

**From:** Tait, Benjamin -JLTB  
**Sent:** March 2, 2020 5:45 PM  
**To:** Cavinder Bull; DBishop@KSLAW.com; Daniel Bethlehem QC  
**Cc:** Squires, Heather -JLTB; Klaver, Mark -JLTB; Ouellet, Annie -JLTB; Kam, Susanna -JLTB; Harris, Maria Cristina -JLTB; Dallaire, Johannie -JLTB; Bakelaar, Darian -JLTB; Dosman, Alexandra -JLTB; Barry Appleton; Ed Mullins; Ben Love; Bustillos, Sofia; Diana Pyrikova; Jose Luis Aragon Cardiel; ctham@pca-cpa.org; Tennant Claimant; 'Lillian De Pena'; Girvan, Krystal -JLTB  
**Subject:** RE: Tennant Energy v. Canada- Investor's objections to the assertions of confidentiality over [REDACTED]  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Members of the Tribunal,

Canada writes further to the Claimant's letter of today's date, in which it takes for itself yet another unsolicited opportunity to make submissions regarding Canada's confidentiality designations. Canada respectfully requests that the submissions contained in the Claimant's letter of today's date which accompanies Annex A be rejected, and that the Tribunal take this inappropriate and unduly burdensome conduct into account when awarding costs.

Paragraph 23 and Schedule 1 of the Confidentiality Order dated 24 June 2019 sets forth a procedure by which a Party may propose certain Confidentiality or Restricted Access designations to transcripts, correspondence, orders and awards. Once designations have been made, the other Party may object to such designations, and the filing Party may then respond to such objections. There is no further right of reply (either in the Annex itself or otherwise) before outstanding objections are then submitted to the Tribunal for decision. In the present instance, Canada provided its proposed designations on January 20, the Claimant provided its objections to designations on February 10, and Canada provided its responses to the objections on February 26. The explicit process set out in the Confidentiality Order has been completed, and does not contemplate an additional round of submissions by the Disputing Parties. Yet the Claimant has taken it upon themselves to file further submissions in its letter of today's date.

As the Claimant has now submitted to the Tribunal the Annex, Canada respectfully requests that the Tribunal rule on the outstanding designations as set out in the Annex only, and reject the inappropriate and unauthorized submissions contained in the Claimant's letter of today's date.

Best regards,

Benjamin Tait  
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