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2022-06-12

Ms. Vanessa A. Countryman, Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

RE: File Number S7-10-22, submitted via rule-comments@sec.gov

Dear SEC,

Futurepast: Inc. (Futurepast) is pleased to provide amended comments to a subset of the questions you posed about the proposed regulation of climate disclosures under 17 CFR 210.14-01 and 17 CFR 229.1500-1506. We previously submitted comments in a letter dated 2022-05-09. This letter amends that comment letter by adding a new comment on Question 24 (Q 24) and updating our response to Q 115.

Our comments are limited to those questions where Futurepast has the greatest level of expertise and where we find the issues raised to have the greatest significance to us as a greenhouse gas (GHG) consultancy and attestation provider. For ease of reference, we preface our comments with the number of each question (designated as "Q").

Futurepast's registered service mark is "We count carbon". Quantification of greenhouse gas emissions is a common thread in our work. We offer consulting services to businesses and governmental agencies both in North America and around the world

Futurepast was incorporated in the Commonwealth of Virginia in September 1994. Our mission is to help organizations transition to a low-carbon economy through consulting, training, and auditing. Our vision is a future where global warming is limited to 2 degrees Celsius or less.

Futurepast launched a verification and validation program in Q4 2021 after the accredited verification/validation program we served as an outsourced climate services manager chose to voluntarily exit the market. We are glad that many of the subcontracted verifiers and validators who had previously worked with us at the accredited body chose also to work in our new program. We are also pleased that some of the former clients of the accredited body we previously served are now attestation customers of Futurepast.



Together Futurepast verifiers have decades of experience in greenhouse gas verification and validation in both regulatory and voluntary programs. Our experience includes verifying GHG statements at the organizational level, at the project level, and at the product level. We serve nearly all sectors and most of us hold multiple individual lead verifier accreditations from the California Air Resources Board.



Futurepast’s executive leadership has been personally involved in writing international GHG standards since 2002. This includes the initial suite of quantification standards at the organizational and project levels (ISO 14064 Parts 1 and 2) and ISO 14064 Part 3, the assurance standard. Since their initial publication in 2006, John Shideler has contributed to writing ISO 14065, an accreditation standard for GHG validation and verification bodies, ISO 14066, a standard specifying competence requirements for GHG validation teams and verification teams, and ISO 14067, a quantification standard for carbon footprint of products. John Shideler has continued his voluntary service to ISO standards writing by contributing to working groups that have revised the above-mentioned standards and as chair of ISO Technical Committee 207/Subcommittee 4 on Environmental performance evaluation (2013-2022).

Futurepast appreciates SEC’s initiative to ensure that investors have access to uniform information about registrants’ GHG emissions, strategy, metrics and climate-related risks. We look forward to the opportunity to serve registrants either as consultants or as an attestation provider.

Q24

SEC seeks comments on disclosures that registrants should make when offset credits or RECs play a role in an overall strategy to reduce net emissions. Futurepast understands that offset credits have a role to play in helping a company transition to a low-carbon economy. The role for offset credits is likely to be recognized in a new International Standard on carbon neutrality which is being written by Technical Committee 207 Subcommittee 7 Working Group 15 charged with the development of ISO 14068, Carbon neutrality (expected publication in late 2023 or early 2024).

Offset credits. Considerable work is underway to define principles related to the quality of offset credits. A Technical Advisory Board (TAB) of the International Civil Aviation Organization (ICAO) has defined requirements for offset credits to be deemed eligible for offsetting obligations by airplane operators reporting under ICAO’s Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA). Separate from the activity of the ICAO TAB, the Integrity Council for Voluntary Carbon Markets is currently drafting “Core Carbon Principles” for the purpose of setting “new threshold standards for high-quality carbon credits, provide guidance on how to apply the CCPs, and define which carbon-crediting programs and methodology types are CCP-eligible.”¹ Both the ICAO Technical Advisory Board and the Integrity Council for Voluntary Carbon Markets are operating on the belief that not all offset credits are created equal, and that the use of carbon offsets should be limited to those of the highest environmental quality. “Quality,” in the view of the ICAO TAB, is achieved when the offset credit scores well on the following criteria:

- Permanence
- Additionality
- Sustainable development
- Counted only once towards a compliance obligation

¹ See <https://icvcm.org/the-core-carbon-principles/>.

In addition to these criteria, the TAB established cut-off periods for eligible emission units such that no project generating offset credits for CORSIA's pilot phase compliance period would be eligible for use unless it had begun operation no sooner than January 1, 2016. The intent of this requirement is to match the vintage of eligible emissions units as close as possible to the time period of the emissions being offset.²

RECs. Renewable Energy Certificates are not the same thing as verified emission reductions and removal enhancements. While they do represent the generation of renewable energy, there are many methodological reasons that make their use problematic as an offset for scope 2 emissions of imported electricity. We refer SEC to a recently published article in the peer-reviewed journal Nature Climate Change that explains why offsetting scope 2 emissions using “market-based” accounting—promoted by the GHG Protocol Scope 2 Guidance standard—overstates emission reductions of reporters who have signed up for Science-Based Targets to reduce emissions consistent with the Paris Agreement goals of limiting warming to 1.5 °C or 2 °C. According to the article's authors, “corporate REC purchases are unlikely to lead to additional renewable energy production. [In this article] we show that the widespread use of RECs by companies with science-based targets has led to an inflated estimate of the effectiveness of mitigation efforts.”³

Recommendation. Futurepast proposes the addition of words to CFR § 229.1502 (c), last sentence. The revised sentence, with the addition shown in italic type, would read: “If applicable, include in this discussion the role that carbon offsets or RECs play in the registrant's climate-related business strategy, and describe how the registrant ensures their environmental quality.”

Q115

As stated in our first submission of comments, Futurepast agrees that the SEC should require registrants to disclose the methodology, significant inputs, and significant assumptions used to calculate their GHG emissions. We disagree that the SEC should require the sole use of the GHG Protocol's Corporate Accounting and Reporting Standard and related standards and guidance. While many corporates use the GHG Protocol, a significant number use ISO 14064 Part 1, Specification with guidance at the organization level for quantification and reporting of greenhouse gas emissions and removals. ISO 14064-1 was last revised in 2018, while the GHG Protocol's Corporate Accounting and Reporting Standard dates to 2004. While approximately 7,600 U.S. reporters quantify Scope 1 emissions using the U.S. EPA's 40 CFR Part 98, and approximately 575 companies in California report Scope 1 emissions according to the California Air Resources Board's Mandatory Reporting Regulation, we do not recommend that these methodologies be authorized for use because they omit from mandatory reporting certain sources (e.g. mobile emissions,

² See https://www.icao.int/environmental-protection/CORSIA/Documents/TAB/Excerpt_TAB_Report_Jan_2020_final.pdf#search=Eligible%20Emissions%20Units

³ Anders Bjørn, Shannon M. Lloyd, Matthew Brander and H. Damon Matthews, “Renewable energy certificates threaten the integrity of corporate science-based targets,” Nature Climate Science, 2022/06/09, ISSN 1758-6798, <https://doi.org/10.1038/s41558-022-01379-5>

refrigerants in Scope 1; and Scope 2 and 3 altogether). Thus, we recommend that the SEC limit registrant's choices to the GHG Protocol, ISO 14064-1 or The Climate Registry's General Reporting Protocol (and associated documents). We further recommend that registrants who report scope 2 emissions quantified in accordance with the GHG Protocol Scope 2 Guidance be required to report "location-based" emissions and that any reporting using the "market-based" method be explained and justified.

Q124

Futurepast does not support requiring registrants to disclose the methodologies they used for calculating GHG emissions, including emissions factors and their sources. Nor do we support requiring a registrant to use emission factors associated with EPA or a particular reporting standard or framework. We provide two reasons. First, reporting at this level of detail would be quite burdensome for the reporter and of limited value to the investor. Already some companies must disclose GHG emissions in multiple formats to multiple voluntary and regulatory platforms, and some of these specify emission factors. Second, emissions factors often are geographically specific. There are, for example, Canadian emission factors for CO₂, CH₄, N₂O from combustion of transportation fuels that vary slightly from U.S. emissions factors. It is better to leave the registrant the flexibility to choose appropriate emissions factors based on a hierarchy of specificity, from the actual emissions source to subnational, national and international (IPCC) emissions factors. It should be left to the attestation provider to point out in its opinion the degree to which (if any) the registrant has not been consistent or adhered to best practice in choosing emission factors. The same could be said for Global Warming Potentials (GWPs). GWPs from the IPCC's sixth assessment report (AR6) are now available, but for many legitimate reasons reporters are still using emission factors from AR5 and AR4.

Q132

Futurepast does not support requiring a registrant to follow a certain set of published standards for calculating Scope 3 emissions. We recommend instead that the SEC suggest that registrants use appropriate standards and methodologies. A number of these exist. The PCAF Global GHG Accounting & Reporting Standard for the Financial Industry may be cited, along with ISO 14064-1 Specification with guidance at the organization level for quantification and reporting of greenhouse gas statements, ISO 14067 Carbon footprint of products—Requirements and guidelines for quantification. In addition, there are both public and commercial databases used by life cycle assessment practitioners that may help fill in data gaps when more source-specific information is not available.

Q133

Futurepast recommends that the SEC provide a safe harbor for Scope 3 emissions disclosure, as proposed.

Q135

Futurepast supports the SEC's requiring accelerated registrants and large accelerated registrants to obtain an attestation report covering their Scope 1 and Scope 2 emissions disclosures. Futurepast personnel often have more than a dozen years of experience auditing greenhouse gas emissions statements in voluntary and regulatory programs and know from this experience that even organizations with mature reporting programs can misstate emissions when reporting and that some of these at the individual level, and sometimes at the aggregated or consolidated level, exceed thresholds of materiality. For the same reason, we also support attestation of GHG intensity metrics.

The question of attestation for Scope 3 emissions is more complicated. Organizations reporting Scope 3 emissions may not have access to data trails that support attestation with sufficient and appropriate evidence. In these circumstances, the latest version of ISO 14064-3, Greenhouse gases—Part 3: Specification with guidance for the verification and validation of greenhouse gas statements (2019) offers the use of Agreed-Upon Procedures (AUP) rather than attestation. The ISO 14064-3 provisions for AUP are similar in nature to those found in ISRS 4400, Engagements to perform Agreed-Upon Procedures regarding financial information. AUP are appropriately used when the party responsible for the statement of greenhouse gas emissions is not a client of the attestation provider. That said, situations exist where data trails and information are available and where attestation at the limited level of assurance may be possible. Unfortunately, these must be determined on a case-by-case basis. We suggest that the SEC not require attestation for Scope 3 emissions but encourage registrants to obtain attestation where possible and to include reports of factual findings based on AUP where appropriate. We do not support a requirement that Scope 3 emissions be verified to a reasonable level of assurance.

Q136

If the SEC requires accelerated filers and large accelerated filers to obtain an attestation report covering Scope 3 emissions, Futurepast recommends that the SEC allow an additional year to phase in the requirement. Please see Futurepast's comment to Q135 concerning the difficulty of determining *a priori* whether assurance can be provided on any, only a part, or all Scope 3 emissions. Futurepast does believe that it is possible to validate the assumptions, limitations and methods that a registrant uses to quantify its Scope 3 emissions, and an attestation conclusion on this subject matter could read as follows:

“Based on our review of the evidence, nothing comes to our attention which causes us to believe that Company XYZ's methodology for the estimation of Scope 3 emissions does not provide a reasonable basis for their quantification, and that Company XYZ has not applied its methodology and assumptions in a consistent manner.”

Q139

The proposed regulation would phase in assurance at the reasonable level of assurance after two years of verification at the limited level of assurance, and then require reasonable level of assurance engagements afterwards. In our experience it is preferable that a reasonable level-of-assurance engagement precede limited level-of-assurance engagements. This order enables the attestation

provider to understand and examine the design and implementation of controls and to detect misstatements far more thoroughly than is possible during a limited level-of-assurance engagement. We do not believe that it is necessary or cost effective for a filer automatically to be subject to reasonable level-of-assurance engagements every year. Instead, Futurepast recommends that the SEC require an initial reasonable level-of-assurance engagement during the first year of attestation, followed by two years of attestation at the limited level of assurance, provided that the attestation report of the first year included no modifications (also known as qualifications). A filer with an unmodified attestation report should be rewarded by two successive years of limited level of assurance attestations. After that, the attestation provider would again perform a reasonable level of assurance engagement, and the cycle would continue with two years of limited assurance engagements as long as the reasonable level of assurance engagements resulted in unmodified opinions.

Q141

Futurepast agrees that the terms “reasonable assurance” and “limited assurance” are generally understood in the marketplace and that no definitions of them are required.

Q143

(i) We do not support including GHG emission metrics in a separate schedule to the registrants’ financial statements. We believe that keeping the disclosures together with emissions reporting will provide investors with the necessary context for understanding associated metrics and targets.

(ii) We do not support requiring registrants to include GHG emissions disclosures in their audited financial statements.

(ii d) Futurepast believes that registrants will find qualified attestation providers available to them at lower cost for comparable quality if attestation providers are not limited to registered public accounting firms. We recognize that some public accounting firms have achieved levels of expertise in GHG accounting and assurance, but believe that a large pool of attestation expertise exists outside public accounting firms. Qualified environmental consultants, engineering firms and other specialized GHG verification providers should be permitted to provide assurance as long as they perform their verification work according to International Standards (i.e. ISO 14064-3 and ISO 14065) or in accordance with ISAE 3000 and ISAE 3410. Futurepast believes that qualified firms other than public accounting firms should be permitted to provide assurance on disclosure of GHG information. The benefit of doing so is making available to registrants a much larger pool of potential service providers. This will enhance competition and likely result in lower costs to registrants. An industry of non-accounting firm GHG assurance providers has existed in the United States since at least 2007 and functions well. For example, the ANSI National Accreditation Board has accredited approximately two dozen verification providers who meet the requirements of ISO 14065. The California Air Resources Board has accredited 28 verification bodies for its mandatory GHG reporting program.



We propose that all non-public accounting firms should operate GHG verification programs in conformity with the requirements of ISO 14065. We suggest that either accreditation to ISO 14065 or a self-declaration of conformity to this standard in accordance with the requirements of ISO/IEC 17050, Supplier's declaration of conformity should be accepted. We further propose that non-public accounting firms should carry at least \$1 million in Errors & Omissions insurance. Futurepast believes that no further oversight is necessary and that the PCAOB may have difficulty standing up a distinct program for oversight of non-public accounting firms. We base this supposition on the experience Futurepast had seeking information from the Virginia Board of accountancy.

Futurepast asked the Virginia Board of Accountancy whether it would provide oversight of non-public accountancy firms and received the following reply:

April 7, 2022

Dear Mr. Shideler,

Thank you for your patience while your request was reviewed.

The staff of the Virginia Board of Accountancy ("VBOA")—including myself—cannot and do not provide legal advice. VBOA staff provides assistance to the public by providing reference to our statutes and regulations; however, any such assistance provided by staff shall not be construed as legal advice for any particular situation, nor does it necessarily communicate all applicable laws and regulations governing any particular situation or occupation. Please consult an attorney regarding any legal questions.

VBOA regulates CPAs and CPA firms to ensure they are complying with our statutes and regulations. If a Virginia CPA firm provides attest services, compilation services, or financial statement preparation services to persons or entities they must be licensed and enrolled in a practice monitoring program. However the licensure and compliance of non-accounting firms is beyond the jurisdiction of this office.

Best,

VBOA

(By [REDACTED])

The ISO standards mentioned above (ISO 14064-3 and ISO 14065), with the addition of ISO 14066, Competence requirements for greenhouse gas validation teams and verification teams, provide robust sets of requirements for performing assurance engagements, managing a verification body, and assuring the competence of validators and verifiers. Futurepast—whose president helped write these standards as a U.S. Expert to ISO Technical Committee 207 on Environmental management—believes these standards address required expertise, independence and quality control at least as well if not better than ISAE 3000, ISAE 3410, and ISRS 4400.

(ii e) Apart from the benefit of expanding the pool of talent available to registrants, the SEC, if it adopted our recommended approach, would comply with the letter and spirit of the National Technology Transfer Act of 1995 which directs federal agencies to “use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.”⁴ The member body of ISO from the United States is the American National Standard Board. It describes itself as follows:

“The American National Standards Institute (ANSI) is a private, non-profit organization that administers and coordinates the U.S. voluntary standards and conformity assessment system. Founded in 1918, the Institute works in close collaboration with stakeholders from industry and government to identify and develop standards- and conformance-based solutions to national and global priorities.”

<https://www.ansi.org/about/introduction>

Q144

Futurepast supports the position of the SEC in its proposed rule with respect to the qualifications of attestation providers. The focus should be on expertise rather than years of experience. Years of working experience do not necessarily imply a high level of competence. Futurepast prefers assessing knowledge, skills and abilities rather than tracking alternate benchmarks that do not explicitly evaluate the ability of a person or firm to deliver assurance services at a high level of quality. We believe that accreditation can add value by assessing the performance of bodies and their members, but we do not believe that accreditation oversight is necessary in every case, as the cost of accreditation can create a barrier to entry, particularly for smaller firms.

We do not support a requirement that would limit assurance providers to public accounting firms.

Q145

Futurepast supports the imposition of performance-based quality requirements for attestation providers auditing the GHG emissions and related information of SEC registrants. Attestation providers should be required to demonstrate that they have policies and procedures in place to carry out the objectives of the proposed rule in an impartial, fair and expert manner.

Q146

Futurepast believes that assurance providers should be independent with respect to the registrant and any of its affiliates. We support the language of the rule as proposed by the SEC.

Q152

⁴ Public Law 104-113—MAR. 7, 1996 110 STAT. 775, the National Technology Advancement and Transfer Act of 1995, Sec. 12 (d)(1).



Futurepast believes that ISO standards, particularly ISO 14064-3, ISO 14065, and ISO 14066 form the basis for quality auditing of GHG emissions and information, and that attestation bodies that are not public accounting firms should be required to perform attestation engagements in accordance with their requirements.

Q153

Futurepast does not believe that the possibility of Section 11 liability will deter qualified firms and persons from providing attestation services to registrants. Given the nature and extent of auditing at the limited level of assurance, Futurepast agrees that a provision similar to 17 CFR 230.436(c) should be included in the final rule so that a report on GHG emissions at the limited level of assurance is not considered part of a registration statement prepared or certified by a person whose profession gives authority to a statement made by him or a report prepared or certified by such person within the meaning of Section 7 and 11 of the Act.

Q154

Futurepast strongly disagrees with the proposal that attestation engagements and reports should be limited to standards that are publicly available at no cost. This provision blatantly favors documents developed by WRI/WBCSD and prejudices the use of International Standards developed by consensus with input from experts from around the world. It is noteworthy that the National Technology Transfer Act of 1995 (see note 1, *supra*) does not include such a requirement. In many countries ISO standards are incorporated by reference in regulations issued by national and subnational jurisdictions, including the Canadian federal government and Canadian provinces. ISO 14065:2013 and ISO 14066 were adopted as an American National Standards in the United States and more recent documents in the greenhouse gas series of standards should receive this status in the future. Notably, the International Civil Aviation Organization, a United Nations body, requires verification bodies to meet the requirements of ISO 14065 and perform verifications in accordance with ISO 14064-3. They also recognize ISO 14066 as the appropriate standard for assessing the competence of greenhouse gas validation teams and verification teams.

Q155

Futurepast disagrees that attestation standards used should be publicly available at no cost to investors. ISO 14064-3 is a widely used standard for GHG verification, and precluding it from use would not serve the interests of investors. The fees ISO charges for standards are designed to support the standards writing activity of the International Organization for Standardization which specializes in the publication of technical standards in support of international trade. ISO was founded in 1947 after World War II to foster commercial relations among countries. It does not have any other agenda than the publication of high quality, consensus-based standards, and to support its mission charges a fee for its products that is shared with national standards bodies who are its members. The use of ISO standards is fully consistent with the mandate to federal government agencies to favor the adoption of consensus-based standards under the National Technology Transfer Act of 1995 (see note 1, *supra*).

Q156

Futurepast agrees that the SEC should establish minimum requirements for attestation reports. Futurepast believes that ISO 14064-3, Greenhouse gases—Part 3: Specification with guidance for the verification and validation of greenhouse gas statements, provides a superior process framework for verifying greenhouse gas emissions data and related information. ISO 14064-3 is widely used in the voluntary carbon markets and was developed as a consensus-based standard. Futurepast has previously commented that we do not agree that all standards used in carrying out the intent of the SEC proposed rule should necessarily be available free of charge. “Free of charge” means that some other activity is subsidizing the cost of development, publication and maintenance of the document. ISO standards are developed instead by an organization whose sole purpose is to develop and publish international consensus standards to promote international trade and commerce. The fee structure of the International Organization for Standardization supports its mission.

Q158

Futurepast agrees that referencing proposed items 1504(a), 1504(b), and 1504(e) would constitute suitable criteria under attestation standards. We agree that this is true for AICPA SSAE No. 18, AT-C 105.A16. That standard provides generic guidance on the suitability of criteria. It references the criteria’s relevance, objectivity, measurability, and completeness. On the same topic, clause 5.1.5 of ISO 14064-3 states the following:

The verifier/validator and client shall agree on the criteria taking into account the principles and requirements of the standards or GHG programme to which the responsible party subscribes. The verifier/validator shall assess the suitability of the criteria proposed by the client, considering:

- a) the method for determining engagement scope and boundaries;
- b) the GHGs and sources, sinks and reservoirs (SSRs) to be accounted for;
- c) the quantification methods;
- d) requirements for disclosures.

Criteria shall be relevant, complete, reliable and understandable. [They] shall be available to the intended user. The criteria shall be referenced in the opinion.

Futurepast believes the requirements on the suitability of criteria in ISO 14064-3 improve upon the general guidance offered by the AICPA SSAE No. 18 standard.

Q159

Futurepast believes that the GHG Protocol present suitable criteria for quantification of GHG emissions at the organizational level. However, WRI/WBSCD’s accounting standard is not alone in doing so. ISO 14064-1 Greenhouse gases—Part 1: Specification with guidance at the organizational level for quantification and reporting of greenhouse gas emissions and removals is an equally



good—if not superior—source for criteria and has been more recently revised than the GHG Protocol. Futurepast believes that registrants should be offered a choice between these two quantification and reporting options. In addition, The Climate Registry has published a General Reporting Protocol that is based on the GHG Protocol. It also constitutes “suitable criteria.”

Q161

Futurepast does not agree that the SEC should require registrants to disclose whether the attestation provider has a license from any licensing or accreditation provider or whether the attestation body is a member in good standing of the licensing or accreditation body. We propose that the SEC defer action on this matter until after the proposed regulation has been implemented for a period of time, such as three years, when the SEC could then revisit the question based on experience in the attestation marketplace.

Q162

Futurepast believes that investors are most interested in information about the attestation provider’s history, qualifications and expertise. Instead of requiring information about oversight bodies, Futurepast recommends that attestation providers be required to publicly disclose on their websites information that includes:

- Date and location of incorporation
- Description of business activity(ies)
- Qualifications and experience of principals
- Errors and Omissions insurance information
- Corporate status (e.g. good standing)

Futurepast believes that disclosure of this information is more relevant to investors than information identifying the name of an oversight body to which the attestation provider may be subject.

Q165

Futurepast supports the SEC’s proposed language in 1505(b) relating to the independence of the attestation provider.

Q166

Given Futurepast’s experience seeking information from the Virginia Board of Accountancy about its potential oversight of expert GHG attestation providers that are not public accounting firms (see our comments to Question 143 *supra*, Futurepast does not support requiring attestation providers to disclose any oversight inspection programs to which they are subject. Requiring such disclosures creates a binary evaluation criterion where an attestation provider either is, or is not, subject to oversight. Futurepast believes that requiring such a disclosure is contrary to the SEC’s implied finding that GHG attestation providers that are not subject to oversight by financial accounting



oversight bodies have the necessary experience and expertise to provide attestation services. If this binary criterion is established, investors may assume—wrongly, we believe—that those attestation providers that *are* subject to oversight are necessarily more qualified than those that are not. Futurepast does not agree that such is the case, and we believe that a level playing field is better achieved by attestation providers disclosing the information that we describe above in our answer to Question 162.

Q189

Futurepast believes that the SEC regulation should apply to all registrants, domestic and foreign, for the sake of comparability among public companies.

Thank you again for the opportunity to comment on this important proposed new rule.

Kind regards,

A handwritten signature in black ink that reads "John C. Shideler". The signature is written in a cursive, flowing style.

John C. Shideler, PhD
President