



June 17, 2022

Submitted via Electronic Mail (rule-comments@sec.gov)

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

**Re: The Enhancement and Standardization of Climate-Related Disclosures for Investors  
Release Nos. 33-11042; 34-94478  
File No. S7-10-22**

Dear Ms. Countryman:

Plains All American Pipeline, L.P. (“**Plains**”) respectfully submits the following comments in response to the Securities and Exchange Commission’s (“**SEC**”) proposed rule entitled “The Enhancement and Standardization of Climate-Related Disclosure for Investors”, 87 FR 21334 (April 11, 2022) (the “**Proposal**”).

### **About Plains**

As one of the largest midstream service providers in North America, Plains owns an extensive network of pipeline transportation, terminaling, storage and gathering assets in key crude oil and natural gas liquids producing basins and transportation corridors and at major market hubs in the United States and Canada. Plains owns over 19,000 miles of liquids pipelines in the United States and Canada, and on average, Plains handles more than 6 million barrels per day of crude oil and natural gas liquids.

Plains is a publicly-traded company whose securities are (i) registered under section 12 of the Securities Exchange Act of 1934 (as amended, the “**Exchange Act**”) promulgated by the SEC, and (ii) listed for trading on the Nasdaq Stock Market. Since its initial public offering in 1998, Plains has filed and continues to file annual, quarterly and current reports and other information with the SEC pursuant to applicable rules and regulations under the Exchange Act. In response to increasing stakeholder interest, Plains has also in recent years voluntarily published detailed sustainability disclosures that are available on the company’s website (<https://www.plains.com/sustainability>). Accordingly, as a public company that operates in the midstream sector of the energy industry and regularly provides reports to its stakeholders regarding sustainability matters, Plains will be substantially impacted by the disclosure requirements described in the Proposal.

### **Comments on Proposal**

We appreciate the opportunity to provide comments on the Proposal. Plains is committed to the timely and accurate disclosure of information that is material to investors and believes it is important to provide additional information to stakeholders concerning environmental and climate-related matters even where such information may not be material to our financial condition, performance or outlook. For the reasons

described below, however, Plains believes that the Proposal is seriously flawed as currently written and we urge the SEC to modify the Proposal as necessary to address the serious concerns and issues raised herein and in the comments submitted by other interested parties.

### **Endorsement of Issues and Concerns Raised in API and EIC Comment Letters**

As an active member of the American Petroleum Institute (“API”) and the Energy Infrastructure Council (“EIC”), Plains endorses and supports the comments regarding the Proposal provided by each such organization in separate letters submitted to the SEC. Collectively, such letters thoroughly and thoughtfully articulate a comprehensive list of flaws, issues and concerns regarding the Proposal, as well as a number of constructive alternative proposals for consideration by the SEC. Together with the API and EIC, Plains believes that the Proposal will not accomplish the SEC’s fundamental goal of providing investors with useful, accurate and comparable information; to the contrary, the Proposal represents a significant step in the opposite direction that will implement a complex disclosure regime that will inundate investors with a large volume of granular, often immaterial and unreliable, data, obscuring or making it more difficult for investors to glean “useful, accurate and comparable information” from a registrant’s disclosures. Even worse, this result will come at an enormous cost to both companies and investors and will unfairly and inappropriately expose companies (and therefore their investors) to liability for unverifiable data required by the Proposal to be included in a registrant’s disclosures. Plains joins with the API and EIC in their view that the Commission has failed to adequately consider the true cost and economic impact of the Proposal and over-estimated the benefits that would be realized by investors if the Proposal were to be implemented as currently drafted.

### **Additional Comments**

*Emissions Reporting - GHG Intensity.*<sup>1</sup> The Proposal requires, if material, the disclosure of greenhouse gas (“GHG”) emissions intensity “to provide a standardized method for comparability of the registrant’s emissions efficiency over time.” The Proposal generally defines GHG intensity to mean a ratio of emissions “per unit of economic value” or “per unit of production.” For purposes of “standardizing the disclosure and facilitating its comparability,” the Proposal would require the disclosure of GHG intensity in terms of the volume of emissions per unit of total revenue and per unit of production. For companies that are not involved in the production of goods, the Proposal would allow the use of another measure of economic output depending on the nature of the registrant’s business, provided that the registrant includes an explanation of why the chosen measure was used.

Emissions intensity, however, is not easily standardized across companies and industries. With respect to the midstream sector, transportation services do not involve production activities and given the myriad factors that could impact the total revenues of one registrant as compared to another (including, for example, the extent to which one midstream registrant versus another engages in merchant activities that involve the purchase and sale of commodities), GHG intensity on a revenue or earnings basis will not provide meaningful or comparable information for investors.

The SEC should not require GHG intensity disclosures for registrants that are not primarily involved in production activities, as such disclosures could lead to confusion and inaccurately suggest to investors that such data is comparable. Alternatively, the disclosure requirements should provide flexibility to account

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<sup>1</sup> Generally responsive to Proposal Requests for Comment #s 109-113.

for differences in underlying business operations, including allowing midstream companies to report GHG intensity on a reasonable and supportable normalized basis of their choosing, or perhaps on a standardized basis developed and adopted by the industry over time (e.g., GHG intensity based on a ratio of emissions relative to throughput). Under such an approach, midstream companies could report GHG intensity in a manner that provides investors and the public with a more accurate, transparent, and useful view of their operations.

*Emissions Reporting - Timeline Issues.* The proposed timeline for emissions disclosure does not synch up with the timing for the receipt of information needed to accurately calculate GHG emissions and conflicts with existing U.S. regulatory reporting timelines. For example, Plains does not typically receive the raw data it needs to calculate annual GHG emissions estimates until approximately May of the following year. Energy usage data is not compiled and available from providers until well after the close of each quarter, fiscal year data is not available until the end of the first quarter after the relevant reporting year, and grid emission factors used to estimate Scope 2 emissions are not available until significantly after the beginning of each year.

While forecasted GHG estimates could be used to satisfy any required 10-K disclosure obligations, the use of such estimates would involve a fair number of assumptions and extrapolations, increasing the likelihood that there would be inconsistency across registrants. Registrants would also then be more likely to need to (x) update their estimates to account for actual data once such data becomes available and (y) assess whether previously disclosed information needs to be restated. In light of such logistical challenges, the need for restatement could become routine, thereby (i) reducing the benefit of initial disclosures, (ii) creating burdens on registrants in the form of additional unnecessary and duplicative calculation and estimation efforts, (iii) creating confusion for investors, and (iv) giving rise to potential legal risks associated with restatements.

In addition, many registrants, including Plains, report GHG emissions in alignment with more established existing regulatory reporting programs (e.g., the EPA's Greenhouse Gas Reporting Program ("GHGRP") in the U.S.), which have reporting timelines that do not align with typical Form 10-K reporting deadlines.

If the SEC is to require companies to submit emissions data, they should do so in a standalone GHG emissions data disclosure report on a timeline that permits the use of actual quarterly or annual data, incorporates existing regulatory emissions reporting standards to reduce inconsistency and duplicative efforts, and reduces the potential need for restatements months after initial disclosures are filed.

*Emissions Reporting - Logistical Barriers to Obtaining Data.* Expounding on a point raised by API in its comment letter, we note that the Proposal would require registrants to report GHG emissions data for certain entities, such as joint ventures, over which they have no operational control. In light of the capital-intensive nature of the midstream industry, joint ventures are prevalent. For example, Plains is currently involved in over 20 joint venture or joint ownership arrangements, some of which we operate and some of which we do not. For those that we do not operate, there is a potential barrier for Plains to obtain required GHG data, as a joint venture partner may (i) not have the necessary information, (ii) be unwilling to provide it, or (iii) calculate it using methodologies or assumptions that conflict with those used by Plains. This will increase the liability for registrants if they are unable to obtain or cannot verify the accuracy of information that is not within their control. The SEC should allow registrants to report GHG emissions on an operated basis (vs. on an equity ownership basis), meaning the registrant would report emissions from assets operated by

either the registrant or entities under its direct control. This approach would be consistent with the GHGRP methodology and would result in more accurate, consistent and reliable emissions reporting.

*Inconsistency Across GHG Reporting Programs.* Plains and many other registrants currently report GHG emissions in connection with existing regulatory programs such as the GHGRP, the substantive requirements of which differ from those in the Proposal (in addition to timing differences as noted above). The existence of multiple and conflicting federal reporting programs (e.g., GHGRP and the Proposal) will subject registrants to unnecessarily burdensome reporting requirements, and will result in GHG reporting that is inconsistent and which will confuse investors and other stakeholders, while inappropriately exposing companies to additional potential liability. Plains supports consideration of a specialized climate-related report, proposed in comments filed by API, instead of requiring emissions information in Exchange Act filings.

*Scope 3 Disclosure Requirements are Fundamentally Flawed and Inherently Unreliable.* The Proposal would require registrants to disclose, if material, full value-chain Scope 3 emissions information. As addressed by both API and EIC in their respective comment letters, the proposed Scope 3 disclosure requirements are fundamentally flawed and unreliable. Requiring the disclosure of Scope 3 emissions information could (i) compel registrants to compile emissions information that would result in substantial over-counting of the same emissions across different registrants, (ii) result in the disclosure of information that is outside the registrant's control and may be unreliable and (iii) expose registrants to potential additional liability.

Plains is actively involved in efforts led by API and EIC to continue to develop and refine standardized emissions reporting methodologies. Plains believes these efforts, tested and vetted over time, will more effectively lead to the disclosure of consistent, comparable and reliable climate information in a manner best suited to the circumstances of the midstream liquids industry, while yielding the most meaningful information for the investing public and other interested stakeholders.

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Plains appreciates the SEC's consideration of these specific comments, along with those of API, EIC, and others. We welcome the opportunity to further discuss these comments with the SEC staff.

Sincerely,

**PLAINS ALL AMERICAN PIPELINE, L.P.**

By: PAA GP LLC, its general partner



Richard McGee  
EVP, General Counsel and Secretary