

MEMORANDUM of AGREEMENT

Subject: Environmental Assessment Project
Parties: Canadian Environmental Law Association, Resource Library for the Environment and the Law & Alan D. Levy

The Environmental Assessment Project (EAP) is Phase 1 of a 3-phase proposal named "Improving Environmental Assessment (EA) in Ontario" and undertaken jointly by the Canadian Environmental Law Association (CELA) and the Resource Library for the Environment and the Law (RLEL). The 3 phases are more fully described in Appendix C hereto - this description is excerpted from the funding applications made to Metcalf and LFO.

Phase 1 has been primarily funded by the George Cedric Metcalf Foundation (Metcalf) and The Law Foundation of Ontario (LFO). CELA and RLEL have agreed to engage Alan D. Levy (Levy) to provide his services to direct and carry out this project in the manner and on the terms detailed below:

1. The EAP (Phase 1: "Research, Advisory Committee & Report") will involve the following steps to be taken by or under the direction of Levy:
 - (a) selection and appointment of advisory committee;
 - (b) research and writing by Levy of an exposition on environmental assessment (EA), its origins, importance in environmental protection, a description and critique of the current EA regime in Ontario, and an explanation of where and why changes may be appropriate (a draft table of contents for the report is attached as Appendix A hereto);
 - (c) review of draft report by advisory committee, and revisions by Levy;
 - (d) publishing the final version of report by CELA and RLEL;
 - (e) wide distribution of report and soliciting feedback from stakeholders;
 - (f) submit report, feedback and media clippings to project funding sources.
2. Total funding secured for full proposal to date: \$28,824.29. Budget of \$25,775 for EAP, approved by both Metcalf and LFO, is reproduced in Appendix B hereto. This budget will govern Phase 1 of the Project.
3. The surplus funds collected ($\$28,824.29 - \$25,775 = \$3,049.29$) will be applied to work done and expenses incurred to fund-raise for and develop Phase 2 of this project.
4. Work on EAP will commence on or after August 25, 2000 and be completed by February 28, 2001 (note that an extension is needed from OLF's deadline of December 31).
5. Levy will report to, and his work on this project will be under the direction of, Paul Muldoon.
6. During the development of the report, any substantial deviations from the draft table of contents (Appendix A) will be submitted for approval to Paul Muldoon.

7. CELA, RLEL and Levy will make their best efforts to ensure full compliance with all terms and conditions of funding from Metcalf and OLF.
8. Copyright in the published report will belong to CELA and RLEL. It is agreed that after the project has been completed, Levy may use elsewhere information and material acquired during the project, including the report, provided that appropriate acknowledgment is given.
9. In accordance with the budget (Appendix B) Levy agrees to complete his work on Phase 1 for maximum fees of \$17,500 plus his disbursements plus GST (Goods & Services Tax registration #867377137 RT001). Levy's fees are to be based on a maximum of 35 days @ 8 hours per day (280 hours). Fees will be charged at \$500 per day: $35 \times \$500 = \$17,500$.
10. Levy's fees will include time spent by him on meetings, telephone interviews, travel, correspondence, preparation, research, writing and administration. He will maintain time dockets for time spent. Billable time will commence on or after August 25, 2000. There will be no billing by Levy for time spent by him on this project throughout the period from August 1999 until August 24, 2000 (project development and fund-raising).
11. Levy will work on the EAP primarily from his own office, except where it is necessary or more practical to use CELA's offices, and Levy will be permitted after-hours access to CELA's offices for that purpose..
12. CELA will provide meeting space for the EAP at its offices, as required.
13. Levy's disbursements will include such things as printing, copies and faxes received (20¢ per page), postage, couriers (Kid Gloves Delivery Ltd.), travel expenses and long distance telephone. In order to minimize cost and where convenient, multiple or volume printing and copying will be done at CELA's offices or Campus Copy Shop on Harbord St. (@ 5¢ per page).
14. Levy will submit invoices (for fees and disbursements incurred) monthly for his work on this project to the attention of Sarah Miller. Payment of invoices will be made within 30 days of invoice date.
15. Where required and depending on work load, CELA lawyers Richard Lindgren, Theresa McClenaghan and Paul Muldoon will contribute up to a total of 30 days to EAP as per the Budget (Appendix B).
16. Levy will be provided with research assistance by Lisa McShane, RLEL's staff librarian, as required and administrative assistance by CELA employee Fé de Leon.
17. Sarah Miller, CELA's coordinator, will be responsible for the financial administration and record-keeping for EAP.

Appendix A

Draft Table of Contents for Report on Environmental Assessment in Ontario

1. Introduction
2. The role of EA in protecting the environment.
 - a) purpose of EA.
 - b) history of EA.
 - c) need for EA.
3. EA tools.
 - a) planning process.
 - i) transparent.
 - ii) methodical.
 - iii) traceable.
 - iv) iterative.
 - v) rational.
 - vi) objective.
 - b) examination of need.
 - c) alternatives analysis.
 - d) risk assessment.
4. Public participation.
 - a) why?
 - b) when?
 - c) how?
 - d) public consultation
 - e) participant funding.

18. Levy will not be liable to CELA or RLEL for any act or omission by him with respect to the EAP and this agreement.
19. CELA and RLEL will fully compensate, indemnify and save harmless Levy for any loss, harm or damages suffered by him as a result of any claims which may arise with respect to this project or this agreement.
20. In the event of any unresolved dispute which might arise from time to time among the parties hereto with respect to this agreement, the parties agree to submit the dispute to mediation in order to attempt to settle their differences amicably, quickly, inexpensively and without litigation.
21. Any material changes to be made to this agreement will be approved by all parties and confirmed in writing.

DATED AT TORONTO this ^{14th} day of September, 2000

SIGNED, SEALED AND DELIVERED BY:

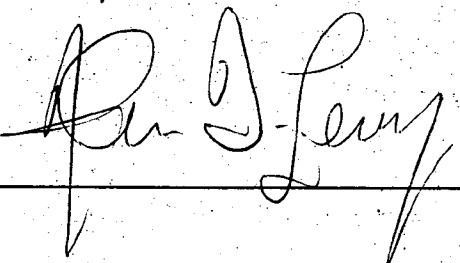
1. The Canadian Environmental Law Association, per:



2. The Resource Library for the Environment and the Law, per:



3. Alan D. Levy:



- f) mediation.
- g) adjudication.

5. Decision-Making.

- a) elements of responsible decision-making.
 - i) independent.
 - ii) informed.
 - iii) transparent.
 - iv) consistent.
 - v) consensual.
 - vi) fully explained.
 - vii) credible.
- b) scientific uncertainty.
- c) ecological and ethical principles.
- d) government administration.
- e) political intervention.
- f) tribunals.
- g) hearings.
- h) appeals.
- i) judicial review.

6. Ontario's EA Program.

7. Conclusion and recommendations.

Appendix B

Draft Budget for Phase 1 Report on Environmental Assessment in Ontario

Fees:

Personnel	Days	Rate/day	Amount	Total
Alan D. Levy	35	\$500.00	\$17,500.00	
GST			\$ 1,225.00	
Richard Lindgren	10	\$500.00	\$ 5,000.00	
Theresa McClenaghan	10	\$500.00	\$ 5,000.00	
Lisa McShane	5	\$200.00	\$ 1,000.00	
Paul Muldoon	10	\$500.00	\$ 5,000.00	
Total				\$34,725.00
Less donation of Richard Lindgren's time				- 5,000.00
Less donation of Theresa McClenaghan's time				- 5,000.00
Less donation of Paul Muldoon's time				- 5,000.00
Total Fees				\$19,725.00

Expenses:

Publication & Distribution	\$ 750.00	
Printing & Photocopying	\$ 1,000.00	
Postage, Fax & Couriers	\$ 400.00	
Travel	\$ 200.00	
Report Production	\$ 500.00	
Advisory Committee expenses & meetings	\$ 200.00	
Total Expenses		\$ 3,050.00

Project Administration and Related:

Resource Library for the Environment and the Law	\$1,000.00	
Canadian Environmental Law Association	\$2,000.00	
Total Project Administration and Related		\$ 3,000.00

TOTAL PROJECT:

\$25,775.00

Appendix C

Description of the Project (excerpts):

The objective of the proposed project is to develop a consensus among stakeholders on how to make EA in Ontario both effective and practical. The *Environmental Assessment Act* (EAA) was substantially revised in late 1996 and an independent examination of the current law and how it is being applied is urgently necessary.

The proposed project has three separate and consecutive components which will be funded separately:

- Phase 1: Research, Advisory Committee & Report
- Phase 2: Stakeholder Consultation
- Phase 3: Implementation

This funding application is made for financial support for the first component, the Research, Advisory Committee & Report phase.

Phase 1 will involve the research, writing and publishing of an exposition on environmental assessment (EA), its origins, importance in environmental protection, a description and critique of the current EA regime in Ontario, and an explanation of where and why changes may be appropriate. A draft table of contents for the written report is attached ... The report will be researched and written by Alan D. Levy ...

Mr. Levy will be provided with research assistance by Lisa McShane, RLEL's staff librarian. An advisory committee will be appointed, consisting of at least ten members, including Paul Muldoon (CELA's Executive Director), Richard Lindgren (CELA staff lawyer), Theresa McClenaghan (CELA staff lawyer) and representatives of various sectors involved with EA matters. They will represent stakeholders such as industry, municipalities, provincial agencies, environmental planners, community groups and environmentalists. The advisory committee will be consulted with respect to the research undertaken, and the scope and contents of the report. The opinions and experience of committee members will be canvassed and considered at the research and writing stage of the report. Committee members will also be invited to comment on a preliminary draft of the report. ...

[The report] will be published in full text and distributed widely to government departments and agencies, business, industry, institutions, community and environmental groups and individuals who are interested and involved in EA in this province. It will also be summarized for distribution to media outlets and organizations for publication in news reports, newsletters, etc.

Within a month of releasing the report, comments and feedback from stakeholders along with media clippings will be assembled and submitted to the project funding sources. Interviews with a select number of stakeholders will also be conducted and summarized. A more informed determination of the significance of the work in Phase 1 will be possible only after the completion of the entire project. ...

As part of Phase 2, Stakeholder Consultation, the publication of the Report will be used to solicit feedback from across the province on the efficacy of EA in Ontario. A roundtable discussion format will be developed, involving representatives of stakeholders from all important sectors. The consultation program will strive to develop a consensus on supportable, sustainable and affordable recommendations for improvement to Ontario EA.

The third and final component, Phase 3, will involve efforts to educate the public and gain support at all levels for implementation of these recommendations. This will involve the publication of the recommendations from the stakeholder process (the second component), media campaigns, public information and awareness meetings and communication with all sectors with an involvement in EA. The time lines for commencing and completing Phases 2 and 3 will depend primarily on when funding is secured for those portions of the project. Estimates will be developed at that time.