two-large-oil-gas-companies-have-long-term-low-carbon-ambitions/
21 http://www.hess.com/docs/default-source/sustainability/hess-cdp-final.pdf
22 One leading framework for analysis of companies' targets for GHG emissions, the Science-based Targets initiative, requires companies to set targets for scope three emissions when they exceed 40% of the Company's carbon footprint. "If a company's scope 3 emissions are 40% or more of total scope 1, 2, and 3 emissions, a scope 3 target is required." https://sciencebasedtargets.org/wp-content/uploads/2017/02/SBTi-criteria.pdf.

insufficient to address the thrust of the Proposal – to reduce the Company's carbon footprint in line with global goals to maintain global temperatures well below 2° C. A company's carbon footprint accounts for the total greenhouse gases produced by a company inclusive of direct Scope 1 (operational emissions), indirect Scope 2 (energy use emissions), and Scope 3 (product & other indirect emissions).[23] The Company has not implemented measures or otherwise stated an intent to address the full scope of its carbon emissions, thus the objective of the Proposal has not been implemented.

Specifically, the Company's No-Action letter, p.5, makes clear that the Company's intensity targets address only its "operated assets" as do its goals to reduce flaring emissions intensity. The Company's "innovation and efficiency" measures are limited to actions taken "across our operations." Likewise, in applying a 'cost of carbon' to project proposals, the Company applies a carbon price only to the Company's own emissions, not to the full scope of its carbon footprint, including product emissions. Applying a cost of carbon in this manner -- factoring in projected revenues from product sales while failing to apply carbon costs across those same products – will rarely prevent a project from being sanctioned (the cost impact is too low) and so does not effectively serve to reduce carbon emissions at the scale necessary to meet Paris goals.

If the Company were to fully eliminate its operational emissions, which is impracticable, **around 80% of its carbon footprint would remain**.[24] It is this footprint that is the subject matter of this Proposal. Because the Company is not addressing its full climate footprint and impact, the Proposal is not substantially implemented.

The Company's scenario analyses do not answer the question of how the Company can reduce its carbon footprint in alignment with the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius

The Company suggests that the scenario analyses it has undertaken substantially implements the "essential objective" of the Proposal. (p.5) The scenario analysis Hess has conducted, however, does not satisfy the essential objective of the Proposal. The purpose of a scenario analysis is to assess risk *to the Company* from a given scenario. It does not analyze the risk the company is causing *to the climate*, nor is it a plan for carbon reductions. Such a plan might follow from the conclusions and lessons learned from a strong scenario analysis, but on its own the scenario analysis did not contain strategy, plans or implementation to align the company's carbon emissions with the global goal of keeping temperatures below 2° C. Hess has disclosed no such specific follow-on action from its scenario analysis, except the operational emission reductions described above.

II. The Proposal may not be excluded under Rule 14a-8(i)(7) where it exclusively addresses matters related to the significant policy issue of climate change and does not micromanage.

[23] https://ghgprotocol.org/scope-3-technical-calculation-guidance; https://www.carbontrust.com/resources/guides/carbon-footprinting-and-reporting/carbon-footprinting/

[24] *See* Hess greenhouse gas CDP reporting.

The Proposal is not excludable under Rule 14a-8(i)(7) because it directly and solely focuses on a significant policy issue facing the Company and the economy: climate change. The proposal focuses on an essential aspect of this issue for shareholders – whether the Company plans to reduce its investments and loans in projects that maintain or increase global greenhouse gas emissions.

The Proposal is not excludable under Rule 14a-8(i)(7) because it directly and solely focuses on a significant policy issue facing the Company and the economy: climate change. It has been well settled in prior Staff determinations that proposals addressing the subject matter of climate change fall within a significant policy issue that transcends ordinary business, and that the subject matter of climate change has a clear nexus to oil and gas companies.

The only potential constraint on the proposal under Rule 14a-8(i)(7) is whether the proposal micromanages. The Commission, in the preamble to the 1998 Release, made it clear that where large differences are at stake as between the actions sought by a proposal and actions taken by the company, and where the proposal contains only reasonable details and methods, the proposal is not excludable as micromanagement.[25] These factors apply to the Proposal.

<u>The Proposal here is analogous to proposal in recent *Anadarko* decision which was not found to micromanage</u>

The current Proposal is analogous to another proposal recently challenged on the basis of micromanagement and found not to micromanage. In *Anadarko Petroleum Corporation* (March 4, 2019) in which a claim of micromanagement was rejected, the proposal largely raised the same issues, methods, and details as the current proposal, albeit in a different order. The *Andadarko* decision similarly asked the company to issue a report describing if, and how, it plans to reduce its total contribution to climate change and align its operations and investments with the Paris Agreement's goal of maintaining global temperatures well below 2 degrees Celsius. The supporting statement similarly asked the company to address the relative benefits and drawbacks of integrating actions including reducing capital investments in oil and/or gas resource development, investing in renewable energy resources, with the addition of adopting overall

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[25] The Commission in the preamble to the 1998 Release, Release No. 34-40018 (May 26, 1998), made it clear that requests regarding methods and timelines are not prohibited as micromanagement:

> . . . . in the Proposing Release we explained that one of the considerations in making the ordinary business determination was the degree to which the proposal seeks to micromanage the company. We cited examples such as where the proposal seeks intricate detail, or seeks to impose specific timeframes or to impose specific methods for implementing complex policies. **Some commenters thought that the examples cited seemed to imply that all proposals seeking detail, or seeking to promote timeframes or methods, necessarily amount to ordinary business. . . We did not intend such an implication. Timing questions, for instance, could involve significant policy where large differences are at stake, and proposals may seek a reasonable level of detail without running afoul of these considerations. (*Emphasis added*).**

greenhouse gas emission reduction targets for the company's full carbon footprint, inclusive of operational and product-related emissions, a more specific ask than the third component of the current Proposal's supporting statement which more generally asked about "otherwise diversifying its operations."

Similarly, in *Chevron Corporation* (March 28, 2018) the Staff did not allow the Company to exclude under Rule 14a-8(i)(7) a similar proposal that requested a report describing how the Company could adapt its business model to align with a decarbonizing economy by altering its energy mix to substantially reduce dependence on fossil fuels, including options such as buying, or merging with, companies with assets or technologies in renewable energy, and/or internally expanding its own renewable energy portfolio, as a means to reduce societal greenhouse gas emissions and protect shareholder value.

The framework of the proposal allows a flexible response

The Company states that it is a global exploration and production company that focuses on developing and producing crude oil and natural gas. The Company maintains that the Proposal's focus and underlying subject matter is to ask the Company to change its business strategy to focus away from its core business of developing and producing crude oil and natural gas towards developing "low carbon energy resources."

But the plain language of the Proposal offers flexibility for the company to discuss *"how it can* reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius." In short, this form of report does not require the company to change its policies but only to discuss "how it can" change the policies, an assessment which remains in management's discretion.

There is an array of possible scenarios for the Company to reduce and align its carbon footprint. The Proposal, in asking "how the Company can reduce," leaves flexibility for the board and management to assess a range of alternatives they might consider for the company. As the Goldman Sachs Group has noted in its October 2018 report, "Re-Imagining Big Oils",[26] there are various actions oil companies can take to achieve consistency with the global temperature containment goals including revising long-term investment and product mix by 2030:

> We see five main areas of action that can drive scope 3 carbon intensity reduction . . . : (1) the shift of production from oil towards gas (including LNG); (2) the shift of downstream oil from refining to petrochemicals; (3) an expansion downstream in gas (similar to what Big Oils have always had in oil, with production/refining/retail marketing) to gas & power retail, including power supplied through CCGTs and renewables; (4) increased sales of biofuels; (5) carbon capture and natural sinks (re-forestation), to reduce net emissions. If Big Oils use all these levers, on our estimates they can achieve a c.21% reduction in scope 3 carbon intensity, allowing an overall 'well-to-wheel' reduction in line with the IEA SDS ambitions.

[26] https://www.goldmansachs.com/insights/pages/re-imagining-big-oils.html

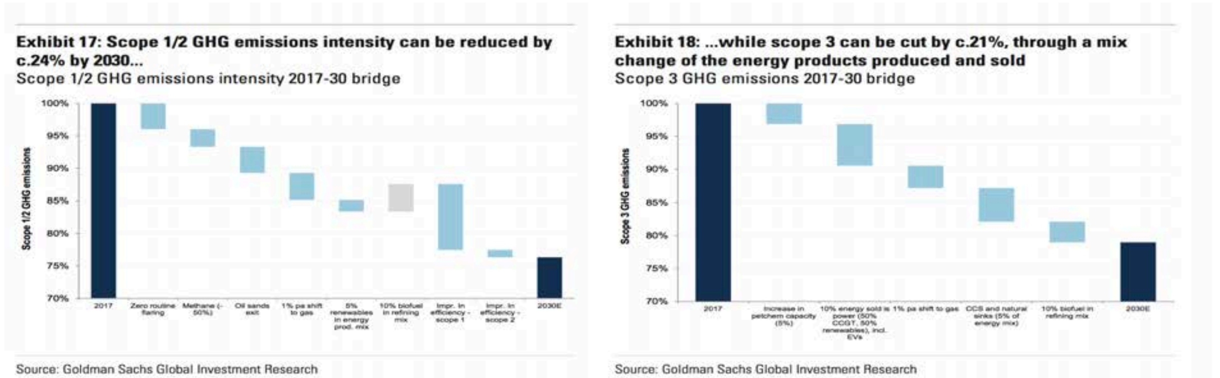

Figure 1 Source: Re-Imagining Big Oil, Goldman Sachs Group, October 2018.

The Proposal does not prejudge how the Company could go about reaching alignment with a below 2° scenario, but asks that it does consider and report on how the necessary greenhouse gas emission reductions might be accomplished.

Prior decisions do not support exclusion of the Proposal

Hess' No-Action Letter alleges that the Proposal micromanages or prescribes the sale of particular products and services, thereby leading to an exclusion under Rule 14a-8(i)(7). But the Proposal is consistent with numerous proposals in the energy sector previously found non-excludable under Rule 14a-8(i)(7) despite company assertions of micromanagement or that the proposal impermissibly relates to a particular product or technology.

The examples below demonstrate that a proposal could be far more directive in what it asks the company to do, report, or explore with regard to technology choices before it would be considered micromanagement. For example, in *Entergy Corporation* (March 14, 2018) the Staff rejected exclusion under Rule 14a-8(i)(7) for a request for a report describing how the Company could adapt its enterprise-wide business model to significantly increase deployment of distributed-scale non-carbon-emitting electricity resources as a means of reducing greenhouse gas emissions consistent with limiting global warming to no more than 2 degrees Celsius over pre-industrial levels. In contrast, the present Proposal does not suggest any particular direction of technology choice for the Company, asking broadly how the Company can come into alignment with global temperature goals. Thus, as set forth below, the proposal is far less restrictive and directive than proposals that have already been found to be non-excludable under Rule 14a-8(i)(7) in addressing climate goals.

Entergy followed several other precedents in energy sectors where arguments similar to the Company's were made. The Staff has rejected both the "choice of technology" and "sale of a particular product" lines of argument, despite the proposals' focus on the degree to which the company was adopting a particular energy generation strategy. This includes *DTE Energy* (Jan. 26, 2015), *Duke Energy* (February 22, 2016) and *Northwestern Energy* (January 8, 2016).

Similarly, in *Exxon Mobil Corp*. (March 12, 2007) the proposal asked the board to adopt a policy significantly increasing renewable energy sourcing globally, and the proposal was found not excludable under Rule 14a-8(i)(7).

The Proposal is in alignment with investor needs and expectations for engagement and monitoring of climate change impacts

There is nothing impractical about shareholders encouraging the Company to investigate and plan to timely and expeditiously reduce the full range of its greenhouse gas emissions in line with Paris goals. This basic issue is neither outside the expertise of shareholders, nor does it delve too deeply into intricate details best left to management. In fact, as indicated by the growing number and type of shareholder actions around climate change, ***information about the scale and pace of a Company's greenhouse gas reduction activities is fundamental to good investment planning***.

Shareholders have a long-standing and appropriate role of engaging with portfolio companies through the shareholder proposal process. Proposals directed toward guiding and even redirecting business strategy decisions on significant policy issues have long been at the core of the shareholder proposal process, and not a basis for exclusion.

A state of the industry report, "Tipping Points 2016,"[27] collected data from a group of 50 institutions, including 28 asset owners and 22 asset managers selected based on their diversity. The report found that institutional investors (1) consider and manage their impacts on environmental, societal, and financial systems, and (2) consider those systems' impacts on their portfolios, with financial returns and risk reduction being two primary motivators for approaching investment decisions on a systemic basis. The report shows asset owners not only consider the financial risks they perceive from environmental, social, and governance risk at the level of specific securities and industries, but are also concerned with measuring and managing climate risk on a portfolio basis. Nowhere is this more the case than with climate change. Investor portfolios commonly hold investments from a wide spectrum of economic sectors. The combined effect of climate change across the economy is projected to have substantial negative, long-term, portfolio-wide implications.

Discussion of GHGs, the Paris Agreement and other elements of the Proposal are well understood and commonplace on proxy statements. These concepts are not alien or confusing to investors. In the investment community in particular, the focus of a proposal on alignment with global climate goals is well understood. Support for the proposals is consistent with investor demand for climate disclosures in general, and alignment with the Paris Agreement specifically, both of which have increased substantially as the risks have become more apparent.[28] For instance:

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[27] http://tiiproject.com/tiiping-points-2016
[28] *"What Investors are Saying," Science Based Targets.* *http://sciencebasedtargets.org/what-investors-are-saying/*

> Anne Simpson, Investment Director, Sustainability, at California Public Employees' Retirement System stated: "Mapping a company's carbon footprint, or the emissions it produces, and measuring its progress in this area is an important and growing part of our portfolio analysis. Over the long-term investors are saying to these companies that we want them to align their business strategy with the Paris Agreement."

> Andy Howard, Head of Sustainable Research at Schroders stated: "We want to know how exposed a particular business is to the changing context on climate and what it is practically doing to make the changes required; including its targets, timeframes and the extent of its ambition."

Numerous investing institutions have begun to track the carbon footprint and carbon trajectory of equities portfolios.

For example, the United Nations-supported Principles of Responsible Investment (PRI) launched the Montréal Carbon Pledge at its annual conference in September 2014. The pledge commits those that sign it to measure and disclose the carbon footprint of part or all of their equities portfolio. Such a footprint helps investors better understand, quantify and manage climate change-related impacts, risk and opportunities. **<u>The Pledge has attracted commitment from over 120 investors with over USD 10 trillion in assets under management, as of the United Nations Climate Change Conference (COP21) in December 2015 in Paris</u>**. Support for the Montréal Carbon Pledge comes from investors across Europe, the U.S., Canada, Australia, Japan, Singapore and South Africa. Signatories include Establissement du Régime Additionnel de la Fonction Publique (ERAFP), PGGM Investments, Bâtirente, CalPERS and University of California.[29]

Building on the Montréal Carbon Pledge, the global Portfolio Decarbonization Coalition currently has members representing $800 billion in assets under management that are taking decarbonization approaches to their portfolios to support the transition to a low-carbon economy. PDC's members implement decarbonization commitments including formal decarbonization related objectives and targets covering some or all of their investment portfolios, and measurement and periodic disclosure of their carbon exposure (or 'footprint') — the carbon intensity of their capital.[30]

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[29] *See Montréal Pledge campaign website https://montrealpledge.org/.*
[30] https://unepfi.org/pdc/

The largest investing institutions are also being monitored by **the Asset Owners Disclosure Project (AODP)**, based in the UK, which rates and ranks the world's largest institutional investors and assesses their response to climate-related risks and opportunities.

Task Force on Climate-Related Financial Disclosures (TCFD). The Financial Stability Board (FSB) set up the Task Force on Climate-Related Financial Disclosures (TCFD) under the chairmanship of Michael Bloomberg. The report focuses on recommendations for disclosure of climate risk in annual financial reports. The goal of the TCFD is to develop recommendations for voluntary climate-related financial disclosures that are consistent, comparable, reliable, clear, and efficient, and provide decision-useful information to lenders, insurers, and investors. The TCFD released its final recommendations report in June 2017.

Principles of Responsible Investment (PRI) "Inevitable Policy Response" Investment Strategy for portfolio allocation, anticipates the disruptive economic impacts of global regulatory responses as climate change worsens, and therefore provides strategies for diversification, engagement and risk transfer to protect the investors long-term portfolio value. The PRI, supported by investors with $80 trillion in assets under management, has begun a focus on the implications for investors of the "***inevitable policy response***" (IPR) when national and global policymakers come to realize that they must impose rapid, stringent carbon constraints to head off a worsening global climate change catastrophe.[31]

The Transition Pathway Initiative (TPI) is a global investor initiative that assesses companies' preparedness for the transition to a low-carbon economy by: evaluating companies' management

[31] PRI notes: In effect, an IPR is what would need to happen if the world was to move towards a target of 1.5-1.75°C with 50-66% probability. Indeed, if policy actions do not ratchet up from current levels, we would need urgent and forceful policy action today to achieve anything close to attaining a 1.5°C outcome. IPR can thus be considered a "backstop" scenario — and a call to action — to accelerate current efforts to align with the Paris Agreement. An IPR trajectory is not being actively considered by most corporations and investors, hence the PRI's support for assessing its effects and the preparatory actions that are needed. There are many permutations for an IPR in terms of when and what will occur. This outline contains assumptions about an announcement in 2025 for a 2030 implementation to address the overshoot, and specific policies that could be considered.
The PRI has prepared papers to assist investors concerned with this future market disruption, including a paper on projecting the timelines and severity of the inevitable policy response:
At its simplest level, an IPR would precipitate (in aggregate) substantial shifts in capital from high- to low-carbon activities that require preparatory actions for investors to take today. The technical papers build a framework for exploring the policy and technology pathways that would deliver a rapid economic transition. They also consider the investment risk and return implications at the sector and asset level to integrate an IPR into strategic asset allocation (SAA) and portfolio construction frameworks. Finally, the papers consider the actions that investors would need to take both prior to, during and in the aftermath of an IPR, in terms of reviewing governance arrangements, risk management processes and engagement activities, including the management of stranded assets. … It is evident that the longer the delay in reducing emissions, the higher will be the need for rapid transition and forceful policy action. … We believe this work bolsters the rationale for an escalation in actions now to refine and make decisions more efficiently, and to ultimately improve the resilience of investment portfolios and decision-making processes to what could soon be a more volatile environment."
"The Inevitable Policy Response: When, What and How; Policy pathways to below 2° and estimating the financial impacts," Vivideconomics (September 2018), *https://www.unpri.org/download?ac=5368*.

of GHG emissions, management of climate-related risks and opportunities; evaluating how planned or expected future carbon performance compares to the Paris Agreement; and by publishing the analyses through a publicly-available tool hosted by its academic partner, the Grantham Research Institute on Climate Change and the Environment at the London School of Economics and Political Science.[32] The TPI was launched in January 2017 and is currently supported by investors with $13.3 trillion AUM (as of Feb 2019).

Sustainable Energy Investment (SEI) Metrics, 2018, had **tested $500 billion of equity for 2° C alignment** (SEI Metrics, 2018). SEI Metrics covers a limited number of sectors with public equity and corporate portfolios. The project was recently relaunched as Paris Agreement Capital Transition Assessment (PACTA), which aims to measure the current and future alignment of investment portfolios with a 2° C scenario analysis, allowing investors to measure climate performance and address the challenge of shifting capital towards clean energy investments. Since its launch, over 2,000 portfolios have been tested for 2° C alignment with over $3 trillion in assets under management. **Of the 25% of surveyed investors involved in the road-test, 88% said they were likely or very likely to use the assessment in portfolio management, engagement, and / or investment mandate design**.[33]

International Standards Organization in 2019 is developing a climate finance standard: ISO 14097, which will track the impact of investment decisions on GHG emissions; measure the alignment of investment and financing decisions with low-carbon transition pathways and the Paris Agreement; and identify the risk from international climate targets or national climate policies to financial value for asset owners. The standard will help define benchmarks for decarbonization pathways and goals, and track progress of investment portfolios and financing activities against those benchmarks; identify methodologies for the definition of science-based targets for investment portfolios; and develop metrics for tracking progress.

In light of all of these initiatives, the Proposal does not represent a context in which shareholders, board or management would lack sufficient understanding regarding how to interpret or implement the Proposal. The Proposal does not delve too deeply for shareholder consideration – it is aligned with the expectations and needs of the market.

III. The Proposal is Neither Vague nor Misleading

The Proposal does not misrepresent the Company.

Hess alleges that the Proposal materially misrepresents the Company. First it takes issue with the Proposal

[32] *Grantham Research Institute on Climate Change and the Environment at the London School of Economics and Political Science Transition Pathway Initiative, http://www.lse.ac.uk/GranthamInstitute/tpi/about/.*
[33] *SEI Metrics Project, https://2degrees-investing.org/sei-metrics/. In 2017, the model was expanded to corporate bonds and credit, as well as a broader range of sectors.*

citing to a study that ranks the Company's emissions from 1998 through 2015.[34] The fact that the Company materially changed its strategy in 2015 to become a pure play exploration and production company does not change its historical emissions or the ranking of those emissions in the given time period. The study does not make allegations as to Hess' ranking post-2015.

Second, Hess complains that the Proposal misrepresents "peer" companies when citing to other oil and gas companies that have changed or announced fundamental changes in their business plans and begun moving toward Paris compliance. The fact that Hess has been a 'pure play' company for four years now does not mean that its actions should become untethered from the Paris goals or that it should not be compared to other oil and gas companies that *are* taking action to align with the Paris Agreement. In fact, the company's narrow focus on exploration and production makes it more likely to continue contributing to climate change at a higher intensity than oil and gas companies that are making strategic changes. It is therefore reasonable for investors to consider the strategies of a variety of oil and gas companies and benchmark them against one another on the issue of response to global climate imperatives.

Finally, Hess has changed its business strategy once; there is no requirement that investors should consider the Company to be locked into an exploration and production strategy into the future.

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The Proposal accurately describes its requested goal.

Finally, the Company Letter attempts to argue that the Proposal is vague and misleading due to the Proposal's reference to an IPCC report that sets forth carbon reduction goals necessary to achieve a below 1.5 degree goal. The IPCC reference is not inconsistent with the Paris Agreement or the Proposal's request. The Paris Agreement includes the following objective:

> [To hold] the increase in the global average temperature to **well below** 2 °C above pre-industrial levels and **[pursue] efforts to limit the temperature increase to 1.5 °C** above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change."[35]

The IPCC report underscores the importance of keeping warming below 1.5 degrees and provides evidence that achieving the Paris Agreement's 1.5 degree goal rather than 2 degrees will not only avoid catastrophic impacts, but will save billions in costs associated with climate change.

The two references are not inconsistent or impermissibly vague and in fact should be read together. The recent IPCC report underscores the importance of keeping warming below 1.5 degrees and provides evidence that achieving the Paris Agreement's 1.5 degree goal rather than 2 degrees will

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[34] Hess suggests that the Proposal misrepresents its emissions ranking by suggesting that it is one of the top emitters in the world, not just in the fossil fuel industry. The first clause of the sentence however is intended to orient the statement as relating to fossil fuel producers. "The fossil fuel industry is one of the most significant contributors to climate change; Hess is among the top 100 largest industrial contributors." Moreover, a review of the provided citation makes it clear that the study relates to fossil fuel producers.

[35] https://unfccc.int/process-and-meetings/the-paris-agreement/what-is-the-paris-agreement

not only avoid catastrophic impacts, but will save billions in costs associated with climate change. The two references are therefore not inconsistent or impermissibly vague.

The Company further implies that the Proposal asks for two goals. This is not an accurate characterization. The Proposal is clear in consistently asking the Company how it "can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming **well below** 2 degrees Celsius." The Proposal never asks the Company to align with a 2 degree goal.

The Company next argues that there are no scenarios by outside agencies for a below-2 degree outcome. If the Company or others in the industry have not yet formulated a scenario for aligning oil and gas operations and products with the goal of keeping global temperature increases well below 2 degrees, this does not make the Proposal vague or indefinite. In fact, were Proponents to tell Hess exactly how to align itself, the Proposal would likely be found to be micromanaging.

We do, however, note that the IPCC report provides clear guidelines in the scope and rate of emissions reduction that must be achieved to maintain warming below 1.5 degrees. There must be a 45% reduction by 2030 and net zero emissions by 2050. The Company can assess its own carbon footprint trajectory to align with this downward trajectory.[36]

Accordingly, the Proposal is not excludable pursuant to Rule 14a-8(i)(3).

CONCLUSION

We believe it is clear that the Company has provided no basis for the conclusion that the Proposal is excludable from the 2018 proxy statement pursuant to Rule 14a-8. As such, we respectfully request that the Staff inform the company that it is denying the no action letter request.

Sincerely,

Sanford Lewis

cc:
Barry Schachter, Hess
David Johansen, White & Case
Danielle Fugere, As You Sow

[36] The company could also consider using the Faster Transition Scenario offered by the WEO. "This scenario, developed in 2017, plots an emissions pathway to "net zero" energy sector CO2 emissions in 2060, resulting in lower emissions than the SDS in 2040."https://www.iea.org/weo/weomodel/

WHITE & CASE

February 5, 2019

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VIA E-MAIL

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549
Via e-mail: shareholderproposals@sec.gov

Re: *Hess Corporation*
Shareholder Proposal Submitted by As You Sow
Securities Exchange Act of 1934 – Rule 14a-8

On behalf of our client, Hess Corporation, a Delaware Corporation (the "**Company**"), we are writing this letter to inform you that the Company intends to omit from its proxy statement and form of proxy for its 2019 Annual Meeting of Shareholders (collectively, the "**2019 Proxy Materials**") a shareholder proposal and related supporting statement (together, the "**Proposal**") received from As You Sow on behalf of Park Foundation, Inc., as proponent (the "**Proponent**") for inclusion in the 2019 Proxy Materials.

Pursuant to Staff Legal Bulletin No. 14D (November 7, 2008) ("**SLB 14D**"), we are submitting this letter and its attachments to the Staff of the Division of Corporation Finance (the "**Staff**") via e-mail at shareholderproposals@sec.gov. In accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), we are submitting this letter to the U.S. Securities and Exchange Commission (the "**Commission**") no later than eighty (80) calendar days before the Company intends to file its definitive 2019 Proxy Materials, and a copy of this submission is being sent simultaneously to the Proponent, as notification of the Company's intention to omit the Proposal from its 2019 Proxy Materials. We hereby request confirmation from the Staff that it will not recommend any enforcement action if the Company omits the Proposal in reliance on Rule 14a-8 from the 2019 Proxy Materials. This letter includes the Company's statement of the reasons it deems the omission of the Proposal to be proper.

We take this opportunity to inform the Proponent that if they elect to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company in accordance with Rule 14a-8(k) and SLB 14D.

THE PROPOSAL

The Proposal states:

> **Resolved:** Shareholders request that Hess issue a report (at reasonable cost, omitting proprietary information) on how it can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius.

A copy of the Proposal and related correspondence is attached to this letter as Exhibit A.

BASES FOR EXCLUSION

We hereby respectfully request that the Staff concur with our view that the Proposal may be excluded from the 2019 Proxy Materials pursuant to:

- Rule 14a-8(i)(10) because the Company has substantially implemented the Proposal;
- Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company's ordinary business operations; and
- Rule 14a-8(i)(3) because the Proposal is vague and indefinite.

ANALYSIS

I. The Proposal May Be Excluded Under Rule 14a-8(i)(10) Because The Company Has Substantially Implemented The Proposal.

A. Introduction

We believe the Company has substantially implemented the Proposal via its existing public disclosures. We respectfully request that the Staff concur with our view that the Proposal may be excluded pursuant to Rule 14a-8(i)(10). The Company has published, and continues to publish, information about climate change and the Company's efforts to reduce its carbon footprint that address the primary goals of the report requested in the Proposal. Although the Company's prior public disclosure was not made in precisely the manner contemplated by the Proponent, the Proposal is excludable because the essential disclosure objective of the Proposal has already been the topic of existing disclosure by the Company.

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company has substantially implemented the proposal. The Commission stated in 1976 that the predecessor to Rule 14a-8(i)(10) was "designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." Exchange Act Release No. 12598 (July 7, 1976). When a company can demonstrate that it has taken actions to address the elements of a shareholder proposal, the Staff has concurred that the proposal has been "substantially implemented" and may be excluded as moot. *See, e.g., Dominion Resources, Inc.* (February 9, 2016); *Exxon Mobil Corp.* (Mar. 17, 2015); *Deere & Company* (November 13, 2012); *Exxon Mobil Corp.* (March 23, 2009); *Exxon Mobil Corp.* (January 24, 2001); and *The Gap, Inc.* (March 8, 1996). The Staff has noted that "a determination that the company has substantially implemented the proposal depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal." *Texaco, Inc.* (avail. Mar. 28, 1991).

In applying Rule 14a-8(i)(10), the Staff has consistently concurred with the exclusion of shareholder proposals that, like the Proposal, request a report containing information that the company has already publicly disclosed. In the case at hand, the essential disclosure objectives of the Proposal were previously disclosed by the Company through its annual Sustainability Report and periodic investor presentations, and in its response to the CDP Climate Change Questionnaire, each of which is publicly available and described below. This is similar to *Entergy Corp.* (Feb. 14, 2014), where the Staff concurred in the exclusion of a proposal that requested a report on additional near-term actions to reduce its greenhouse gas emissions, when the company had already made numerous public disclosures on such topic. In fact, even though the prior public disclosure was not made in precisely the manner contemplated by the proponent, that proposal was still excludable. This is similar to the Proposal insofar as the Proposal is also seeking disclosure that is not precisely that which has previously been disclosed. *See also The Dow Chemical Co.* (Mar. 5, 2008) (concurring in the exclusion of a proposal that requested a "global warming report" that discussed how the company's efforts to ameliorate climate change may have affected the global climate when the company had already made various statements about its efforts related to climate change, which were scattered throughout various corporate documents and disclosures), *Dominion Resources, Inc.* (Feb. 19, 2015) (concurring in the exclusion of a proposal requesting a report on the company's effort to reduce environmental hazards associated with its coal ash disposal and storage operations and how those efforts may reduce legal, reputational, and other risks to the company's finances when the company had published a report that focuses on and makes disclosures regarding the risks associated with coal ash disposal and storage operations) and *Exxon Mobil Corporation* (March 23, 2018) (concurring in the exclusion of a proposal that requested a report "describing how the Company could adapt its business model to align with a decarbonizing economy by altering its energy mix" to substantially reduce societal greenhouse gas emissions and protect shareholder value when the company made various statements about its efforts to adapt to a lower-carbon environment in two different disclosure documents).

Additionally, a company need not implement a proposal in exactly the manner set forth by the proponent. *See* Exchange Act Release No. 40018 (May 21, 1998) (the "**1998 Release**"). In *Mondelez International, Inc.* (Mar. 7, 2014), the Staff concurred with the exclusion under Rule 14a-8(i)(10) of a proposal requesting that the board produce a report on the company's process for identifying and analyzing potential and actual human rights risks in the company's operations and supply chain, where the company already disclosed its risk management process and the framework it used to assess potential human rights risks. The facts described in *Mondelez International, Inc.* are very similar to the Proposal because the proposal in *Mondelez* sought more specific disclosure than what had been previously disclosed. However, in both cases, the exclusion is appropriate because the broader essential objective had already been the topic of an existing disclosure. *See also Pfizer Inc.* (Jan. 11, 2013, *recon. denied* Mar. 1, 2013) (concurring in the exclusion of a proposal requesting that the board issue a report detailing measures implemented to reduce the use of animals and specific plans to promote alternatives to animal use, where the company cited its compliance with the Animal Welfare Act and published a two-page "Guidelines and Policy on Laboratory Animal Care" on its website); *Exelon Corp. (Feb. 26, 2010)* (concurring in the exclusion of a proposal that requested a report on different aspects of the company's political contributions when the company had already adopted its own set of corporate political contribution guidelines and issued a political contributions report that, together, provided "an up-to-date view of the [c]ompany's policies and procedures with regard to political contributions"); and *PNM Resources Inc.* (March 30, 2018) (concurring in the exclusion of a proposal requesting a report identifying which of the company's generation assets might become stranded where the company disclosed all of its generation assets but declined to identify which were at risk for becoming stranded, noting that such determination is ultimately decided by the state regulator).

The core of the Proposal, or its "essential objective," is that the Company produce a report on how it can reduce its carbon footprint in alignment with greenhouse gas ("**GHG**") reductions necessary to maintain global warming below the 2° C Goal (described below) set by the Paris Agreement. The Company has addressed the primary concerns of the Proposal as described in: (i) its most recent Sustainability Report (the "**2017 Sustainability Report**"),[1] (ii) its response to the 2018 CDP Climate Change Questionnaire (the "**CDP Questionnaire**" and, together with the 2017 Sustainability Report, the "**Reports**")[2], and (iii) its 2018 Investor Day Presentation from December 12, 2018 (the "**2018 Investor Day Presentation**" and, together with the Reports, the "**Public Disclosures**").[3]

As demonstrated in the table below, the Public Disclosures substantially implement the requests in the Proposal, including the "essential objective" in the Resolution and the statements in the Supporting Statement, which address the Company's efforts to reduce its carbon footprint. A more detailed discussion of the disclosures contained in the Public Disclosures follows the table below.

Proposal Request to "reduce its carbon footprint in alignment with greenhouse gas reductions"	**Public Disclosures**
Climate Change Strategy and emissions targets	• 2017 Sustainability Report, pages 37, 41, 45 • CDP Questionnaire, Questions C1.2a, C2.2b, C2.2d, C2.3, C2.4
Factoring carbon costs for new investments	• 2017 Sustainability Report, pages 12, 37-38 • CDP Questionnaire, Question C11.3a
Emission reduction initiatives	• 2017 Sustainability Report, pages 43, 45 • CDP Questionnaire, Questions COG4.8, C2.5 • 2018 Investor Day Presentation "Hess Strategic Priorities," John Hess, slides 7-8 and "Guyana Development," Richard Lynch, slide 37 • hess.com/sustainability/climate-change-energy/emission-reduction-initiatives
Portfolio transformation to support low-carbon strategy	• 2018 Investor Day Presentation "Hess Strategic Priorities," John Hess, slides 7-8
Reducing operational flaring and emissions	• CDP Questionnaire, Questions C2.4a, C-OG4.7 • 2017 Sustainability Report, pages 42-43, 45
Using risk scenarios based on the Paris Agreement to qualitatively assess any potential risk and opportunities associated with its portfolio of assets	• 2017 Sustainability Report, pages 39, 41 • CDP Questionnaire, Question 3.1d
Entering into strategic partnerships to reduce emissions	• CDP Questionnaire, Question C12.1c

[1] http://www.hess.com/docs/default-source/sustainability/hess-2017-sustainability-report.pdf?sfvrsn=2

[2] http://www.hess.com/docs/default-source/sustainability/hess-cdp-final.pdf

[3] http://phx.corporate-ir.net/phoenix.zhtml?c=101801&p=irol-EventDetails&EventId=5276113

B. *The Reports describe the Company's strategy for reducing its carbon footprint by reducing its GHG emissions in accordance with the Paris Agreement, which satisfies the "essential objective" of the Proposal*

The Company's disclosures substantially implement the "essential objective" of the Proposal, as they describe how the Company incorporates climate-related scenario analysis, which includes scenarios based on the goal set forth in the Paris Agreement to limit global warming to well below 2° C above pre-industrial levels (the "**2° C Goal**"), into its Climate Change Strategy (described below) and its long-term business strategy described in the 2018 Investor Day Presentation.[4]

The Company has incorporated the 2° C Goal into its carbon asset risk analysis. The 2017 Sustainability Report describes two key climate-related scenarios: the New Policies ("**NP**") Scenario and the Sustainable Development ("**SD**") Scenario, as developed and published by the globally recognized International Energy Agency (the "**IEA**") in their World Energy Outlook as a way of exploring different possible global futures, the levers that could bring them about, and the interactions that arise across a complex energy system. The NP Scenario includes existing energy policies as well as policies and targets announced by governments, most notably the Nationally Determined Contributions, a key component of the Paris Agreement, and is considered by both the Company and the IEA to be the central scenario. The SD Scenario is a more challenging alternate, consistent with the direction needed to achieve the objectives of the 2° C Goal,[5] but nevertheless assumes increasing demand for hydrocarbons and further investment in the oil and gas sector. As noted in the CDP Questionnaire, the Company does not change any of the assumptions or inputs in the IEA's scenarios before using them to qualitatively assess any potential risk and opportunities associated with its portfolio of assets.[6]

In addition, the Reports each describe the Company's three-pronged climate change strategy that would prepare the company to operate in a lower carbon environment by lowering GHG emissions (the "**Climate Change Strategy**"):

- setting targets to reduce the carbon intensity of the Company's operations;
- accounting for the cost of carbon in significant new investments; and
- applying innovation and efficiency to reduce energy use, waste and emissions across our operations.[7]

The Reports also disclose how the Company is implementing its Climate Change Strategy:

- *Targets*. The Reports describe the following key targets to reduce emissions:
    - o a reduction in the company's GHG emissions intensity by 25% for its 2014 portfolio of operated assets by 2020 (versus a 2014 emissions baseline);
    - o a reduction in flaring emissions intensity by 50% for its 2014 portfolio of operated assets by 2020 (versus a 2014 emissions baseline); and

[4] CDP Questionnaire, Question C3.1; 2018 Investor Day Presentation "Hess Strategic Priorities," John Hess, slides 7-8

[5] 2017 Sustainability Report, pages 39-40

[6] CDP Questionnaire, Question C3.1d

[7] 2017 Sustainability Report, page 37; CDP Questionnaire, Question C1.2a

- a reduction in methane emissions to less than 1% of gross methane production across the U.S. natural gas value chain by 2025.[8]

The Company has disclosed its progress in meeting each of these targets through 2017, including:

- a 23% reduction in GHG emissions intensity compared to the Company's 2014 baseline, bringing the Company close to achieving its 25% reduction target for 2020;[9]
- a 38% reduction in flaring emissions intensity compared to the Company's 2014 baseline; and[10]
- methane emissions for the upstream sector (production and processing) equal to 0.13%, well below the sector target, with the Company planning to reduce these emissions further.[11]

With respect to the Company's 25% target for reduction in its GHG emissions intensity, the Reports note that the Company's target is aligned with the reductions assumed necessary by the IEA in its challenging SD Scenario, the latter which incorporates and is premised on the Paris Agreement's 2° C Goal. The IEA's SD Scenario assumes a 22% reduction in energy-related CO_2 emissions by 2030 (from 2016) in order to be consistent with the Paris Agreement's 2° C Goal.[12] The Company is on schedule to achieve its 25% target for reduction in its GHG emissions by 2020, thereby representing a steeper rate of reduction in CO_2 emissions than the IEA's SD assumptions, and therefore more than fully consistent with the overall emission reduction goals set out in the IEA's 2030 SD Scenario.

- *Carbon Costs for New Investments*. The Reports describe how the Company applies a theoretical carbon price of $40 per ton of carbon dioxide – based on the U.S. Environmental Protection Agency (EPA) estimate (under the Obama Administration) of the social cost of carbon — in its economic evaluations for significant new projects.[13]

- *Reduce Energy Use, Waste and Emissions*. The Reports disclose that the company tracks and monitors air emissions at each of its assets and undertakes a variety of emission reduction initiatives that are described more fully below, such as the $2.6 billion investment in infrastructure to reduce flaring in its North Dakota operations and the implementation of a leak detection and repair program to minimize methane emissions.[14]

The Proposal suggests that because the Company is "increasing its capital expenditure for oil exploration" it is not acting in accordance with the Paris Agreement and the 2° C Goal. However, the Company's carbon asset risk analysis and Climate Change Strategy are both consistent with the Paris Agreement and the 2° C Goal. Neither the NP Scenario nor the SD Scenario contemplate a future where oil and natural gas are not used as fuel sources: both scenarios expect oil and gas still to account for a significant amount of worldwide energy use by 2040 – 52% and 48% of the energy mix in the NP and SD Scenarios,

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[8] 2017 Sustainability Report, page 41; CDP Questionnaire, Question C1.2a

[9] 2017 Sustainability Report, pages 3, 42, CDP Questionnaire, Question C1.2a

[10] 2017 Sustainability Report, pages 3, 43, CDP Questionnaire, Question C2.4a

[11] 2017 Sustainability Report, page 45, CDP Questionnaire, Question C-OG4.6

[12] 2017 Sustainability Report, page 40, CDP Questionnaire, Question C3.1d

[13] 2017 Sustainability Report, pages 12, 37-38; CDP Questionnaire, Questions C2.2b, C11.3a

[14] 2017 Sustainability Report, page 43; CDP Questionnaire, Questions COG4.7 and COG4.8

respectively, modestly down from 54% today. This will require ongoing, significant investment in the oil and gas sector for many decades to come. The Paris Agreement does not require companies to curtail or reduce investments in the oil and gas sector, and, even upon the goals of the Paris Agreement being met, there will continue to be a need for investments in the oil and gas sector.

As described above, the Company has adequately disclosed its strategy for reducing its carbon footprint, and has explained in these disclosure documents how it has factored the 2° C Goal into its Climate Change Strategy.

C. The Reports address other elements of the Proposal that are described in the Supporting Statement

In addition to addressing the "essential objective" of the Proposal in its disclosure, the Company has also addressed other elements of the Supporting Statements included in the Proposal, as described in the sections below.

1. The Reports disclose how the Company has reduced capital investments in high-cost, high-carbon assets and increasing capital expenditures on sustainable technologies, initiatives and partnerships to develop its lower-cost assets, consistent with the 2° C Goal

The Reports give ample examples of actions taken through the end of 2017 to reduce the Company's energy consumption and carbon emissions and increasing the use of alternative energy in the Company's operations.

- *Portfolio transformation to support low-carbon strategy.* In 2017, the Company divested high cost, lower margin assets, including assets in Norway and Equatorial Guinea, which supported the Company's low carbon strategy. These portfolio changes follow the Company's transformation over the last several years into a "pure play" exploration and production company, during which the Company divested its downstream retail and refining operations.[15]

- *Over $2.6 billion invested in midstream infrastructure in North Dakota.* The Company has invested more than $2.6 billion in midstream infrastructure to increase natural gas capture in its North Dakota assets, which has resulted in a decrease in operational flaring. The Company aims to reduce its wellhead flaring rate in North Dakota to 10% or lower by 2020.[16] In addition, the Company's Midstream MLP has entered into a 50/50 joint venture to construct a new gas processing plant called Little Missouri Four in North Dakota, which additional processing capacity and technology are expected to reduce flaring emissions in the Bakken.[17]

- *Reducing flaring emissions in Guyana.* The Company's developments offshore Guyana have been designed to minimize natural gas flaring and reinject associated gas back into the underground reservoirs which is expected to improve the efficiency of oil recovery and reduce the carbon footprint of this asset.[18]

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[15] 2018 Investor Day Presentation, "Portfolio & Capabilities," Greg Hill, slide 17

[16] CDP Questionnaire, Question C2.4a, 2017 Sustainability Report, page 43

[17] CDP Questionnaire, Question C12.1c

[18] 2018 Investor Day Presentation, "Guyana Development," Richard Lynch, slide 37; CDP Questionnaire, Question C2.5

- *Investing in renewable energy.* Approximately 19% of the purchased electricity consumed by the Company in 2017 was generated from renewable sources, primarily wind power. The Company also purchases renewable energy certificates equivalent to at least 10% of the net electricity used in its operations. Approximately 30% of the Company's indirect energy use comes from renewable sources.[19]
- *Offsetting emissions associated with employee business travel.* The Company also tracks and reports emissions associated with employee business travel and purchases carbon credits annually to offset at least 100% of business travel emissions.[20]

- *Investing in emissions-reducing technologies.* The Company has entered into a strategic partnership with GTUIT, a manufacturer and operator of gas capture and gas liquids extraction equipment, for its North Dakota assets. As a result of this partnership, more than 470 MMSCF of gas flaring, 43,600 tons of CO_2e emissions, and 14,200 tons of volatile organic compounds were prevented from entering the atmosphere in 2017.[21]

- *Reducing diesel consumption in North Dakota.* The Company has reduced its consumption of diesel fuel by approximately 21,910 barrels, resulting in a reduction of GHG emissions equal to 2664 tons, by taking the following initiatives:

  - converting rig drilling wells from diesel engines to bi-fuel natural gas/diesel engines;
  - converting boilers to operate exclusively on natural gas during winter operations; and
  - transporting freshwater by hose directly from the water source to the Company's wells, instead of using trucks.[22]

- *Reducing methane emissions with LDAR program.* The Company spends approximately $2 million per year to implement a Leak Detection and Repair program at approximately 68% of its total operated methane emissions.[23]

As described above, the Company has adequately disclosed its strategy for making capital investments in cleaner, emissions-reducing technology to support its operations.

2. *The Reports disclose the Company's approach to preparing for a lower-carbon future*

The Reports disclose that the Company's strategy is premised on lower-carbon oil and natural gas being a critical and material component of bridging to a lower carbon environment. While not a low-carbon energy resource, natural gas produces about half of the GHG emissions compared to coal in electricity generation and is a lower carbon energy alternative. As explained below, the Company has made a business decision to focus on developing its oil and natural gas assets, after full consideration of some of the most ambitious GHG reduction scenarios from the IEA, in order to both maximize value for its shareholders and prepare for a transition to a lower-carbon energy economy.

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[19] 2017 Sustainability Report, page 44; http://www.hess.com/sustainability/climate-change-energy/energy-use

[20] 2017 Sustainability Report, pages 42-43

[21] 2017 Sustainability Report, page 43

[22] CDP Questionnaire, Question C2.4a, http://www.hess.com/sustainability/climate-change-energy/emission-reduction-initiatives

[23] CDP Questionnaire, Question C-OG4.7, 2017 Sustainability Report, page 45

The Company's reasoning is clearly stated in the Reports. The Company has evaluated various sustainability risks and global scenarios, including the NP and SD Scenarios – the IEA's ambitious GHG reductions scenarios described above – and has concluded that by investing in oil and natural gas today, it will both maximize financial returns for its shareholders and bridge the way for a lower-carbon environment. As described above, neither of the IEA Scenarios envision a future energy economy that is free from the use of fossil fuel resources and even the SD Scenario, which incorporates the Paris Agreement's 2° C Goal, assumes that 48% of the energy used in 2040 will be from oil and gas, down modestly from 54% today. Importantly, these scenarios require additional investment in oil and gas projects. Furthermore, the IEA has reported that global investment in oil and natural gas has fallen short in recent years, projecting a possible shortage of supply in the future.[24]

As described in the 2018 Investor Day Presentation, the Company's long term strategy is to exploit this recent pattern of underinvestment and develop its oil and natural gas assets in order to meet the shortage projected by the IEA, a strategy which is fully consistent with the NP and SD Scenarios. The Company will be spending approximately 75% of its capital expenditures through 2025 on developing its growth assets in Guyana and North Dakota, taking measures to ensure emissions are minimized by investing in the various initiatives, partnerships and technologies described above.[25] In line with its long-term strategy, the Company has invested significant amounts of time and capital in reducing GHG emissions in its existing operations and developing new assets with the goal of minimizing emissions. The Company does not believe it is in the shareholder's best interest for the Company to divert capital from these opportunities to invest in alternate low carbon energy resources.

The analysis underlying the Public Disclosures demonstrates that the Company has substantially implemented the Proposal by satisfying its essential objective and addressing other points in the Supporting Statement. Specifically, the Company, through its Public Disclosures, has provided, and intends to continue to provide (in particular in its annual Sustainability Report, which has been continuously refined in part to address certain specific concerns communicated to the Company by its shareholders), its analysis of its efforts to reduce its carbon footprint. We believe the Company has substantially implemented the Proposal via its existing public disclosures. We respectfully request that the Staff concur with our view that the Proposal may be excluded pursuant to Rule 14a-8(i)(10).

II. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because It Concerns the Products and Services Offered by the Company and Therefore Deals With Matters Related To The Company's Ordinary Business Operations.

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a shareholder proposal that relates to the company's "ordinary business" operations. According to the 1998 release, which accompanied the 1998 amendments to Rule 14a-8, the term "ordinary business" "refers to matters that are not necessarily 'ordinary' in the common meaning of the word," but instead the term "is rooted in the corporate law concept providing management with flexibility in directing certain core matters involving the company's business and operations."

In the 1998 Release, the Commission stated that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting," and identified two "central considerations" for ordinary business exclusion. The first is that

[24] 2017 Sustainability Report, pages 39-40

[25] 2018 Investor Day Presentation, "Strategic Overview," John Hess, slides 7-8

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 second consideration relates to "the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *Id.* (citing Exchange Act Release No. 12999 (Nov. 22, 1976)).

The Staff has consistently held that proposals concerning the sale of particular products and services are generally excludable under Rule 14a-8(i)(7). *See AT&T Inc.* (January 4, 2017) (concurring in the exclusion of a proposal that urged the company to report on progress towards providing internet service and products for low-income customers); *Papa John's International, Inc.* (Feb. 13, 2015) (concurring in the exclusion of a proposal requesting the company to expand its menu offerings to include vegan cheeses and vegan meats in order to advance animal welfare, noting in particular that "the proposal relates to the products offered for sale by the company and does not focus on a significant policy issue"); *Dominion Resources, Inc.* (February 19, 2014) (concurring in the exclusion of a proposal requesting the company develop and provide information concerning renewable energy generation services); *Pepco Holdings, Inc.* (February 18, 2011) (concurring in the exclusion of a proposal urging the company to pursue solar technology).

A proposal being framed in the form of a request for a report does not change the nature of the proposal. The Staff has long held that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the substance of the report is within the ordinary business of the issuer. See Exchange Act Release No. 20091 (Aug. 16, 1983). As further elaborated in Staff Legal Bulletin No. 14E (Oct. 27, 2009) ("**SLB 14E**"), in evaluating shareholder proposals that request a risk assessment, the Staff will focus on the subject matter to which the risk pertains or that gives rise to the risk and consider whether the underlying subject matter of the risk evaluation involves a matter of ordinary business to the company. The Proposal requests a report disclosing how the Company can "reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius." The Supporting Statement notes the increased "risk to the global economy and investors' portfolios" attributable to the fossil fuel industry. It further states that "Hess is among the top 100 largest industrial contributors" to climate change, and requires that the requested report include "information… on the relative benefits and drawbacks of transitioning its operations and investments" through several actions, including "investing in low carbon energy resources" and "diversifying its operations to reduce the company's carbon footprint (from exploration, extraction, operations, and product sales)." Although framed as a report relating to climate change, the focus and underlying subject matter of the Proposal is the Company's decision to develop and market fossil fuel resources instead of low carbon energy resources – a decision which, as discussed below, is fundamental to the Company's ordinary business operations, and therefore, excludable pursuant to Rule 14a-8(i)(7).

The Company is a global exploration and production ("**E&P**") company that focuses on developing and producing crude oil and natural gas from a wide range of assets, including conventional shallow, deepwater and ultra-deepwater assets as well as unconventional shale energy assets. An integral part of the Company's business is choosing the assets to explore and develop, allocating capital to higher return assets and determining when and how to most efficiently develop the assets. These determinations are extremely complex and when making these determinations in the ordinary course of its business, the Company assesses a variety of factors, including commodity price and demand, estimates of the size of recoverable resources, operational risk, development and infrastructure costs, geological and geophysical risks and other technical factors, political risk, the impact of applicable laws and regulations and environmental concerns, including the impact of climate change, among others.

The Proposal is asking the company to change its business strategy to focus away from its core business of developing and producing crude oil and natural gas and towards developing "low carbon energy resources." The Proposal states that "every dollar Hess invests in fossil fuel resources increases risk to the global economy and investors' portfolios" and challenges Hess' recent announcement that "it is increasing its capital expenditure for oil exploration up to $2.9 billion, with a projected resulting increase in production." The Proposal points to "peer oil and gas companies" that have invested in solar energy and divestments in oil and gas and contrasts them with the Company and implies that the Company should take similar measures. For example, two of the comparative companies are diversifying their product offerings to include renewable energy products, while the Company is "increasing its capital expenditure for oil exploration" and "planning reductions only to its operational emissions." Decisions about the appropriate product mix and where to invest in product development relate to the products and services offered by the company and probe too deeply into matters of a complex nature upon which shareholders, as a group, are not in a position to make an informed judgment. We respectfully request that the Staff concur with our view that the Proposal may be excluded pursuant to Rule 14a-8(i)(7).

III. The Proposal May Be Excluded Under Rule 14a-8(i)(3) Because It Is Vague And Indefinite.

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 has concurred that shareholder proposals that are vague and indefinite are inherently misleading and are therefore excludable under Rule 14a-8(i)(3) because shareholders cannot make an informed decision on the merits of a proposal without at least knowing what they are voting on. The Staff has taken the position that proposals may be excluded under Rule 14a-8(i)(3) if they are so inherently vague and indefinite that "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 (September 15, 2004) ("**SLB 14B**"). Furthermore, the Staff has concurred that a shareholder proposal is sufficiently misleading so as to justify its exclusion where a corporation and its shareholders might interpret the proposal differently. *See Fuqua Industries, Inc.* (Mar. 12, 1991) (noting that any action taken by the company upon implementation of the proposal could be significantly different from the actions envisioned by the shareholders voting on the proposal).

As further described below, the Proposal is so vague and indefinite as to be materially misleading and, therefore, excludable under Rule 14a-8(i)(3) because the Proposal (1) relies on outdated or incorrect data to materially misrepresent the Company and (2) fails to define a key term or phrase.

A. The Proposal relies on outdated data to materially misrepresent the Company

The Proposal materially misrepresents the Company by using outdated and misleading information on the Company to (1) rank the Company as a "top 100 largest industrial contributor" to climate change, and (2) falsely identify the Company as a fully integrated fuel company by misrepresenting its peer group. In both these instances, the Proposal fails to consider the Company's strategic transformation that was undertaken through 2015, during which the Company transitioned from a fully integrated energy company to a "pure play" exploration and production company. By using misleading data in its representation of the Company, the Proposal is materially misleading. We respectfully request that the Staff concur with our view that the Proposal may be excluded pursuant to Rule 14a-8(i)(3).

1. *The Proposal calls Hess a "top 100 largest industrial contributor" based on data that was collected from 1988-2015 which does not include sufficient data on Hess' current operations as a "pure play" E&P operator*

The Proposal states that "The fossil fuel industry is one of the most significant contributors to climate change; Hess is among the top 100 largest industrial contributors". To support this statement, the Proposal cites an article in the Guardian, dated July 10, 2017 (the "**Guardian Article**"), listing the "top 100 producers and their cumulative greenhouse gas emissions from 1988-2015."[26] The data for the Guardian Article comes from the Carbon Majors Report, dated July 2017 (the "**Carbon Majors Report**"), which compiles emissions figures for fossil fuel producers from publicly available sources for the years from 1988-2015. According to the Guardian Article, the Company is number 68 on the list, responsible for 0.16% of global industrial greenhouse emissions.

The figure attributed to the Company is materially misleading because it fails to contemplate any other industrial concerns or other human activities outside of the fossil fuel industry which are responsible also for greenhouse gas emissions when making its conclusion that "Hess is among the top 100 largest industrial contributors". The Carbon Majors report contains data limited to fossil fuel producers, excluding other sources of industrial emissions. The Proposal, which is based solely on data in the Carbon Majors Report, is misleading in that it identifies the Company as one of the "largest industrial contributors," when the data compares the Company to other fossil fuel producers, and not to other industrial contributors.

The figure attributed to the Company is also materially misleading because it does not adequately consider the Company's transformation from a fully integrated oil company with downstream retail and refining operations to a "pure" E&P company, which was largely completed by the end of 2015.[27] For almost all of the period represented in the Carbon Majors Report, the Company was a fully integrated oil company. The Company sold the last of its downstream retail operations at the end of 2014 and updated its climate change strategy beginning in 2015 to closely align with the recommendations of the Task Force on Climate-Related Financial Disclosures, an outgrowth of the G20 Financial Stability Board, and to fully integrate climate change issues into the Company's environmental, health, safety and social responsibility strategy and the Company's enterprise risk management process.[28] Accordingly, the Company in 2019 is a fundamentally different company from the one whose operations are reflected in the Carbon Majors Report.

The Proposal confidently states as fact that "Hess is among the top 100 largest industrial contributors" to climate change in the present, but fails to acknowledge that it is using outdated and incomplete analysis that does not represent the Company as it stands today.

2. *The Proposal falsely suggests that the Company is a fully integrated energy company by misrepresenting its "peer oil and gas companies"*

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26 https://www.theguardian.com/sustainable-business/2017/jul/10/100-fossil-fuel-companies-investors-responsible-71-global-emissions-cdp-study-climate-change

27 http://phx.corporate-ir.net/phoenix.zhtml?c=101801&p=irol-newsArticle&ID=1791659; 2013 Sustainability Report, page 52

28 http://phx.corporate-ir.net/phoenix.zhtml?c=101801&p=irol-newsArticle&ID=1933494; 2017 Sustainability Report, page 37

The "peer oil and gas companies" named by the Proposal are not "peers" of the Company, and it is misleading to shareholders to suggest that the initiatives undertaken by fully integrated energy companies would be appropriate, or even feasible, for the Company. As described above, the Company is a "pure play" E&P oil company, which means that it is fundamentally a company focused on the exploration and production of crude oil and natural gas, with no downstream refining, terminals and retail operations. The Proposal, however, identifies four "peer oil and gas companies" and compares those companies' policies with the Company's climate change initiatives. The Proposal implies that, if those four leading energy companies could reduce their Scope 3 emissions, divest their oil and gas portfolio, or invest in renewable energy products, the Company should also be able to do the same. This is materially misleading, in that those "peer" companies are fully integrated energy companies with diverse upstream, downstream and midstream operations and none of them are a "pure play" E&P operator like the Company, whose focus on reducing its carbon footprint has been on Scope 1 and Scope 2 emissions. The initiatives undertaken by those "peer" companies include increasing the range of products offered and reducing scope 3 emissions, which those companies are positioned to do because they offer a range of energy products and services. Those initiatives are not appropriate for the Company because the Company is focused solely on the sustainable exploration and production of oil and natural gas with no downstream refining or retail operations. In addition, three of those four leading energy companies are, in part, State-owned and are therefore obligated to their government Nationally Determined Contributions under the Paris Agreement.

Without providing context, the Proposal inappropriately suggests that the Company could easily apply the same strategies of its "peers" to further reduce its carbon footprint. The Proposal does not acknowledge the fundamental differences between those supposed "peers" and the Company and is therefore materially misleading.

B. The Proposal does not adequately explain a key term or phrase

The Proposal is impermissibly vague and indefinite because it fails to explain and provide context for the IPCC Goal (described below) and how it may be used to implement the proposal. We respectfully request that the Staff concur with our view that the Proposal may be excluded pursuant to Rule 14a-8(i)(3).

The Staff has consistently concurred that proposals which do not define critical terms or phrases or otherwise provide guidance on what is required to implement the proposals may be excluded pursuant to Rule 14a-8(i)(3). *See Bank of America Corp.* (Feb. 25, 2008) (concurring with the exclusion of a proposal requesting that the corporation "observe a moratorium on all financing, investment and further involvement in activities that support MTR [(mountain top removal) projects]," but did not define what would constitute "further involvement" and "activities that support MTR [projects]"); *Eastman Kodak Co.* (Mar. 3, 2003) (concurring in the exclusion of a proposal to cap executive salaries because it failed to define various terms and certain options were to be valued); *American Telephone and Telegraph Company* (Jan. 12, 1990) (concurring in the exclusion of a proposal prohibiting the corporation from "interfering" with "government policy" of foreign governments because implementation would require subjective determinations regarding what is considered to be "interference" and "government policy").

In the Proposal, two targets for minimizing global warming are described, but only one is adequately addressed and incorporated into the requirements of the Proposal. The Proposal incorporates the 2° C Goal by requesting that the Company disclose its efforts to "reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius." In the Supporting Statement, the Proposal further requests information on how the Company is reducing its investments in projects that are "inconsistent with a well below 2 degree pathway." The second target mentioned in the Proposal is a target set by the

Intergovernmental Panel on Climate Change in a report published in October 2018, which "instructs that net emissions of carbon dioxide must fall 45% by 2030 and reach "net zero" by 2050 to maintain warming below 1.5 degrees Celsius" (the "**IPCC Goal**"). The IPCC Goal, which is mentioned in the Supporting Statement, offers a different target and scenario than the 2° C Goal, but it is presented without further information about (i) how the Proponent expects the Company to address the new target, if at all, and (ii) how the new target relates to the conflicting and more established 2° C Goal that is part of the "essential objective" of the Proposal. The 2° C Goal is clearly defined and has been incorporated into the IEA's SD Scenario, which has served as a model for the Company in setting its Climate Change Strategy. The IPCC Goal, however, was recently published in October 2018 and the industry has not yet used it to formulate demand scenarios that could be used as part of the Company's risk assessment. The IEA, for example, has yet to develop energy demand scenarios that reflect the IPCC Goal. The Proposal fails to describe how it expects the Company to address the IPCC Goal in its disclosures and it therefore fails to adequately explain a key term or phrase. The Proposal should be excluded as impermissibly vague and indefinite under Rule 14a-8(i)(3).

CONCLUSION

Based upon the foregoing analysis, we hereby respectfully request that the Staff concur with our view that the Company may properly omit the Proposal from its 2019 Proxy Materials in reliance on Rule 14a-8. Should the Staff disagree with this conclusion, we would appreciate the opportunity to confer with the Staff prior to the issuance of the Staff's response.

Please do not hesitate to contact me at (212) 819-8509 or djohansen@whitecase.com if you have any questions or require any additional information.

Very truly yours,

David Johansen

Attachments
cc: Barry Schachter, Hess Corporation
Danielle Fugere, As You Sow
Jon M. Jensen, Executive Director, Park Foundation, Inc. (c/o As You Sow)

Exhibit A

See Attached

AS YOU SOW

1611 Telegraph Ave, Suite 1450
Oakland, CA 94612

www.asyousow.org
BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1992

December 26, 2018

Timothy B. Goodell
Secretary
Hess Corporation
1185 Avenue of the Americas
New York, N.Y. 10036

Dear Mr. Goodell:

As You Sow is filing a shareholder proposal on behalf of Park Foundation, Inc. ("Proponent"), a shareholder of Hess Corporation, for action at the next annual meeting of Hess Corporation. Proponent submits the enclosed shareholder proposal for inclusion in Hess Corporation's 2019 proxy statement, for consideration by shareholders, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934.

A letter from the Proponent authorizing *As You Sow* to act on its behalf is enclosed. A representative of the Proponent will attend the stockholders' meeting to move the resolution as required.

We are available to discuss this issue and are optimistic that such discussion could result in resolution of the Proponent's concerns. To schedule a dialogue, please contact Danielle Fugere, President at DFugere@asyousow.org.

Sincerely,

Danielle Fugere
President

Enclosures

- Shareholder Proposal
- Shareholder Authorization

Resolved: Shareholders request that Hess issue a report (at reasonable cost, omitting proprietary information) on how it can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal of maintaining global warming well below 2 degrees Celsius.

Supporting Statement: In the report shareholders seek information, among other issues at board and management discretion, on the relative benefits and drawbacks of transitioning its operations and investments through the following actions:

- Investing in low carbon energy resources
- Reducing capital investments in oil and/ or gas resource development that is inconsistent with a well below 2 degree pathway
- Otherwise diversifying its operations to reduce the company's carbon footprint (from exploration, extraction, operations, and product sales).

Whereas: The Intergovernmental Panel on Climate Change released a report finding that "rapid, far-reaching" changes are necessary in the next decade to avoid disastrous levels of global warming.[1] Specifically, it instructs that net emissions of carbon dioxide must fall 45 percent by 2030 and reach "net zero" by 2050 to maintain warming below 1.5 degrees Celsius.

Climate change impacts present systemic portfolio risks to investors. A warming climate is associated with supply chain dislocations, reduced resource availability, lost production, commodity price volatility, infrastructure damage, energy disruptions, among others.

The Fourth National Climate Assessment report finds that with continued growth in greenhouse gas emissions, "annual losses in some U.S. economic sectors are projected to reach hundreds of billions of dollars by 2100 —more than the current gross domestic product of many U.S. states."[2] Other studies estimate global losses at over 30 trillion dollars.[3]

The fossil fuel industry is one of the most significant contributors to climate change; Hess is among the top 100 largest industrial contributors.[4] Hess' investment choices matter. Every dollar Hess invests in fossil fuel resources increases risk to the global economy and investors' portfolios. Yet, Hess recently announced it is increasing its capital expenditure for oil exploration up to 2.9 billion dollars, with a projected resulting increase in production.[5]

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[1] https://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf
[2] https://nca2018.globalchange.gov/
[3] https://www.theguardian.com/environment/2018/may/23/hitting-toughest-climate-target-will-save-world-30tn-in-damages-analysis-shows
[4] https://www.theguardian.com/sustainable-business/2017/jul/10/100-fossil-fuel-companies-investors-responsible-71-global-emissions-cdp-study-climate-change
[5] https://www.marketwatch.com/story/hess-corp-to-spend-about-29-billion-in-capex-in-2019-from-21-billion-in-2018-2018-12-10

A number of peer oil and gas companies have announced policies to reduce their climate footprint in support of Paris goals. Shell announced scope 3 greenhouse gas intensity reduction ambitions.[6] Total has invested substantially in solar energy and is reducing the carbon intensity of its energy products.[7] Equinor rebranded itself from 'StatOil' and is diversifying into renewable energy development.[8] Orsted, previously a Danish oil and gas company, sold its oil and gas portfolio.[9]

In contrast, Hess is planning reductions only to its own operational emissions, including reduced flaring and methane reductions;[10] operational emissions however account for less than 20 percent of the Company's climate footprint. Hess has not adopted Paris-aligned targets or actions to reduce the full climate impact of its investments in fossil fuel energy sources, including zero planned reductions in its scope 3 emissions.[11, 12]

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[6] https://www.shell.com/sustainability/sustainability-reporting-and-performance-data/performance-data/greenhouse-gas-emissions/_jcr_content/par/tabbedcontent/tab/textimage.stream/1534322148157/faafbe2d44f8f9ade10d1202b31b8552a67d1430dc3ae7ddc192fc83e9f835c8/2018-cdp-climate-change-submission-180815.pdf, C4.1b

[7] https://www.total.com/sites/default/files/atoms/files/total_climat_2018_en.pdf, p.6

[8] https://www.equinor.com/en/how-and-why/climate-change.html

[9] https://www.ft.com/content/57482c0b-db29-3147-9b7e-c522aea02271

[10] http://www.hess.com/docs/default-source/sustainability/hess-cdp-final.pdf, C4.1b

[11] http://www.lse.ac.uk/GranthamInstitute/tpi/new-research-shows-only-two-large-oil-gas-companies-have-long-term-low-carbon-ambitions/

[12] http://www.hess.com/docs/default-source/sustainability/hess-cdp-final.pdf, C4.1b

PARK
FOUNDATION

December 19, 2018

Andrew Behar
CEO
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612

Re: Authorization to File Shareholder Resolution

Dear Andy,

The undersigned (the "Stockholder") authorizes *As You Sow* to file or co-file a shareholder resolution on Stockholder's behalf with Hess Corporation (the "Company) for inclusion in the Company's 2019 proxy statement, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934. The resolution at issue relates to addressing how the company can, plans to, or will reduce the carbon footprint of its operations and investments or set greenhouse gas emissions targets to align with the Paris Climate Agreement.

The Stockholder has continuously owned over $2,000 worth of Company stock, with voting rights, for over a year. The Stockholder intends to hold the required amount of stock through the date of the company's annual meeting in 2019.

The Stockholder gives As You Sow the authority to address on Stockholder's behalf any and all aspects of the shareholder resolution, including designating another entity as lead filer and representative of the shareholder. The Stockholder understands that the Stockholder's name may appear on the company's proxy statement as the filer of the aforementioned resolution and that the media may mention the Stockholder's name in relation to the resolution.

The shareholder further authorizes *As You Sow* to send a letter of support of the resolution on Stockholder's behalf concerning the resolution.

Sincerely,

Jon M. Jensen

Jon M. Jensen
Executive Director

Park Foundation Inc. P.O. Box 550 Ithaca, NY 14851
Tel: 607/272-9124 Fax: 607/272-6057

AS YOU SOW
1611 Telegraph Ave, Suite 1450
Oakland, CA 94612
www.asyousow.org
BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1992

January 9, 2019

VIA FEDEX & ELECTRONIC MAIL

Barry Schachter
Assistant General Counsel &
Assistant Corporate Secretary
Hess Corporation
1185 Avenue of the Americas
New York, N.Y. 10036

Re: Response to Notice of Deficiency Letter

Dear Mr. Schachter,

We are in receipt of your letter issued January 2, 2019 alleging notice of a deficiency in our December 26, 2018 letter transmitting a proposal for inclusion on the Company's 2019 proxy. In response to the cited deficiency, we enclose a proof of ownership letter establishing the proponent's ownership of the Company's common stock in the requisite amount and in the time frame necessary to meet eligibility requirements.

SEC Rule 14a-8(f) requires a company to provide notice of specific deficiencies in a shareholder's proof of eligibility to submit a proposal. We therefore request that you notify us if you identify any deficiencies in the enclosed documentation.

Please confirm receipt of this correspondence.

Sincerely,

Kwan Hong Teoh
Research Manager

Enclosures

- Proof of Ownership Letter

Cc: Timothy B. Goodell
Secretary
Hess Corporation
tgoodell@hess.com

The Northern Trust Company

50 South LaSalle Street
Chicago, IL 60603
(312) 630-6000

NORTHERN TRUST

1/8/19

Jon M. Jensen:

Northern Trust Company, a DTC participant, acts as the custodian for Park Foundation Inc. As of the date of this letter, Park Foundation Inc. held, and has held continuously for at least 395 days, 248 shares of Hess Corporation common stock.

Yours sincerely,

Frank Fauser
Vice President