Federal Court Cour fédérale

Date: 20150611

Docket: T-709-14

Citation: 2015 FC 734

Ottawa, Ontario, June 11, 2015

PRESENT: The Honourable Mr. Justice O'Keefe

BETWEEN:

HENRY DOUCETTE

Applicant

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF FISHERIES AND OCEANS

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The applicant's application for judicial review reads as follows:

> This is an application for Judicial Review pursuant to section 18.1 of the *Federal Courts Act*, R.S. 1985, c. F-7 (hereinafter referred to as the "*Federal Courts Act*"), in respect of a decision of the Minister of Fisheries and Oceans (Canada) (hereinafter referred to as "DFO"), made on or about December 9th, 2013, directed towards the interests of the Applicant, (hereinafter referred to as "the Applicant") in his capacity as a commercial fisherman within the DFO administrative Gulf Region. The Minister rejected the recommendation of the Atlantic Fisheries

> Licensing Appeal Board (hereinafter referred to as "AFLAB") that Snow Crab Licence Number 008529 (hereinafter referred to as the "Licence") be reissued to the Applicant. The Minister denied the appeal of the Applicant and refused to reissue the Licence to the Applicant.
>
> Prior to the decision of the Minister on or about December 9th, 2013, the Applicant had been engaged with both DFO and the Minister in an attempt to have the Licence reissued to him, pursuant to terms and conditions of a transaction that was completed in 1999 with the former holder of the Licence. DFO consistently refused to reissue the Licence to the Applicant. After several years of delays and protracted procedures undertaken by DFO, legal proceedings and requests that the Minister review his/her case (depending on which DFO Minister was serving at all relevant times hereto), the Applicant was granted permission to appeal the decision of DFO to AFLAB, pursuant to which decision DFO specifically refused to reissue the Licence to the Applicant. The appeal hearing occurred on April 15th, 2011. AFLAB rendered a decision which clearly and unequivocally recommended that the Licence be reissued to the Applicant (hereinafter referred to as the "AFLAB Decision"). DFO delayed sharing such AFLAB Decision to the Applicant, undertook various delay tactics and/or protracted procedures in an attempt to further mislead the Applicant, and ultimately DFO and the Minister ignored the recommendation of AFLAB and denied the appeal of the Applicant to have the Licence reissued to him, without any legal, factual and/or *bona fide* basis, and as such, demonstrated a total lack of good faith within DFO and within the Minister's treatment of the Applicant.

[2] The applicant requests the following relief:

1. A declaration that the decision of the Minister not to reissue snow crab licence to the applicant was invalid or unlawful pursuant to paragraphs 18(1)(a), 18(1)(b), 18.1(3)(a), 18.1(3)(b) and 18.1(4)(b) of the *Federal Courts Act*, RS 1985, c F-7 [the Act] ; and/or

2. A writ of *mandamus* directing the Minister to comply with her representation and undertakings, pursuant to paragraphs 18(1)(a), 18(1)(b) and 18.1(3)(a) of the Act; and/or

3. A writ of *mandamus* directing the Minister to comply with the recommendations of AFLAB, pursuant to paragraphs 18(1)(a), 18(1)(b), 18.1(3)(a) and 18.1(3)(b) of the Act; and/or

4. In the alternative, that if this Court does not deem the licence can be reissued to the applicant, an order declaring the applicant is entitled to damages in lieu of his detrimental reliance on the Minister and in regard to the unfair treatment by the Minister and DFO in regard to all matters relating to the transfer of the licence; and an order granting damages, pursuant to paragraphs 18(1)(a), 18.1(3)(a) and 18.1(3)(b) of the Act; and/or

5. In the further alternative, if this Court gives credence to the Minister's position in the March 2, 2012 correspondence whereby he purports that AFLAB had failed to consider certain decisions by the New Brunswick courts, that this Court directs that this specific issue raised by the Minister be referred back to AFLAB for further consideration in order to allow the applicant to properly respond to the same, in keeping with the principles and requirements of natural justice, pursuant to paragraphs 18(1)(a), 18(1)(b), 18.1(3)(a) and 18.1(3)(b) and subsection 18.4(b) of the Act; and

6. Costs of this application on a full indemnity basis pursuant to Rules 400(1), (2), (3) and (6) of the *Federal Courts Rules*, SOR/98-106; and

7. Such other relief or remedy as this Court deems just and reasonable.

I. Background

[3] The applicant is a commercial fisherman. In 1998, he sold his Prince Edward Island (PEI) fishing licence. He wanted to move to New Brunswick and fish there.

[4] The applicant contacted the DFO in Moncton, New Brunswick. He alleges that he was informed that he needed to reside in New Brunswick for two years and fish for six months in order to qualify to have the licence reissued to him.

[5] The respondent, on the other hand, alleges the applicant contacted the DFO offices in Tracadie and Moncton, New Brunswick, as well as Charlottetown, PEI on at least five occasions. It alleges Mr. Jenkins, the Chief of Resource Management in charge of licencing in Charlottetown before his retirement, testified on cross-examination that he would have explained the DFO policies to the applicant: first, the applicant needs to "qualify as a new entrant into the core group by being registered as a commercial fish harvester in each of the previous two years, fishing a minimum of 10 weeks in each of those years, and being recognized as a commercial fisher in his community" and "[t]hen to qualify to receive a replacement licence, he would need six months' residency in eastern New Brunswick."

[6] In January 1999, the applicant moved to Moncton in order to meet the allegedly misinformed two years residency requirement. He and his corporation, 508428 N.B. Limited, entered into a contract to purchase the fishing licence and the business assets of Vincent Jones for $1,500,000. Mr. Jones was to hold the licence in trust for the applicant until he met the

requirements to qualify to have the licence reissued to him (the trust agreement). The applicant then began fishing in the same year.

[7] The trust agreement provided that Mr. Jones had no obligation to initiate a reissuance of the licence until the purchase price was paid in full. By spring of 2002, the applicant still had not paid the entire purchase price to Mr. Jones.

[8] In February 2001, the province of New Brunswick contacted DFO with its concerns that some of the snow crab licences were sold and not personally utilized. DFO commenced reviews, including Mr. Jones' licence.

[9] On April 4, 2001, DFO froze the licence and prevented transfers, though DFO did continue to issue Mr. Jones the licence from year to year.

[10] On January 16, 2002, Mr. Jones withdrew his expression of intent to request a reissuance of the licence to the applicant.

[11] On February 6, 2002, DFO received an application from the applicant to be recognized as a new entrant.

[12] On March 27, 2002, DFO approved the applicant's request, valid for the calendar year. Later, the applicant also obtained new entrant status for 2003 and 2004.

[13] On April 9, 2002, DFO revoked Mr. Jones' core status and found that he was not head of the core enterprise. DFO also informed Mr. Jones that it would not entertain any request to issue replacement licences to other eligible fishers.

[14] Mr. Jones was also informed by DFO that he needed to end his trust agreement with the applicant if he wanted an unrestricted licence. He did so and took control of the licence without returning the purchase price to the applicant.

[15] On May 14, 2002, the applicant requested that DFO lift the restrictions on Mr. Jones' licence and transfer the licence from Mr. Jones to him pursuant to the trust agreement.

[16] On June 26, 2002, Fisheries and Oceans Minister Robert G. Thibault denied this request.

[17] The applicant commenced an action against Mr. Jones for breach of the trust agreement and the trial occurred during the weeks of December 13, 2004 and March 14, 2005.

[18] On December 2, 2004, Mr. Jones formally applied to the DFO to transfer the licence to the applicant. The applicant claims that he did not sign this application and that he was completely unaware of its existence during the trial between he and Mr. Jones.

[19] On December 3, 2004, DFO rejected this application.

[20] On April 11, 2005, Mr. Justice Roger Savoie in *Doucette v Jones*, 2005 NBQB 144, deemed the trust agreement between the applicant and Mr. Jones legal, but acknowledged that the DFO was not bound by trust agreements between individuals. Mr. Justice Savoie ruled the contract was frustrated and dismissed the applicant's request for specific performance; this was upheld on appeal. The remaining issue of damages was sent back for retrial and the parties subsequently reached an out of court settlement on August 6, 2012.

[21] As of July 6, 2007, Mr. Jones was found in compliance with DFO policies.

[22] In December 2008, the applicant met with the Honourable Minister Gail Shea and complained that DFO had not applied its policies consistently. DFO reviewed Mr. Jones' file. On April 16, 2009, it informed the applicant that no inconsistencies had been identified.

[23] On April 24, 2009, the applicant requested an appeal to the AFLAB. The AFLAB can make recommendations to the Minister, but it has no authority to make licencing decisions.

[24] On August 28, 2009, the applicant met with Minister Shea in her office in Summerside, Prince Edward Island. The applicant claims that during this meeting, Minister Shea agreed to send this matter directly to AFLAB, bypassing the regional appeal level and that she would abide by whatever recommendation AFLAB made.

[25] On January 6, 2010, the Minister granted the request for an appeal to AFLAB.

[26] In February 2010, Mr. Jones passed away.

[27] On September 16, 2010, Mr. Jones' estate requested that his licence be reissued as replacement licence to another third party.

[28] On April 15, 2011, the applicant's appeal proceeded before AFLAB. AFLAB recommended in its decision that the licence be reissued to the applicant, provided that he was currently eligible to receive the licence. The recommendation was based on the extenuating circumstances. That is, DFO had provided erroneous information to the applicant as to when he would be eligible to have the licence transferred to him and that DFO removed Mr. Jones' core status while he was under evaluation.

[29] AFLAB reasoned that had the applicant been given the proper information, he and Mr. Jones would have been able to reissue the licence before DFO put a freeze on it.

[30] On May 18, 2011, Mr. Keith Ashfield took office as the new Minister of Fisheries and Oceans.

II. Decision by Minister Ashfield

[31] On March 2, 2012, Minister Ashfield rejected AFLAB's recommendation and denied the applicant's request to have the licence reissued to him as a replacement licence. The Minister's rationale is as follows:

> Fisheries and Oceans Canada applies the *Commercial Fisheries Licensing Policy for Eastern Canada, 1996* when making decisions with respect to licensing. As per subsection 16(2) of this policy, the issuance of a replacement licence, also commonly referred to as a licence "re-issuance", states that the request must be made by the licence holder. In this case, the Estate of Mr. Vincent Jones has not made a request for the issuance of a replacement licence to you.
>
> In recommending the re-issuance of the licences of the Estate of Mr. Vincent Jones to you, the Board failed to consider the decisions made by the New Brunswick Court of Queen's Bench (April 11, 2005) and by the New Brunswick Court of Appeal (April 11, 2006) in the dispute opposing yourself to Mr. Jones. It is my understanding that the Courts concluded that the Trust Agreement you entered into with Mr. Jones for the re-issuance of his licences was frustrated, and therefore could not be executed. …

[32] In April 2012, the late Mr. Jones' licence was reissued to the third party with approval from DFO.

[33] In the fall of 2012, Minister Ashfield became ill and Minister Shea became Acting Minister of Fisheries and Oceans.

[34] On October 29, 2012, the applicant requested a copy of the AFLAB recommendations.

[35] On July 15, 2013, Minister Shea was reappointed.

[36] On October 18, 2013, almost a year after the request, a copy of the AFLAB recommendations were provided to the applicant, along with a letter stating that the matter was considered closed. The applicant received these materials on October 25, 2013.

III. Decision by Minister Shea

[37] On November 10, 2013, the applicant visited Minister Shea at her home to suggest a three person panel to reconsider his case. The panel would be Charles Gaudet from DFO Moncton, Mr. Jenkins, the applicant's advisor and an unbiased person of the Minister's choice. Minister Shea agreed to think about this suggestion.

[38] In a letter dated November 27, 2013, Minister Shea wrote that she believes the applicant's matter "has been thoroughly addressed and there is no merit for further review." The applicant received this letter on December 9, 2013.

IV. Issues

[39] The applicant raises the following issues for my consideration:

1. Was the decision of Minister Shea made in contravention of procedural fairness and of the elementary principles of natural justice?

- Discretionary power;
- Procedural fairness;
- Legitimate Expectation;
- Irrelevant Considerations;
- Unreasonableness and Bad Faith;
- Negative Inference.

[40] The respondent raises two preliminary issues:

1. Which decision is being judicially reviewed and is it reviewable?
2. Should portions of the applicant's affidavit be struck?

[41] The respondent also raises seven issues on the merits:

1. What is the standard of review?
2. Should the Court conclude that Minister Shea's letter was a decision (which was denied) and was the decision reasonable?
3. Was Minister Ashfield's decision reasonable?
4. Could the alleged promise fetter the Minister's discretion?
5. Did the decision conform with the requirements of natural justice / procedural fairness?
6. If not, was the error material?
7. Is the applicant entitled to the relief sought?

[42] In my view, there are six issues:

A. Which decision(s) is(are) subject to judicial review?

B. Should portions of the applicant's affidavit be struck?

C. What is the standard of review?

D. Did Minister Ashfield or Minister Shea breach procedural fairness?

E. Was the decision subject to judicial review reasonable?

F. What relief is available?

V. Applicant's Written Submissions

[43] With respect to the standard of review, the applicant submits issues of procedural fairness are reviewed on a standard of correctness.

[44] First, the applicant submits since he relied on the incorrect information provided to him by DFO to his detriment, he did not apply for a transfer of the licence when he was eligible, which was in August 1999, which was prior to the licence being frozen and prior to the eventual conflict between he and Mr. Jones. He argues DFO's misinformation caused him to become a "victim to a frustrated Trust Agreement."

[45] Second, with respect to the Minister's discretionary power, the applicant submits Minister Shea's decision is contrary to the rules of natural justice and that she exercised her discretion in bad faith. A discretionary decision made by a Minister with far reaching discretion, is only subject to judicial review, where there has been bad faith on the part of the policy maker, non-conformity with principles of natural justice and reliance upon considerations that are irrelevant or extraneous to the statutory purpose (*Maple Lodge Farms Ltd v Canada*, [1982] 2 SCR 2 at paragraph 7, 44 NR 354).

[46] The applicant submits the discretion of the Minister to issue fishing licences is outlined at subsection 7 of the *Fisheries Act*, RSC, 1985, c F-14. This discretion must be exercised: i) in accordance with the requirements of natural justice; ii) based on relevant consideration; iii) without arbitrariness; iv) in good faith; v) in accordance with applicable statute or regulations;

and vi) in accordance with the provisions of the *Charter* (*Comeau's Sea Foods Ltd v Canada (Minister of Fisheries and Oceans)*, [1997] 1 SCR 12 at paragraphs 30, 31, 36, 37 and 51, [1997] SCJ No 5 [*Comeau*]).

[47] He argues based on the doctrine of legitimate expectation that arose at the August 28, 2009 meeting, Minister Shea's decision is contrary to the rules of natural justice and that she exercised her discretion in bad faith.

[48] Second, with respect to procedural fairness, the applicant submits Minister Shea did not discharge her duty of procedural fairness. Here, the applicant argues that he is owed a duty of procedural fairness. He relied on Minister Shea's promise, to his detriment. He obtained a loan to acquire the licence initially and moved to New Brunswick to fish in an attempt to qualify and to obtain the licence. He endured great financial hardship as a result of the licence not being reissued to him. Minister Shea's decision was of great importance to the applicant and his family. Though the applicant does not have a "right" to the licence, he does have a direct financial interest in the outcome of Minister Shea's decision which is sufficient to trigger the duty of procedural fairness pursuant to *Mount Sinai Hospital Center v Quebec (Minister of Health and Social Services)*, 2001 SCC 41 at paragraph 18, [2001] SCJ No 43.

[49] In *Bancarz v Canada (Minister of Transport)*, 2007 FC 451, [2007] FCJ No 599, this Court ruled that procedural fairness was breached where the applicant was not given a chance to be heard prior to the internal review. The applicant argues the same happened in this case, because he was not given an opportunity to respond to the issue of the alleged inconsistency the

DFO discovered after the AFLAB hearing with respect to his testimony at the trial in 2005 to his testimony in front of AFLAB. Further, the DFO acknowledges in its own documentation that AFLAB could have been reconvened to address this issue, but it was not referred because the DFO favoured the Estate's request to issue the licence to a third party. In addition, the applicant argues the DFO and the Minister expanded the scope of the review of AFLAB by considering the contents and transcripts of his 2005 trial testimony which was not before AFLAB. These are breaches to the rules of natural justice and equitable fairness.

[50] Also, the applicant submits Minister Ashfield and Minister Shea's reliance that AFLAB did not consider the New Brunswick Court rulings also expanded the scope of the AFLAB hearing and that these rulings are irrelevant to the present case.

[51] Therefore, the applicant submits Minister Shea breached procedural fairness.

[52] Third, with respect to legitimate expectation, the applicant submits that Minister Shea should have followed the AFLAB recommendation and if not, should have provided sufficient reasons for her rejection.

[53] The applicant submits the legitimate expectations of a person can determine the extent of the duty of fairness required in a specific circumstance and this may require more extensive rights than what would be otherwise afforded (*Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at paragraph 26, [1999] SCJ No 39 [*Baker*]). He argues in the present case, Minister Shea made a representation at the August 28, 2009 meeting that she would

follow the AFLAB recommendation, yet she failed to do so. Here, he relied on the Minister's expected *bona fide* handling of this matter. The applicant argues, therefore, he was entitled to have the AFLAB recommendation followed.

[54] Also, in light of legitimate expectations arising from her representation, Minister Shea in this case has a more onerous duty of procedural fairness in justifying her decision not to follow the recommendation of the AFLAB. He argues a letter of rejection is insufficient to satisfy this duty. Further, since Minister Shea was aware of the alleged inconsistency, the applicant should have been afforded an opportunity to explain this alleged inconsistency.

[55] The applicant requests this Court to issue an order of *mandamus* requiring the Minister to follow the AFLAB recommendation and argues the various requirements for a *mandamus* to be issued are met per *Apotex Inc v Canada (Attorney General)*, [1994] 1 FC 742, 162 NR 177. Here, Minister Shea fettered her own discretion and owed the applicant a certain duty.

[56] Fourth, the applicant submits Minister Shea relied on irrelevant and extraneous considerations. About the refusal, Minister Ashfield and by extension Minister Shea, relied on the fact the Estate did not request the licence be reissued as a reason to deny the applicant's appeal and a possible legal challenge by the Estate. He argues the Estate has no right to the licence because the respondent has taken a stance that a licence is not a right or property of a person, but a privilege. The applicant submits thereby these are irrelevant factors.

[57] Fifth, the applicant submits Minister Shea's decision was unreasonable and was made in bad faith.

[58] Sixth and lastly, the applicant submits this Court should draw a negative inference for two instances: 1) the respondent failed to contradict the applicant's submissions; and 2) the respondent failed to provide the applicant with documents he requested, which includes Minister Shea's files and DF's files referencing AFLAB and the August 28, 2009 meeting.

VI. Respondent's Written Submissions

[59] First, the respondent submits the *Federal Courts Rules*, SOR/98-106, section 302, limits a judicial review to a single decision. The respondent argues although the applicant asserts the decision he wishes to have judicially reviewed is that of Minister Shea dated November 27, 2013, his submissions make reference to Minister Ashfield's decision on March 2, 2012. It submits Minister Shea's November 27, 2013 letter merely informed the applicant that the matter had been thoroughly addressed and there was no merit for judicial review under section 18.1 of the Act. Minister Shea did not exercise new discretion and there was no reconsideration of a prior decision on the basis of new evidence or new facts (*Philipps v Librarian and Archivist of Canada*, 2006 FC 1378 at paragraph 32, 157 ACWS (3d) 232 [*Philipps*]).

[60] Second, the respondent submits the applicant's affidavit, sworn on February 11, 2014, contains instances of hearsay, speculation, opinion, argument or legal conclusion. *Federal Courts Rules* 81(1) allows for affidavits in judicial review applications based on facts within a

deponent's personal knowledge. Paragraphs 21, 53, 56, 57, 59, 60, 78, 79, 82, 83 and 85 violate this rule. Therefore, they should be struck in whole or in part.

[61] Third, the respondent submits the standard of review of a discretionary decision of the Minister of Fisheries is reasonableness (*Malcolm v Canada (Minister of Fisheries and Oceans)*, 2014 FCA 130 at paragraphs 33 to 35, [2014] FCJ No 499 [*Malcolm*]; and *Mainville v Canada (Attorney General)*, 2007 FC 251 at paragraph 8, [2007] FCJ No 323 [*Mainville*]). The standard of review in matters of procedural fairness, natural justice, or legitimate expectations is correctness.

[62] Fourth, the respondent submits Minister Shea's letter was not a "decision" subject to judicial review. Here, the letter was to inform the applicant that there was no reason to revisit his file. The applicant did not put forward any new information or evidence that would warrant a review of his case.

[63] Fifth, the respondent submits Minister Ashfield's decision was reasonable. It argues the actual substantive decision in question is the one made by Minister Ashfield on March 2, 2012. There, Minister Ashfield considered the AFLAB recommendation, however, refused the applicant's request for reissuance of a replacement licence because the request did not come from the licence holder or his Estate. The Minister further noted that AFLAB did not consider the outcome of the applicant's litigation against Mr. Jones. Since AFLAB is without statutory authority to make decisions, it was up to Minister Ashfield to reject its recommendations. Here,

his decision was soundly based on the *Commercial Fisheries Licensing Policy for Eastern Canada, 1996* [Fisheries Policy] and was reasonable.

[64] Sixth, the respondent submits the alleged promise from the August 28, 2009 meeting with Minister Shea was not enforceable because it was not within Minister Shea's power to fetter her own discretion or that of Minister Ashfield. Any representation that serves to limit or direct the exercise of the discretion that Parliament assigned to the Minister would clearly be inconsistent with the *Fisheries Act* as it would fetter the Minister's authority to manage the fishery (*Pacific National Investments Ltd v Victoria (City)*, 2000 SCC 64 at paragraphs 71 to 74, [2000] 2 SCR 919 [*Victoria*]; and *Andrews v Canada (Attorney General)*, 2009 NLCA 70 at paragraphs 64 to 84, [2009] NJ No 361 [*Andrews*]). It cites paragraph 83 of *Andrews* for further support that "discretion may not be constrained for future use".

[65] In this case, even if Minister Shea promised to follow the recommendations of AFLAB, it was not within her power to fetter her own discretion or that of a subsequent minister.

[66] Seventh, the respondent submits there was no breach of procedural fairness in this case. The doctrine of legitimate expectations forms part of the doctrine of procedural fairness of natural justice; however, legitimate expectations cannot serve to create or enforce substantive rights (*Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at paragraph 97, [2013] 2 SCR 559 [*Agraira*]). It argues the relief sought by the applicant is not a procedural matter; rather it is a substantive remedy. Also, the applicant failed to provide explanations for the inconsistencies between his testimony at trial and his testimony in front of

the AFLAB. Further, Minister Ashfield's and Minister Shea's decisions were not predominately based on the contradictory statements. Therefore, the decision conformed to the requirements of natural justice and procedural fairness.

[67] Eighth, the respondent submits even if this Court found the applicant was denied the right to address the issue of his contradictory testimony, the outcome would not have changed based on Fisheries Policy. This is because the error would be immaterial since the applicant at no time had a right to the licence and at no time did Mr. Jones or his Estate request the reissuance of the licence to the applicant while the applicant and Mr. Jones were both eligible to effect such a reissuance.

[68] Ninth, the respondent submits the applicant is not entitled to the relief requested. Firstly, the requirements for *mandamus* are not met. Here, under the eight requirements listed in *Canada (Attorney General) v Arsenault*, 2009 FCA 300 at paragraph 32, [2009] FCJ No 1306 [*Arsenault*], there was no duty for the Minister to follow the AFLAB recommendations. There was no duty owed to the applicant by the Minister; and even if there was any, it would have been to the licence holder. Also, the Minister's discretion was absolute under subsection 7(1) of the *Fisheries Act* in granting a fishing licence. The applicant has no right to compel the exercise of discretion in a particular way. Further, the applicant has not vested his right to a licence or to the reissuance of a licence. The applicant is equitably barred because he did not come to the Court with clean hands, based on his conflicting testimony in the Court of Queen's Bench and before the AFLAB. Also, the balance of convenience favours the Minister because the applicant has no vested right to the licence.

[69] Next, the respondent argues it is trite law that damages are not available on an application for judicial review under section 18.1 (*Canada (Attorney General) v TeleZone Inc*, 2010 SCC 62, [2010] SCJ No 62 [*TeleZone*]). Further, since AFLAB is a non-statutory body mandated by policy to make recommendations and its recommendation is not under judicial review, this Court is without jurisdiction under subsection 18.1(3) to refer this matter back to it.

[70] Therefore, the respondent submits the applicant's application for judicial review is without merit.

VII. Analysis and Decision

A. *Issue 1 - Which decision(s) is (are) subject to judicial review?*

[71] In my view, both Minister Shea's decision and Minister Ashfield's decision can be subject to judicial review.

[72] *Federal Courts Rules* 302 limits a judicial review to a single decision: "[u]nless the Court orders otherwise, an application for judicial review shall be limited to a single order in respect of which relief is sought." In the present case, the applicant seeks to review Minister Shea's letter.

[73] The respondent argues this decision is a courtesy letter and it is not judicially reviewable; but rather the applicant makes several references to Minister Ashfield's decision in his submissions.

[74] In *Philipps*, at paragraph 32, this Court found a courtesy letter is not judicially reviewable:

> […] this Court has clearly held that a courtesy letter written in reply to an application for review or reconsideration is not a decision or an order within the meaning of the *Federal Courts Act*, R.S.C. 1985, c. F-7, and thus cannot be challenged by way of a judicial review application (*Dhaliwal v. Canada (M.C.I.)*, [1995] F.C.J. No. 982; *Moresby Explorers v. Gwaii Haanas National Park Reserve*, [2000] A.C.F. No. 1944*; Hughes v. Canada*, 2004 FC 1055, para. 6). […]
>
> [Emphasis added]

[75] In my view, Minister Shea's letter is not a "courtesy letter", but rather it is a refusal to reconsider. Here, the applicant visited Minister Shea on November 10, 2013 and informally requested her to reconsider his case while suggesting the use of a three member panel. Subsequently, Minister Shea responded with the letter, stating that the matter has been thoroughly addressed and there is no merit for further review. This, based on the informal request, is a decision of refusal to reconsider. Therefore, it is subject to judicial review within the meaning of the Act.

[76] In my view, a judicial review for a decision of reconsideration cannot be thoroughly conducted without looking at the original decision, which in this case is the decision of Minister Ashfield.

B. *Issue 2 - Should portions of the applicant's affidavit be struck?*

[77] I agree with the respondent in part that some of the portions of the applicant's affidavit are inadmissible.

[78] *Federal Courts Rules* 81(1) provides that the content of an affidavit should be based on facts within the person's personal knowledge:

> Affidavits shall be confined to facts within the deponent's personal knowledge except on motions, other than motions for summary judgment or summary trial, in which statements as to the deponent's belief, with the grounds for it, may be included.
>
> [Emphasis added]

[79] Here, the respondent argues paragraphs 21, 53, 56, 57, 59, 60, 78, 79, 82, 83 and 85 of the applicant's affidavit, sworn on February 11, 2014 in this matter, violates this rule because these paragraphs contain instances of hearsay, speculation, opinion, argument or legal conclusion. I agree in part.

[80] Paragraph 21 contains an opinion of the applicant regarding the cause of the breach of the trust agreement. Therefore, it should be struck.

[81] Paragraph 53 contains speculation regarding whether or not the applicant was evaluated against the eligibility criteria of receiving Mr. Jones' licence. Therefore, it should be struck.

[82] Paragraph 56 contains hearsay regarding what Mr. Jenkins said at the hearing in front of the AFLAB. Therefore, it should be struck.

[83] Paragraph 57 again contains hearsay regarding what was said in front of the AFLAB. Therefore, it should be struck.

[84] Paragraph 59 contains an interpretation of the AFLAB interpretation. Therefore, it should be struck.

[85] Paragraph 60 contains hearsay regarding the AFLAB hearing. Therefore, it should be struck.

[86] Paragraph 78 contains an opinion regarding the decision by the Ministry to deny the reissuance of the licence. Therefore, it should be struck.

[87] Paragraph 79 contains a legal conclusion. Therefore, it should be struck.

[88] Paragraph 82 contains an opinion. Therefore, it should be struck.

[89] Paragraph 83 contains arguments regarding the refusal to reissue the licence. Therefore, it should be struck.

[90] Lastly, I do not find paragraph 85 violates *Federal Courts Rules* 81(1). It is therefore appropriate for the affidavit.

[91] Based on the aforementioned rationale, I would strike out paragraphs 21, 53, 56, 57, 59, 60, 78, 79, 82 and 83 of the applicant's affidavit.

C. *Issue 3 - What is the standard of review?*

[92] Where previous jurisprudence has determined the standard of review applicable to a particular issue before the court, the reviewing court may adopt that standard (*Dunsmuir v New Brunswick*, 2008 SCC 9 at paragraphs 57, [2008] 1 SCR 190 [*Dunsmuir*]).

[93] In *Malcolm*, the Federal Court of Appeal ruled the standard of review of a discretionary decision of the Minister of Fisheries and Oceans is reasonableness (at paragraphs 33 to 35). The standard of reasonableness in such cases requires me to examine the following:

> 35 A discretionary policy decision that is made in bad faith or for considerations that are irrelevant or extraneous to the legislative purpose is unreasonable by that very fact. Such a decision can also be unreasonable if it is found to be irrational, incomprehensible or otherwise the result of an abuse of discretion. The ultimate question in judicially reviewing the Minister's decision in this case is to determine whether the decision falls within a range of reasonable outcomes having regard for both the context in which the decision was made and the fact that the decision itself involves policy matters in which a reviewing court should not interfere by substituting its own opinion to that of the Minister's. It is with these considerations in mind that the reasonableness of the Minister's decision should be determined.

[94] As for the standard of review in matters of procedural fairness, natural justice or legitimate expectations, it is correctness (*Baker*).

D. *Issue 4 - Did Minister Ashfield or Minister Shea breach procedural fairness?*

[95] On one side, the applicant argues there was a breach of procedural fairness because he was not given an opportunity to respond to the issue of the alleged inconsistency in his

testimony. He also argues there was legitimate expectation in light of Minister Shea's promise to adopt the AFLAB's recommendation. Further, he argues the Ministers in making their decisions, unfairly expanded the scope of information considered to include the New Brunswick Court rulings. On the other side, the respondent argues the relief sought by the applicant is not a procedural matter; rather, it is a substantive remedy.

[96] In my view, the key determination was whether or not the Minister had a duty to provide an opportunity to the applicant to address the alleged inconsistency. Although this inconsistency was not the sole reason why Minister Ashfield denied the reissuance and why Minister Shea confirmed this refusal, the applicant's procedural rights should not be confused with the reasonableness of the decision.

[97] In *Baker*, the Supreme Court of Canada identified five factors affecting the content of the duty of fairness (at paragraphs 21 to 27). I find the third factor and fourth factor are of particular importance in this case: the importance of the decision to the individual or individuals affected, and the legitimate expectations of the person challenging the decision.

[98] In the present case, the applicant spent extensive financial resources in order to try to get the licence reissued to him. He moved his residence in order to fulfill the allegedly mistaken residency requirement. Therefore, it can be said that the decision carries great financial weight to the applicant.

[99] As for legitimate expectations, I agree with the respondent that the doctrine of legitimate expectations forms part of the doctrine of procedural fairness of natural justice; however, legitimate expectations cannot serve to create or enforce substantive rights (*Agraira* at paragraph 97). Here, the applicant alleges that Minister Shea promised to follow the recommendation from the AFLAB. Although the applicant has an expectation of approval for reissuance of the licence by the Minister, this does not create a substantive right to the reissuance.

[100] Nonetheless, I agree with the applicant that he was entitled to procedural safeguards, such as the opportunity to be heard and reasons for the decision.

[101] In this case, the applicant did not get an opportunity to respond to the alleged inconsistency. He was not informed that Minister Ashfield and Minister Shea used information from *Doucette v Jones* in their decisions when the decisions were being made; thereby, he did not get an opportunity to address the alleged inconsistency. In my view, this was a breach of procedural fairness. However, I find this breach was immaterial.

[102] The respondent submits even if this Court finds the applicant was denied the right to address the issue of his contradictory testimony, the error is immaterial as the outcome would not have changed based on Fisheries Policy. It argues the applicant at no time had a right to the licence and at no time did Mr. Jones or his Estate request the reissuance of the licence to the applicant while they were both eligible to effectuate such a reissuance. I agree.

[103] Here, the issue of inconsistency, addressed or not, does not overcome or replace the fact that the licence holder did not request the reissuance pursuant to section 7 of the *Fisheries Act*.

[104] Also, the applicant complains Minister Shea should have given more reasons for her refusal to reconsider in light of her promise. I disagree. Minister Shea's reason, although brief, did sufficiently explain why she refused to reconsider. I am satisfied that this reason also served to explain why she did not follow her alleged promise; that is, the matter had been thoroughly addressed by her predecessor.

[105] Therefore, although I find there was a breach of procedural fairness by not affording an opportunity for the applicant to respond to the alleged inconsistency, this error did not affect the Ministers' decisions.

E. *Issue 5 - Was the decision subject to judicial review reasonable?*

[106] I will first refer to Minister Ashfield's decision and then Minister Shea's decision to not reconsider, which is the decision being judicially reviewed.

(1) Minister Ashfield's Decision

[107] The discretion of the Minister to issue fishing licences is outlined at section 7 of the *Fisheries Act*. It must be exercised: i) in accordance with the requirements of natural justice; ii) based on relevant consideration; iii) without arbitrariness; iv) in good faith; v) in accordance with

applicable statute or regulations; and vi) in accordance with the provisions of the *Charter* (*Comeau* at paragraphs 30, 31, 36, 37 and 51).

[108] With respect to the reissuance of a fishing licence, the Fisheries Policy in subsection 16(2) provides the request has to be submitted by the current licence holder.

> (2) Subject to subsection (5), a replacement licence may be issued upon request by the current licence holder to an eligible fisher recommended by the current licence holder.
>
> [Emphasis added]

[109] First, the alleged Minister Shea's promise to follow the recommendation from the AFLAB does not create a substantive right for a certain result. In *Victoria*, the Supreme Court of Canada stated any representation that serves to limit or direct the exercise of the discretion that Parliament assigned to the Minister would clearly be inconsistent because it would fetter the Minister's authority to manage the fishery (*Victoria* at paragraphs 71 to 74; and *Andrews* at paragraphs 64 to 84). To exercise the discretion in a particular manner is to effectuate in an improper indirect fettering of the Minister's discretion (*Andrews* at paragraph 84):

> Applying these principles to the appeal now before this Court leads to the conclusion that it is plain and obvious the appellant fishers' action cannot succeed. In accordance with the legislation, the Minister is clothed with discretion to issue crab licences, and to include a condition regarding quota, for "the proper management and control" of the fishery or for the "conservation and protection of fish" (see paragraph 66, above). Crab licences are issued annually resulting in yearly exercise of the Minister's discretion. That discretion must be exercised in the public interest and may not be fettered directly or indirectly. A claim for damages for failure to exercise the discretion in a particular manner amounts to an improper indirect fettering of the Minister's discretion. As a result, the fact that the Minister made a "commitment" to the appellant fishers some years earlier cannot ground a claim in damages. The same analysis applies and the same conclusion

> follows whether the claim is made in contract or tort. In either case, the effect is an indirect fettering of the ministerial discretion.
>
> [Emphasis added]

[110] Second, the licence holder, here either Mr. Jones or Mr. Jones' Estate, did not make the request for reissuance while the applicant and the licence holder were both eligible to effectuate such a reissuance. The applicant's request did not meet the requirement under subsection 16(2) of the Fisheries Policy. In refusing this request, Minister Ashfield exercised his discretion in accordance with the law and did not make the decision in bad faith.

[111] Third, I find there is insufficient evidence to show that DFO misled the applicant with respect to the residency requirement; and even if it is established, this judicial review is not an appropriate forum to adjudicate this issue.

[112] The applicant argues had he received the correct information regarding the residency requirement, the reissuance request would have been effected prior to the imposition of the "freeze" on Mr. Jones' licence. However, the issue of the trust agreement between the applicant and Mr. Jones was already litigated in *Doucette v Jones*; and it is in this former civil case the effect of DFO's alleged misinformation would potentially have affected the direct outcome on the reissuance. There, if the DFO was an added party to the litigation, instead of it not being bound by trust agreements between individuals, its position might have been changed in light of this alleged misinformation as to potentially affect the ultimate outcome on the reissuance. I cannot guess what the result would have been, had this issue been brought up or had the DFO been joined as a defendant.

[113] In my view, this judicial review is not an appropriate forum to consider and assess the effect of the alleged misinformation from the DFO.

[114] Therefore, I am satisfied that Minister Ashfield's decision was reasonable.

(2) Minister Shea's Decision

[115] As I explained above, although Minister Shea allegedly promised to follow the recommendation from the AFLAB, this promise has no legal effect because it indirectly fettered her discretion. The law also does not allow her to fetter the discretion of her successor, Minister Ashfield.

[116] In *Andrews* at paragraph 83, the Newfoundland Court of Appeal stated:

> To summarize, the above decisions support several conclusions. First, where, pursuant to legislation, a minister is authorized to exercise discretion in the public interest, that discretion may not be constrained for future use or fettered either directly or indirectly, unless the legislation otherwise provides. Indirect fettering includes exposing the minister or government to liability for damages or payment of compensation for failure to exercise the discretion in a particular way. Despite the apparent harshness of the result, an agreement, implied undertaking or representation having the effect of fettering the minister's authority is unenforceable and damages are not available. Nonetheless, the minister must act in good faith, not arbitrarily, and must not base his or her decision on considerations irrelevant or extraneous to the statutory purpose. Finally, while damages are not available, a claim for unjust enrichment may be permitted.

[117] In *St Anthony Seafoods Limited Partnership v Newfoundland and Labrador (Minister of Fisheries and Aquaculture)*, 2004 NLCA 59, [2004] NJ No 336 (leave to appeal to Supreme

Court of Canada denied), the Newfoundland and Labrador Court of Appeal stated at paragraph 81:

> I therefore conclude that the *Fish Inspection Act* clearly states, as a matter of public policy, that the Minister has a broad discretion in respect of processing licenses which is to be exercised from time to time as the Minister determines. That policy would be undermined if a Minister were estopped from the exercise of that discretion by representations of his or her predecessors as the ability of the Minister to respond to current socio-economic concerns in the fishing industry could be severely circumscribed.

[118] Although this decision is related to the *Fish Inspection Act*, the same can be said of section 7 of the *Fisheries Act*. In *Comeau*, the Supreme Court concluded that section 7 of the Act gave the Minister an absolute discretion either to issue or authorize to be issued fishing licences.

[119] Based on the above, Minister Shea could not fetter her discretion or the discretion of Minister Ashfield.

[120] Consequently, the application for judicial review must be dismissed.

[121] Because of my conclusions, I need not deal with Issue 6 regarding relief.

[122] The respondent has requested costs of the application. Because of the difficulties encountered by Mr. Doucette in this matter and the factual history of the case, I am not prepared to make an award of costs.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There shall be no order as to costs.

"John A. O'Keefe"

Judge

ANNEX

Relevant Statutory Provisions

***Federal Courts Act*, RSC, 1985, c F-7**

18. (1) Subject to section 28, the Federal Court has exclusive original jurisdiction	18. (1) Sous réserve de l'article 28, la Cour fédérale a compétence exclusive, en première instance, pour :
(a) to issue an injunction, writ of *certiorari*, writ of prohibition, writ of *mandamus* or writ of *quo warranto*, or grant declaratory relief, against any federal board, commission or other tribunal; and	a) décerner une injonction, un bref de *certiorari*, de *mandamus*, de prohibition ou de *quo warranto*, ou pour rendre un jugement déclaratoire contre tout office fédéral;
(b) to hear and determine any application or other proceeding for relief in the nature of relief contemplated by paragraph (a), including any proceeding brought against the Attorney General of Canada, to obtain relief against a federal board, commission or other tribunal.	b) connaître de toute demande de réparation de la nature visée par l'alinéa a), et notamment de toute procédure engagée contre le procureur général du Canada afin d'obtenir réparation de la part d'un office fédéral.
(2) The Federal Court has exclusive original jurisdiction to hear and determine every application for a writ of *habeas corpus ad subjiciendum*, writ of *certiorari*, writ of prohibition or writ of *mandamus* in relation to any member of the Canadian Forces serving outside Canada.	(2) Elle a compétence exclusive, en première instance, dans le cas des demandes suivantes visant un membre des Forces canadiennes en poste à l'étranger : bref d'habeas *corpus ad subjiciendum*, de *certiorari*, de prohibition ou de *mandamus*.
(3) The remedies provided for in subsections (1) and (2) may be obtained only on an application for judicial review made under section 18.1.	(3) Les recours prévus aux paragraphes (1) ou (2) sont exercés par présentation d'une demande de contrôle judiciaire.
18.1 (1) An application for judicial review may be made	18.1 (1) Une demande de contrôle judiciaire peut être

by the Attorney General of Canada or by anyone directly affected by the matter in respect of which relief is sought.

présentée par le procureur général du Canada ou par quiconque est directement touché par l'objet de la demande.

(2) An application for judicial review in respect of a decision or an order of a federal board, commission or other tribunal shall be made within 30 days after the time the decision or order was first communicated by the federal board, commission or other tribunal to the office of the Deputy Attorney General of Canada or to the party directly affected by it, or within any further time that a judge of the Federal Court may fix or allow before or after the end of those 30 days.

(2) Les demandes de contrôle judiciaire sont à présenter dans les trente jours qui suivent la première communication, par l'office fédéral, de sa décision ou de son ordonnance au bureau du sous-procureur général du Canada ou à la partie concernée, ou dans le délai supplémentaire qu'un juge de la Cour fédérale peut, avant ou après l'expiration de ces trente jours, fixer ou accorder.

(3) On an application for judicial review, the Federal Court may

(3) Sur présentation d'une demande de contrôle judiciaire, la Cour fédérale peut :

(a) order a federal board, commission or other tribunal to do any act or thing it has unlawfully failed or refused to do or has unreasonably delayed in doing; or

a) ordonner à l'office fédéral en cause d'accomplir tout acte qu'il a illégalement omis ou refusé d'accomplir ou dont il a retardé l'exécution de manière déraisonnable;

(b) declare invalid or unlawful, or quash, set aside or set aside and refer back for determination in accordance with such directions as it considers to be appropriate, prohibit or restrain, a decision, order, act or proceeding of a federal board, commission or other tribunal.

b) déclarer nul ou illégal, ou annuler, ou infirmer et renvoyer pour jugement conformément aux instructions qu'elle estime appropriées, ou prohiber ou encore restreindre toute décision, ordonnance, procédure ou tout autre acte de l'office fédéral.

***Federal Courts Rules*, SOR/98-106**

81. (1) Affidavits shall be confined to facts within the deponent's personal knowledge except on motions, other than motions for summary judgment or summary trial, in which statements as to the deponent's belief, with the grounds for it, may be included.	81. (1) Les affidavits se limitent aux faits dont le déclarant a une connaissance personnelle, sauf s'ils sont présentés à l'appui d'une requête – autre qu'une requête en jugement sommaire ou en procès sommaire – auquel cas ils peuvent contenir des déclarations fondées sur ce que le déclarant croit être les faits, avec motifs à l'appui.
…	…
302. Unless the Court orders otherwise, an application for judicial review shall be limited to a single order in respect of which relief is sought.	302. Sauf ordonnance contraire de la Cour, la demande de contrôle judiciaire ne peut porter que sur une seule ordonnance pour laquelle une réparation est demandée.
…	…
400. (1) The Court shall have full discretionary power over the amount and allocation of costs and the determination of by whom they are to be paid.	400. (1) La Cour a le pouvoir discrétionnaire de déterminer le montant des dépens, de les répartir et de désigner les personnes qui doivent les payer.
(2) Costs may be awarded to or against the Crown.	(2) Les dépens peuvent être adjugés à la Couronne ou contre elle.
(3) In exercising its discretion under subsection (1), the Court may consider	(3) Dans l'exercice de son pouvoir discrétionnaire en application du paragraphe (1), la Cour peut tenir compte de l'un ou l'autre des facteurs suivants :
(a) the result of the proceeding;	a) le résultat de l'instance;
(b) the amounts claimed and	b) les sommes réclamées et les

the amounts recovered;	sommes recouvrées;
(c) the importance and complexity of the issues;	c) l’importance et la complexité des questions en litige;
(d) the apportionment of liability;	d) le partage de la responsabilité;
(e) any written offer to settle;	e) toute offre écrite de règlement;
(f) any offer to contribute made under rule 421;	f) toute offre de contribution faite en vertu de la règle 421;
(g) the amount of work;	g) la charge de travail;
(h) whether the public interest in having the proceeding litigated justifies a particular award of costs;	h) le fait que l’intérêt public dans la résolution judiciaire de l’instance justifie une adjudication particulière des dépens;
(i) any conduct of a party that tended to shorten or unnecessarily lengthen the duration of the proceeding;	i) la conduite d’une partie qui a eu pour effet d’abréger ou de prolonger inutilement la durée de l’instance;
(j) the failure by a party to admit anything that should have been admitted or to serve a request to admit;	j) le défaut de la part d’une partie de signifier une demande visée à la règle 255 ou de reconnaître ce qui aurait dû être admis;
(k) whether any step in the proceeding was	k) la question de savoir si une mesure prise au cours de l’instance, selon le cas :
(i) improper, vexatious or unnecessary, or	(i) était inappropriée, vexatoire ou inutile,
(ii) taken through negligence, mistake or excessive caution;	(ii) a été entreprise de manière négligente, par erreur ou avec trop de circonspection;
(l) whether more than one set of costs should be allowed, where two or more parties	l) la question de savoir si plus d’un mémoire de dépens devrait être accordé lorsque

were represented by different solicitors or were represented by the same solicitor but separated their defence unnecessarily;	deux ou plusieurs parties sont représentées par différents avocats ou lorsque, étant représentées par le même avocat, elles ont scindé inutilement leur défense;
(m) whether two or more parties, represented by the same solicitor, initiated separate proceedings unnecessarily;	m) la question de savoir si deux ou plusieurs parties représentées par le même avocat ont engagé inutilement des instances distinctes;
(n) whether a party who was successful in an action exaggerated a claim, including a counterclaim or third party claim, to avoid the operation of rules 292 to 299;	n) la question de savoir si la partie qui a eu gain de cause dans une action a exagéré le montant de sa réclamation, notamment celle indiquée dans la demande reconventionnelle ou la mise en cause, pour éviter l'application des règles 292 à 299;
(n.1) whether the expense required to have an expert witness give evidence was justified given	n.1) la question de savoir si les dépenses engagées pour la déposition d'un témoin expert étaient justifiées compte tenu de l'un ou l'autre des facteurs suivants :
(i) the nature of the litigation, its public significance and any need to clarify the law,	(i) la nature du litige, son importance pour le public et la nécessité de clarifier le droit,
(ii) the number, complexity or technical nature of the issues in dispute, or	(ii) le nombre, la complexité ou la nature technique des questions en litige,
(iii) the amount in dispute in the proceeding; and	(iii) la somme en litige;
(o) any other matter that it considers relevant.	o) toute autre question qu'elle juge pertinente.
…	…
(6) Notwithstanding any other provision of these Rules, the	(6) Malgré toute autre disposition des présentes

Court may	règles, la Cour peut :
(a) award or refuse costs in respect of a particular issue or step in a proceeding;	a) adjuger ou refuser d'adjuger les dépens à l'égard d'une question litigieuse ou d'une procédure particulières;
(b) award assessed costs or a percentage of assessed costs up to and including a specified step in a proceeding;	b) adjuger l'ensemble ou un pourcentage des dépens taxés, jusqu'à une étape précise de l'instance;
(c) award all or part of costs on a solicitor-and-client basis; or	c) adjuger tout ou partie des dépens sur une base avocat-client;
(d) award costs against a successful party.	d) condamner aux dépens la partie qui obtient gain de cause.

***Fisheries Act*, RSC, 1985, c F-14**

7. (1) Subject to subsection (2), the Minister may, in his absolute discretion, wherever the exclusive right of fishing does not already exist by law, issue or authorize to be issued leases and licences for fisheries or fishing, wherever situated or carried on.	7. (1) En l'absence d'exclusivité du droit de pêche conférée par la loi, le ministre peut, à discrétion, octroyer des baux et permis de pêche ainsi que des licences d'exploitation de pêcheries — ou en permettre l'octroi —, indépendamment du lieu de l'exploitation ou de l'activité de pêche.

Commercial Fisheries Licensing Policy for Eastern Canada - 1996

16. Change of Licence Holder	16. Changement de titulaire
(1) Current legislation provides that licences are not transferable. However, the Minister in "his absolute discretion" may for administrative efficiency prescribe in policy those conditions or requirements under which he will issue a	(1) La loi actuelle précise que les permis ne sont pas transférables. Le Ministre peut cependant, "à son entière discrétion" et pour des raisons d'efficacité administrative, énoncer dans une politique les conditions ou exigences en vertu desquelles il peut délivrer

licence to a new licence holder as a "replacement" for an existing licence being relinquished. These prescribed conditions or requirements are specified in this document.

un permis à un nouveau titulaire en "remplacement" d'un permis qui est rendu. Les conditions ou exigences qui s'appliquent alors sont énoncées dans le présent document.

(2) Subject to subsection (5), a replacement licence may be issued upon request by the current licence holder to an eligible fisher recommended by the current licence holder.

(2) Sous réserve du paragraphe (5), un permis de remplacement peut être délivré à un pêcheur admissible sur demande et recommandation du titulaire actuel.

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-709-14
STYLE OF CAUSE:	HENRY DOUCETTE v HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF FISHERIES AND OCEANS
PLACE OF HEARING:	CHARLOTTETOWN, PRINCE EDWARD ISLAND
DATE OF HEARING:	DECEMBER 11, 2014
REASONS FOR JUDGMENT AND JUDGMENT:	O'KEEFE J.
DATED:	JUNE 11, 2015

APPEARANCES:

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