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10 November 2020

RE: PCA CASE N° 2018-54 – TENNANT ENERGY, LLC V. GOVERNMENT OF CANADA

Dear Mesdames, dear Sirs,

I write on behalf of the Tribunal with reference to the Respondent's letter and the Claimant's e-mail of 28 and 30 October 2020, respectively.

In its 28 October 2020 letter, the Respondent requests permission from the Tribunal to submit into the record as a new legal authority the *Westmoreland Mining Holdings LLC v. Government of Canada*, ICSID Case No. UNCT/20/3, Procedural Order No. 3, Decision on Bifurcation, dated 20 October 2020 (the "*Westmoreland Decision*"). The Respondent also requests permission for both disputing Parties to make brief, concise written submissions on the relevance of the *Westmoreland Decision* to the Respondent's Renewed Request for Bifurcation.

In response, the Claimant states that it "opposes [the Respondent's request] based on practicality, delay, and cost." Further, should the Tribunal decide to admit the *Westmoreland Decision* into the record, the Claimant submits that a specific procedure should then follow, according to which both the disputing and non-disputing Parties would be given the opportunity to file submissions, and the disputing Parties would then be given the opportunity to respond to the non-disputing Parties' submissions.

The Tribunal notes that, prior to receipt of the Respondent's request, it had already decided on the course to be followed in connection with the Respondent's Renewed Request for Bifurcation. Having considered the Parties' respective comments on the Respondent's present request, it sees no need to depart from that decision for purposes of receiving further submissions from the Parties on the *Westmoreland* Decision. The Tribunal shall therefore notify its decision on the Respondent's Renewed Request for Bifurcation imminently.

Notwithstanding the above, and taking account of the fact that the *Westmoreland* Decision is already in the public domain, the Tribunal hereby grants the Respondent permission to submit it into the record, without comment from the Parties.

Should you have any questions regarding this letter, please do not hesitate to contact me at the details set forth above.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'C. Tham', written in a cursive style.

Christel Y. Tham  
Legal Counsel

cc: Mr Cavinder Bull SC (*by e-mail: cavinder.bull@drewnapier.com*)  
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Sir Daniel Bethlehem QC (*by e-mail: dbethlehem@twentysex.com*)