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F I L E D	FEDERAL COURT OF APPEAL COUR D'APPEL FÉDÉRALE September 28, 2023 28 septembre 2023 Adam Young		
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Court File No. _____

FEDERAL COURT OF APPEAL

BETWEEN:

SHELBURNE ELVER LIMITED

APPELLANT

and

**HIS MAJESTY THE KING (MINISTER OF FISHERIES, OCEANS AND THE CANADIAN
COAST GUARD)**

RESPONDENT

NOTICE OF APPEAL

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.

DATED at Halifax, Nova Scotia this ____ day of September, 2023.

Issued by: _____
(Registry Officer)

Address of local office:

1801 Hollis Street, Suite 1720
Halifax, NS, B3J 3N4

TO: **Sarah Drodge**
Department of Justice Canada
Atlantic Regional Office
Suite 1400, Duke Tower
5251 Duke Street
Halifax, NS B3J 1P3

Telephone: 902.818.3335
Fax: 902.426.8796

Solicitor for the Respondent

APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal from the order of Justice Walker dated August 29, 2023 (the “**Decision**”), by which Justice Walker dismissed the Applicant’s application for judicial review of the April 6, 2022 decision of the Minister of Fisheries, Oceans and the Canadian Coast Guard (the “**Minister**”) to reduce the elver quota allocated to the Appellant by 13.7% without financial compensation (the “**Minister’s Decision**”), bearing Court File No. T-866-22.

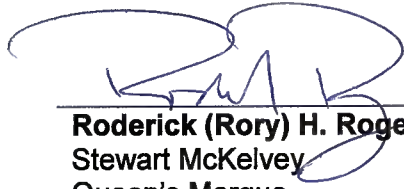
THE APPELLANT ASKS that:

1. The Decision be overturned and the application for judicial review of the Minister’s Decision be granted quashing and setting aside the Decision and granting an Order in the nature of mandamus requiring the Minister to proceed with a willing buyer – willing seller voluntary relinquishment process;
2. The costs of this appeal and of the hearing in the Federal Court be awarded to the Appellant; and
3. Such further and other relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS OF APPEAL are as follows:

4. That the Decision of Justice Walker erred on questions of law as follows:
 - (a) in failing to find that the Decision was issued arising from a breach of procedural fairness owed to the Appellant, including: a failure to provide the Appellant a meaningful opportunity to respond to the Minister as the Minister ran out of time to implement a planned second call for proposals for voluntary relinquishment in order to increase First Nations access to the fishery; and a failure to address the legitimate expectations of the Appellant in relation to a second round of expressions of interest under the voluntary relinquishment program;
 - (b) in failing to find that the Decision was unreasonable, including: a failure to find that the Decision was not transparent, intelligible or justified; in failing to find that the Decision was issued without implementation of a planned second call for proposals for voluntary relinquishment for compensation to increase First Nations participation in the fishery as a result of the Minister and the Department of Fisheries and Oceans running out of time prior to commencement of the 2022 elver fishing season; and
 - (c) such further and other grounds as Counsel may advise and as this Honourable Court may permit.

DATED at Halifax, Nova Scotia this 28th day of September, 2023.

A handwritten signature in blue ink, appearing to read 'Rory H. Rogers', is written over a horizontal line.

Roderick (Rory) H. Rogers, K.C.
Stewart McKelvey
Queen's Marque
600-1741 Lower Water Street
Halifax, NS B3J 0J2

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Solicitor for the Applicant