May 13, 2007

Clerk of the Board
Air Resources Board
1001 I Street
Sacramento, California 95814

Dear Members of the Air Resources Board:

During the last six months, the worldwide scientific community has overwhelmingly concluded that carbon dioxide emissions from human activities are causing global warming that threatens to result in catastrophic volatility in weather patterns, flooding of coastal regions, drought, reduction of the productivity of farm land, displacement of tens of millions from their homes, increased mobility of diseases, and other destructive consequences. Politicians who once scoffed at the possibility of global warming now acknowledge its reality. Now updated models predict the destructive effects of global warming were underestimated.

Historically, the State of California, through the Air Resources Board (ARB), has shown leadership to the United States, and thus to the world, by directly addressing the challenge of reducing air pollution. By regulating air pollution, the ARB has provided reason to hope in the decisiveness of the people of California to make the crucial decisions necessary to reduce air pollution.

Now, the danger from carbon dioxide emissions is heightened and a new responsibility of the ARB. We have the technology and now practical data to prove that carbonless transportation system are scalable and desired. Although these technologies are not perfect, carbon-based technologies are proven to be inexorably destroying our planet. Logic should follow that zero emission systems should be given priority to carbon dioxide releasing systems.

Anything short of a carbonless approach to California's transportation infrastructure will prove disastrous. Given that both electric and hydrogen-fueled vehicles have been proven reliable in state demonstration projects, the choices are clear. Any decision to spend precious public funds on carbon-based transportation technologies would be both questionable and irresponsible.

In Tehachapi California, for example, General Electric has sold out its production capacity of wind turbines. Wind energy is a profitable, competitive, stable, long-term renewable resource. The Five Cities Project test of hydrogen vehicles has demonstrated a model of affordable hydrogen cars and fueling stations. Consumers are demanding the return of electric vehicles. Coupled with solar, wind or geothermal, this represents another commercially viable approach.

Fuels from non-waste sources, such as corn-based ethanol, are controversial at best. Data indicates that these fuels contribute to water and air pollution and cause increased competition for food stocks yet do not relieve the dependence on fossil fuels.

In addition to being bad public policy, as explained above, the proposed allocation of $25 million appropriated by AB 1811 (*Staff Report on the Proposed Allocations of $25 Million for the Alternative Fuel Incentive Program,* Section III: Conceptual Recommendations) is both procedurally and substantively unlawful. Although the amounts of some of the particular proposed allocations of the $25 million have changed since the meeting held September 21, 2006 in Sacramento, the purposes for which the proposed allocations would spend that money have not changed. (Compare the current proposal to "Conceptual" Proposal $25 Million To ARB For Clean Alternative Fuels, Attachment C to letter dated September 11, 2006, signed by Robert D. Fletcher, Chief, Stationary Source Division, Air Resources Board.)

Because the notice for the current meeting is flawed for the same reasons as was the notice for the meeting held September 21, 2006, and because the current proposed allocations of the $25 million appropriated by AB 1811 are problematic and unlawful for the same reasons as were the proposed allocations published in Attachment C to Mr. Fletcher's letter of September 11, 2006, I object to this meeting and to the currently proposed allocations of the $25 million appropriated by AB 1811. I object for the same reasons as I objected to the notice for the meeting held on September 21, 2006 and to the appropriations proposed at that meeting, as I stated in my letter dated March 19, 2007. (A copy that letter is attached to this letter as Exhibit A.) . I hereby adapt Exhibit A on its face to apply, in its entirety, to the notice for this meeting, to the current proposed allocations of the $25 million appropriated by AB 1811, and to all the circumstances antecedent to this meeting. I hereby incorporate Exhibit A into this letter. I hereby invoke the arguments stated in Exhibit A against the notice for this meeting and against the current proposed allocations of the $25 million appropriated by AB 1811, and I make the demands stated in Exhibit A, as modified to address the circumstances surrounding this meeting.

For the foregoing reasons, I urge the ARB to reject any allocations of the appropriated AB 1811 monies to any carbon dioxide emitting proposals and instead allocate funds to carbonless transportation fuels and vehicles.

Future generations will look back to this point in time and find that these decisions were ones that either courageously fought global warming or sheepishly shrunk from the challenge of it.

Sincerely,

Peter Holoyda
President, Hydrogen First

March 19, 2006

Exhibit A

Peter Ward
Advisor to James Boyd, Vice Chair
California Energy Commission
1516 Ninth Street, MS-34
Sacramento, CA 95814-5512

Analisa Bevan
Chief, Sustainable Transportation Technology Branch
Air Resources Board
Mobile Source Control Division
1001 I Street
P.O. Box 2815
Sacramento, CA 96812

Re: Alternative Fuels Program Public Meeting, held September 21, 2006, in Sacramento

Dear Mr. Ward and Ms. Bevan:

We write in the spirit of support. Our company promotes zero emission transportation technology solutions that currently have shown promise of mass application in state programs (South Coast Air Quality Management District "Five Cities Program and Wind/Hydrogen Program"). These technologies include wind energy to power electric and hydrogen-fueled vehicles. We support all energy sources that do not cause health problems, damage the environment, or contribute significant air pollution.

I write not to denigrate other fuels but to do my utmost to promote all environmentally benign, renewable sources of transportation energy. Environmentally benign, renewable sources of transportation energy are available today on the open market. For that reason, proposals by the Air Resources Board (ARB) and the California Energy Commission (CEC) to emphasize non-zero-emission fuels, such as ethanol, in allocating state funds is alarming, especially given that the State of California has adopted a "Hydrogen Highway Plan."

We envision an energy future in which there is an appropriate niche for both electric vehicles, provided they are charged with "green" electricity, and hydrogen-fueled vehicles using "green" hydrogen. Unlike ethanol, "green" electricity and hydrogen are derived from non-fossil fuel sources and have no dependence on fossil fuel technologies. We believe that anyone who has dispassionately and thoroughly considered all the inputs to transportation energy and all the corresponding outputs will conclude, as have we, that ultimately, an environmentally benign, renewable transportation system can be achieved only through green electricity and hydrogen fuel. We are concerned, therefore, that public efforts to achieve environmentally benign, renewable transportation technology not wastefully devote precious public resources to technologies or initiatives that cannot

contribute substantially to the reduction of air pollution and the increased use of renewable energy, while also promoting our country's energy independence.

We commend the ARB and the CEC for jointly sponsoring the public meeting on September 21, 2006 to develop a joint plan to spend $25 million appropriated by Assembly Bill 1811 (AB 1811), but unless conducted properly, that meeting, and your activities related to that meeting, cannot successfully promote environmentally benign, renewable fuels. We regret that we are compelled to notify you of our objection to very substantial deficiencies in the conduct of that meeting. The meeting was fundamentally defective both procedurally and substantively. The nature and extent of the defects are so significant that they raise elemental questions about the validity of your overall process of complying with AB 1811. We are writing to request information to address these questions.

The notice for the meeting, published on the website of the ARB, states that the ARB and CEC are to develop a plan to spend $25 million, pursuant to AB 1811, for the purpose of incentivising the *use* and *production* of alternative fuels. The notice states that a number of recent state policy directives call for substantial expansion of the use and production of alternative fuels made from biomass and to reduce dependence on petroleum-based fuels and then declares that AB 1811 has allocated $25 million to support these policy directives. In particular, the notice states that AB 1811 provides $25 million "*to support these policy directives*" (emphasis added) in the following five ways:

- Market-based incentives for high efficiency, high mileage, alternative fuel light, medium, and heavy duty vehicles, both individual and public fleets, in California.

- Production incentives for alternative fuel production in California;

- Market-based incentives for the construction of both publicly accessible alternative fuel retail refueling stations and fleet facilities; including E-85.

- Funding for research, development, and testing of alternative fuels and vehicle technology.

- Incentives to replace the current state vehicle fleet with clean, high mileage alternative fuel vehicles.

The notice is problematic in numerous ways. First, although the notice presumes to attribute to AB 1811 the intention of supporting the policy directives of substantial expansion of the use and production of alternative fuels made from biomass and to reduce dependence on petroleum-based fuels, AB 1811 does not include any language that states that the purpose of the act is to support these policy directives. Therefore, the notice materially misrepresents the statute that was the subject of the public meeting.

Second, by incorrectly stating that AB 1811 provides $25 million to support policy directives that call for substantial expansion of the use and production of alternative *fuels* made from biomass and to reduce dependence on petroleum-based *fuels*, the notice implies that the explicit statutory mandates of AB 1811, which address both alternative *fuels* and alternative fuel *vehicles*, are subordinate to extraneous policy directives involving only *fuels*. By implying that AB 1811, which addresses both *fuels* and *vehicles*, is subordinate to extraneous policy directives involving only *fuels*, the notice implies that the development and use of alternative fuel *vehicles* are subordinate to the development and use of alternative *fuels*. Contrary to the notice, however, AB 1811 addresses alternative *fuels* and alternative fuel *vehicles* independently, and AB 1811 does not subordinate the development and use of alternative fuel vehicles to the development and use of alternative fuels.

Both AB 1811(6)(a) and AB 1811(6)(e) address alternative fuel vehicles but do not mention alternative fuels themselves. Pursuant to AB 1811(6)(a), the ARB and CEC "*shall*" allocate from the $25 million appropriation funds for market-based incentives for "*purchasers* of high efficiency, high mileage, clean alternative fuel light, medium, and heavy duty *vehicles*, both individual and public fleet, in California." (Emphasis added.) The notice omits the word "purchasers" when referencing this section of AB 1811. Because AB 1811(6)(a) specifies incentives for *purchasers* of alternative fuel *vehicles*, AB 1811 requires that funds be allocated to support the purchase of the vehicles themselves, not merely to support the use and development of alternative fuels used by such vehicles, as the notice incorrectly indicates.

Similarly, AB 1811(6)(e) requires the ARB and CEC to allocate from the $25 million appropriation funds for "incentives to replace the current state vehicle fleet with clean, high mileage alternative fuel *vehicles*." (Emphasis added.) AB 1811(6)(e) does not include any language referring to alternative *fuels* themselves. Because AB 1811(6)(e) specifies incentives to replace the state vehicle fleet with alternative fuel vehicles, but does not mention alternative fuels, AB 1811 requires the ARB and CEC to allocate from the $25 million appropriation funds to support the purchase by the State of California of alternative fuel vehicles, not merely to support the use and development of alternative fuels used by such vehicles, as the notice incorrectly indicates.

Third, although the notice states that the purpose of the meeting was to conduct a public workshop regarding potential incentives and funding for alternative transportation fuels, we were surprised as we entered the meeting room to receive from the ARB a document in which the ARB had already pre-determined a proposed allocation of the $25 million to various purposes before any public comment had yet been given. This document contradicted representations made to us when we met with Analisa Bevan and Gerhard Achtelick in the offices of CA EPA on September 5, 2006. At that meeting, Ms. Bevan and Mr. Achtelick told us that the distribution of the $25 million would be determined *after* a public meeting on September 21, 2006, and that the meeting was to be the time and place at which we should state our reasons why our project qualifies for funding from this $25 million appropriation.

The document containing the proposed allocation of the $25 million raises more questions. First, who determined the allocation of funds listed in that document? Second, by what process was that allocation of funds determined? Third, what criteria were used to develop the proposed allocation of funds listed in that document? Fourth, how and by whom were those criteria developed? Fifth, what goal was this proposed allocation intended to achieve: energy independence, clean fuel, or something else? Sixth, did the ARB, CEC, or any other agency or employee the State of California, or any person or entity acting on behalf of the State of California, prepare that document based, in any part whatsoever, on meetings, correspondence, phone conversations, e-mails, or communication of any other kind with parties interested in receiving funding from the $25 million? Seventh, if so, who are those parties? Eighth, if so, why were those parties given access to the decision-making process before the public meeting on September 21, 2006? Ninth, in all activities related in any way whatsoever to the preparation of this document, did the CEC, ARB, or other agencies or employees of the State of California comply with all California laws and regulations governing notice of, public access to, and procedures of the decision-making processes of these agencies? Tenth, will you provide us with all records kept of any proceedings related in any way whatsoever to the preparation of this document?

The meeting itself was problematic. You distributed an agenda at the meeting. The agenda included among "[p]ossible categories for funding: ... Zero Emission and Near Zero Emission Alternative Fuel Vehicle Incentives ...." (Brackets added.) By characterizing incentives for zero emission and near zero emission alternative fuel vehicles as "possible" categories for funding, your agenda falsely implies that AB 1811 includes such incentives merely as options for funding. On the contrary, AB 1811(6) states that "$25 million *shall* be expended ... for *all* of the following purposes:

> (a) Market-based incentives ... for purchasers of high efficiency, high mileage, clean alternative fuel light, medium, and heavy duty *vehicles*, both individual and public fleet in California.
>
> ...
>
> (e) Incentives to replace the current state vehicle fleet with clean, high mileage alternative fuel *vehicles*."

(Emphasis added.) Therefore, by the plain language of AB 1811, the ARB and CEC *must* allocate a portion of the $25 million appropriation for the vehicles specified in AB 1811(6)(a) and AB 1811(6)(e). Contrary to the language of your agenda, these incentives are not "possible" categories for funding; they are *required* categories for funding.

Notwithstanding that your notice mentions alternative fuel vehicle incentives as possible categories of funding, your proposed allocation of funds distributed at the meeting does not show allocation of funds for alternative fuel vehicles, as required by AB 1811(6)(a) and AB 1811(6)(e). Only two of the proposed allocations pertain to funding related to vehicles: $2 million for "Transit Bus Projects;" and $1.5 million for "Incentives for AT PZEVS and ZEVS." Neither of these proposed allocations satisfies the requirements of AB 1811.

The proposed allocation of $2 million for "Transit Bus Projects" states that this money would "make grants available to transit districts demonstrating buses using zero emissions or zero emissions-enabling technology." In other words, these grants would be made to transit districts that already are demonstrating alternative fuel vehicles.

These proposed grants entail three problems. First, by definition, grants made *after* transit districts have already purchased and are operating alternative fuel vehicles cannot function as "*incentives* for purchasers" of alternative fuel vehicles, as AB 1811(6)(a) requires. Second, because these grants would be made only to "transit districts," no funds would be allocated for incentives for *individual* purchasers of alternative fuel vehicles, as AB 1811(6)(a) requires. Therefore, the proposed allocation of $2 million for "Transit Bus Projects" does not satisfy any of the requirements of AB 1811(6)(a).

Third, AB 1811(6)(e) requires incentives for the State of California to replace the current *state* vehicle fleet with alternative fuel vehicles. Because the $2 million for Transit Bus Projects would fund grants to transit districts, not purchase of vehicles for the state fleet, this allocation does not satisfy the requirements of AB 1811(6)(e). Therefore, the proposed allocation of $2 million for Transit Bus Projects does not satisfy any of the requirements of AB 1811. Not satisfying the requirements of AB 1811, this proposed allocation would be unlawful.

The proposed allocation of $1.5 million for "Incentives for AT PZEVS and ZEVS" states that this money would provide "purchase or lease incentives" for alternative fuel vehicles. These proposed incentives entail three problems. First, AB 1811(6)(a) specifies that incentives must be provided for *purchasers* of alternative fuel vehicles. AB 1811(6)(a) makes no provision for *lease* incentives, nor does such provision appear anywhere else in AB 1811, so the proposed allocation of lease incentives lacks statutory authority.

Second, the proposed allocation does not state to whom these incentives would be made available. AB 1811(6)(a) requires allocation of funds for incentives for both *individual* and *public fleet* purchasers. Without specification that these incentives would be available for both individual *and* public fleet purchasers, this proposed allocation does not satisfy the requirements of AB 1811(6)(a).

Third, AB 1811(6)(e) requires incentives for the State of California to replace the current *state* vehicle fleet with alternative fuel vehicles. The proposed allocation of $1.5 million for Incentives for AT PZEVS and ZEVS does not specify that these incentives would be dedicated to replacement of the current state vehicle fleet. Without such specification, these incentives do not satisfy the requirements of AB 1811(6)(e). Therefore, the proposed allocation of $1.5 million for Incentives for AT PZEVS and ZEVS does not satisfy the requirements of AB 1811. Not satisfying the requirements of AB 1811, this proposed allocation would be unlawful.

The proposed allocation of $10 million, 40% of the total appropriation, for ethanol fuel is a misplaced priority because ethanol is a carbon-based fuel that, at present, is heavily dependent on fossil fuels for its production. The combustion of E-85 in internal combustion engines produces harmful gaseous emissions that contribute to smog and respiratory disease, as well as carbon dioxide which contributes to global climate change. Although E-85 may be re-circulating carbon in the crop cycle, E-85 is not re-circulating harmful emissions all in the same place. The corn or other vegetable matter used to distill the alcohol in ethanol is grown in distant farm regions, but ethanol fuel is burned disproportionately in densely populated urban areas. The use of E-85 constitutes the transfer of harmful emissions from farm regions to the population centers where the fuel is burned in vehicles. By contrast, battery electric and green hydrogen systems produce nearly zero emissions.

Ethanol also contributes to air pollution in other ways. Ethanol is produced using ethyl alcohol from crops, such as corn, sugar beets, or switch grass. These crops are grown on a large scale using diesel-powered tractors to cultivate the soil, plant the seeds, distribute fertilizers and pesticides, and harvest the mature plants. These diesel tractors emit harmful gaseous emissions and particulate matter. These crops are irrigated using diesel-powered water pumps, which emit harmful gaseous emissions and particulate matter, or electric water pumps powered by electricity generated from the burning of coal or natural gas. The burning of natural gas emits harmful gaseous emissions. The burning of coal emits harmful gaseous emissions and particulate matter. The crops are transported to distilleries to make alcohol on diesel-powered trains, which emit harmful gaseous emissions and particulate matter. The distilleries produce alcohol from the crops by heating the crops using extremely large quantities of electricity generated from the burning of coal or natural gas, both of which pollute the air, as explained above. When all of the energy inputs into the production of ethanol are taken into account, a genuine question exists whether ethanol is, in fact, a dirtier transportation fuel than gasoline.

Furthermore, E-85 is an inefficient fuel. The amount of energy required to grow the crops (diesel fuel for tractors; diesel fuel, coal, or natural gas for irrigation pumps; nitrogen fertilizers derived from petroleum), transport the crops to distilleries (diesel fuel for trains), and distill the crops into alcohol (coal and natural gas to produce electricity) approaches or exceeds the energy produced by E-85 to fuel vehicles.

In summary, ethanol emits harmful gaseous emissions and is an inefficient fuel. Use of ethanol in internal combustion engines will not improve the environment in California. The State of California should not be devoting 40% of the $25 million appropriation from AB 1811 to ethanol fuel.

Not only is the proposed allocation of $10 million to E-85 unwise, but also a portion of that appropriation is illegal. Your proposed allocation for E-85 includes funds to "[p]rovide *purchase* incentives for E-85 and potentially other alternative fuels ** (~40 percent)." AB 1811(6)(c) specifies that the CEC and ARB shall allocate funds for "[m]arket-based incentives ... for the *construction* of publicly accessible, clean alternative fuel refueling *stations* ...." (Brackets and emphasis added). Contrary to your

proposed allocation, however, AB 1811 makes no provision whatsoever for incentives for *purchase* of E-85 itself.

The proposed allocation for E-85 fueling stations is also problematic. AB 1811(6)(c) specifies that the CEC and ARB shall appropriate funds for market-based incentives for construction of E-85 refueling stations "sufficient in number to match the existing and anticipated supply of E-85 vehicles in California." If your agencies have conducted legitimate scientific studies of existing and anticipated supply of E-85 vehicles in California, then you should know that your proposed allocation of $10 million for this purpose is grossly disproportionate to the existing and anticipated supply of E-85 vehicles in California. If your agencies have not conducted such studies, then you have no basis for proposing this allocation.

The proposed allocation of $5 million, or 20% of the total appropriation, for biofuels is unwise for reasons similar to the reasons given above why your allocation for E-85 is unwise. Notwithstanding that they may be produced from California agricultural products, biofuels are still carbon-based fuels that produce harmful emissions that contribute to smog and respiratory disease, as well as carbon dioxide, which contributes to global climate change. As is the case with E-85, the amount of energy required to manufacture biofuels approaches or exceeds the amount of energy produced by biofuels to operate internal combustion vehicles, thereby rendering biofuels inefficient. Because biofuels pollute and are inefficient, they will not improve California's environment. For the foregoing reasons, the State of California should not devote 20% of the $25 million appropriation from AB 1811 to biofuels.

The proposed allocation of $2 million, 10% of the total appropriation, for "Portable Hydrogen Refueling Stations" is also problematic. Only one section of AB 1811 even arguably applies to this proposed allocation: AB 1911(6)(b), which prescribes that the CEC and ARB shall allocate funds for "*Production incentives* such as *loans*, *loan guarantees*, and *credits* for clean, alternative fuel production in California." (Emphasis added.) AB 1811 specifies "incentives," not "grants," as provided in your proposed allocation, and AB 1811(6)(b) lists the types of incentives that qualify: "loans, loan guarantees, and credits." Pursuant to the doctrine of *expressio unius est exclusio alterius*, a well-established rule of statutory construction, when a statute lists things to which the statute applies, the statute impliedly excludes things not listed. Therefore, AB 1811(6)(b) excludes "grants."

Furthermore, AB 1811(6)(b) explicitly specifies that the funds shall be allocated for "production incentives." A grant for portable hydrogen fueling systems does not provide an "incentive" for "production" of hydrogen fuel. For all of the foregoing reasons, the proposed allocation of $2 million for portable hydrogen refueling stations lacks statutory authority and therefore would be unlawful.

The proposed allocation of $1.5 million for "Plug-in Hybrid electric Vehicle (PHEV) Demonstrations" is problematic. Only two sections of AB 1811 pertain to vehicles, AB 1811(6)(a) and AB 1811(6)(e). AB 1811(6)(a) prescribes funding for

market-based incentives for purchasers of alternative fuel vehicles, both individual and public. The proposed allocation is for "grants" for "demonstration" of "PHEV programs," not market-based incentives for purchasers of alternative fuel vehicles, so AB 1811(6)(a) does not authorize this proposed allocation.

AB 1811(6)(e) prescribes funding for incentives to replace the state vehicle fleet with alternative fuel vehicles. Again, the proposed allocation is for "grants" for "demonstration" of "PHEV programs," not incentives to replace the state vehicle fleet with alternative fuel vehicles, so AB 1811(6)(e) does not authorize this proposed allocation.

The only other section of AB 1811 that could possibly apply to this proposed allocation is AB 1811(6)(d), which prescribes:

> Grants for *research and development* of clean and zero emission *fuels* and *vehicle technology* to assist in making those technologies affordable in the marketplace.

(Emphasis added.) The proposed allocation does not mention the word "research." The proposed allocation does not include any reference to making alternative fuels or vehicle technology affordable in the marketplace. The proposed allocation to support "demonstration" of PHEVs does not have anything to do with research and development. The proposed allocation to fund "evaluation of *consumer acceptance* of, and *usage patterns* for PHEVs" does not constitute research and development of "fuels" and "vehicle technology" to assist in making those technologies affordable in the marketplace. Finally, the proposed allocation to fund "development of *test* and *certification procedures* for PHEVs" is not research and development of "clean and zero emission *fuels* and *vehicle technology,*" as prescribed by AB 1811(6)(d). Therefore, for all of the foregoing reasons, the proposed allocation of $1.5 million for portable hydrogen refueling stations lacks statutory authority and so would be unlawful.

The proposal to allocate $2 million for "Alternative Fuel Vehicle Research" is also problematic. AB 1811(6)(d) governs this proposed allocation of funds. The proposed grant to "support emission and performance testing of alternative fuel-powered vehicles (E-85 and biodiesel blends) and PHEVS" does not specify that the grant funds will be used to fund research "to assist in making those technologies affordable in the marketplace," as AB 1811(6)(d) requires. Equally importantly, your proposed grant is limited to research on E-85 and biodiesel blends fuels and PHEVS vehicles, but AB 1811(6)(d) requires that these research funds be dedicated to research and development of "*clean* and *zero emission* fuels and vehicle technology." As explained in detail above, E-85 and biodiesel are neither clean, nor zero emission fuels. In fact, a genuine scientific question exists whether E-85 and biodiesel are actually dirtier internal combustion engine fuels than gasoline.

Similarly, PHEVs obtain their electricity from the grid, which carries electricity produced primarily from the burning of coal and natural gas, both of which are dirty fuels

that contribute to both smog and global climate change. As the governor's Hydrogen Highway plan effectively shows, unless PHEVs get their electricity exclusively from clean, zero emission sources, PHEVs are not clean, zero emission vehicles. PHEVs fueled by electricity generated from fossil fuels contribute to the emission of carbon dioxide and still burn gasoline when batteries are depleted. For all of the foregoing reasons, the proposed allocation of $2 million for "Alternative Fuel Vehicle Research" lacks statutory authority and so would be unlawful.

Finally, the proposed allocation of $1 million for "Funding for Consumer Education and Outreach" is problematic. AB 1811 does not make any provision for "education" or "outreach." AB 1811(6)(a) prescribes funding solely for "market-based incentives" for "purchasers" of alternative fuel "vehicles." Therefore, AB 1811(6)(a) does not authorize this proposed allocation for consumer education and outreach.

AB 1811(6)(b) prescribes funding solely for "production incentives" for alternative fuel production in California. Therefore, AB 1811(6)(b) does not authorize this proposed allocation for consumer education and outreach.

AB 1811(6)(c) prescribes funding solely for "market-based incentives" for "construction of publicly accessible" alternative fuel refueling stations. Therefore, AB 1811(6)(c) does not authorize this proposed allocation for consumer education and outreach.

AB 1811(6)(d) prescribes funding solely for "research and development of clean and zero emission *fuels* and *vehicle technology* to assist in making those technologies affordable in the marketplace." Therefore, AB 1811(6)(d) does not authorize this proposed allocation for consumer education and outreach.

Finally, AB 1811(6)(e) prescribes funding solely for "incentives" to replace the state vehicle fleet with clean, alternative fuel vehicles. Therefore, AB 1811(6)(e) does not authorize this proposed allocation for consumer education and outreach.

In summary, AB 1811 makes no provision whatsoever for consumer education and outreach as provided by the proposed allocation. For all of the foregoing reasons, the proposed allocation of $1 million for "Consumer Education and Outreach" lacks statutory authority and so would be unlawful.

For all of the foregoing reasons, I hereby lodge our objection to your conduct of the public meeting on September 21, 2006 and your proposed allocation, in its entirety, of the $25 million appropriated by AB 1811. We hereby further demand:

- a copy of the record of that meeting; and
- all information and documents in your possession that are responsive, in whole or in part, to the questions posed above on Page 4 of this letter.

Because of the defective notice, because of the improper preparation of the proposed allocation of the $25 million appropriation before the public meeting, and because of the unlawful character of the proposed allocation, we hereby respectfully demand that the meeting of September 21, 2006 be construed a nullity, that the proposed allocation of $25 million be declared void, and that another meeting be held in its place, *ab initio*.

Sincerely,

Peter Holoyda
President
Hydrogen First