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Subject: RE: PCA Case No 2018-54 Tennant Energy LLC v. Government of Canada
Date: 14 May 2021 21:33:21
Attachments: [2016-03-14 - notes from call with T. Boone Pickens re Mesa Power.pdf](#)
[2021-05-14 Email on Confidential Information in Mesa Power Group NAFTA Case.pdf](#)

Dear Mr. President and Members of the Tribunal.

Paragraph 2 in Procedural Order 12 referenced Canada's ongoing refusal to accept the veracity of the statements of Tennant Energy's legal counsel regarding Mesa Power Group's agreement to share nonconfidential information with the public. The Procedural Order referenced this position as follows:

Moreover, the Claimant's counsel's oral representation at the January 2020 hearing that he had received permission from the late Mr. T. Boone Pickens of Mesa Power to share "non-confidential information" from the Mesa Power arbitration is insufficient to demonstrate that the Claimant had permission to disclose confidential information in that arbitration.

Canada's refusal to accept the representations of counsel in this arbitration are unwarranted. Further, this matter raised some sensitive legal privilege issues which were made more difficult by Mr. Appleton's absence from the office due to extenuating circumstances.

We believe that we can address and fully resolve this matter. Cole Robertson, the client representative of Mesa Power Group during the NAFTA hearings, has sent us a communication (attached) confirming Mesa Power's consent to share non-confidential information arising from the *Mesa Power* NAFTA arbitration.

Mr. Robertson agreed to share Mr. Appleton's March 14, 2016 handwritten client meeting notes of a brief call with T. Boone Pickens. These handwritten notes also reference Mr. Robertson's prior instructions to the Mesa Power lawyers to share non-confidential information with non-parties to the *Mesa Power* NAFTA claim.

We trust that with the provision of the email and the handwritten meeting notes will end this matter. We expect Canada to fully and completely withdraw its objections. By providing this information, we do not waive any applicable privileges or work product, all of which is preserved.

Yours very truly,

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