

Federal Court
of Appeal



CANADA

Cour d'appel
fédérale

Date: 20100319

**Dockets: A-509-08
A-507-08**

Citation: 2010 FCA 81

**CORAM: LÉTOURNEAU J.A.
NADON J.A.
DAWSON J.A.**

BETWEEN:

A-509-08

THE RURAL MUNICIPALITY OF SOURIS VALLEY NO. 7

Appellant

and

CANADIAN PACIFIC RAILWAY COMPANY

Respondent

A-507-08

THE RURAL MUNICIPALITY OF SOURIS VALLEY NO. 7

Appellant

and

CANADIAN PACIFIC RAILWAY COMPANY

Respondent

Heard at Regina, Saskatchewan, on February 18, 2010.

Judgment delivered at Ottawa, Ontario, on March 19, 2010.

REASONS FOR JUDGMENT BY:

LÉTOURNEAU J.A.

CONCURRED IN BY:

**NADON J.A.
DAWSON J.A.**

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REASONS FOR JUDGMENT

LÉTOURNEAU J.A.

[1] For the reasons given in files A-508-08, A-506-08 and A-561-08, I would allow the appeal with one set of costs and set aside the part of the Canadian Transportation Agency's (Agency) decision which dismisses the appellant's claim for costs of the levelling of the rights-of-way of the line is set aside. The matter is referred back to the Agency to determine:

- a) if, in the present instance, the above costs are relevant to the determination of the NSV pursuant to section 145 of the Act;
- b) if so, whether their award is justified on the facts and circumstances of this case; and
- c) if so, the amount that should be awarded.

[2] I would allow no costs to or against the Agency.

“Gilles Létourneau”

J.A.

“I agree
M. Nadon J.A.”

“I agree

Eleanor R. Dawson J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-509-08

STYLE OF CAUSE: THE RURAL MUNICIPALITY OF SOURIS
VALLEY NO. 7 v. CANADIAN PACIFIC
RAILWAY COMPANY

PLACE OF HEARING: Regina, Saskatchewan

DATE OF HEARING: February 18, 2010

REASONS FOR JUDGMENT BY: LÉTOURNEAU J.A.

CONCURRED IN BY: NADON J.A.
DAWSON J.A.

DATED: March 19, 2010

APPEARANCES:

Lucia M. Stuhldreier

FOR THE APPELLANT

Glen H. Poelman
Ryan C. Penner

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Aikins, MacAulay & Thorvaldson LLP
Winnipeg, Manitoba

FOR THE APPELLANT

MacLeod Dixon LLP
Calgary, Alberta

FOR THE RESPONDENT

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