

STATE OF NEW HAMPSHIRE
BEFORE THE
ENERGY FACILITY SITE EVALUATION COMMITTEE

JOINT APPLICATION OF NEWINGTON ENERGY, LLC ("NEL") AND
NORTH AMERICAN ENERGY ALLIANCE, LLC ("NAEA") FOR APPROVAL OF
TRANSFER OF MEMBERSHIP INTERESTS IN NEL

DOCKET NO. SEC 2008-01

**ASSENTED-TO MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL
TREATMENT FOR THE FINANCIAL REPORT PROVIDED TO THE SITE
EVALUATION COMMITTEE BY CO-APPLICANT NORTH AMERICAN
ENERGY ALLIANCE ("NAEA") ON BEHALF OF INDUSTRY
FUNDS MANAGEMENT (NOMINEES) LIMITED (NAEA'S ULTIMATE
PARENT)**

Co-Applicant North American Energy Alliance ("NAEA"), on behalf of its ultimate parent, Industry Funds Management (Nominees) Limited ("IFM"), respectfully requests that the Site Evaluation Committee (the "Committee") issue a protective order to maintain the confidentiality of the financial report submitted to Counsel for the Committee concurrently with this Motion. In support of its motion, NAEA states as follows:

1. NAEA seeks confidential and protective treatment pursuant to RSA 91-A and Site Evaluation Committee Proposed Admin. Rule Site 202.20 for the following document: "IFM Infrastructure Funds' Audited Special Purpose Financial Report for the Financial Year ending June 30, 2007" (The Report)". One copy of the Report is being submitted to Committee Counsel concurrently with this Motion. The Report contains financial information about IFM that is highly sensitive and confidential.

2. IFM is a private company regulated by several governmental agencies in Australia, including the Australian Prudential and Regulatory Authority (APRA) and the Australian Securities and Investments Commission (ASIC). The latter is the Australian

equivalent of the Securities and Exchange Commission (SEC) in the United States.

However, the manner in which these bodies regulate IFM as a private company preserves the confidentiality of all financial records of the type at issue here.

3. The Australian reporting requirements do result in IFM submissions to APRA, but they are not public documents like annual reports or financial filings one might see for public companies in the U.S. that are regulated by the SEC. For example, IFM provides certain financial information, such as audited financial reports, to Australian regulators and the regulators hold it on a confidential basis.

4. NAEA recognizes that the Report can assist the Committee in making determinations pursuant to RSA 162-H, and has therefore provided it to Counsel for the Committee concurrently with this Motion. NAEA is submitting the Report subject to the right it asserts to seek a protective order from the Committee pursuant to RSA 91-A, IV and the Committee's Proposed Rule Site 202.20.

5. The Report constitutes confidential, commercial and financial information and therefore is exempt from public disclosure under the New Hampshire Right to Know Act. RSA 91-A:5, IV. In addition, the Report contains legally confidential and legally privileged business information and therefore is exempt from public disclosure under the Committee's Proposed Rules. Site 202.20(a), (c). Any release of the information contained in the Report provided to Counsel for the Committee is likely to have a significant, adverse effect on the business of IFM and create a commercial disadvantage for the company. This information constitutes trade secrets and confidential information of IFM, which is not disclosed to anyone outside of its corporate affiliates, their representatives and certain Australian regulators.

6. RSA 91-A:5, IV expressly exempts from the public disclosure requirements of Chapter 91-A any records pertaining to "confidential, commercial or financial information." The information contained in the Report qualifies for the exemption from public disclosure pursuant to RSA 91-A:5, IV. The Committee has the authority pursuant to RSA 91-A:5, IV and Proposed Rule Site 202.20 to protect this information from such disclosure.

7. NAEA requests that the Committee issue a protective order granting this motion and protecting the Report from public disclosure. Copying, duplication, dissemination or disclosure in any form should be prohibited and the Report should be returned at the conclusion of the proceeding. The protective order should also be extended to any discovery, testimony, argument or briefing relative to the Report.

8. Counsel for Co-Applicant Newington Energy, LLC assents to the relief requested in this Motion.

WHEREFORE, NAEA respectfully requests that the Committee:

- A. Issue an order protecting the Report; and
- B. Grant such other and further relief as may be just and equitable.


Respectfully submitted,

NORTH AMERICAN ENERGY ALLIANCE (ON
BEHALF OF ITS ULTIMATE PARENT,
INDUSTRY FUNDS MANAGEMENT
(NOMINEES) LIMITED)

By Its Attorneys

MCLANE, GRAF, RAULERSON &
MIDDLETON, P.A.

Date: April 1, 2008

By: 
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion for Protective Order and Confidential Treatment For the Financial Report Provided to the Site Evaluation Committee has been forwarded to Donald J. Pfundstein, Esq., and Michael J. Iacopino, Esq.

Dated: April 1, 2008


Barry Needleman