UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

September 14, 2022

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

Mr. Daniel Galpern
Counsel for all Petitioners
Climate Protection & Restoration Initiative
2495 Hilyard Street, Suite A
Eugene, Oregon 97405

Dear Mr. Galpern:

The U.S. Environmental Protection Agency is responding to your petition submitted on behalf of Donn J. Viviani, John Birks, Richard Heede, Lise Van Susteren, James E. Hansen, Climate Science, Awareness and Solutions, and Climate Protection and Restoration Initiative, filed pursuant to section 21 of the Toxic Substances Control Act (TSCA) and received on June 16, 2022. The petition requests the EPA in general to phase out the anthropogenic manufacture, processing, distribution, use, and disposal of greenhouse gas (GHG) emissions, fossil fuels, and fossil fuel emissions.

TSCA section 21 provides for the submission of a petition to initiate a proceeding for the issuance, amendment, or repeal of a rule under TSCA section 4, 6, or 8, or to issue an order under TSCA section 4, 5(e), or 5(f). Of the various actions described in the petition, the Agency determined that only the request to initiate a proceeding for the issuance of a rule under TSCA section 6(a) to: (1) phase out the manufacture (including import), processing, distribution in commerce, use, or disposal of "subject chemical substances and mixtures"; and (2) remove and sequester, or – in the alternative – establish a pay-in fund for the purpose of removing, such "subject chemicals substances and mixtures" from the environment is within the ambit of a petition under TSCA section 21. As such, EPA only addressed this requested action under TSCA section 21.

EPA has reviewed the information submitted in your petition. Based on this review and after careful consideration of your specific requests, EPA is denying the request to initiate a proceeding for the issuance of a rule under TSCA section 6(a) because, although EPA shares the petitioners' concerns regarding the threat posed by climate change, the Agency found that the petition was insufficiently specific and failed to establish that it is necessary to issue a rule under TSCA section 6, in light of ongoing and expected federal government actions, the relative efficiency of TSCA rulemaking, and lack of TSCA section 6(a) authority to regulate historical GHG emissions. The Agency's reasons for denying this portion of the petition, as well as the Agency's reasons for declining to address under TSCA section 21 the other petitioned actions, will be published in a forthcoming edition of the Federal Register. A pre-publication copy of that Federal Register document is enclosed.

Under TSCA section 21, within 60 days of a denial, the petitioner has the right to appeal the Agency's denial of its TSCA section 21 petition by commencing a civil action in a U.S. district court to compel initiation of the requested proceeding.

Sincerely,

MICHAL FREEDHOFF

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Date: 2022.09.14 15:41:59 -04'00'

Michal Freedhoff
Assistant Administrator

Enclosure