August 11, 2008

Mary Nichols, Chairman
California Air Resources Board
1001 "I" Street
P.O. Box 2815
Sacramento, CA 95812

Chairman Nichols:

I am once again appealing to you to reconsider the Board's decision to reduce the minimum number of pure zero emissions vehicles by 70%, from 25,000 to a mere 7,500 during Phase III (2012 to 2015).

Increase not decrease the minimum number of Pure ZEVs

It is well documented that the Board was misguided into an erroneous conclusion by a faulty fact finding process which led the staff to conclude in their ISOR that no electric car will be commercially available until 2012. Whereas the reality is Tesla Motors is already delivering zero emission full performance electric vehicles to customers. What's more, we are at an advanced stage of establishing full manufacturing operations in California for introduction in 2010, of the Model S, a five-passenger affordable zero emission electric car which will be produced in volumes of 20,000 cars per year.

Indeed Tesla is not alone. Major automobile makers including Nissan, Daimler BMW, and Mitsubishi have already announced plans for the introduction of zero emission electric vehicles to the California market in 2010. By any measure, CARB's minimum quota of 25,000 pure zero emission vehicles for 2012-2015 can be met today. Whose interest will be served by easing the requirements to a paltry 7,500 vehicles?

Eliminate the substitution of Pure ZEVs with Enhanced AT-PZEVs

If the Board was bent on incentivizing the introduction of plug-in hybrids by providing manufacturers generous rights of substitutions to pure ZEVs, it behooves the Board to review its decision. The plain fact is since the public hearing in March, 2008, market forces have done in a very short time what the Board has been attempting to achieve over years. The quantum jump in the price of oil, coupled with heightened awareness of carbon emissions, has propelled consumers to seek cars that answer both problems and give manufacturers a startling wake up call. Toyota, GM and Ford have all announced high volume PHEV programs. In fact the enormity of the demand for hybrids since CARB's last hearing only five months ago should serve as a lighting rod for you to reconsider whether in view of the new realities, it is necessary to award ZEV credit at all to any type of hybrid; whether its PZEV, AT- PZEV or Enhanced AT- PZEV. The paradigm has irrevocably shifted giving CARB an opportunity to redeem its reputation and reassert its leadership position in leading the charge toward early and wide adaptation of true zero emission vehicles.

The Board has repeatedly declared that it is determined to "maintain pressure on the commercialization of pure ZEV technologies," however the Board's actions do not comport with its own pronouncements.

Set the minimum ZEV delivery requirement on an annual basis

The minimum ZEV requirements have been set to 3 year phases. The practical effect of this rule has been to give the LVM's in excess of a 2 year grace period during which they can defer meeting their phase requirements until the very end of the final year of any given phase. Consequently this extended grace ("blackout") period encourages LVMs to delay the introduction of pure zero emission vehicles to the market. CARB should prorate the minimum ZEV delivery requirements for Phase III and beyond to a yearly basis. Such a rule would be consistent with the stated goals of CARB and deliver the public policy benefit of a maximum number of ZEV's on the road at the earliest possible date.

Change the carry forward provisions of gold credits earned by pure ZEV manufacturers

Contrary to California's interest in encouraging the establishment of manufacturing facilities for zero emission vehicles in the State as repeatedly articulated by Governor Schwarzenegger and enacted into law by the Legislature (AB118), CARB continues to favor large automakers and in the process needlessly undermines Tesla. The illogical consequence of the proposed modification may be inadvertent and unintended but needs to be remedied immediately. A case in point:

In a recent modification, the staff proposed, evidently in deference to intermediate vehicle manufacturers (IVM), an amendment allowing IVMs to accrue gold ZEV credits for use up to three years after a transition to a large vehicles manufacturer (LVM). Simply put, as long as a manufacturer has not become an LVM the clock doesn't tick on the 3 years useful life of the ZEV credit. Yet if a manufacturer other than an LVM chooses to trade their gold credits, then the 3 years life span is deemed to have a starting point in the MY in which the credits were earned.

Ironically, staff goes out of its way to safeguard the welfare and commercial interests of the IVM including BMW, Mercedes, and VW. In stark contrast, the proposed modification will perpetrate irreparable damage on Tesla, the only car maker based in California and the world's only car maker that actually develops and is committed exclusively to zero emission vehicles. How? Since Telsa makes only zero emission vehicles we sell our gold ZEV credits to LVMs. The monies received defray in part some of the large R &D costs incurred in pioneering the development of the zero emission electric cars. If the 3-year clock starts ticking in the MY during which we sell the car, and not the time in which we sell the ZEV credit to an LVM, (unless we are able to sell the ZEV credits immediately upon selling the car), we will be left with highly perishable ZEV credits that expire sooner than 3 years and consequently may be valued at a steep discount if not a zero value altogether. Please note we are not speculating about the huge reduction in value of the ZEV credit due to even the slightest reduction in its validity period, we have experienced it already.

We respectfully request that Tesla be accorded the same considerations given to much larger and more established IVMs and that the proposed rules be modified so that for any company that solely manufactures zero emission vehicles the 3 years period of the ZEV credit starts only upon transfer of the ZEV credit to another company.

TESLA MOTORS, INC 1050 Bing Street San Carlos, CA 94070 650 413 4000 TEL 650 413 4099 FAX www.teslamotors.com

In summary we urge the Board to:

1) Increase not decrease the minimum number of Pure ZEV required in Phase III (2012-2015);

2) Eliminate the substitution of Pure ZEVs with Enhanced AT-PZEVs;

3) Set the minimum ZEV requirements on a yearly basis rather than for three years, thus preventing manufacturers from getting an additional three year grace period and eliminating "blackout" years;

4) Change the carry forward provision of gold ZEV credits earned by any manufacturer that exclusively manufactures pure ZEVs to expire 3 years from the date of transfer to another manufacturer.

With these actions the Air Resources Board will once again be able to recapture its credibility and assume the mantle of leadership in advancing the goal of true zero emissions transportation in the state of California and beyond.

Sincerely,

Ze'ev Drori
President and CEO