

Exhibit K:

Declaration of Kassia Siegel, Member and Center for Biological Diversity Staff
(Nov. 28, 2011)

DECLARATION OF KASSIA SIEGEL IN SUPPORT OF NAAEC PETITION

I, KASSIA SIEGEL, declare as follows:

1. I am Senior Counsel and Director of the Climate Law Institute at the Center for Biological Diversity (“the Center”). I am also a member of the Center. This declaration is made in support of the Center’s petition to the Commission for Environmental Cooperation (“CEC”) regarding Canada’s failure to effectively enforce its Species At Risk Act (“SARA”). I have personal knowledge of the facts and statements contained herein and, if called as a witness, I could and would competently testify thereto.

2. The Center is a non-profit corporation with offices in Anchorage, Alaska; San Francisco, Joshua Tree, Sacramento, and Los Angeles, California; Tucson and Phoenix, Arizona; Seattle, Washington; Portland, Oregon; Silver City and Pinos Altos, New Mexico; Las Vegas, Nevada; Duluth, Minnesota; Richmond, Vermont; and Washington, DC. The Center is dedicated to the preservation, protection, and restoration of biodiversity, native species, ecosystems, and public lands. The Center has over 320,000 members and online activists residing within the U.S., in Canada, and abroad.

3. The Center believes that the health and vigor of human societies and the integrity and wildness of the natural environment are closely linked. Combining conservation biology with litigation, policy advocacy, and strategic vision, the Center is working to secure a future for animals and plants hovering on the brink of extinction, for the wilderness they need to survive, and by extension, for the spiritual welfare of generations to come.

4. Since the organization was founded in 1989, the Center has grown significantly in staff and members. It has also developed several different practice areas and programs. One such program is the Climate Law Institute, an internal coordinating institution with the primary mission of curbing global warming and sharply limiting its damaging effects on endangered species and their habitats. As Climate Law Institute Director, I oversee all programs of the Institute.

5. One of the Climate Law Institute's core strategies is to protect species most imperiled by global warming and encourage management agencies, including U.S. and international entities, to improve management for these species and take global warming impacts into account when making decisions affecting species. Advocating for the protection of the polar bear has been a focal point of these efforts.

6. The Center has worked extensively on protecting the polar bear and its Arctic sea ice habitat, which is rapidly melting due to climate change brought about by greenhouse gas emissions. In February 2005, the Center petitioned the Secretary of Interior and the U.S. Fish and Wildlife Service ("FWS") to list the polar bear as a threatened or endangered species under the Endangered Species Act ("ESA"). The petition contained extensive information on the threat to polar bears from global warming, overhunting, oil and gas development, pollution, and other threats. The Natural Resources Defense Council and Greenpeace joined the petition in July 2005, and since then, our three organizations have filed several lawsuits to compel the U.S. FWS to comply with the ESA and protect the polar bear to the fullest extent possible under the law.

7. The listing of the polar bear under the ESA and designation of critical habitat came about as a direct result of our petition and subsequent litigation. When the FWS failed to respond to the 2005 petition to list the polar bear under the ESA within the statutory timeframe, we filed suit to enforce that deadline. *Center for Biological Diversity v. Norton*, Civ. 05-5191 JSW. As a result of a settlement agreement in that lawsuit, the FWS published an initial, positive finding on the petition to list the polar bear on January 9, 2007. When the FWS failed to meet the subsequent statutory deadline for issuing a final listing determination, we filed a second lawsuit to compel its issuance. *Center for Biological Diversity v. Kempthorne*, Civ. 08-1339 CW. The Court subsequently ordered the FWS to issue a final listing determination for the polar bear no later than May 15, 2008. On May 15, 2008, the FWS published a final rule designating the polar bear as a threatened species, and in June of this year, the listing was affirmed by a U.S. court. This was an important victory for the Center and is a necessary first step in protecting the polar bear and its habitat.

8. The ESA listing provides strong and broad protections that increase the chances that the polar bear and its habitat will survive in the wild. The listing requires the FWS to designate critical habitat for the species and also develop a recovery plan. The Center has worked closely with the FWS in developing the recovery plan, and is currently defending the FWS's critical habitat determination from industry challenges in court. While we believe the polar bear should be classified as endangered, not threatened, and will continue to work for such protection for the species, the current listing as threatened nonetheless provides vitally necessary protections for the species.

9. Our campaign to save the polar bear also includes extensive public outreach and education by writing, posting, and disseminating information through our website, opinion editorials, and other outlets on the plight of the polar bear and global warming's dire impact on the Arctic. I have also testified several times before congressional committees on global warming and its impact on the Arctic ecosystem and the polar bear.

10. The Center has also been involved in international actions to protect the polar bear. The Center has been admitted as an observer organization to the U.N. Framework Convention on Climate Change since 2005, and I and other Center staff have attended UNFCCC meetings to advocate for increased action to reduce greenhouse gas emissions. Further, the Center has closely followed and participated in Canada's much-delayed process in listing the polar bear under SARA. The Center submitted detailed, substantive comments on the Government in Council's July 2, 2011 proposal to list the polar bear as a "species of special concern." *See* Ex. G to CEC Petition (Center's Aug. 1, 2011 Comments). Further, the Center submitted a detailed letter to the relevant Canadian Ministers tasked with implementing SARA, providing notice of how Canada has violated SARA in long delaying an endangered listing for the species. *See* Ex. J to CEC Petition.

11. Having initiated the ESA listing process for the polar bear in the U.S., we have dedicated substantial organizational resources toward seeking protection for the species. However, because approximately two-thirds of the world's polar bears reside in Canada, and one

of the U.S. polar bear populations straddles the Alaska-Yukon border, preserving the polar bear requires multi-state action. Canada's failure to list the polar bear as an endangered species statute under its Species at Risk Act harms the polar bear and our work to protect the species.

12. Currently, around 500 polar bears are killed in Canada each year, and many of these are killed by wealthy trophy-hunters. Because the polar bear is not listed as threatened or endangered in Canada, it has no protection on federal lands, the outer continental shelf of Canada, or the Canadian Exclusive Economic Zone. Further, Canada's failure to identify and protect the species' critical habitat, as would be required if the polar bear were listed as either threatened or endangered under SARA, allows development and destruction of these key habitat areas.

13. In addition to the Center's work advocating for polar bear protection, I and many other Center members regularly travel to polar bear habitat to view and enjoy the species. I traveled to Churchill, Manitoba in 2007, 2009, 2010, and November of 2011 to view polar bears and participate in educational programs highlighting the impact to polar bears from climate warming and solutions to address the problem.

14. Further, many of the Center's members regularly view, visit, and study polar bears both in the U.S. and Canada. For example, Center member Melanie Duchin has traveled extensively in the Arctic both professionally and recreationally to observe polar bears and their habitat. She has been to the Arctic more than a dozen times, ranging from ship-based trips lasting one to four months, to shorter trips to coastal areas, to camping out on a barrier island and on sea ice in the Beaufort Sea. She has viewed polar bears on numerous occasions, including while accompanying Arctic explorers on their travels in 2005, assisting research on ring seals on the Beaufort and Chukchi seas in 2008, and from a research vessel in 2009. She intends to continue traveling to the Arctic most summers and observing and attempting to observe polar bears and their sea ice habitat.

15. The Center advocates for the protection of polar bears on behalf of itself and its more than 320,000 members and supporting online activists, many who, like Ms. Duchin, travel

to the Arctic to enjoy viewing the imperiled polar bears. The Center's members and supporting activists throughout North America are vitally concerned with polar bear conservation. The Center's members in Alaska and Canada, as well as in the rest of the U.S., also enjoy the biological, scientific, recreational, and/or aesthetic values of the areas inhabited by these species and the areas designated as critical habitat. I, our Executive Director, and other staff have been contacted on numerous occasions by Center members who have encouraged the Center to take all possible actions to protect the polar bear.

16. The Center and its members will be irreparably harmed if Canada continues to fail to protect this imperiled, transboundary species. The polar bear desperately needs protection in order to help it survive the deadly mix of threats from climate change and melting sea ice, oil development and oil spills, toxic contaminants, and other threats.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 28, 2011 at Joshua Tree, California.


KASSIA SIEGEL