

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20110715

Docket: A-402-10

Citation: 2011 FCA 226

Present: NOËL J.A.

BETWEEN:

**FOND DU LAC DENESULINE FIRST NATION, BLACK LAKE
DENESULINE FIRST NATION, HATCHET LAKE DENESULINE
FIRST NATION and THE NON-FIRST NATION ABORIGINAL
PROVINCIAL COMMUNITIES OF CAMSELL PORTAGE,
URANIUM CITY, STONY RAPIDS and WOLLASTON LAKE
(hereinafter referred to as the “Athabasca Regional Government”)**

Appellants

and

**ATTORNEY GENERAL OF CANADA and
AREVA RESOURCES CANADA INC.**

Respondents

and

**ATTORNEY GENERAL FOR SASKATCHEWAN and
CANADIAN NUCLEAR SAFETY COMMISSION**

Interveners

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on July 15, 2011.

REASONS FOR ORDER BY:

NOËL J.A.

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Interveners

REASONS FOR ORDER

NOËL J.A.

[1] The appellants move pursuant to Rules 343(3) and (5) of the *Federal Courts Rules*, SOR/98-106, for what is in effect an order varying the agreement as to the contents of the Appeal Book filed on January 18, 2011 and for an order that the Administrator prepare the Appeal Book on their behalf. The following documents are in dispute:

- i) the affidavit of Jacques Lavoie, Senior General Counsel and Director of Legal Services of the intervener, Canadian Nuclear Safety Commission (CNSC);
- ii) the letter with enclosures from the Prince Albert Grand Council dated November 26, 2008 directed to the Canadian Environmental Assessment Agency and a letter from the Canadian Environmental Assessment Agency dated January 6, 2009.

[2] The CNSC seeks the inclusion of the affidavit described in subparagraph i) above and the appellants seek the inclusion of the two letters and enclosures described in subparagraph ii) above. The appellants object to the addition sought by CNSC and both respondents take issue with the additions sought by the appellants. With the exception of the letter dated November 26, 2008 – which is part of the original agreement – none of the documents sought to be included were before the judge who rendered the decision under appeal.

[3] After having considered the motion material, I see no reason to deviate from the general rule that the contents of the Appeal Book should be restricted to the material which was before the motions judge. The Appeal Book will therefore be limited to the documents described in the agreement as to the contents of the Appeal Book filed on January 18, 2011.

[4] As to the confection of the Appeal Book, the appellants have advanced no cogent reason as to why it should be prepared on their behalf by the Administrator. The appellants will therefore prepare and file the Appeal Book within the time set out in Rule 345.

[5] An order is issued accordingly.

“Marc Noël”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:

A-402-10

STYLE OF CAUSE:

Fond du Lac Denesuline First Nation, Black Lake Denesuline First Nation, Hatchet Lake Denesuline First Nation and The Non-First Nation Aboriginal Provincial Communities of Camsell Portage, Uranium City, Stony Rapids and Woollaston Lake (hereinafter referred to as the "Athabasca Regional Government") AND Attorney General of Canada and Areva Resources Canada Inc. AND Canadian Nuclear Safety Commission and Attorney General for Saskatchewan

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY:

NOËL J.A.

DATED:

July 15, 2011

WRITTEN REPRESENTATIONS BY:

Bruce J. Slusar

FOR THE APPELLANTS

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FOR THE RESPONDENT
(Attorney General of Canada)

Vanessa Monar Enweani

FOR THE RESPONDENT
(Areva Resources Canada Inc.)

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