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15th April 2011

Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Re: *Carbon Credits (Carbon Farming Initiative) Bill 2011; Carbon Credits (Consequential Amendments) Bill 2011 and Australian National Registry of Emissions Units Bill 2011.*

Dear Committee Secretary,

Centrefarm Aboriginal Horticulture Limited (CAHL) would like to make the following submission regarding the *Carbon Credits (Carbon Farming Initiative) Bill 2011; Carbon Credits (Consequential Amendments) Bill 2011 and Australian National Registry of Emissions Units Bill 2011.*

CAHL was established by the Central Land Council (CLC) in 2002 as an independent, Aboriginal owned not-for-profit company. The company's charter is to create regional economies on Aboriginal-owned land where there currently are none, and to generate the capacity for the Traditional Owners, their families and other local residents to participate in these economies.

As 22% of Australia's land is Indigenous owned or controlled, the potential economic activity generated from carbon projects makes this a highly viable industry for consideration under CAHL's charter. However, there are many risks and potential disasters that will need to be avoided through careful engagement, planning and implementation of carbon projects.

In March 2011, CAHL coordinated and actively participated in the National Indigenous Climate Change forum held in Alice Springs. The forum gauged the interest and concerns of Indigenous people and corporate Australia in becoming involved in an Indigenous carbon industry/market. The collective interests and aspirations are now clearly apparent, and the concerns identified.

The development of the Carbon Farming Initiative (CFI) to address climate change and establish a price on carbon is a positive initiative by the Australian government. It will form the fundamental basis of Indigenous participation in carbon sequestration, abatement and storage activities on Indigenous land.

However, the emerging carbon industry has a number of barriers to indigenous participation such as:

- the level of complexity in the CFI (additionality),
- no industry standards (instruments),
- high research and development costs,
- elevated risk levels, and
- no recognition of legitimate co-benefits to value-add carbon produced on Indigenous lands (title)

Therefore the emerging Indigenous carbon industry and market is highly vulnerable to 'carbon baggers' and people who have a genuine intent but are inexperienced. There is also a risk represented by the lack of a correct bench-mark for the fees, charges and professional skills of people involved in the carbon industry.

Title

In order for effective Indigenous participation to take place the CFI has to provide certainty to Indigenous people and the market place that carbon on Indigenous land is owned and can be sold by native title holders.

It is clear that Traditional Owners under the *Aboriginal Land Rights (Northern Territory) Act 1976* own and can sell the carbon credits produced on Aboriginal Land Trusts, as they are inalienable freehold land. However, it remains unclear that similar rights are afforded to native title holders once a determination of exclusive possession has been made by the Federal Court. This uncertainty will lead to a lack of confidence in the market place and potentially expensive legal challenges to provide certainty.

Where non-exclusive possession of native title is determined over a national park or conservation reserve, the ability of State governments to trade in carbon credits should be subject to an Indigenous Land Use Agreement (ILUA) or other formal agreement.

Additionality

The adoption of the 'addition' provision in the CFI as it currently stands will significantly impair the rights of Aboriginal people to participate in carbon markets. There are a range of carbon projects that could be or currently are being undertaken on Aboriginal land that well may fall into the 'business as usual' category.

For example, Indigenous Protected Areas: if an agreement with the Australian government exists that Aboriginal land will be managed for conservational purposes, and then funding is provided to develop and implement a management plan for these; any cool season fire management carbon abatement initiatives could be considered 'business as usual', and be disqualified.

An Instrument – the Aboriginal Carbon Credit Unit

The option of branding Australian Carbon Credit Units (ACCU) produced on Aboriginal land as Australian Indigenous Credit Units (AICU) should exist, to clearly identify the fact that there are cultural, social and environmental co-benefits from such units, and thus they are worth more in the market place.

Aboriginal Carbon Fund Ltd (ACF Ltd)

To engage with the potential afforded Indigenous Australia by the carbon industry and markets, CAHL established the *not-for-profit* Aboriginal Carbon Fund Limited (ABN: 131 464 138 09) in September 2010.

Ultimately the role of the ACF Ltd should be undertaken by an independent commonwealth Statuary Authority to ensure Indigenous groups, corporate Australia and the general public can acquire carbon credits according to agreed standards and there is a high degree of certainty in the market place.

Currently, the role of the ACF Ltd will be to act as a safe haven for Indigenous groups to engage in carbon markets nationally and internationally. It is envisioned that carbon credits held by ACF Ltd could be sold under an official brand (AICU) and at a premium due to the fact there are cultural, social and environmental co-benefits derived from carbon projects on Indigenous lands. The same principle is currently applied to the Climate, Community and Biodiversity Alliance (CCBA) carbon credits which are the most expensive in the international market place.

The ACF Ltd will operate as a trading house taking a large degree of the risk out of producing carbon from Indigenous land. Acting as an 'aggregator' the ACF Ltd will pool carbon from a range of carbon projects over a variety of Indigenous lands, thus ensuring large corporations, small businesses, families and individuals will *always* receive the legitimate AICU carbon credits they have paid for.

The ACF Ltd will employ staff specialised in carbon research and development, business development, project management and community engagement to provide advice and support to Indigenous groups who wish to become involved in the carbon industry. Access to legal and other professional advice will also be available.

Yours Faithfully,

Vin Lange
General Manager
Centrefarm Aboriginal Horticulture Ltd
15th April 2011

**Communiqué – National Indigenous Climate Change Forum
Alice Springs 30 - 31 March 2011**

The Australian Government's attempts to deal with native title in the Carbon Farming Initiative (CFI) are welcomed, however access and participation of native title holders to the carbon industry needs to be clarified, encouraged and agreed to.

Proactive participation of Indigenous peoples in this action on climate change is paramount and must be in a way that meets our needs and aspirations. To bypass the rights and expertise of Indigenous peoples in responding to climate change, thereby not generating genuine carbon reductions on 22% of Australian Indigenous owned and controlled land, will significantly impact Australia's ability to design a truly effective response to the impacts of climate change.

On March the 30th and 31st Aboriginal and Torres Strait Islander leaders and experts who met with representatives of corporate Australia, government and a statutory authority in Alice Springs have endorsed a process and coalition of representatives including the National Native Title Council and NAILSMA to drive Indigenous participation in the development of carbon legislation and provide a coordinated national voice in relation to carbon markets.

This national Group and process presents a unique opportunity to provide the Indigenous carbon industry with standards and certainty. It will fill gaps that exist in the current 'climate change' space: to ensure communication across key stakeholders and Indigenous peoples at the national and local level and will prevent differences across Indigenous communities (economic, social, land tenure) being exploited.

The Group is a legitimate partner in the process, providing an essential perspective on how the best climate change solutions can be achieved for all Australians.

The Group acknowledges the existing work of Indigenous organizations and businesses in this area, including NAILSMA, Balkanu, Centrefarm, the Northern and Central Land Councils, Carpentaria Land Council, and Kimberley Land Council among others. These are good examples of how Indigenous peoples can participate in new commercial opportunities on their own terms and in a way that meets their cultural responsibilities and rights. The Group will bring these networks, lessons and expertise together to assist other communities, who want to participate in action, into step with leading projects.

Indigenous carbon projects must be linked to any new CFI, and other carbon market schemes, to ensure Aboriginal and Torres Strait Islander peoples, as first nations, are not excluded from the opportunity to realise their rights and responsibilities in a way that delivers the highest possible cultural, social, environmental and economic benefits.

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