

**NEW HAMPSHIRE 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**

submitted by:

Gallagher, Callahan and Gartrell, P.C.
On behalf of NEL

and

McLane, Graf, Raulerson & Middleton, P.A.
On behalf of NAEA

January 2008

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
I. Introduction and Background	1
<u>The Project</u>	1
<u>The Current Operator</u>	2
<u>The Transaction</u>	2
<u>The Buyer</u>	2
II. NEL Certificate of Site and Facility and Commercialization	4
III. NEL Transaction/Transfer of Membership Interests	7
IV. Committee Jurisdiction, Scope and Standard of Review	8
V. Transferee/Buyer Financial Capability	9
VI. Transferee/Buyer Managerial and Technical Capability	10
VII. Request for Expedited Approval	12
List of Exhibits	15

**STATE OF NEW HAMPSHIRE
BEFORE THE ENERGY FACILITY SITE EVALUATION COMMITTEE**

**Energy Facility Site Evaluation
Committee (“Committee” and/or “EFSEC”)**

Docket No. 08-_____

**Joint Application of Newington Energy, LLC (“NEL”) and
North American Energy Alliance, LLC (“NAEA”) for approval of transfer
of membership interests in NEL**

I. Introduction and Background

The Project

NEL operates a nominal 525 megawatt (MW) combined-cycle, dual fuel merchant electric generation facility situated near the Piscataqua River in Newington, New Hampshire, pursuant to a Certificate of Site and Facility issued in Docket No. 98-01 effective May 25, 1999 (“Certificate”). The facility consists of two GE 7FA combustion turbines, two heat recovery steam generators with supplemental firing, and one steam turbine in combined-cycle configuration. The facility has low NOx burners and selective catalytic reduction for emissions control. The primary fuel is natural gas and the secondary fuel is ultra-low sulfur diesel.

In addition to the site proper, the facility includes a water supply pipeline and intake structure in the Piscataqua River, and an electric transmission line interconnecting the facility to the substation at the Public Service of New Hampshire (“PSNH”) Newington Power Station. A natural gas pipeline runs from the Portland Natural Gas Transmission System and Maritimes Northeast (joint facilities) interconnection point to the site to transport the primary fuel. An oil transfer pipeline, which is owned by Sprague Energy, transmits the alternate diesel oil fuel to the

site. One above ground diesel fuel storage tank (“AST”), with one million gallons of storage capacity, is also located on site. The NEL facility is hereinafter referred to as “the Project.”

The Current Operator

NEL currently operates the Project. NEL is a wholly-owned subsidiary of CED/SCS Newington, LLC, a Delaware limited liability company (“CED/SCS”). Consolidated Edison Development, Inc. (“CED”) has an approximate 99.5% capital interest in CED/SCS. It also has a 95% profit interest in CED/SCS, subject to certain adjustments. The remaining approximate 0.5% capital interest, and 5% profit interest, is owned by SCS Energy, LLC. CED is a 100% owned subsidiary of Consolidated Edison, Inc. (“Con Ed”).

The Transaction

On December 10, 2007, Con Ed announced that CED and CED/SCS had entered into purchase and sale agreements to sell their ownership interests in certain entities owning power generating properties, amounting to approximately 1,706 megawatts, to NAEA (the “Transaction”). As part of the Transaction, NAEA would purchase 100% of the ownership interests in these entities, including NEL. The sale is subject to federal and state regulatory approvals, including the EFSEC approval, and other terms and conditions. The Project is part of a total of 29 individual generator units subject to the sale. The other generator units are located on 11 different sites in Massachusetts, New Jersey, and Maryland. The Project, along with 8 other generating sites (in MA) in the sale portfolio, is located in the New England Power Pool (“NEPOOL”).

The Buyer

NAEA, the Buyer, is a newly formed Delaware limited liability company and a wholly-owned subsidiary of North American Energy Alliance Holdings, LLC (“NAEAH”). NAEA is

a newly formed Delaware limited liability. AllCapital North American Energy Holdings, LLC, holds a 37.555% member interest in NAEAH. Industry Funds Management (Nominees) Limited (“IFM”) as trustee for IFM (International Infrastructure) Wholesale Trust (“IFM Trust”), holds a 62.455% member interest in NAEAH. Upon completion of the Proposed Transaction, Codan Trust Company (Cayman) Limited as trustee of IFM Global Infrastructure (Cayman) Fund (“Cayman Fund”) (IFM owns the units in the Cayman Fund) will hold approximately 62% of NAEAH and IFM Trust will hold approximately 0.445%. Subsequently, IFM Trust will transfer its 0.445% interest in NAEA Holdings to Cayman Fund.

AllCapital North American Energy Holdings, LLC is a subsidiary of Allco Finance Group Limited (“Allco”), a financial services company listed on the Australian Stock Exchange. IFM is an Australian investment company ultimately owned by forty major Australian not-for-profit pension funds. Further information on Allco and IFM is attached as Exhibit A. Attached as Exhibit B is the NAEAH group ownership structure upon consummation of the acquisition of NEL and other assets from Consolidated Edison.

As discussed in the attached informational material, both Allco and IFM are experienced investors in assets in the energy, infrastructure and transportation sectors. Furthermore, the staff of AllCapital (US), LLC (“AllCapital”), the United States subsidiary of Allco, have decades of experience in constructing and managing energy generation facilities. The resumes of the relevant AllCapital staff are attached as Exhibit C and a description of the AllCapital energy team follows below.

In addition to the generation projects being acquired in the Transaction, Allco, through its subsidiaries, including AllCapital, and IFM have invested in other US projects, as follows:

Allco is an investor in:

- The Cross Hudson transmission project, which will run a nominal 600 MW transmission line from PSEG's Bergen station in Ridgefield, NJ in the PJM market area, to Con Edison's West 49th Street substation in Manhattan in the NYISO market area. Commercial operation is expected in 2010; and
- The Tehachapi wind project, a 1,500 MW windpower project in California's Mohave Desert. When completed, this will be the largest windfarm in the US.

IFM is an investor in:

- Colonial Pipeline, a major long-distance pipeline carrying refined petroleum products from refining infrastructure in the Texas and Louisiana Gulf Coast region to major consumer markets in the south east USA and along the Atlantic eastern seaboard as far north as New York; and
- Duquesne Light Holdings, an electricity transmission and distribution business in Pittsburgh, PA.

When announcing the Transaction, AllCapital CEO Stephen Daniel said, "... we and our partner IFM will strive to maintain and improve the already strong and positive relationships the business enjoys with its key stakeholders including management, employees, union leadership, customers and the communities in which these power plants operate." AllCapital indicated, "The purchasers will be seeking to retain all existing staff and management." Additionally, General Electric International, Inc. ("GE"), the current day-to-day third-party operator of the Project, will remain in place and will continue in its role of day-to-day operation and maintenance of the Project. The oversight and asset management function for the Project will be conducted by NAEA, utilizing individuals with many years of experience in the domestic (US) power generation industry.

II. NEL Certificate of Site and Facility and Commercialization

On July 2, 1998, NEL filed an application with the Committee for approval to construct and operate the Project. The Committee issued a written Order on Acceptance of the Application

on August 28, 1998. Following a site inspection on September 17, 1998, the Committee held an Informational Hearing for the public. A public Adversarial Hearing was held before the Committee on February 16 and 17, 1999, following which the Committee ordered the record of the proceeding to remain open until March 15, 1999, so that the parties could file responses to record requests made during the proceedings, and so that limited interveners and members of the public could submit questions to the Applicant or other witnesses.

The public was represented by Public Counsel from the Attorney General's Office. The Town of Newington was an active participant in the proceeding and sponsored two witnesses. PSNH participated by cross examining witnesses and presenting its position on various issues through counsel, but offered no direct testimony. Two labor unions also participated during at least portions of the docket. As a result of the Applicant's (NEL's) disclosure of a change to its ownership¹ on the first day of the adversarial hearing, the Committee issued an additional set of record requests to Applicant on April 19, 1999, to which Applicant responded on April 19, 1999.

By Order dated May 25, 1999, and only after having considered available alternatives and having fully considered the environmental impacts of the Project, the Committee issued NEL a Certificate of Site and Facility to construct and operate the 525 megawatt electric production facility, including a pipeline and intake structure in the Piscataqua River, an electric transmission line from the site to the substation at the PSNH Newington Power Station, and a gas pipeline from the PNGTS and Maritime and Northeast main transmission pipeline to the site. In issuing the Certificate, the Committee found that NEL had adequate financial, technical and managerial capability to assure construction and operation of the facility in compliance with the terms and conditions of the Certificate. After giving due consideration to the views of municipal and

¹ The Project was initially a Southern Company sponsored undertaking but it was acquired by Con Edison affiliates shortly prior to commencement of the Adversarial Hearing.

regional planning commissions and municipal legislative bodies, the Committee found the project would not unduly interfere with the orderly development of the region. It further found that, upon compliance with the conditions attached to the Certificate, the Project would not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, or public health and safety. The Project was also deemed consistent with the state energy policy established in RSA 378:37. *See* Decision, SEC Docket No. 98-01 at page 26.

By Order dated January 24, 2001, the Committee authorized NEL to construct a 345kV overhead transmission line along the route described as Option 2 among the two alternative routes for the transmission corridor described in the Certificate of Site and Facility. This Order was revised by subsequent Order dated April 17, 2001, pursuant to NEL's request to conform the Order's description of the alignment of Option 2 to the Meridian plan, Revision W, dated September 15, 2000, as submitted by NEL.

NEL filed a Conditional Request with the Committee on or about April 30, 2001, requesting revision to the Certificate of Site and Facility to authorize construction of one AST for back-up fuel storage, where construction of two AST's was originally authorized. NEL determined that it no longer required two AST's, after entering into a terminal agreement with Sprague Energy Corp., in which Sprague proposed to construct and operate a fuel transfer pipeline to the Facility and lease additional fuel storage capacity to NEL. The Committee approved NEL's Conditional Request by Decision and Order dated June 29, 2001.

Construction of the Project commenced on or about April 2000, and was substantially completed on or about September 25, 2002. The Project commenced commercial operation and began selling power into the NEPOOL wholesale market, as administered by ISO-New England ("ISO-NE"), during November, 2002. The Project has operated successfully by generating

environmentally friendly, clean, reliable and efficient electricity, on a competitive basis, in compliance with the Certificate of Site and Facility and its various conditions. The true dual fuel capability (e.g. natural gas, backed-up by oil via a pipeline, not trucks) of the Project makes it an excellent and dependable resource of electricity for NH and all of ISO-NE. NEL has an excellent operational and environmental record and enjoys a good working relationship with its environmental regulators. The Project has operated successfully under the day-to-day direction of GE, pursuant to an Operation and Maintenance Agreement between NEL and GE, dated as of December 20, 1999 (“GE Agreement”). (*See* Exhibit D, “GE Agreement” and Appendix A, Article 2 thereto describing the “Responsibilities of Contractor”). Significantly, this Agreement will continue in force after transfer of the membership interests in NEL to NAEA.

III. NEL Transaction/Transfer of Membership Interests

The membership interests of NEL are currently owned by CED/SCS. CED/SCS will transfer the membership interests in NEL to NAEA. The transfer of the membership interests in NEL from CED/SCS to NAEA will be in consideration of the payment of the purchase price of US\$736,000,000, as adjusted pursuant to the Purchase and Sale Agreement, dated December 10, 2007 attached as Exhibit E. The end result is that NAEA will be the new owner of the Project. NEL will continue to be the owner of the Certificate of Site and Facility for the Project. In this respect, the transfer of membership interests in NEL is similar to the transfer of membership interests approved by the Committee in Docket No. 2004-01, whereby AES Holdings Londonderry, LLC transferred its membership interests in AES Londonderry LLC (which owned and operated a 720 MW combined cycle facility in Londonderry) to Granite Ridge I, SPE, LLC, an entity formed for that purpose by the consortium of lenders which financed the AES facility. This transaction was an interim step enabling the AES lenders to take ownership of the AES

plant through foreclosure with the intent to sell the plant to a yet-to-be-identified permanent owner operator. In this Application, the new owner is a permanent owner/operator.

The Project was financed by NEL through a synthetic lease which was arranged by Merrill Lynch (“ML”). Hawkeye Funding, Limited Partnership (“Hawkeye”), a special purpose entity, was established by ML solely for the purpose of serving as the financing vehicle for the Project. Hawkeye would essentially be a construction lender and mortgagee in the traditional financing context. NEL will cause the synthetic lease with Hawkeye to be “collapsed” in conjunction with the Closing and transfer of the membership interests in NEL from CED/SCS to NAEA, resulting in NAEA owning the Project by virtue of its 100% ownership of NEL. Thereafter, the name of NEL is expected to be changed to NAEA Newington Energy, LLC. However, the same entity will continue to own and hold the Certificate.

IV. Committee Jurisdiction, Scope and Standard of Review

The Co-Applicants, NEL and NAEA, seek Committee approval of the transfer of the membership interests in NEL from CED/SCS to NAEA as described above, pursuant to RSA 162-A:5, et.seq. and General Condition No. 6, Attachment A, to the Certificate issued to NEL in Docket 98-01, effective May 25, 1999, which provides:

“Any change in ownership of the Applicant, Newington Energy, LLC, without the approval of this Committee, shall render the Certificate subject to revocation. The Certificate itself shall not be transferred or assigned to any other person or entity without the approval of the Committee. RSA 162-H:5-I.”

In the context of approving the transfer of membership interests in the AES facility, the Committee found “... where the Project (AES) has been substantially completed, many of the siting issues implicated by the original application for a certificate are moot ...” noting in a footnote that such matters are addressed before issuing the certificate. *See* Docket No. 2004-01, Decision and Order, at p. 6.

In this case, the Project is not only complete, but has been operating successfully and in compliance with its Certificate and component permit conditions since November, 2002. In issuing the Certificate to NEL, the Committee made the requisite environmental, land use and other findings concerning siting issues. In the AES transfer of membership interests (Docket 2004-01), the Committee found:

“... when a change in ownership is proposed, it is important for the Committee to investigate the financial, technical and managerial capability of the proposed new owner. This information is vital for the Committee and other state agencies to be able to ensure that the conditions of the certificate are continuously met. Ongoing environmental compliance and the safe operation of the facility are of the utmost concern to the Committee and the State of New Hampshire. *Thus, the Committee’s focus in this Docket is on the financial, technical and managerial capability of the proposed new owner of AESC.*” See Docket No. 2004-01, Decision and Order at p. 6. (Emphasis supplied)

The Co-Applicants, NEL and NAEA will next establish that NAEA has the financial, technical and managerial capability to assure continued operation of the Project in compliance with the Certificate and component permit conditions.

V. Transferee/Buyer Financial Capability

As noted previously, Allco, through its subsidiaries, including AllCapital, and IFM have significant experience as investors in infrastructure and energy projects. (See Exhibit A). Allco and IFM have agreed to contribute up to \$597 million of equity to, through NAEAH to NAEA. Together with a debt facility which is fully underwritten by Barclays Capital, this will be sufficient to fund the \$1,477 million acquisition price for the entire portfolio of generation facilities, including the Project. The debt facility includes a senior secured term loan that will be used to finance the payment of a portion of the purchase price on the Closing Date, with the remaining portion of the purchase price paid with the equity contributions referred to above. Thereafter, the debt facility

will contain working capital lines of credit and letter of credit facilities that will be available for use by NAEA in order to provide it additional financial resources to operate and maintain the power generation facilities. These debt facilities have been fully underwritten by Barclays Capital, a bank that has been active in the financing of power generation assets and portfolios of assets over the past several years.

The Project is currently being run as a merchant facility with an affiliate, Con Edison Energy, actively trading the plant output over relatively short time frames (for example the day ahead and month ahead markets) in the New England market. The Project will continue to compete based on the price of electricity and will only operate when its output is competitive and required by the market. If tolling agreements are used, the counter-party would be responsible for acquiring fuel and marketing power. If financial hedges are used, NAEA will retain an energy manager to handle those functions. In either case, the persons responsible for fuel acquisition and power marketing will be highly experienced in those fields and have available to them the full support of NAEA and AllCapital's energy team (described more fully below).

NAEA and its affiliates conducted extensive due diligence on the Project in conjunction with a team of engineering, operations, environmental, legal and market consultants. As a result, NAEA has a high level of confidence that the revenues from these arrangements will be sufficient to fund the anticipated operating and capital expenditures required at the Project for the foreseeable future. The Project is not expected to require substantial capital expenditures other than regular maintenance for some years to come.

VI. Transferee/Buyer Managerial and Technical Capability

Day-to-day responsibility for facility operations will remain with GE. Pursuant to the GE Contract, GE has had such responsibility since the commercial operation date of

the Project (i.e., since November 2002) and has successfully operated the Project. GE is well established as a plant operator and manager with over 20 years of experience, as more particularly described in Exhibit F. Under the terms of the Transaction, the GE Contract will remain in effect with GE. NAEA will assume management of the GE Contract and will continue the GE relationship.

Also under the terms of the Transaction, NAEA will acquire from Con Edison its subsidiary, CED Operating Company, LLC (“CED OpCo”). CED OpCo has approximately thirty-five employees working at three other power generation facilities being acquired by NAEA in the Transaction. CED OpCo performs operation and maintenance services at these plants. Those services will be available to the Project as deemed necessary.

Certain asset managers will report to officers of NAEA. In addition, NAEA is considering making offers of employment to certain asset management employees of CED. The addition of any of these employees would serve to bolster the already strong team of NAEA asset managers. . While these matters will be the subject of future discussions among NAEA, CED and certain CED employees, it is possible that prior to the hearing those people will be known and their resumes will be provided to the Committee.

Furthermore, NAEA is also acquiring an operations and plant management staff of 33 people at CED’s “CEEMI” facility in West Springfield, Massachusetts. Personnel of CEEMI and CED OpCo will be available to assist at NEL as necessary. Furthermore, plant management personnel of CEEMI, CED OpCo and GE (at NEL) meet periodically to discuss overall plant management issues.

NAEA will have overall responsibility for managing the entire portfolio of energy assets acquired in the Transaction, including the Project. In connection with this overall responsibility, NAEA and AllCapital will enter into a management services contract or transitional services agreement. NAEA will thus have access to AllCapital's energy team. Specifically, AllCapital employs a group of six technical and operational experts that form the core of the AllCapital Energy Team. These six professionals average greater than 25 years of power plant experience and have designed, built and operated power plants throughout the US. The experience of these professionals include: the former President of a well-established engineering consulting firm, Sigma Energy Services; the former Senior director for Duke Energy in charge of M&A transactions; a Vice President, Asset Strategy & Development at Keyspan Energy; and former Program Directors and Project Managers for a Engineering Consulting firms. This depth and breadth of technical and operational experience along with the continued operation of the Newington facility by GE staff provides a very capable complement of resources to ensure prudent and effective management and operation of the Newington facility. The AllCapital Energy Team will be available to NAEA as needed.

VII. Request for Expedited Approval

The NEL transaction is one part of a much larger transaction involving several other generator units currently owned by Con Ed affiliates. The Project has operated successfully since commercialization in November 2002, and has provided environmentally friendly, clean, reliable and efficient electricity to the ISO-NE grid since that time. The focus of this docket, as in the AES transfer of membership interests docket, is on the capabilities of the buyer to assure continued operation of the Project in

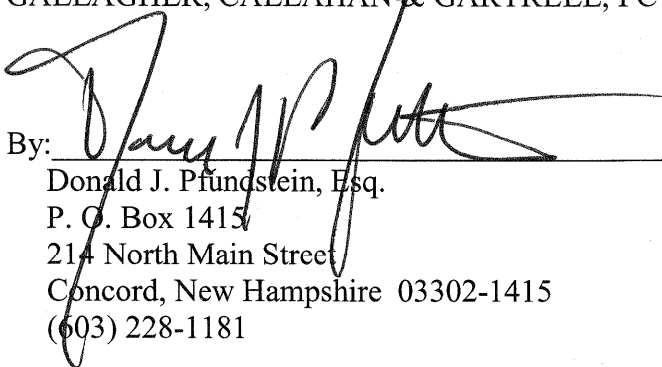
compliance with the Certificate and its component permit conditions. NAEA is maintaining the “day-to-day” operator of the Project in place, through the GE Agreement. NAEA has financial resources of substantial enough scope to continue the successful operation of the Project, as well as personnel with significant power industry experience already on its management staff.

WHEREFORE, the Co-Applicants respectfully request expedited approval of the transfer of membership interests in NEL and such other and further relief as may be just and proper.

NEWINGTON ENERGY, LLC,

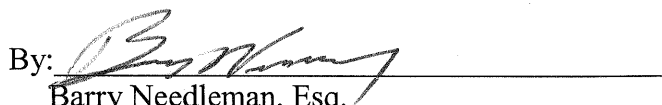
Co-Applicant
By Its Counsel
GALLAGHER, CALLAHAN & GARTRELL, PC

Dated: 1/14/08

By: 
Donald J. Pfundstein, Esq.
P. O. Box 1415
214 North Main Street
Concord, New Hampshire 03302-1415
(603) 228-1181

NAEA, Co-Applicant
By Its Counsel
McLANE, GRAF, RAULERSON & MIDDLETON

Dated: 1/14/08

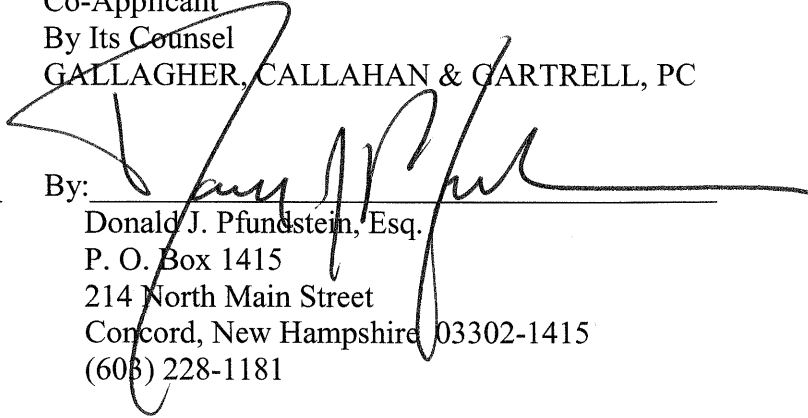
By: 
Barry Needleman, Esq.
15 North Main Street
Concord, New Hampshire 03301
(603) 226-0400

Certification of Service

I hereby certify that a copy of the foregoing was this date forwarded via hand delivery or U.S. first class mail, postage prepaid, to all Committee members, the Office of the Attorney General, New Hampshire Department of Justice, the Newington Board of Selectmen and Tom Morgan, Newington Town Planner.

NEWINGTON ENERGY, LLC,
Co-Applicant
By Its Counsel
GALLAGHER, CALLAHAN & GARTRELL, PC

Dated: 1/14/08

By: 
Donald J. Pfundstein, Esq.
P. O. Box 1415
214 North Main Street
Concord, New Hampshire 03302-1415
(603) 228-1181

List of Exhibits

Exhibit A	Information on Allco and IFM
Exhibit B	Post Closing Organizational Chart
Exhibit C	Resumes of AllCapital Staff
Exhibit D	O&M Agreement with GE for the Newington Project
Exhibit E	Purchase and Sale Agreement
Exhibit F	GE Background Materials

Certification

Applicant Newington Energy, LLC hereby swears and affirms to the best of its knowledge and belief, that all the materials and representations contained in this Application are true and accurate.



Name: Michael Madia
Title: VP and Chief Operating Officer
Newington Energy, LLC

STATE OF NEW YORK
COUNTY OF new york, SS.

On this the 9th day of JANUARY, 2008, personally appeared before me the above-named Michael Madia, Vice President and Chief Operating Officer of Newington Energy, LLC and swore and affirmed that the materials and representations contained in the attached Application are true and accurate to the best of his knowledge and belief.



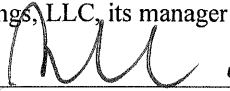
Notary Public/Justice of the Peace

CYNTHIA A. LANE
Notary Public, State of New York
Qualified in New York County
No. 01LA6066737
Commission Expires November 26, 2009

Certification

Applicant North American Energy Alliance, LLC, by North American Energy Alliance Holdings, LLC, its manager, hereby swears and affirms, to the best of its information, knowledge and belief, that all materials and representations contained in this Application are true and accurate.

NORTH AMERICAN ENERGY
ALLIANCE, LLC,
By North American Energy Alliance
Holdings, LLC, its manager




Name: Raymond Kwok
Title: Manager

Name: _____
Title: Manager

STATE OF New York
COUNTY OF New York, SS.

On this the 10th day of January, 2008, personally appeared before me the above-named Raymond Kwok, Manager, of North American Energy Alliance Holdings, LLC, and swore and affirmed that the materials and representations contained in the attached Application are true and accurate to the best of his information, knowledge and belief.


Notary Public/Justice of the Peace


DANIEL L. J. PHILLIPS
Notary Public, State of New York
No. 01PH6154628
Qualified in New York County
Commission Expires Oct. 23, 2010

Certification

Applicant North American Energy Alliance, LLC, by North American Energy Alliance Holdings, LLC, its manager, hereby swears and affirms, to the best of its information, knowledge and belief, that all materials and representations contained in this Application are true and accurate.

NORTH AMERICAN ENERGY
ALLIANCE, LLC,

By North American Energy Alliance
Holdings, LLC, its manager

Name: JAMES DICKSON 
Title: Manager

Name: _____
Title: Manager

Subscribed and sworn to before me
on this 11 day of January,
2008.



Witness
Name: Adam David Clark
of Level 29, 2 Lonsdale Street
Melbourne, Victoria
Occupation: being an Australian legal practitioner
within the meaning of the
Legal Profession Act 2004