

**IN THE MATTER OF AN INTERNATIONAL ARBITRATION  
UNDER THE ARBITRATION RULES OF THE UNITED NATIONS COMMISSION  
ON INTERNATIONAL TRADE LAW 2010 (“THE UNCITRAL ARBITRATION  
RULES”)**

**AND**

**CHAPTER ELEVEN OF THE NORTH AMERICAN FREE TRADE  
AGREEMENT (“NAFTA”)**

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**BETWEEN:**

**LONE PINE RESOURCES INC.**

*Claimant*

**v.**

**CANADA**

*Respondent*

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***PROCEDURAL ORDER ON DISPUTED DOCUMENT REQUESTS***

***DATED 27 MAY 2016***

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**ARBITRAL TRIBUNAL:**

**Mr. V.V. Veeder (President)**

**Professor Brigitte Stern**

**Mr. David Haigh**

**SECRETARY OF THE TRIBUNAL:**

**Ms. Aurélie Antonietti**

## **TABLE OF CONTENTS**

<b>A:</b>	<b><i>Introduction</i></b>	<b>01</b>
<b>B:</b>	<b><i>The Claimant's Disputed Request</i></b>	<b>01</b>
<b>C:</b>	<b><i>The Respondent's Disputed Requests</i></b>	<b>01</b>
<b>D:</b>	<b><i>The Tribunal's Procedural Order</i></b>	<b>05</b>
	<b><i>The Tribunal's Annex</i></b>	

***A: Introduction***

1. The Tribunal here addresses the Parties' disputed document requests, as respectively set out in the Claimant's Schedule (43 pp.) and the Respondent's Schedule (349 pp.), both dated 6 May 2016, submitted to the Tribunal pursuant to Procedural Order No. 1.
2. The Tribunal's specific decisions are set out below, against each of the Parties' numbered requests. The Tribunal's reasons for such orders are guided generally by Articles 3 and 9 of the IBA Rules of Evidence. These are stated in abbreviated form by reference to the Tribunal's Annex forming part of this Procedural Order.
3. In arriving at its decisions, in addition to the provisions of the IBA Rules, the Tribunal has borne in mind the current state of the Parties' written pleadings and the burden of proof on the Party advancing a positive case in such pleadings.

***B: The Claimant's Disputed Request***

\* *Request 40* (as modified and further clarified in the Claimant's Schedule): U as regards documentation publicly available to the Claimant; otherwise PCC. Nonetheless, the Tribunal notes the Respondent's offer to use its 'best efforts' to obtain certain requested documentation from BAPE (le Bureau d'Audiences Publiques sur l'Environnement du Québec); and the Respondent is ordered to make such efforts.

***C: The Respondent's Disputed Requests***

*Request 09*: B; NM; NR;

*Request 10*: B; NM; NR;

\* *Request 11*: O, in part, as regards the specific documents requested by the Claimant for works carried out on the Bécancour/ Champlain Block created during the time period from 25 May 2011 to 13 June 201; otherwise B;

*Request 12*: B; NM; NR;

*Request 13*: NM; NR;

\* *Request 21*: O in part, as regards any requested documentation created during the time periods from 12 January 2011 to 13 June 2011 (for the Claimant and LPRC) and from 12 January 2011 to 25 May 2011 (for Forest Oil); otherwise B;

*Request 22*: B;

*Request 23*: B; NM; NR;

\* *Request 25*: O in part, as regards any requested documentation created during the time periods from 12 January 2011 to 13 June 2011 (for the Claimant and LPRC) and from 12 January 2011 to 25 May 2011 (for Forest Oil); otherwise B;

*Request 27*: B; NM; NR;

*Request 28*: B; U; NM; NR;

*Request 30*: B; U; NM; NR;

*Request 31*: B; U; NM; NR;

*Request 36*: B; NM; NR;

*Request 39*: B; U; NM; NR;

*Request 48*: U; NM; NR;

*Request 49*: U; NM; NR;

*Request 55*: NM; NR;

*Request 61*: U; B; NM; NR;

\* *Request 66*: O in part, as regards any requested documentation created during the time period from 1 February 2006 to 13 June 2011; otherwise B;

\* *Request 68*: O;

*Request 69*: B; U; NM; NR;

*Request 70*: B; U; NM; NR;

*Request 74*: NM; NR;

*Request 75:* NM; NR;

*Request 76:* NM; NR;

\* *Request 77:* O;

*Request 80:* B; U; NM; NR;

*Request 81:* NM; NR;

*Request 82:* NM; NR;

\* *Request 85:* O in part, as regards any requested documentation created during the time period from 5 June 2006 to 12 June 2011;

\* *Request 90:* O; in part, as regards any requested documentation created during the time period up to 13 June 2011; otherwise B; NM; NR;

*Request 91:* B; U; NM; NR;

*Request 92:* NM; NR;

*Request 93:* B; U; NM; NR;

\* *Request 94:* O; in part, regards any requested documentation created during the time period up to 13 June 2011; otherwise B; NM; NR;

*Request 95:* U; B; NM; NR;

*Request 96:* U; B; NM; NR;

*Request 98:* U; B; NM; NR;

*Request 99:* U; B; NM; NR;

\* *Request 100:* O, in part, as regards any requested documentation (as revised in the Respondent's Schedule) relevant to the Bécancour/Champlain Block for the time periods from 5 June 2006 to 12 June 2011 (for the Claimant and LPRC) and from 5 June 2006 to 1 June 1 2011 (for Forest Oil); otherwise B;

\* *Request 101*: O, in part, as regards any requested documentation (as revised in the Respondent's Schedule) created during the time periods from 5 June 2006 to 12 June 2011 (for the Claimant and LPRC) and from 5 June 2006 to 25 May 2011 (for Forest Oil); otherwise B;

\* *Request 103*: O in part: The Tribunal notes that the Claimant does not object, as stated under paragraph (c), to providing exploration proposals for or assessments of the economic risks associated with resources in the Québec Utica shale during a limited, relevant time period – which the Tribunal takes as being the time periods from 1 February 2006 to 12 June 2011 (for the Claimant) and from 1 February 2006 to 25 May 2011 (for Forest Oil); otherwise B; NM; NR;

*Request 107*: B; U;

\* *Request 110*: O, as twice modified in the Respondent's Schedule (“Le défendeur peut cependant limiter la portée de cette demande au projet de mise en valeur du gaz de schiste sur le territoire du Bloc Champlain/Bécancour. Le défendeur est également disposé à limiter la demande aux documents entre le 5 juin 2006, soit la date de la conclusion du Contrat d'affermage, et le 13 juin 2011, soit la date d'entrée en vigueur de la mesure contestée”);

*Request 118*: B; U; NM; NR;

*Request 119*: V; B; NM; NR;

*Request 120*: V; B; NM; NR;

\* *Request 133*: O, as revised in the Respondent's Schedule for any requested documentation created during the time period from 1 February 2006 to 13 June 2011 (“Les rapports ou études sur les ressources (« resource reports or studies ») commentant, traitant de ou analysant les ressources en gaz de schiste du bassin sédimentaire de l'Utica au Québec qui ont été préparés par GLJ ou par un autre ingénieur spécialisé en réserves (« reserve engineer ») à la demande de Forest Oil ou de Lone Pine;”); otherwise V; B;

*Request 134*: V; B;

*Request 138*: V; B.

***D: The Tribunal's Procedural Order***

As regards the Claimant's Request 40 and the Respondent's Requests 11, 21, 25, 61, 68, 77, 85, 90, 94, 100, 101, 103 and 133 (all marked \* above), given the relatively limited documentation so ordered to be produced, the Tribunal requests the Respondent and the Claimant to produce the same as soon as possible, in particular as and when each document (or group of documents) is collated, and not to delay production until the whole is ready to be produced by a Party.

[Signed]

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V.V. Veeder  
On behalf of the Tribunal  
Date: 27 May 2016

**LONE PINE RESOURCES INC. v CANADA**

Annex to the Tribunal's Procedural Order  
on Disputed Document Production of 27 May 2016  
(being the key designating the Tribunal's Decisions  
and Primary Grounds for Such Decisions)

Shorthand References	Articles of the IBA Rules	Decision and Principal Ground for Decision
A		Requested documentation is <b>agreed</b> to be produced by the requested party.
O		Requested documentation is <b>ordered</b> to be produced by the requested party.
V	3(3)(a)(i)	The description given is insufficient to identify the requested documentation; and the request is too <b>vague</b> .
B	3(3)(a)(ii)	The category of documentation requested is insufficiently narrow and specific; and the request is excessively <b>broad</b> .
NE		The requested documentation does <b>not exist</b> .
NM	3(3)(b); 9(2)(a)	The requested documentation is <b>not</b> sufficiently <b>material</b> to the outcome of the case.
NR	3(3)(b); 9(2)(a)	The requested documentation is <b>not</b> sufficiently <b>relevant</b> to the outcome of the case.
PCC	3(3)(c)	The requested documentation is not in the <b>possession, custody or control</b> of the requested party.
P	9(2)(b)	The requested documentation is protected from disclosure by legal impediment or legal <b>privilege</b> .
U	9(2)(c)	It would be an <b>unreasonable</b> burden for the requested party to produce the requested documentation or it would otherwise be disproportionate to order it to do so.
L	9(2)(d)	The requested documentation is <b>lost</b> or destroyed.
C	9(2)(e)	There are sufficient grounds of commercial or technical <b>confidentiality</b> against the disclosure of the requested documentation.
S	9(2)(f)	The requested documentation is protected from disclosure by reason of special political or institutional <b>sensitivity</b> .
F	9(2)(g)	The requested documentation is protected from disclosure by reason of compelling considerations of <b>fairness or equality</b> .
Y		The request is not a request for documentation
X		No decision is required of the Tribunal.