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May 12, 2010

Commissioner James Boyd, Vice Chair; Presiding Member, Transportation Committee
Commissioner Anthony Eggart, Associate Member, Transportation Committee
Cc: Advisory Committee, Leslie Baroody, Jim McKinney, Mike Smith
California Energy Commission
Dockets Office, MS-4
Re: Docket No. 09-ALT-1
1516 Ninth Street
Sacramento, CA 95814-5512
docket@energy.state.ca.us

Re: 2010-2011 AB 118 Investment Plan for the Alternative & Renewable Fuel & Vehicle
Technology Program.

Dear Chairman Boyd, Commissioner Eggert, and Members of the Commission,

Thank you for the opportunity to comment on the 2010-2011 Investment Plan. AE Biofuels appreciates the hard work that the Energy Commission's staff and members have dedicated to the Plan to date in order to implement the ambitious green house gas reduction and alternative fuel vehicle infrastructure provisions contained in AB 118. We are generally supportive of the Plan and agree with the Commission's considerations for the various renewable energy and alternative fuel technology programs. We do however have comments regarding the Commission's current Solicitations being offered as part of the Plan.

Biofuel Production Plants Grant Solicitation – PON-09-604, Treatment of Intellectual Property:

AE Biofuels, Inc. is concerned that the current Solicitation, which is designed to provide financial assistance for the development of new biofuel production plants, does not currently employ a methodology to fully account for the value of the intellectual property (IP) and related patents which are being deployed in the development of new projects under this program. According to staff comments at the Commission's workshop held on April 27, 2010, as reflected in the subsequent publication of the question and answer session from that meeting, the requirement for 'matching' funds does not qualify IP or patent expenses contributed to a specific project.

As a next generation cellulosic ethanol technology provider, we have invested considerable time and money to achieve the technological innovation required to advance beyond lab scale results and integrate with a pre-development production scale project that this Investment Plan opportunity affords. While the contribution of equipment qualifies on a pro-ratable basis for the purposes of this solicitation, the in-kind contribution of the IP does not. This program design precludes us from receiving any credit for the contribution of our three pending patents related to our specific technology that fundamentally underlies our contribution. We feel that this is an oversight that should be reconsidered for future applications, as it is common situation for any early or mid-stage company making investments in next generation technologies. With various mechanisms and models available to value IP/patents, including the financial accounting methodology of amortization, we recommend that the Staff permit IP/patent along with an appropriate valuation technique in future solicitations and funding opportunities.

Future Funding of Programs To Support Ethanol:

As the ethanol industry in California invests heavily in manufacturing infrastructure, employs hundreds of workers directly (as well as supporting thousands of indirect jobs), and contributes millions of tax dollars annually to state and local governments, we believe that additional funding for programs created under AB 118 to support the sector are not only warranted, but are critical to the future success of developing and implementing new technologies to meet the ambitious goals of this important law. As compared to other less developed technologies, funding for current and next-generation ethanol programs are inadequate to meet the demands set out by AB 118 and the newly implemented Renewable Fuel Standard (RFS 2). We strongly urge the Commission to consider increasing its commitment to California's ethanol industry through additional funding for the CEPIP and additional grant programs.

Distribution of Grants and Awards:

California has fallen behind in meeting the federal mandates for biofuels, which creates the need for production of such fuels to be all the more immediate. Having access to one of the five ethanol plants in California, AE Biofuels has the unique opportunity to have access to a central valley plant that is currently poised to enter the pre-commercial facility stage with advanced cellulosic technology. As our patent-pending process is moved from its current location in Montana to the production facility in California, the pre-commercial phase of ethanol production can commence immediately. A recent IMPLAN jobs study cited that our plant creates about 600 direct and indirect jobs when in operation. Accordingly, in the event that we are awarded funds, AE Biofuels shall comply with state prevailing wage law, Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720 and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000, for any "public works" (as that term is defined in the statutes). Due to this plant's central location near abundant farmland and available agricultural waste, our transportation of existing ag-waste in California will cover less than 100 miles from source to our plant location. This transportation advantage will greatly reduce the plant's overall carbon footprint, as 25% of the corn currently used in the plant will be replaced with ag-waste (and will no longer be transported from the Midwest to our plant). The PON-604 grant award will assist AE Biofuels in immediately transitioning to production of cellulosic ethanol, which will help to meet California's mandate for Biofuels and reduced GHG. We urge the Commission to move swiftly with the funding distribution process in order to apply AB 118 funds to California's biofuels industry.

We again thank you for the opportunity to comment on the Investment Plan. We hope that our comments are helpful and look forward to continuing to work with the Commission to meet the State's Low Carbon Fuel Standard, Bioenergy Action Plan, and AB 118 goals. Please don't hesitate to contact us if you have any questions or require additional information.

Sincerely,



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