February 16, 2024
Christopher Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

RE: Commission Guidance Regarding in Listing Voluntary Carbon Credit Derivative Contracts; RIN 3038-AF40

Dear Secretary Kirkpatrick:

On behalf of Ducks Unlimited (DU), we appreciate the opportunity to review and provide comments on the request for the Commodity Futures Trading Commission's proposed guidance on Voluntary Carbon Credit Derivative Contracts. Should you have questions about our comments, please contact Julia Peebles at jpeebles@ducks.org.

Brief Description

Ducks Unlimited is a nonprofit 501(c)(3) and founded in 1937 by concerned and farsighted sportsmen and women conservationists. Today, DU represents a broad coalition of more than 650,000 conservation-minded supporters from across the political and economic spectrum. As the largest wetlands and waterfowl conservation organization in the world, our mission is to conserve, restore and manage wetlands and associated habitats for North America's waterfowl. DU also recognizes that wetlands benefit more than 900 species of wildlife and, most importantly, the people who enjoy and value them.

DU has conserved more than 18 million acres of habitat and enhanced millions of acres of wetland, stream, estuary, cropland, rangeland, and forest in North America through our public-private partnerships model. With a focus on conservation delivery, DU provides nature-based solutions and climate mitigation programs within our conservation priority areas.

General Comments

DU develops carbon credits through its avoided conversion of grasslands and reforestation voluntary carbon credit programs. We strive to deliver high integrity offsets that restore and protect degraded lands. We agree that carbon credits should be derived from registry protocols and methodologies that meet global standards (e.g., ICVCM), and that produce credits that are transparent, additional, and durable.

In general, we support the CFTC's efforts to provide standardized guidance and safeguard against manipulation of voluntary carbon credits. DU's projects are implemented using high-quality standards and we see the Voluntary Carbon Market as a way to accelerate the pace and scale of our conservation work. We support measures to create trust and transparency in the

Voluntary Carbon Market which will ensure that carbon credits can be priced commensurate with the actual cost of implementing the activities that avoid GHG emissions or increase carbon storage.

DU respectfully offers the following feedback on the questions posed in the Request for Comments.

Question No. 2

Are there standards for VCCs recognized by private sector or multilateral initiatives that a DCM should incorporate into the terms and conditions of a VCC derivative contract, to ensure the underlying VCCs meet or exceed certain attributes expected for a high-integrity carbon credit?

DU supports the Integrity Council for Voluntary Carbon Markets (ICVCM)'s Core Carbon Principles, which establish principles that ensure high-integrity credits including transparency, governance, permanence, additionality, etc.

We acknowledge other frameworks such as the Voluntary Carbon Market Integrity Initiative (VCMI), Science-Based Targets Initiative (SBTi), and Greenhouse Gas Protocol (GHG Protocol) for corporate standardized accounting and reporting of greenhouse gas emissions. Although these frameworks are not specific to Voluntary Carbon Credit transactions, they support the demand for credits by recommending the use of high-quality carbon offsets to reduce Scope 3 emissions when used in conjunction with activities to reduce Scope 1 and 2 emissions.

Question No. 4

In addition to the criteria and factors discussed in this proposed guidance, are there particular criteria or factors that a DCM should consider, which may inform its analysis of whether or not a VCC derivative contract would be readily susceptible to manipulation?

DU's experience with contracts for nature-based solutions varies between spot sales for verified credits (grassland credits) and forward financing/futures contracts (reforestation credits). Grassland credits are released after a third-party verifier certifies the credits, and a registry lists them. Since the credits are serialized by a registry such as American Carbon Registry or Climate Action Reserve, and subsequent offtake agreements are specific to issuances, we see little opportunity for manipulation within the VCM itself. However, clarity is needed to prevent double-counting credits both as an offset and as an emissions factor reduction against Scope 3 emissions reductions.

Reforestation credits are substantially more expensive to generate and are not released until at least 5 years after tree planting practices occur. Therefore, the sale of these credits are often established for future delivery, and include a starting price with price escalator to establish a price curve. They also may involve a deposit which is credited towards the actual quantity of credits that are released at future verification events. The contracts specify an offtake duration (e.g., 20 years). We will specify terms that describe how deposits or pre-payments are credited towards actual volumes of offsets produced in future verification events. Credits will be verified, listed, and serialized by the Verra registry, so we see little opportunity for manipulation here.

Question No. 8

In this proposed guidance, the Commission recognizes VCCs as additional where they are credited for projects or activities that would not have been developed and implemented in the absence of the

added monetary incentive created by the revenue from carbon credits. Is this the appropriate way to characterize additionality for purposes of this guidance, or would another characterization be more appropriate? For example, should additionality be recognized as the reduction or removal of GHG emissions resulting from projects or activities that are not already required by law, regulation, or any other legally binding mandate applicable in the project's or activity's jurisdiction?

Additionality is typically defined as a project that would otherwise not occur but for the financial motivation to do the carbon project (typically defined by revenue from the offsets). This is tricky in the nature-based solutions space, because many project sponsors (including non-profits like DU) are implementing projects to provide climate mitigation in furtherance of its mission and not because of the credit value. We agree that carbon revenue should factor into the consideration of project additionality, but acknowledge that it is not always the only motivation.

We recommend that activities in a carbon project should be funded at least partially by the revenues from carbon credits, to avoid scenarios where carbon projects are fully funded by external sources such as grants or philanthropy.

Additionality should also include a regulatory surplus test to ensure that the project was not already mandated by a law or regulation.

Question No. 9

Are there particular criteria or factors that DCMs should take into account when considering, and/or addressing in a VCC derivative contract's terms and conditions, a crediting program's measures to avoid or mitigate the risk of reversal, particularly where the underlying VCC is sourced from nature-based projects or activities such as agriculture, forestry or other land use initiatives?

DU's nature-based carbon programs include land protection instruments such as conservation easements, which ensure compatible land use and prevent conversion. We recommend that nature-based solutions include land protection instruments that make it more difficult for reversals to occur. These instruments are not always feasible, but they de-risk the project.

Question No. 10

How should DCMs treat contracts where the underlying VCC relates to a project or activity whose underlying GHG emission reductions or removals are subject to reversal? Are there terms, conditions or other rules that a DCM should consider including in a VCC derivative contract in order to account for the risk of reversal?

DU recommends that the reversals become responsibility of registry, because most, if not all, registries already withhold ~10-30% of eligible credit for buffer pools.

Question No. 11

Are there particular criteria or factors that a DCM should take into account when considering, and/or addressing in a contract's terms and conditions, whether a crediting program applies a quantification methodology or protocol for calculating the level of GHG reductions or removals associated with credited projects or activities that is robust, conservative and transparent?

DU recommends that each registry use best available science, and a peer review process to list new methodologies, or change existing ones. There is an increase in novel or unique carbon credit

registries in the U.S. which have been met with both enthusiasm and skepticism. Registry methodologies should adhere to the ICVCM's Core Carbon Principles.

Question No. 14

Are there particular criteria or factors that a DCM should take into account when considering, and/or addressing in a VCC derivative contract's terms and conditions, whether it can be demonstrated that the registry operated or utilized by a crediting program has in place measures that provide reasonable assurance that credited emission reductions or removals are not double-counted?

Credits are serialized by a registry and the risk of double-counting within the VCM itself seems low, but contracts should specify that Scope 3 accounting should be distinct so that activities within supply chains stay distinct from offsets brought to market.

Question No. 16

Certain private sector and multilateral initiatives recognize the implementation by a crediting program of measures to help ensure that credited mitigation projects or activities meet or exceed best practices on social and environmental safeguards, as a characteristic that helps to inform the integrity of VCCs issued by the crediting program. When designing a VCC derivative contract, should a DCM consider whether a crediting program has implemented such measures?

Yes, there should be social and environmental safeguards for all voluntary carbon market projects. Some registries, such as Verra, require a detailed stakeholder engagement process and documentation of Free and Informed Prior Consent from stakeholders.

Conclusion

We appreciate the opportunity to provide our comments on the proposed guidance regarding the listing for trading of voluntary carbon credit. If you have questions about Ducks Unlimited's comments, please do not hesitate to contact Julia Peebles (jpeebles@ducks.org, 765-760-1584).

Sincerely,

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