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September 28, 2023			
28 septembre 2023			
Court File No.			
Adam Young			
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## FEDERAL COURT OF APPEAL

### BETWEEN:

SOUTH SHORE TRADING CO. LTD.

Appellant

-and-

ATTORNEY GENERAL OF CANADA

Respondent

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### NOTICE OF APPEAL RULE 337

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#### TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears below.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at Halifax, Nova Scotia.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the [Federal Courts Rules](#) and serve it on the appellant's solicitor or, if the appellant is self-represented, on the appellant, WITHIN 10 DAYS after being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the [Federal Courts Rules](#) instead of serving and filing a notice of appearance.

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Issued the: \_\_\_\_\_

Issued by: \_\_\_\_\_

Address of local office:

1801 Hollis Street, 17th Floor  
Suite 1720  
Halifax, Nova Scotia  
B3J 3N4

TO: Attorney General for Canada  
Department of Justice  
Suite 1400, Duke Tower  
5251 Duke St.  
Halifax, NS B3J 1P3

## **APPEAL**

**THE APPELLANT APPEALS** to the Federal Court of Appeal from the order/Judgment of Justice Walker of the Federal Court of Canada dated August 29<sup>th</sup>, 2023 in file No. T-1804-22, by which the consolidated applications for judicial review of South Shore Trading Co. Ltd. (T-1804-22) Shelburne Elver Limited (T-866-22), Wine Harbour Fisheries Limited (T-923-22) and were dismissed.

**THE APPELLANT ASKS** that the Decision be overturned and/or set aside and that an order be granted as follows:

- (a) the Application for judicial review is granted;
- (b) quashing the Minister's quota reduction decision as incorrect and/or unreasonable;
- (c) declaring that Appellant's claims about COSEWIC's partiality and bias are material to the Minister's ongoing quota reduction and TAC decisions, and must be treated as credible unless refuted;
- (d) requiring the Minister to consider a TAC increase in future quota decisions, giving due consideration to Appellant's allegations that COSEWIC 2012 was partial, biased and is substantively flawed;
- (e) requiring the Minister to proceed in good faith with the willing buyer – willing seller, voluntary relinquishment program;
- (f) requiring the Minister to continue consultation and negotiations with respect to the relinquishment of elver quota in accordance with directions provided by this Court, including directing the Minister to be objectively informed of the elver stock status;
- (g) requiring the Department to objectively inform the Minister about American eel stock status and advise her on decisions about TAC and quota in accordance with such other instructions this Court sees fit to provide;
- (h) that the Appellant is awarded Costs on the Application and this Appeal in an amount this Court finds appropriate;

- (i) retaining jurisdiction over this matter until the Court's instructions are fully carried out; and
- (e) such other and further relief as this Honourable Court deems just.

**THE GROUNDS OF APPEAL** are as follows:

The reviewing Judge erred in law, or in mixed fact and law, by:

- 1) Applying the incorrect standard of review, or by misapplying the appropriate standard of review to the Minister's Decision, including with respect to the rules of natural justice and procedural fairness and the interpretation and application *Species at Risk Act*, SC 2002, c 29 and The *Department of Fisheries and Oceans Act*, RSC 1985, c F-15, the *Fisheries Act*, RSC 1985, c F-14, and related regulations;
- 2) By finding that the Minister's Decision was reasonable. The Minister acted unreasonably and incorrectly by adopting the Department's refusal to consider a TAC increase. The reviewing Judge erred by failing to fully address whether the Department and Minister took Appellant's bias allegations seriously, or made reasonable inquiry about them, or why DFO remains unwilling to refute them;
- 3) Making findings of fact in the absence of evidence, and by failing to consider the full evidence before her, including that the Minister complied with the rules of natural justice and procedural fairness, and the determination that the analysis and information in the memoranda to the Minister were accurate, transparent and intelligible;
- 4) The Decision of the learned reviewing Judge reflects an error of law and a significant misapprehension of the evidence resulting in the Decision of the learned reviewing Judge being wrong, including (a) the determination the Minister complied with the rules of natural justice and procedural fairness, (b) that the analysis and information in the memoranda to the Minister were accurate, transparent and intelligible, and (c) the interpretation and application of the *Species at Risk Act*, SC 2002, c 29; and The *Department of Fisheries and Oceans Act*, RSC 1985, c F-15, the *Fisheries Act*, RSC 1985, c F-14, and related regulations; and

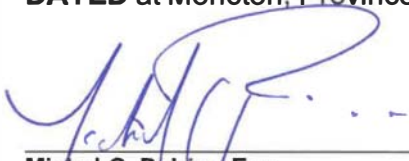
- 5) The Decision of the learned reviewing Judge reflects errors in her findings of fact and in her application of the law to those findings in reaching her ultimate Decision.

The appellant requests the Federal Court to send a certified copy of the following material that is not in the possession of the appellant but is in the possession of the tribunal to the appellant and to the Registry:

All Documents forming the consolidated Record before the Justice Walker

Transcript of the consolidated Hearing before Justice Walker

**DATED** at Moncton, Province of New Brunswick, this 28<sup>th</sup> day of September, 2023.



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**Michel C. Poirier, Esq.**  
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South Shore Trading Co. Ltd.

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