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Mr. David A. Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Telefacsimile: (202) 418-5521 and
Email to secretary@cftc.gov and electronically to <http://comments.cftc.gov>

Re: Response of the Environmental Markets Association to the Commodity Futures Trading Commission's Request for Information for Public Input for the Study Regarding the Oversight of Existing and Prospective Carbon Markets pursuant to Section 750 of the Dodd-Frank Wall Street Reform and Consumer Protection Act

Dear Mr. Stawick:

The Commodities Futures Trading Commission ("CFTC") issued a Request for Information ("RFI") that seeks public comment to assist the interagency group established pursuant to Section 750 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") in conducting the study and formulating recommendations for the oversight of existing and prospective carbon markets. This letter responds to that RFI.

Introduction

The Environmental Markets Association ("EMA") is the leading US-based trade association focused on promoting market-based solutions for environmental challenges through sound public policy, industry best practices, effective education and training, and member networking. EMA represents a diverse membership including large utilities, emissions brokers and traders, exchanges, law firms, project developers, consultants, academics, NGOs and government agencies – the people making environmental markets work.

EMA arose out of the needs associated with Title IV of the 1990 Clean Air Act Amendments, the so called "Acid Rain Program." That program is the most-cited example of the successes of a market-based system, both for environmental results and substantially lower costs than alternative regulatory programs such as "command and control." This market-based approach has been used around the country in other programs, such as the RECLAIM program in the South Coast Air Quality Management District, the Regional Greenhouse Gas Initiative, the

Chicago-area Emission Reduction Management System and in several other EPA programs such as the Clean Air Interstate Rule. EMA members have been and are active in all these markets. We have developed several resources to aid in the understanding of such market-based programs.¹ EMA would be pleased to provide additional information and/or training or education programs as the need arises. We sponsor two annual public programs on the state of the environmental markets. We are pleased to note that members of the CFTC have attended and spoken at our programs. Commissioner Bart Chilton spoke at EMA's 12th Annual Fall Conference in Seattle in 2008, and Commissioner Scott O'Malia is scheduled to speak at EMA's 15th Annual Spring Conference in Washington, D.C. We are actively engaged in the CFTC's Dodd-Frank rulemaking process as it affects environmental markets, and provided comments to the CFTC on its Advance Notice of Proposed Rulemaking, 75 Fed. Reg. 51429.²

Our principal concern in submitting these comments is that the forthcoming rules not inhibit or stymie the benefits of these market-based programs. Although these markets are small, they have great potential. Rules and supervision of these markets are welcomed by EMA and its members provided such rules and supervision do not undermine the functionality of these markets. Indeed, EMA has adopted and published several "best practices" principles regarding how environmental markets can operate most effectively.³ We would be pleased to work with the CFTC in this regard.

Responses

In response to the questions set forth in Section II of the RFI, we respond as follows:

- 1. Section 750 of the Dodd-Frank indicates that the goals of regulatory oversight should be to ensure that carbon markets are efficient, secure and transparent. What other regulatory objectives, if any, should guide the oversight of such markets?***

Other regulatory objectives should include liquidity, regulatory certainty, and not hindering the growth of the market.

Liquidity requires rules that do not unnecessarily limit the number of participants in the marketplace. Restrictions on potential participants based on size, characteristics of

¹ See <http://www.environmentalmarkets.org>.

² See Comments of the Environmental Markets Association on the Advance Notice of Proposed Rulemaking, available at <http://comments.cftc.gov/PublicComments/ViewComment.aspx?id=26166&SearchText=environmental>.

³ The EMA Best Practices for Market-Based Systems are available at: <http://www.environmentalmarkets.org/galleries/default-file/EMA%20Best%20Practices%20for%20Market-Based%20Systems.pdf>.

participation,⁴ or other aspects of the participating entity (other than ordinary requirements of commercial sophistication to protect individuals) should be minimized.

Markets need regulatory certainty, and they cannot function if the rules that govern them are subject to change through unpredictable processes,⁵ or have confusing and overlapping regulation. Confusing regulation can arise if the same market is subject to different regulators setting forth different rules. In this context, entities may face restrictions imposed by environmental, energy and financial regulators simultaneously.

Dodd-Frank should not be applied by the CFTC in a way that makes it more difficult for the regulators with primary jurisdiction over programs establishing allowances, such as the Environmental Protection Agency, to protect the environment and to otherwise implement and carry out the purposes of their programs.

Market oversight should be distinguished from market control. The more controlled the market, the less freely it can function and the less able it is to serve the purpose of a market. Regulation should be clearly articulated, without further re-delegation to a further sub-regulatory body.

The existing regulatory missions of the Environmental Protection Agency and state environmental agencies, and the Federal Energy Regulatory Commission and state public service commissions should be deferred to in the establishment of any new carbon market structure in the United States. These markets exist not simply for traders, but rather to effect reduction of greenhouse gases in the context of the generation of reliable and affordable electric energy provided to the American public.

Markets for energy and emissions products should not be separated. The two markets are interdependent and should be regulated as such.

⁴ For example, the Western Climate Initiative Markets Committee's "Market Oversight White Paper" dated November 18, 2009, contains a comment seeking to restrict the timing of when different types of entities can participate in the market: "For example, if a smaller entity will not cross the emissions threshold until November in a given year, would it be forbidden to obtain allowances earlier? This implies that larger entities would be able to start trading earlier than smaller ones." *Id.* at 12. It is unclear how the size of an entity relates to the time threshold, but setting a deadline before which certain entities are precluded from the market will provide a strong incentive for speculative hoarding so that the prices will be driven up when those temporally restricted entities enter the market.

⁵ An example is the collapse in the market for imported renewable energy into California during the past eight months of procedural wrangling over a California Public Utilities Commission authorization to use tradable renewable energy credits that added to it considerations respecting out of state energy that was not required of it by statute, while at the same time legislation amending the State's renewable portfolio standard was under consideration by the legislature and a competing administrative program was under consideration by the California Air Resources Board.

Costs of illiquid markets, market confusion, and market dysfunction will borne by electric and gas utility customers. Minimizing these additional costs is a further regulatory objective.

2. What are the basic economic features that might be incorporated in a carbon market that would have an effect on market oversight provisions--e.g., the basic characteristics of allowances, frequency of allocations and compliance obligations, banking of allowances, borrowing of allowances, cost containment mechanisms, etc?

Allowances are limited authorizations to emit pollutants. They are issued by a government agency and can be freely traded. A success story involving allowances is the EPA's Acid Rain Program. As explained on the EPA website:

The Clean Air Act Amendments of 1990 set a goal of reducing annual SO₂ emissions by 10 million tons below 1980 levels. To achieve these reductions, the law required a two-phase tightening of the restrictions placed on fossil fuel-fired power plants ... Reductions in SO₂ emissions are facilitated through a market-based system for capping and trading—the centerpiece of EPA's Acid Rain Program. The allowance trading system creates low-cost rules of exchange that minimize government intrusion and make allowance trading a viable compliance strategy for reducing SO₂. ... Allowances are the currency with which compliance with the SO₂ emissions requirements is achieved. Through the market-based allowance trading system, utilities regulated under the Acid Rain Program decide the most cost-effective way to use available resources to comply with the requirements of the Clean Air Act. Utilities can reduce emissions by employing energy conservation measures, increasing reliance on renewable energy, reducing usage, employing pollution control technologies, switching to lower sulfur fuel, or developing other alternate strategies. Units that reduce their emissions below the number of allowances they hold may trade allowances with other units in their system, sell them to other utilities on the open market or through EPA auctions, or bank them to cover emissions in future years.⁶

In other words, instead of a command-and-control model of regulators reviewing each source of emissions and assigning emission control goals and costs to each particular source, in a market mechanism model, allowances are issued in an amount limited to the aggregate goal of emissions cuts that the regime seeks to achieve. Failure of any particular source to achieve its required goal through either the reduction of emissions or purchase of allowances is punished by fines and possibly prison. The sources then trade these allowances amongst themselves, each achieving compliance at a cost that is the lesser of physically reducing emissions (the “marginal cost of abatement”), for example through installing scrubbing equipment, or purchasing

⁶ See <http://www.epa.gov/airmarkets/progsregs/arp/s02.html>.

allowances, and the market mechanism of this trading benefits society by achieving all of the desired aggregate goals across all compliance entities at the least cost across all compliance entities.

A market in carbon allowances provides a price on greenhouse gas emission. Additionally, the sale of carbon allowances can help finance emission reductions. A cap-and-trade system might seek to accelerate its environmental goals by reducing the allowances allocated in the program. In such a case, the government issuer will want to avoid being at risk of a Fifth Amendment takings claim for such a reduction. This has given rise in several programs, including the EPA Acid Rain Program, of statutory provisions stating that allowances are not property rights. However, in a carbon market, although perhaps the right to be allocated future carbon credits could be specified not to be a property right, for carbon allowances, those allowances that have in fact been issued should be specified to represent property rights to use in the manner in which they have been issued. Carbon allowances that have already been allocated- as opposed to any right of allocation of future carbon allowances- should have sufficient indicia of property rights to enable the owner thereof to grant a security interest in, and thereby borrow against, the carbon allowances.⁷

3. Do the regulatory objectives differ with respect to the oversight of spot market trading of carbon allowances compared to the oversight of derivatives market trading in these instruments? If so, explain further.

This question should make three, rather than two distinctions- spot market, derivatives market, and forward physical market. Forward physical transactions can be accomplished without the need for derivatives, although it is likely that derivatives may be entered into separately or in connection with a forward trade in order to financially hedge the physical forward position.

Spot transactions tend to involve products that presently exist. Forward transactions often are entered into for products that have not yet been created. Forward carbon transactions include transactions in instruments that an offset project is set up to create, in which the sponsor agrees to sell the offsets created by the project to a compliance entity or middleman, and transactions whereby a middleman agrees to acquire the offsets from various projects and sell them to others, including compliance entities.

One unique potential feature in forward carbon allowance transactions is that the seller in a forward transaction that anticipates it will be allocated allowances does not itself create allowances, like the farmer who sells wheat forward, but rather sells an interest in the expectancy

⁷ See Samuel Kramer and Richard Saines, "Taking a Security Interest in Carbon: Secured Financing and the Legal Nature of Carbon Credits," Chapter 14 in Kramer & Fusaro, *Energy and Environmental Project Finance Law and Taxation: New Investment Techniques* (Oxford University Press 2010).

of successfully creating or being allocated the allowances. Those allowances might not show up because rules might change. No special additional regulatory tools are required to address this. Parties transacting in carbon allowances (or offset credits) can allocate between themselves the risk of whether the forward allowances that they transact are ever issued or are disqualified after they are issued.

Transactions in environmental commodities are capable of being abused,⁸ just as transactions in any other type of commodity. Although the relative newness of environmental commodities has often given rise to heightened regulatory concern, concerns about bad behavior should be addressed directly through the authorities, regulators and prosecutors already possess.

Normal operation of existing principles of contract and fraud would apply to any of these spot or forward transactions; carbon does not need special oversight in these areas.

4. Are additional statutory provisions necessary to achieve the desired regulatory objectives for carbon markets beyond those provided in the Commodity Exchange Act, as amended by the Dodd-Frank Act, or other federal acts that may be applicable to the trading of carbon allowances?

EMA does not offer an opinion on this.

5. What regulatory methods or tools would be appropriate to achieve the desired regulatory objectives?

Those that the regulators presently possess -- including existing tools that protect against fraud, money laundering, breach of contract, and false price reporting, among others. Carbon markets and similar markets for emissions already exist in the United States -- as cash markets, secondary trading markets, and derivatives markets. These markets function well, without risk to the market participants or the United States financial systems, and allow the electric industry to meet its existing regulatory commitments at the state and federal levels. We are not aware of any markets for environmental commodities that are especially subject to abuse or excessive risk.

6. What types of data or information should be required of market participants in order to allow adequate oversight of a carbon market? Should reporting requirements differ for separate types of market participants?

There is nothing evident from the environmental markets, including markets for carbon instruments, which have been in existence for some time in the United States, that indicates that

⁸ Enron's false booking as a sale of a loan from Barclays Bank against the security of sulfur dioxide allowances is described at Jeremy Weinstein, *Examining Enron's SO2 emission trades*, Environmental Finance, March 2003, page 22, available at <http://jweinsteinlaw.com/pdfs/ef3enron.pdf>.

their participants require any special reporting requirements in order to conduct themselves lawfully. We are not aware of any evidence that carbon market participants need to report transactions in any greater detail than would the participants in any other physical markets, such as wheat. There is a history of successful reporting in the EPA Acid Rain Program, and we are not aware of any evidence or academic study indicating that such data reporting was insufficient for the effective functioning and oversight of that market.

7. To what extent is it desirable or not desirable to have a unified regulatory oversight program that would oversee activity in both the secondary carbon market and in the derivatives markets?

Unified regulatory oversight is helpful, but the fact of CFTC regulation of transactions in these instruments in derivatives markets should not be used as a justification to take the oversight of these instruments away from their primary regulators in spot or forward markets. The CFTC has no special knowledge of secondary carbon markets, even if it would in the course of implementing Dodd-Frank gain experience in the regulation of derivatives markets.

However, it would be desirable to promote uniformity in regulation, so as to avoid confusion between state and federal regulators and regulations. For example, California is seeking to impose its own regulatory requirements on carbon trading.

8. To what extent, if any, and how should a US, regulatory program interact with the regulatory programs of carbon markets in foreign jurisdictions?

There should be sharing of information among regulators and harmonization of programs whenever practical. Additionally, a United States program should not prevent linking with carbon markets in other jurisdictions, as a bill that almost passed California's legislature in 2009 would have done.⁹

9. What has been the experience of state regulators in overseeing trading in the regional carbon markets and how would that instruct the design of a federal oversight program?

We defer to state regulators to respond to this question.

10. Based on trading experiences in SO₂ and NO_x emission allowances what regulatory oversight would market participants and market operators, respectively, recommend?

Based on its members' extensive experiences in the SO₂, NO_x, and other emissions markets, EMA would recommend the same regulatory approach for carbon markets.

⁹ See SB 722 (Steinberg); see also SB 1762 (Perata) (a 2008 bill that would have prevented linkage with foreign jurisdictions).

As experience is developed and that market becomes established, further oversight tools may become needed.

11. Who are the primary participants in the current primary environmental markets? Who are the primary participants in the current secondary allowance and derivatives environmental markets?

The experience of EMA is that many types of entities are regular and primary participants in the primary environmental markets, as well as in the secondary and derivative environmental markets: regulated businesses, brokers and financial institutions all are important and necessary to provide liquidity and stability for these markets. We will examine two example primary environmental markets here: those for credits for generation from renewable resources, and those for verified reductions of greenhouse gas emissions. There is little distinction between market participants in whether they participate in the primary or secondary market, with the exception that end users or market makers that are large enough will tend to contract directly with those that create the environmental commodity through generation or offset projects as a way to ensure supply and reduce aggregate expense by eliminating a middleman.

Primary and secondary markets enable efficient capital flows to the developers of the renewable resources from purchasers who desire energy from renewable resources but who otherwise would not be able to take directly the energy from those renewable resources, due to distance, intermittency (renewable resources often cannot run all the time) and transmission considerations. Through Renewable Energy Certificates, or “RECs”, those that desire the “renewableness” of the energy from the renewable resource can acquire it, without needing to be directly connected to the resource itself. These attributes are traded, in primary and secondary markets, by defining, through contract, rule, or statute, what is called a “green tag,” “renewable energy certificate,” “renewable energy credit,” “green attribute,” “tradeable renewable energy credits,” or other moniker, to include those rights and claims that are being monetized and transferred. Here we use the term “RECs” (renewable energy certificates), which is somewhat of a misnomer, because although some systems provide a “certificate” in the nature of proof of generation,¹⁰ that is not universal, and even within those systems, not all of what is typically known as a REC is represented by the “certificate.”

RECs are activity-derived environmental commodities that carry the claim to the “green” aspect of power generation. Trading in RECs is an important market mechanism to optimize and

¹⁰ For example, generation information systems such as the Western Regional Generation Information System (WREGIS) track renewable resource generation and certificate deliveries of megawatt hours to the electricity grid, which can be exchanged as evidences of renewable energy deliveries. As will be seen in the text *infra*, however, many programs, such as the California RPS, require more than proof of delivery of generation to the grid for their definition of a REC.

promote renewable resource use and development, and benefits from robust secondary markets.¹¹ In addition to expediting capital flows to the development of renewable resources by the efficient sale of a commoditized attribute produced by generation from such resources, RECs help intermittent energy resources such as wind to compete with baseload (can run all the time) resources such as gas, by allowing that commodity to be paired with generation from a baseload resource. When a REC is sold by the renewable generator, the generator is left with undifferentiated “null,” i.e., not “green,” electricity, and there are market and contractual mechanisms in place to ensure that the original resource does not again seek to sell the original energy, from which it has separated the REC, as renewable energy.¹²

In the absence of federal leadership,¹³ individual states have been legislating programs mandating that load-serving entities (electric utilities) procure a minimum proportion of retail energy from renewable resources.¹⁴ These requirements are commonly known as renewables portfolio standards, or “RPSs.” Another important market segment is the voluntary RECs market, which in 2008 represented retail renewable energy sales of approximately 24 million megawatt-hours (MWh) according to the National Renewable Energy Laboratory (NREL).¹⁵ RECs have value to business entities that want to demonstrate to the public that they operate a green business in providing product. These voluntary RECs markets are driven by corporations,

¹¹ Master trading enabling agreements have been developed for transactions in RECs. An example contract that provides significant background and tools for regulators is the ABA/EMA/ACORE Masters Renewable Energy Certificate Trading Agreement, available at <http://environmentalmarkets.org/page.wv?section=RECs+Committee&name=Master+Renewable+Energy+Certificate+Purchase+and+Sale+Agreement+Is+Now+Available>.

¹² See, e.g., Green-e National Energy Standard, available at http://www.green-e.org/getcert_re_stan.shtml.

¹³ See, e.g., Peter Toomey and Eric Thumma, *Learning from the states*, Environmental Finance, May 2009, available at <http://www.environmentalmarkets.org/galleries/default-file/EFarticleMay2009.pdf>.

¹⁴ See <http://www.dsireusa.org> for a national map. For a discussion of just how complicated this dynamic of fifty state jurisdictions pursuing these policies has become, especially when carbon and energy efficiency is included, see, e.g., Shults and Musier, *Managing the mosaic*, Environmental Finance, Apr. 2007, at p. 33, available at http://www.environmentalmarkets.org/galleries/default-file/Shults%20Musier%20ef4market%20view_p33.pdf, and Bogomolny, Felder & Weiner, *Untangling environmental markets*, Environmental Finance, Apr. 2005, at p. 27, available at <http://environmentalmarkets.org/galleries/default-file/ef4ema27.pdf>. The EMA has been at the forefront of seeking to provide contract solutions to ensure fungibility and cross-market liquidity across this entire “mosaic.”

¹⁵ For more information on the voluntary market for renewable energy see the Web sites of the NREL (<http://www.nrel.gov>) and Green-e (<http://www.green-e.org>), which certified half of retail voluntary renewable energy sales in 2008 (Green-e Energy 2008 Verification Report, available at <http://www.green-e.org/docs/2008%20Green-e%20Verification%20Report.pdf>). At the time of writing, approximately half of renewable energy from renewable energy generation facilities that came online since 1997 was being sold into the voluntary market (NREL).

cities and other individuals and entities that wish to purchase green power for sustainability, marketing, and other purposes.

In both compliance and voluntary markets, and primary and secondary markets, RECs can be transacted using registry accounts of generation information systems that have been established for transactions in RECs, or through paper attestations that represent affidavits attesting to a certain quantity of generation. Often such programs require “permanent retirement” of such RECs on an electronic registry system.¹⁶

Many retail energy companies offer customer choice programs, giving customers the option to purchase renewable energy for their homes instead of power from fossil fuels. Since customer homes cannot be directly connected to distant wind farms, this is done through RECs. For example, DTE Energy offers a program titled “GreenCurrents” which gives its customers the option to purchase energy for a premium in order to encourage the development of renewable energy sources in Michigan. According to DTE’s website, “the purchase of RECs by DTE Energy and others has so far enabled the construction of four wind farms and biomass energy plants in Michigan.”¹⁷

Verified Emissions Reductions (“VERs”) are offsets from projects that reduce emissions of greenhouse gases, such as carbon dioxide or methane, that have been verified by a professional verifier according to an applicable protocol setting forth standards of measuring, monitoring, and verification.¹⁸ A VER is a reduction of greenhouse gases equivalent to one metric tonne of carbon dioxide below a baseline of what would have occurred (“business as usual”) in the absence of the activity creating the offset. In contrast to emission allowances, which are licenses to emit a certain quantity of an air pollutant that are allocated to, and traded among, emitters, and in contrast to RECs, which represent aspects of benefits that are created by renewable resource generation, VERs represent a reduction from emissions of greenhouse gases that would have occurred but for the activity. Strict market standards have evolved to ensure the legal and scientific legitimacy and robustness of the offsets and emissions greenhouse gas emissions reductions they represent.¹⁹ VERs allow individuals and organizations to balance

¹⁶ E.g., California Energy Commission, Renewables Portfolio Standard Eligibility Commission Handbook (3rd Edition), p. 7, fn. 12; Western Renewable Generation Information System Operating Rules Rule 16 available at http://www.wregis.org/uploads/files/73/20070704_WREGIS_Operating_Rules_1v1_Final.doc. See also Athena Veile, Melissa Dorn and Paul Pantano, “Navigating the World of Renewable Energy,” 29 Future and Derivatives Law Report 4 (2009).

¹⁷ <http://www.dteenergy.com/dteEnergyCompany/environment/renewableEnergy/support.html>.

¹⁸ See, e.g., the Climate Action Reserve, information available at <http://www.climateactionreserve.org/resources/faqs/>.

¹⁹ See, e.g., Jeremy Weinstein, comment letter in CFTC Notice of Intent To Undertake a Determination Whether the Carbon Financial Instrument Contract Offered on the Chicago Climate Exchange Performs a Significant Price Discover Function, available at

emissions of greenhouse gases produced in one place by helping fund emission reductions elsewhere. Individuals and organizations unable to reach their carbon reduction targets by direct reductions of their own emissions can purchase VERs to balance, or offset, their impact.²⁰ VERs can be transacted in primary and secondary markets through registries, such as the Climate Action Reserve, or through paper attestations or bills of sale. Entities such as the Climate Action Reserve devote significant resources to stakeholder processes to ensure the validity and integrity of VERs.²¹

VERs also can be used in customer choice programs. For example, PG&E offers its customers under its ClimateSmart™ Program a means to balance out the GHG emissions associated with their usage of natural gas and electricity. PG&E does this by giving its customers the option to pay a small volumetric monthly premium on their PG&E bill and in return PG&E spends 100 percent of customers' contributions on VER purchases from new, independently verified GHG emission reduction projects in California. With these funds, PG&E has entered into VER purchase agreement contracts with a wide range of providers, with substantial positive environmental impacts.²² Additionally, there are voluntary market uses of VERs similar to those applicable in voluntary RECs markets.²³ A major reason people transact VERs is for pre-compliance.

The lesson of both these programs is clear: vigilant market participants will work very hard, even when participation is completely voluntary, to ensure that these markets and the products which they trade possess the very highest degree of integrity in both primary and secondary markets.

Summary

We support well-regulated markets for environmental commodities. At this stage in their development, and in light of the wide range of types and sizes of environmental markets, we

<http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/frcomment/09-010c004.pdf>. CFTC Order Finding that it didn't is FR Doc 2010-10311, Federal Register: May 4, 2010 (Volume 75, Number 85), Page 23686-23690, available at <http://www.cftc.gov/LawRegulation/FederalRegister/FinalRules/2010-10311.html>.

²⁰ See, e.g., discussion at http://www.3degreesinc.com/products/carbon_offset/.

²¹ See, e.g., Climate Action Reserve protocol development process, linked at <http://www.climateactionreserve.org/how/protocols/>

²² See, e.g., "Santa Cruz Mountains lures cash for trapping carbon," San Jose Mercury News, Aug. 31, 2010, available at http://www.mercurynews.com/california/ci_15951274?nclick_check=1.

²³ See, e.g., John Melby and Reiner Musier, *The age of substantiation*, Environmental Finance, Sept. 2008 at p.33, available at http://www.environmentalmarkets.org/galleries/default-file/EF0908_The%20Age%20of%20Substantiation.pdf.



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would urge the CFTC to proceed with caution. Well-intended rules may actually defeat the availability of these instruments through market mechanisms.

This letter represents a submission of EMA, and does not necessarily represent the opinion of any particular member thereof.

Respectfully submitted,

ENVIRONMENTAL MARKETS ASSOCIATION

/s/
Allison D. Wood
Chairman, EMA

/s/
Jeffrey C. Fort
Chair, EMA Market
Oversight Committee

/s/
Jeremy D. Weinstein
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