

From: [Barry Appleton](#)
To: [Benjamin.Tait@international.gc.ca](#); [Cavinder.Bull@drewnapier.com](#); [dbethlehem@twentysex.com](#); [dbishop@kslaw.com](#)
Cc: [Diana.Pyrikova](#); [Jose Luis Aragon Cardiel](#); [Heather.Squires@international.gc.ca](#); [Alexandra.Dosman@international.gc.ca](#); [Mark.Klaver@international.gc.ca](#); [Krystal.Girvan@international.gc.ca](#); [Stefan.Kuuske@international.gc.ca](#); [Ed.Mullins](#); [Tennant Claimant](#)
Subject: RE: Tennant Energy, LLC v. Canada (PCA Case No. 2018-54)
Date: 19 November 2021 03:21:51

Dear Mr. President and Members of the Tribunal

For the avoidance of doubt, the Investor writes with respect to the request made this evening by Canada to admit a new authority.

Canada wrote late this evening requesting the admission of a 400 page authority. This afternoon, Canada adverted to the fact that it was considering filing an authority. However, Canada waited a number of hours after the conclusion of the hearing to submit its request.

The Investor responded courteously and swiftly. It sought the following information from Canada.

Could you please identify for us how this award is relevant, why you are proposing to file it tonight and which particular sections you intend to rely upon of this award?

As the Tribunal will see, Canada declined to comment other than a response saying that this 400 page decision was relevant to the issue of control. Canada then wrote directly to the Tribunal.

Tennant Energy is not opposed the introduction of this authorities. It is opposed to ambush on the eve of the hearing.

We would ask that the Tribunal order Canada to simply point to us the pages or paragraphs that they intend to rely upon given the late hour and the length of the award.



Barry Appleton, FCI Arb, LL.M, JD

Managing Partner

Appleton & Associates International Lawyers LP

Tel 416.966.8800 • Fax 416.966.8801

bappleton@appletonlaw.com • www.appletonlaw.com

121 Richmond St. W, Suite 304, Toronto, Ontario • M5R 2K1

Co-Director and Distinguished Senior Fellow, Adjunct Professor of Law

New York Law School, Center for International Law

185 W. Broadway, Rm 910. New York, NY 10013

Barry.appleton@nyls.edu