

Global Affairs Canada
Department of Justice



Affaires mondiales Canada
Ministère de la Justice

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VIA EMAIL

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Sir Daniel Bethlehem
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Dear Members of the Tribunal:

Re: *Tennant Energy LLC v. Government of Canada*

We write further to the Claimant's email of December 2, 2019 to the Tribunal requesting yet another opportunity for the Claimant to make a submission on Canada's assertion of confidentiality over two documents containing Confidential Information.

The Tribunal's direction of November 15, 2019 is clear. It provides: "[t]hat paragraphs 16 and 17 and Schedule 1 of the Confidentiality Order dated 24 June 2019 set forth a procedure by which a Party may propose certain Confidentiality or Restricted Access designations, the other Party may object to such designations, and the filing Party may then respond to such objections. The Tribunal considers that each of these steps have been fulfilled by the Parties' submissions dated 9 October, 29 October, 12 November 2019. The Tribunal does not require any further submissions from the Parties." (Emphasis added.)

The Claimant offers no reasoned basis to depart from the Procedural Order, Confidentiality Order, and the Tribunal's direction of November 15. There have been no fundamental changes to the circumstances that would justify a departure from these rules or Tribunal's direction of November 15. We therefore attach as Annex A to this letter the Disputed Designations Schedule that was submitted by the Parties to the Tribunal on November 12. Moreover, the Claimant's unsolicited additional submissions on the substance of its objections and mischaracterizations of events in its email of yesterday should be disregarded by the Tribunal.

For the avoidance of doubt, the PO, the CO, and the direction of the Tribunal ensure that the confidentiality designation procedures in this arbitration follow due process, and that the disputing parties are treated with equality. Yet again, with its latest request, the Claimant seeks to ignore and override these applicable rules in order to make an unreasonable procedural request. The growing number of such requests unnecessarily burdens the arbitral process. As a result, Canada asks the Tribunal take this inappropriate and unduly burdensome conduct into account when awarding costs.

Yours very truly,



Lori Di Pierdomenico
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