DEEPSOUTH CENTER FOR ENVIRONMENTAL JUSTICE

9801 Lake Forest Blvd., New Orleans, LA 70127
504-272-0956 phone | 504-372-3473 fax | www.dscej.org

June 17, 2022

Vanessa A. Countryman, Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090
Via electronic mail to: rule-comments@sec.gov

Re: File Number S7-10-22. Proposed SEC Rule on Enhancement and Standardization of Climate-Related Disclosures for Investors

Dear Secretary Countryman:

Thank you for this opportunity to provide this comment regarding the above referenced matter, which is timely submitted on June 17, 2022.

The Deep South Center for Environmental Justice is a nonprofit organization dedicated to improving the lives of children and families harmed by pollution and vulnerable to climate change in the Gulf Coast Region through research, education, community and student engagement for policy change, as well as health and safety training for environmental careers. The Center provides opportunities for communities, scientific researchers, and decision makers to collaborate on projects that promote the rights of all people to be free from environmental harm as it impacts health, jobs, housing, education, and a general quality of life.

The Center appreciates the Securities and Exchange Commission (SEC) for taking action to require that regulated companies provide information on their climate impacts and mitigation strategies. For the proposed rule entitled Enhancement and Standardization of Climate-Related Disclosures for Investors (hereinafter the "climate information rule"), the SEC seeks comments that address a series of questions. We provide this comment in response to three of the questions presented in "Question 170" of the SEC's climate information rule:

> *(a) Should we provide examples of potential items of discussion about a target or goal regarding GHG emissions reduction, such as a strategy to increase energy efficiency, a transition to lower carbon products, purchasing carbon offsets or RECs, or engaging in carbon removal and carbon storage, as proposed?*

(b) Should we provide additional examples of items of discussion about climate-related targets or goals and, if so, what items should we add?
(c) Should we remove any of the proposed examples of items of discussion?

Our comments are specific to the disclosure rule's notice section II.I, Targets and Goals Disclosure, and the mandates that would be implemented under proposed rules 17 CFR 229.1502 and 17 CFR 229.1506. We provide responses to the above questions in recognition of the damaging impacts that SEC-regulated industrial companies have on Black and other communities in the Gulf Coast Region, including Cancer Alley in Louisiana. To this end, it is our goal to support a final SEC rule to inform investments that can contribute to equitable outcomes by reducing pollution and sustaining our communities.

Question (a): Should we provide examples of potential items of discussion about a target or goal regarding GHG emissions reduction, such as a strategy to increase energy efficiency, a transition to lower carbon products, purchasing carbon offsets or RECs, or engaging in carbon removal and carbon storage, as proposed?

To the extent that examples are provided in the SEC climate information rule, the Center recommends that each example should be demonstrably effective in reducing greenhouse gas emissions to mitigate climate change. The proposed SEC climate rule inaccurately presents carbon offsets and carbon capture storage as examples of climate mitigation. This ignores the science as well as significant empirical data that show carbon offsets[1] and carbon capture storage[2] are not effective strategies for mitigating climate change.

[1] See, for example, Craig Welch, *Polluters Are Using Forests as "Carbon Offsets." Climate Change Has Other Plans,* National Geographic (May 4, 2022) https://www.nationalgeographic.com/environment/article/forests-as-carbon-offsets-climate-change-has-other-plans; Robynne Boyd, *Why Forest Carbon Offsets Are Not a Substitute for Slashing Emissions* Natural Resources Defense Council (May 16, 2022) https://www.nrdc.org/stories/why-forest-carbon-offsets-arent-substitute-slashing-emissions; Lisa Song, *An Even More Inconvenient Truth: Why Carbon Credits for Forest Preservation May Be Worse Than Nothing*, Pro Publica (May 22, 2019) https://features.propublica.org/brazil-carbon-offsets/inconvenient-truth-carbon-credits-dont-work-deforestation-redd-acre-cambodia/

[2] See, for example, Clark Butler, *Carbon Capture and Storage Is About Reputation, Not Economics*. Institute for Energy Economics and Financial Analysis (2020), https://ieefa.org/wp-content/uploads/2020/07/CCS-Is-About-Reputation-Not-Economics_July-2020.pdf; D. Schlissel & D. Wamsted, *Holy Grail of Carbon Capture Continues to Elude Coal Industry.* Institute for Energy Economics and Financial Analysis (2018), https://ieefa.org/wp-content/uploads/2018/11/Holy-Grail-of-Carbon-Capture-Continues-to-Elude-Coal-Industry_November-2018.pdf; Adam Morton, *A shocking failure': Chevron criticised for missing carbon capture target at WA gas project*. The Guardian (2021), https://www.theguardian.com/environment/2021/jul/20/a-shocking-failure-chevron-criticised-for-missing-carbon-capture-target-at-wa-gas-project; Joe Smyth, *Petra Nova Carbon Capture Project Stalls with Cheap Oil. Energy and Policy Institute* (2020), https://www.energyandpolicy.org/petra-nova/; Nichola Groom, *Problems plagued U.S. CO2 capture project before shutdown: document.* Reuters (2020),

We are deeply concerned that carbon offsets and carbon capture storage result in exacerbating racially disproportionate pollution burdens. For decades, coal, oil, and gas companies have exposed Black and other communities of color to toxic pollution.[3] These companies now promote carbon offsets and carbon capture storage as part of their proposals to icnrease the number of facilities that burn fossil fuels. This promotion by SEC-regulated companies entirely fails to acknowledge, much less disclose, the fact that these are ineffective strategies for mitigating climate change.

Carbon capture and storage involves (1) the unregulated collection of carbon dioxide from an industrial facility that can draw in other toxic chemicals; (2) transport via pipeline where leaks and ruptures are ever-present due to the corrosive effect of carbon dioxide on steel; and (3) underground disposal of millions of metric tons of the carbon dioxide that can cause the release of benzene in rock formations, contaminate groundwater, and cause earthquakes. Each step shows that capturing and storing carbon dioxide is far from being assured given its corrosivity and upward mobility. Following the disaster of a carbon dioxide pipeline rupture in the community of Satartia, Mississippi on February 22, 2020, the federal Pipeline and Hazardous Materials Safety Administration reported on this dangerous aspect of carbon capture and storage.[4] We note that recent interest in deploying carbon capture and storage projects in Louisiana and Texas has been met with significant concern regarding safety risks that cannot be managed by the state governmental agencies.[5] The dangers of carbon capture and storage should make it unacceptable to the SEC as an example of a way to mitigate climate change.

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https://www.reuters.com/article/us-usa-energy-carbon-capture/problems-plagued-u-s-co2-capture-project-before-shutdown-document-idUSKCN2523K8; D. Drugmand & C. Muffett, *Confronting the Myth of Carbon-Free Fossil Fuels: Why Carbon Capture is Not a Climate Solution*. Center for International Environmental Law (2021), https://www.ciel.org/wp-content/uploads/2021/07/Confronting-the-Myth-of-Carbon-Free-Fossil-Fuels.pdf

[3] See, for example, NAACP, *Fumes Across the Fenceline* (2017), https://naacp.org/resources/fumes-across-fence-line-health-impacts-air-pollution-oil-gas-facilities-african-american; NAACP, Indigenous Environmental Network, Little Village Environmental Justice Organization, Coal Blooded: Putting Profits before People (2012), https://naacp.org/resources/coal-blooded-putting-profits-people; UCLA Institute of the Environment and Sustainability for WildEarth Guardians, *Impacts of Oil and Gas Drilling on Indigenous Communities in New Mexico's Greater Chaco Landscape* (2020), https://www.ioes.ucla.edu/wp-content/uploads/2020/09/ucla-ioes-practicum-impacts-of-oil-and-gas-on-indigenous-communities-in-new-mexico-final-report-9-2020.pdf.

[4] Pipeline and Hazardous Materials Safety Administration, *Failure Investigation Report – Denbury Gulf Coast Pipelines, LLC* (May 26, 2022) https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2022-05/Failure%20Investigation%20Report%20-%20Denbury%20Gulf%20Coast%20Pipeline.pdf.

[5] The Editorial Board, *The Railroad Commission of Texas Can't Be Trusted to Regulate Carbon Capture*, The Houston Chronicle (June 17, 2022) https://www.houstonchronicle.com/opinion/editorials/article/Editorial-The-Railroad-Commission-of-

Question (b): Should we provide additional examples of items of discussion about climate-related targets or goals and, if so, what items should we add?

The Center recommends that examples of green chemistry product alternatives to plastics derived from oil and gas be considered. The upward trend of fossil fuel-based plastic production contributes to climate change.[6] We also recommend solar and wind energy with battery storage as additional examples.

Question (c): Should we remove any of the proposed examples of items of discussion?

Carbon capture and storage should not be included in any examples of proposed items of discussion that may be provided by the SEC. To do otherwise would completely undermine the purpose of the climate information rule. Moreover, the Commission must provide additional guidance for registrant descriptions of CCS, drafted with consideration of credible scientific literature, so that the public health, safety, and economic risks of this technology are made clear in companies' registration statements and annual reports. Failing to do so would effectively be a validation of this dangerous and unproven technology by the SEC.

Carbon capture and storage (CCS) poses significant human health, climate, safety, and environmental risks. CCS is unproven to work at scale, having consistently overpromised and under-delivered; numerous high-profile CCS projects around the world have largely missed their capture targets, essentially rendering this technology economically unviable.[7]

The burning of coal, oil, and natural gas produces greenhouse gas emissions, which include CO2. Industrial facilities that produce these emissions are typically sited and continue to expand within predominately minority and low-income communities. With CCS, a wave of new polluting energy facilities are being proposed. Adding CCS onto these facilities will only exacerbate the unjust burdens experienced by these neighboring communities, who are already disproportionately exposed to health-damaging pollutants. Air levels of toxic emissions such as particulate matter

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Texas-17241798.php. See also Louisiana Department of Natural Resources, Summary of Class VI Public Comments (9/17/2021) (showing that all public comments (written and oral) were in opposition to the department's application for authority to permit carbon capture projects) http://www.dnr.louisiana.gov/assets/OC/im_div/uic_sec/SummaryofClassVIPublicCommentsandResponses.pdf.

[6] Center for International Environmental Law et al, *Plastic & Climate: The Hidden Cost of a Plastic Planet* (May 2019) https://www.ciel.org/wp-content/uploads/2019/05/Plastic-and-Climate-FINAL-2019.pdf.

[7] See footnote 2.

(PM), nitrogen oxide, and ammonia will all increase, as these pollutants are not captured through the CCS process.

CCS entails massive pipeline buildout for the transport of CO2 from facility to storage site, which will be routed through and stored within already burdened communities and fragile ecosystems. Notable to our interests, as an organization based in Louisiana, it is highly likely that many of the storage sites for disposing the carbon waste and the pipelines necessary to support them would be sited within the threatened coastal zones surrounding the Gulf of Mexico. This will ensure the destruction of existing wetlands in areas where mitigation is virtually impossible.

The deployment of CCS will expose more communities to the risks of CO2 pipeline leaks and ruptures. Due to the corrosive nature of this gas, CO2 streams can cause leaks, ruptures, or running fractures in pipelines with the potential for catastrophic results that include deaths and severe injuries. Because of the intense pressures involved in CO2 pipeline transport, there is an inherent risk of explosive decompression that would release more CO2 more quickly than an equivalent of a gas pipeline. Additionally, infrastructure corrosion caused by CO2 injected underground would increase the potential for various environmental risks such as oxygen depletion, earthquakes, groundwater contamination, subsidence, and sinkholes.

To inhibit the use of dangerous, false solutions in the struggle against climate change, registrants deciding to employ CCS must be required to disclose the entire scope of these unproven technologies to the public, and cannot be permitted to omit unfavorable information. Investors should be able to discern that such action is not a means to achieve climate change mitigation, as CCS only perpetuates our dependence on the fossil fuel industry. Any costs saved by utilizing these technologies now will be borne in a dangerous way in the future.

As the enforcement institution of the securities market, the SEC must assure investors as to the credibility of companies' registration statements and annual reports under the climate information rule, which it cannot do if companies are allowed to present CCS as a valid climate solution. The SEC cannot ignore the blatant racial injustices or minimize the significant environmental, health and safety risks associated with CCS, and must incorporate these comments and concerns into the proposed rule. Carbon capture and storage is not an option for companies that truly intend to achieve their climate-related commitments; and investors should not be fooled into thinking that carbon capture and storage is proven to mitigate climate change.

Thank you for your time and attention to this comment.

Sincerely,

Monique Harden
Assistant Director of Law and Public Policy

Shelbi Gatlin
Law and Public Policy Associate