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Sent: March 3, 2020 9:42 AM
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Subject: Tennant Energy -- Investor's objections to the assertions of confidentiality over [redacted]

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr. President and Members of the Tribunal

We write briefly in response to Canada's email of March 2nd concerning the Investor's filing of disputed confidentiality designations under the procedure set out in the Tribunal's Confidentiality Order. Given the misleading characterizations raised by Canada, the Investor must set the record straight.

There is no question that the Investor had the ability to file objections to Canada's aggressive attempts to hide information once the 21 day waiting period had elapsed. The Investor suggested that Canada withdraw its faulty designations because they could not possibly meet the obligatory threshold requirements of the definition of confidential information in the Confidentiality Order. Canada's motion was needless and wasteful. The Investor suggested that Canada withdraw its motion to save expenses upon the Tribunal and the Investor. Unfortunately, Canada did not care about the expense and maintained its position.

Canada now objects that the Investor has notified the Tribunal of its objections under the terms of the Confidentiality Order. It may well be that Canada does not like the Investor's conclusion that there is no support to Canada's request, but this does not allow Canada to suppress the Investor's due process rights to bring its objection before the Tribunal and to allow the Tribunal to see that Canada made the willful choice to continue the matter when there was no possible chance of success. The Investor's attached letter simply confirmed the notice given to Canada that its motions were non-compliant, repeated the warning to Canada issued by the Tribunal President during the procedural hearing, and set out the Investor' admonition that Canada should withdraw its application to hide this public information from the general public.

Such actions are wasteful and vexatious. They are designed to deplete the limited financial resources of the Investor because Canada effectively has no limit on what it will spend to defend this claim. This is a situation that cries out for an award of costs against Canada.

On behalf of counsel for the Investor,

Barry Appleton