February 16, 2024

Christopher Kirkpatrick, Secretary of the Commission
Commodities Future Trading Corporation
1155 21st Street, NW
Washington DC 20581

Subject: Request for Public Comment on 88 FR 89410 "Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts"

Secretary Kirkpatrick:

On behalf of BCarbon, Inc., we thank you for the opportunity to provide our views and insights on the Voluntary Carbon Market. We appreciate the CFTC's interest in fostering transparency and accountability in the VCM, a market that to date has been riddled with inefficiencies, peculiarities, and circular logic. BCarbon is a 501-(c)(3) non-profit carbon credit registry that emerged out of the Baker Institute for Public Policy at Rice University. We certify and issue carbon credits for sale on the voluntary market. Our measurement-based protocols provide a nature-based pathway to net-zero goals and realize numerous ecological and social co-benefits.

Following Commissioner Kristin Johnson's keynote speech at Rice University in late 2023, BCarbon staff had the chance to speak with the Commissioner and affirm our shared interest in promoting quality and reputability in this fragmented and opaque market. We are heartened by the progress made towards helpful regulation through the Proposed Guidance.

Recognizing the issues with the current market, BCarbon was founded as antithesis to the status quo registries with the intent of bringing forth creative solutions to solve some of the VCM's most persistent challenges. We aim to be property-rights centric, lower the barriers of entry, and provide opportunities for landowners of all sizes to participate in the market. We have also focused on a "measured" approach above all for our Soil Carbon and Forestry protocols that issue credits based on increases in carbon stocks over time, as opposed to relying on counterfactual, hypothetical baselines that may or may not ever be applicable to a given project. We feel that under this approach, over time and at scale, the market will promote permanence and reward good stewards and producers for best-practices that sequester carbon and mitigate adverse climate impacts.

Our commentary will focus on the Guidance's provisions on additionality, reversals, robust quantification, project safeguards, and double counting.

**Additionality**

BCarbon firmly believes that additionality as defined in the VCM has limited practical function and in fact often impedes the scaling of climate-positive nature-based removal solutions. It leaves out good land stewards and agricultural producers who were already doing climate-beneficial practices and as such represents a fundamental social unfairness. For many traditional registries and protocols, "baselines" are defined as counterfactual, hypothetical scenarios that may or may not actually occur in reality. This sort of speculation counterproductive to market transparency and reliability.

BCarbon believes that the definition of additionality laid out in the Proposed Guidance, while in line with general industry standards, is an ineffective measure of quality and may in fact create barriers to market prosperity. Many projects in the VCM have failed that would be considered traditionally additional – this metric is not a guarantor of quality and is often determined in subjective, unreliable ways. Moreover, requiring that carbon projects fulfill traditional additionality criteria often excludes from the market those individuals and groups who are currently good stewards.

We see the continued conservation of thriving ecosystems as essential to mitigation of climate change, yet the current form of additionality provides no mechanism for these activities to be financially valued.

Given this, additionality "tests" should not be established as exclusive criteria for DCMs – or, alternatively, the final Guidance should alter its additionality standard to cover activities that are not required by law. As an alternative, additionality should be demonstrated through adherence to a science-based, crediting program's policies, which specify applicability criteria and quantify the associated GHG reductions or removals. Efficient and transparent market-based discovery of the desired attributes of a VCC is critical, and additionality as a VCC attribute is better defined as voluntary and verifiable action(s) taken by market participants to reduce or remove GHG emissions in accordance with an industry accepted crediting program's policies. We also believe that a regulatory structure supporting the current, status-quo definition of additionality raises serious questions about governmental taking or limiting of property rights, such as a landowner's right to "farm" or sequester carbon and receive compensation for possession of this commodity.

Crediting program policies establish criteria that in turn create market discoverable and economically significant attributes for the underlying VCCs. This approach allows the market to determine winners and losers based on due diligence concerning the associated crediting program's policies that drive the resulting VCC attributes.

**Reversals**

Elaborating on what constitutes a "similar" VCC for replacement by buffer to the CFTC would be helpful in adding clarity here. It is also worth noting that buffer pools are not the only measure that exists for mitigation of reversal risk. Buffer pools constituting of avoided emission or reduction credits may also be fundamentally flawed if the project itself contributing the buffer pool is flawed or credit calculation not done correctly. Innovative carbon credit or project insurance concepts are another emerging option that deals with this issue and could be explicitly named as an alternative to buffer pools in this section.

Nature-based projects by their very definition exist in nature and can never be fully protected from reversal. Project developers and registries stipulate how intentional and unintentional (Act of God-type events) are handled within their legal agreements.

**Robust Quantification**

To ensure that contracts fully enumerate the aspects of a methodology or project that make it robust, conservative, and transparent, it may be helpful for the CFTC to provide some examples of what factors might influence these three assessments. What differentiates a robust, conservative, and transparent project from one that is not – especially over time and space?

Further, when considering robustness and conservatism, we recommend noting that the quantification of credits may be based on modeled projections and/or direct measurements taken at the project site. Relying solely on the use of models without use of ground-truth data to substantiate their results may raise questions about the reliability and rigor of a methodology's quantifications.

**Safeguards**

BCarbon fully supports the integration of social and environmental safeguards into the Proposed Guidance. We believe that the co-benefits of a project to overall ecosystem health and community well-being are critical to enhancing the value of a project and resultant credits. However, many of these tools and platforms have various levels of rigor and quality and are not all created or used in a similar fashion across the VCM. Many registries offer custom tools to address this and thus adding more convolution to the system and market at-large. Providing some explicit reference of this fact may help to promote accountability among project developers and methodology providers.

**Credit Tracking and Double Counting**

Project developers and proponents should sign legal agreements and attestations with registries attesting that the carbon stock pool they are claiming (or any other ecosystem benefit) is exclusive to that registry and thus will avoid double counting of credits. The CFTC might also consider explicitly naming blockchain-enabled digital ledger technology as a useful resource in tracking credit lifecycles to avoid double counting.

Again, we thank you for the opportunity to provide our perspectives on the VCM. The CFTC could take a firm stance to resolve some of these issues by shifting their definition of additionality in the Proposed Guidance as we recommend. Furthermore, especially true in agronomic and forestry practices and systems, Additionality exists on a spectrum. BCarbon's Soil and Forestry protocols recognizes degrees of additionality, duration, and risk and that these attributes ultimately influence the value of individual credits and allow for dynamic pricing of credits.

We can be contacted at info@bcarbon.org or at 281-544-0216 to answer any query your team may have.

Sincerely,

Jim Blackburn
Chief Executive Officer
BCarbon Inc.