

ONTARIO
SUPERIOR COURT OF JUSTICE
(Divisional Court)

BETWEEN:

ANIMAL JUSTICE

APPLICANT



-and-

**MINISTER OF NATURAL RESOURCES
(ONTARIO)**

RESPONDENT

NOTICE OF APPLICATION TO DIVISIONAL COURT FOR JUDICIAL REVIEW

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION for judicial review will come on for a hearing before the Divisional Court on a date to be fixed by the registrar by the method of hearing requested by the applicant, unless the court orders otherwise. The applicant requests that this application be heard in person at the following location:

Divisional Court
Superior Court of Justice
Osgoode Hall
130 Queen Street West
Toronto, ON M5H 2N5

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the office of the Divisional Court, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a

lawyer, serve it on the applicant, and file it, with proof of service, in the office of the Divisional Court within thirty days after service on you of the applicant's application record, or at least four days before the hearing, whichever is earlier.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN TO IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS APPLICATION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for hearing or terminated by any means within five years after the notice of application was filed with the court, unless otherwise ordered by the court.

Date: May 30, 2025

Issued by: _____
Local Registrar

Divisional Court
Superior Court of Justice
Osgoode Hall
130 Queen Street West
Toronto, ON M5H 2N5

TO: MINISTER OF NATURAL RESOURCES (ONTARIO)
Ministry of Natural Resources
Minister's Office
Whitney Block. 99 Wellesley St W
Toronto, ON M7A 1W3

AND TO: ATTORNEY GENERAL OF ONTARIO
Crown Law Office – Civil
720 Bay Street
8th Floor
Toronto, Ontario M7A 2S9

William MacLarkey
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Email: William.MacLarkey@ontario.ca

Counsel for the respondent

APPLICATION

1. This is an application for judicial review challenging the decision of the Minister of Natural Resources (“**the Minister**”) to issue three licences under conditions which are in violation of s 41(3) of the *Wildlife in Captivity* Regulation, O Reg 668/98 (“**the Regulation**”) and therefore exceed the Minister’s power to issue licences pursuant to the *Fish and Wildlife Conservation Act*, SO 1997, c 41 (“**the Act**”). The licences were issued on December 20, 2024 and January 22, 2025 but were not communicated or posted publicly. They were released in redacted form to Animal Justice on May 1, 2025 as a result of a freedom of information request.

2. The impugned licences numbered 1106837, 1106919, 1106920 (“**the licences**”) are licences to own and operate “train and trial areas”. Train and trial areas are penned-in areas where wildlife (coyotes, red fox, varying hare, and cottontail) are held captive and used as bait for dogs who are encouraged to track and chase them, purportedly to train dogs to hunt. Some of these facilities also house competitions (“**trialing**”) where dogs are judged for their abilities to track captive bait animals and prizes are awarded.

3. The three impugned licenses on their face permit their license-holders (whose identities are presently unknown because the Respondent redacted that information) to both train and trial English foxhounds, American foxhounds, coonhounds, bloodhounds or harriers (the “**prohibited dog group**”) against penned-in red foxes as bait.

4. It is an offence under section 41(3) of the Regulation to conduct “trials” in a train and trial area where the prohibited dog group is on the trail of red fox unless the area is at least 160

hectares. All three licences at issue are for sites less than 160 hectares in size and are therefore contrary to the Regulation.

5. By operation of s. 70(1)(b) of the Act, “A licence or authorization is void if ... [it] is contrary to ... the regulations,” as is the case here. The three impugned licences are void *ab initio*.

RELIEF SOUGHT

6. The applicant makes application for:

- (a) An order quashing the licences as void pursuant to s 70(1)(b) of the Act;
- (b) In the alternative, a declaration that the licences are invalid and have no force and effect;
- (c) An order that the 30 day time limit for bringing this application under s 5(1) the *Judicial Review Procedure Act*, RSO 1990, c J.1 began after May 1, 2025, when Animal Justice became aware of the decision or, in the alternative, an order extending the time for making this application pursuant to s 5(2) of the *Judicial Review Procedure Act*;
- (d) Costs of this application or, in the alternative, an order that the parties bear their own costs; and
- (e) Such further and other relief as counsel may advise and this Honourable Court may deem just.

GROUND

7. The grounds for the application are that:

- (a) On December 20, 2024 the Minister issued a licence numbered 1106837 which came into effect on January 1, 2025. On January 22, 2025, the Minister issued two licences, numbered 1106919 and 1106920, which came into effect on the same date. These three licences permit the operation of train and trial areas in the province of Ontario. These facilities require an annual licence to operate in the province.
- (b) The licences contain conditions approved of by the Minister. The licences are set to expire on December 31, 2025.
- (c) Animal Justice previously received redacted portions of some of the licences to own and operate train and trial areas which were in effect in 2023 and 2024. It appears from those licences that the three licences at issue in this application were reissued on the same conditions as years past.
- (d) On May 1, 2025 after a request made under the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31 on January 2, 2025, the Respondent delivered to Animal Justice redacted copies of the licences. The Respondent redacted the licences in such a way that Animal Justice does not know the identity of the licensees or where in the province the licenced facilities are located. Accordingly, Animal Justice is unable to give notice of this Application to the licensees.
- (e) The licences permit train and trial areas to be owned and operated in areas which are each less than 160 hectares in size. Each licence permits both training and trialing activity. Each licence permits dogs in the prohibited dog group to be in the train and trial area. Each licence also authorizes red foxes to be used as bait animals in the areas.

(f) Section 41(3) of the Regulation prohibits a licensee from allowing trials to be conducted where dogs belonging to the prohibited dog group are on the trail of red foxes unless the area is at least 160 hectares. None of the licences meet that criterion.

(g) As such, the licences permit activity that is prohibited by the Regulation. The Minister is not authorized to impose licence conditions that are contrary to the Act or Regulations (s 62(2) of the Regulation). The issuance of the licence is unreasonable and *ultra vires* the Minister's jurisdiction under the Act.

The Applicant

8. Animal Justice is a national animal law organization headquartered in Toronto, Ontario. Animal Justice's objectives include strengthening legal protections for animals, ensuring the enforcement of existing animal protection laws, and raising public awareness regarding the treatment of animals used in various industries, including hunting.

9. One of Animal Justice's areas of focus is protecting wild animals from threats posed by sport or "trophy" hunting, and other potentially harmful human activities that cause significant animal suffering. Animal Justice has regularly engaged in matters related to the development of laws to protect wild animals and has advocated for the enforcement of such laws to protect wild animals.

10. A focus of Animal Justice's work has been on advocating against penned dog hunting activity given the animal welfare risks it carries for dogs and captive wildlife, as well as public health risks of zoonotic disease.

11. Animal Justice has public interest standing to bring this application, as it has done before in this Honourable Court, successfully.

STATUTORY INSTRUMENTS RELIED UPON

12. *Fish and Wildlife Conservation Act, 1997* SO 1997 c. 41.
13. *Wildlife in Captivity Regulation*, O Reg 668/98.
14. *Judicial Review Procedure Act*, RSO 1990, c J.1.
15. *Courts of Justice Act*, RSO 1990, c C.43.
16. *Rules of Civil Procedure*, RRO 1990, Reg 194.
17. Such further and other grounds as counsel may advise and this Honourable Court may deem just.

DOCUMENTARY EVIDENCE

18. The following documentary evidence will be used at the hearing of the application:
 - (a) The affidavit of Camille Labchuk, to be sworn.
 - (b) The record of decision, to be produced by the Respondent.
 - (c) Such other affidavit material and evidence as counsel may advise and this Honourable Court may deem proper.

May 30, 2025

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Counsel for the applicant Animal Justice

ANIMAL JUSTICE and **MINISTER OF NATURAL RESOURCES (ONTARIO)**
Applicants Respondent

Court File No.:

ONTARIO
SUPERIOR COURT OF JUSTICE
(Divisional Court)

Proceeding Commenced at Toronto

NOTICE OF APPLICATION FOR JUDICIAL REVIEW

ANIMAL JUSTICE

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Toronto, ON M5T 2C2

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