

Federal Court
of Appeal



CANADA

Cour d'appel
fédérale

Date: 20090512

Docket: A-469-08

Citation: 2009 FCA 153

**CORAM: EVANS J.A.
LAYDEN-STEVENSON J.A.
RYER J.A.**

BETWEEN:

**MUSHKEGOWUK COUNCIL and
STAN LOUTTIT**

Appellants

and

**THE ATTORNEY GENERAL OF CANADA,
THE MINISTER OF NATURAL RESOURCES
(THE HON. GARY LUNN P.C., M.P.) and
THE NUCLEAR WASTE MANAGEMENT ORGANIZATION**

Respondents

AND BETWEEN:

**MUSHKEGOWUK COUNCIL and
STAN LOUTTIT**

Appellants

and

**THE ATTORNEY GENERAL OF CANADA,
THE MINISTER OF NATURAL RESOURCES
(THE HON. GARY LUNN P.C., M.P.) and
THE NUCLEAR WASTE MANAGEMENT ORGANIZATION**

Respondents

Heard at Toronto, Ontario, on May 12, 2009.

Judgment delivered from the Bench at Toronto, Ontario, on May 12, 2009.

REASONS FOR JUDGMENT OF THE COURT BY:

LAYDEN-STEVENSON

J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Toronto, Ontario, on May 12, 2009)

LAYDEN-STEVENSON J.A.

[1] The appellants appeal the order of Mr. Justice Zinn dismissing their appeal from an order of Prothonotary Milczynski denying their motion for leave to amend and add alternative relief as part of a consolidated and revised notice of application.

[2] The appeal arises within the context of two applications for judicial review in relation to decisions taken pursuant to the provisions of the *Nuclear Fuel Waste Act*, S.C. 2002, c. 23 (the Act).

[3] At the hearing of this appeal, the appellants' counsel informed the Court that the appellants seek judicial review of only those portions of the impugned decisions that were allegedly determined without the consultation required by the Act. We are of the view that the request for declaratory relief contained in the original notice of application encompasses this purpose, a position with which counsel for the respondents the Attorney General of Canada and the Minister of Natural Resources agrees.

[4] Consequently, the amendments are not necessary and the interests of justice would not be served by permitting them to be made. In arriving at this conclusion, we should not be taken to endorse the reasons of the prothonotary or the motions judge.

[5] The appeal will be dismissed with costs.

"Carolyn Layden-Stevenson"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-469-08

**(APPEAL FROM AN ORDER OF THE HONOURABLE MR. JUSTICE ZINN)
DATED SEPTEMBER 17, 2008, DOCKET NOS.T-1305-07 and T-1306-07)**

STYLE OF CAUSE: MUSHKEGOWUK COUNCIL and STAN
LOUTTIT v.

THE ATTORNEY GENERAL OF CANADA, THE
MINISTER OF NATURAL RESOURCES (THE
HON. GARY LUNN P.C., M.P.) and THE
NUCLEAR WASTE MANAGEMENT
ORGANIZATION

AND:
MUSHKEGOWUK COUNCIL and STAN

LOUTTIT v.

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ORGANIZATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: May 12, 2009

REASONS FOR JUDGMENT OF THE COURT BY: (EVANS, LAYDEN-
STEVENSON & RYER
JJ.A)

DELIVERED FROM THE BENCH BY: LAYDEN-STEVENSON
J.A.

APPEARANCES:

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FOR THE APPELLANTS

Liz Tinker

FOR THE RESPONDENT

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FOR THE RESPONDENT