



July 12, 2024

Via Online Submission Form

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

Re: Texas Pacific Land Corporation
Stockholder Proposal of Special Opportunities Fund

Ladies and Gentlemen:

This letter is submitted by Texas Pacific Land Corporation, a Delaware corporation (the “Company”) pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, to request confirmation that the staff (the “Staff”) of the Securities and Exchange Commission (the “Commission” or the “SEC”) will not recommend enforcement action if, in reliance on Rule 14a-8, the Company excludes from the proxy materials (the “2024 Proxy Materials”) for the Company’s 2024 Annual Meeting of Stockholders (the “2024 Annual Meeting”) a proposal submitted by Special Opportunities Fund (the “Proponent”) on January 22, 2024 (the “Proposal”) and accompanying supporting statement (the “Supporting Statement”).

Pursuant to Rule 14a-8(j), a copy of this letter is being sent concurrently to the Proponent as notification of the Company’s intention to omit the Proposal from its 2024 Proxy Materials.

The Company is submitting this letter no later than 80 calendar days before the Company intends to file its definitive 2024 Proxy Materials. We respectfully remind the Proponent that pursuant to Rule 14a-8(k), a copy of any additional correspondence to the Commission or the Staff with respect to the Proposal should be furnished to the Company concurrently.

THE PROPOSAL

A copy of the Proposal and the corresponding Supporting Statement is attached hereto as Exhibit A. The Proposal reads as follows:

RESOLVED: The stockholders urge the Board to seek stockholder approval of any transaction in which the consideration includes shares of the Company’s stock, including any tender offer, exchange offer, share exchange, merger, consolidation, acquisition, business combination, sale, recapitalization, or restructuring if the

Board has reason to believe that stockholders might not vote to approve such transaction.

BASIS FOR EXCLUSION

We hereby request that the Staff concur in our view that the Proposal may be excluded from the 2024 Proxy Materials in reliance on Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company's ordinary business operations.

ANALYSIS

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

Rule 14a-8(i)(7) permits the omission of a shareholder proposal dealing with matters relating to a company's "ordinary business operations." According to the Commission's release accompanying the 1998 amendments to Rule 14a-8, the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting." *Release No. 34-40018* (May 21, 1998) (the "1998 Release").

In the 1998 Release, the Commission identified the two central considerations underlying the general policy for the ordinary business exclusion. The first consideration relates to the subject matter of the proposal. The Commission stated that, "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." *Id.* Examples of the tasks cited by the Commission include "management of the workforce." *Id.* The second consideration relates to the "degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *Id.*; *see also Staff Legal Bulletin No. 14L* (Nov. 3, 2021) ("SLB 14L"). The term "ordinary business" is rooted in the fundamental "corporate law concept providing management with flexibility in directing certain core matters involving the company's business and operations." 1998 Release (citing *Release No. 12999* (Nov. 22, 1976)).

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

In SLB 14L, the Staff clarified that not all “proposals seeking detail or seeking to promote timeframes” constitute micromanagement, and that going forward the Staff would “focus on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management.” To that end, the Staff stated that this “approach is consistent with the Commission’s views on the ordinary business exclusion, which is designed to preserve management’s discretion on ordinary business matters but not prevent shareholders from providing high-level direction on large strategic corporate matters.” SLB 14L.

1. The Proposal Relates to the Issuance of Authorized Shares, a Matter of Ordinary Business Operations.

The Company is incorporated in the state of Delaware and its shares of common stock are listed on the New York Stock Exchange (“NYSE”). Pursuant to Delaware law and NYSE listing standards, stockholder approval is already required in connection with certain types of transactions involving the issuance of Company stock. This Proposal is focused on transactions where stockholder approval is not otherwise required.

The ability to issue shares quickly in connection with transactions is an important ordinary business function. The Company has previously disclosed various potential uses for its authorized but unissued shares of common stock, including for use in transactions, and the importance of this flexibility:

“The Company could additionally use its ability to issue additional Common Stock for other purposes in the future, including: the sale of securities to raise capital; payment of consideration for acquisitions; payment of stock dividends; grants made to employees under new or expanded existing compensation plans or arrangements; and other corporate purposes. *An increase in the number of authorized shares of Common Stock would also provide the Company with flexibility with respect to future transactions, including acquisitions of additional assets where the Company would have the option to use its Common Stock (or securities convertible into or exercisable or exchangeable for Common Stock) as consideration (rather than cash), financing future growth, financing transactions and other general corporate purposes.* Any of such transactions, facilitated by the issuance of additional shares of Common Stock, could have the potential to benefit the Company and stockholders by, among other things, growing the Company’s business or assets, increasing stockholder value, or increasing the marketability and liquidity of the Common Stock” (*emphasis added*).¹

The Staff has previously concurred with the omission of proposals that sought stockholder preapproval of any share issuances under Rule 14a-8(i)(7) because they relate to matters of ordinary business. *See, e.g., Bank of America Corporation* (Jan. 10, 2011) (proposal requesting a bylaw amendment to require stockholder approval before the company could authorize and issue additional common shares with certain limitations was excludable as “[p]roposals concerning the

¹ Texas Pacific Land Corporation 2022 Proxy Statement, filed with the SEC on October 7, 2022.

issuance of authorized shares are generally excludable under rule 14a-8(i)(7)"); *Harken Energy Corporation* (Mar. 31, 2001) (proposal requesting that the board adopt a resolution providing for stockholder approval before any of the company's stock could be issued was excludable as the proposal related to the company's "ordinary business operations (i.e., the issuance of authorized shares)"); and *NetCurrents, Inc.* (May 3, 2001) (same).

Similar to the precedents cited above, the Proposal inappropriately attempts to impose stockholder approval on the ability of the Company's Board of Directors (the "Board") to issue authorized shares of Company stock when such approval may not be otherwise required by law or applicable exchange listing standards.

2. *The Proposal Seeks to Micromanage the Company.*

In seeking prior stockholder approval of transactions in which the consideration includes shares of the Company's stock when it may not be otherwise required by law or applicable exchange listing standards, the Proposal seeks to micromanage the Company by probing too deeply into matters about which stockholders as a group are not in a position to make an informed judgment. Decisions with respect to the issuance of shares in connection with a transaction are complex, inherently fact-specific and often must be made quickly for strategic reasons. In deciding whether to issue shares of common stock in various transactions, the Company's management and Board consider, among other factors, current and expected levels of financial performance and liquidity, the trading price and volatility of the Company's shares, current and expected interest rates and other economic factors, the availability of alternative sources of capital and potential competing uses of capital, including reinvestment in current lines of business, and other considerations management and the Board deem relevant. Management and the Board further consider the anticipated benefits and risks of potential courses of action, which may involve consultation with financial, legal, accounting and other advisors.

The Staff has consistently permitted exclusion of stockholder proposals that attempt to micromanage a company by substituting stockholder judgment for that of management with respect to complex business operations that are beyond the knowledge and expertise of such stockholders. *See, e.g., Walgreens Boots Alliance, Inc.* (November 20, 2018) (proposal requesting that stock buybacks adopted by the board not become effective until approved by stockholders was excludable for micromanaging by substituting stockholder approval for board decision-making); and *Royal Caribbean Cruises Ltd.* (March 14, 2019) (permitting exclusion of a proposal because it micromanaged the company and interfered with board decision-making by requiring stockholder approval for all company buybacks).

Similar to the proposals outlined above, the Proposal would micromanage the company by substituting management's analysis and judgment on the issuance of authorized and unissued shares of stock with that of stockholders who, as a group, would not be in a position to exercise informed judgment. In addition, the Proposal introduces unreasonable delay on the ability of management to issue shares in connection with transactions where stockholder approval is not otherwise required.

3. *The Proposal Does Not Involve a Significant Policy Issue.*

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

Further, the Proposal asks for stockholder approval of share issuances when the “Board has reason to believe that stockholders might not vote to approve such transaction.” The directors already have a fiduciary duty under Delaware law to act in the best interests of stockholders when approving transactions. Accordingly, stockholders are protected as a matter of state law and may pursue legal remedies in the event they believe that directors are in violation of their fiduciary duties. The policy set forth in this Proposal does not provide any additional value for stockholders.

CONCLUSION

For the foregoing reasons, the Company requests your confirmation that the Staff will not recommend any enforcement action to the Commission if the Proposal is omitted from the 2024 Proxy Materials.

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

Sincerely,



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

Enclosures

cc: Phillip Goldstein, Chairman, Special Opportunities Fund

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EXHIBIT A

Special Opportunities Fund, Inc. 615 East Michigan Street, Milwaukee, WI 53202

Texas Pacific Land Corporation
1700 Pacific Avenue
Suite 2900
Dallas, TX 75201

Attention: The Board of Directors

January 17, 2024

Dear Directors:

Special Opportunities Fund is the beneficial owner of shares of Texas Pacific Land Corporation with a value in excess of \$25,000.00. It has held these shares continuously for more than 12 months and plans to continue to hold them through the next meeting of shareholders.

We hereby submit the following proposal and supporting statement pursuant to rule 14a-8 of the Securities Exchange Act of 1934 for inclusion in management's proxy materials for the next meeting of stockholders for which this proposal is timely submitted. We are available to discuss our proposal at any mutually convenient time.

RESOLVED: The stockholders urge the Board to seek stockholder approval of any transaction in which the consideration includes shares of the Company's stock, including any tender offer, exchange offer, share exchange, merger, consolidation, acquisition, business combination, sale, recapitalization, or restructuring if the Board has reason to believe that stockholders might not vote to approve such transaction.

SUPPORTING STATEMENT

In seeking stockholder approval in 2022 to issue additional shares, the Board stated that such additional shares "would enable the Company to act quickly as opportunities arise and to avoid the time-consuming and costly need to hold a special meeting of stockholders in every case to seek stockholder approval for the issuance of additional shares of Common Stock." That may be reasonable if the Board truly believes stockholders would approve a particular transaction. However, if the board believes that stockholders might not approve a transaction, it should seek stockholder approval before closing such transaction.

Very truly yours,



Phillip Goldstein
Chairman