

# MAKING THE LINKS

## A TOOLKIT FOR ENVIRONMENTAL PROTECTION, HEALTH AND EQUITY

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CANADIAN ENVIRONMENTAL LAW ASSOCIATION  
NORTHERN SERVICES

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OF ENVIRONMENTAL PROTECTION

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*Please note: This report is provided for informational purposes only and is not legal advice. The information provided herein is current to May 2022.*

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# EXECUTIVE SUMMARY

Across Canada, low-income individuals and disadvantaged communities bear the disproportionate burden of adverse health and environmental impacts from contaminants that are discharged into air, land and water. The nexus between pollution, poverty, race and ethnicity has prompted civil society, academics, lawyers, and non-governmental organizations to advocate for legal reforms that facilitate access to environmental justice.

This Toolkit has been created to pair critically urgent environmental issues with legal mechanisms for change and public advocacy. It has been developed with and for Indigenous and settler communities, and individuals throughout Northern Ontario. It is meant to be a foundational resource so that both individuals and practitioners can have ready access to solutions for environmental health issues. [Part I](#) provides an overview of key terms and concepts, like environmental justice and informed consent, while [Part II](#) profiles urgent environmental health issues in the North. [Part III](#) provides solutions and how-to guides on getting involved. Each chapter is accompanied by [additional reading](#), found at the end of this guide.

At CELA, we have been working since 1970 to represent the individuals, communities, and First Nations directly affected by development, environmental hazards and systemic racism and to amplify their voices - whether in the courts, before law makers or within their community, to precipitate change. This Toolkit was an ambitious project, supported by the communities and leaders that have worked alongside CELA since the launch of its Northern Services program in 2019.

While the case studies, stories and profiles within this Toolkit are based in Northern Ontario, their lessons and calls to action span the province and reflect the Canadian Environmental Law Association's ongoing commitment to bring legal aid services to those most affected and underserved in environmental decision-making.

We invite you to read, share and explore this Toolkit to learn more about the important role we all share in advocating for more just, equitable and healthy communities.

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# PART I: AN INTRODUCTION

## Chapter 1: Who is this guide for?

This Toolkit has been developed with and for Indigenous and settler communities and individuals throughout Northern Ontario. This Toolkit pairs critically urgent environmental issues with recommended legal mechanisms for change and public advocacy.

This Toolkit aims to help community organizers, activists, legal practitioners, governance bodies, and those with an interest in health and environmental equity to further their advocacy and understanding of environmental rights.

This Toolkit is divided into three main parts. **Part I** provides an introduction to the foundational concepts we draw upon throughout this toolkit, such as "environmental justice" and the "right to know." **Part II** presents a range of issues affecting environmental health, from air emissions to nuclear waste. **Part III** revisits each of these issues to provide the resources you need to learn more and get involved. We have also included a full **Additional Reading** and **References** list.

### What is the purpose of this Toolkit?

The goals of this Toolkit are to:

- *Support* the efforts of individuals and communities who have experienced environmental and health inequities
- *Share* baseline information on a range of environmental and health issues specific to Northern Ontario
- *Respond* to barriers to accessing justice by providing individuals and community groups with tools to defend their environmental rights
- *Raise awareness* about the range of legal services that CELA offers as a legal aid clinic



Canadian  
Environmental Law  
Association  
EQUITY. JUSTICE. HEALTH.

*Disclaimer: The contents of this toolkit are accurate as of the day it is published. It is meant as a source of information, and none of what follows should be taken as legal advice. Much of the following information is a compilation of existing resources which have been arranged in a manner that should facilitate easy use. The reader is encouraged to follow weblinks to other documents in order to obtain additional information about specific areas.*

## Chapter 2: Who is CELA Northern Services?

### Our History

The [Canadian Environmental Law Association](#) (“CELA”) is a non-profit public interest organization, established in 1970. As a legal aid clinic, we are funded by Legal Aid Ontario and are part of a larger system of community legal clinics in Ontario. CELA has an office in Toronto with CELA staff located across the province to deliver regionally focused services.

### CELA Northern Services

In the spring of 2019, CELA Northern Services was launched following a successful pilot project in 2018. CELA's Northern Services is based in the North with legal counsel working remotely. With the support of Ontario's many community legal clinics who have provided office and meeting room space, CELA is able to visit, represent and support communities from Blind River and Thunder Bay to the James Bay coast.

You can follow our Northern Services efforts on our [website](#), which includes our clients' [actions](#) to safeguard health and Indigenous rights in the James Bay lowlands and our advocacy to recognize [Indigenous jurisdiction](#) in unceded Algonquin territory under the federal *Impact Assessment Act*.

### CELA's Services

At CELA, we use existing laws to protect the environment and advocate for environmental law reform. CELA's work focuses on four main environmental issues: water sustainability, green energy, sustainable land use, and pollution and health.

CELA's legal services include providing brief summary advice, public legal education and representing low-income individuals, citizen groups, and not-for-profit organizations in litigation matters.

### APPLICATIONS FOR LEGAL REPRESENTATION

CELA's services include the provision of information, summary advice and referrals, and the representation of low income individuals and groups before various courts, tribunals and other administrative bodies. To apply to CELA, contact our articling student for a preliminary intake interview at 416-960-2284, ext.216 or via email at [articling@cela.ca](mailto:articling@cela.ca).

## Chapter 3: What is “environmental justice”, “environmental health”, and “environmental ethics”?

Across Canada, low-income persons and disadvantaged communities often bear a disproportionate burden of the adverse health and environmental impacts from contaminants that are discharged into air, land and water. The nexus between pollution, poverty, race and ethnicity has prompted various academics, lawyers, and non-governmental organizations to advocate for legal reforms that facilitate access to environmental justice.

**Environmental Justice** is the principle that environmental benefits and burdens should be equitably distributed among all persons, rather than allowing the majority of adverse impacts to be unfairly imposed upon poor people, visible minorities, or marginalized communities. Vulnerable communities across Canada are unfairly impacted by issues such as extreme heat, lack of access to green spaces, and inadequate access to safe housing, which if left unchanged will only continue to worsen with [climate change](#).

The environmental justice principle has a number of procedural dimensions, such as:

- providing all persons with an opportunity to meaningfully participate in all aspects of governmental decision-making that may affect their health or environment; and
- ensuring that all persons have full and timely access to information that is being used for decision-making purposes.

Curious to learn more? CELA’s webinar [Nuclear waste: an environmental justice perspective](#), highlights environmental justice through the example of nuclear waste management and shows how public involvement can be a crucial aspect of achieving it.

Upholding environmental justice is critical in light of the concerning disparities in health and environmental health based on race and class across the country. Environmental justice thus requires the elimination of both environmental racism and class-based discrimination.



Click [here](#) to read more from CELA's environmental justice collection, including blogs and past webinars.



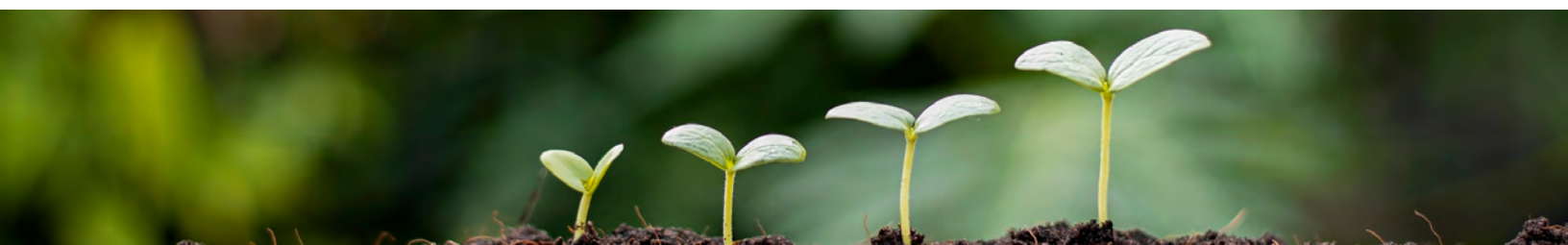
**Environmental Health** is a term that addresses “all the physical, chemical, and biological factors external to a person, and all the related factors impacting behaviours.” It encompasses the assessment and control of those environmental factors that can potentially affect health. It is targeted towards preventing disease and creating health supportive environments.

Environmental health is regulated at all three levels of government: federal, provincial and municipal. Indigenous governments also have powers and responsibilities, some of which are recognized under federal statutes. In addition, international legal norms play a role in protecting environmental health within Canada.

Click [here](#) to see CELA’s proposed amendments to Bill S-5, a critical bill currently in Parliament which aims to reform the Canadian Environmental Protection Act, 1999 and will have direct implications for environmental health.

**Environmental Ethics** considers the ethical and moral values that we extend to non-human animals and the rest of the natural world. Ethicists ask important questions about how we value the environment, and may use moral theories to explain our relationships to each other and our environment. This principle is connected to environmental law, as often our sense of right and wrong (morality) is used to underpin legal decisions and legal arguments. This term is usually used within the Western philosophical context.

Clicking [here](#) will take you to a free short course on environmental ethics.





## Chapter 4: What is Traditional Knowledge?

The recognition of Traditional Knowledge (TK) within evidence-based decision-making is one way to contribute to reconciliation. The inclusion of TK is also critical to conservation, where a paradigm shift away from a Crown-based oversight of lands and resources is needed if we are to create, for instance, paths for Indigenous protected and conserved areas.

**Traditional Knowledge** (TK) is one name for traditional Indigenous scientific knowledge that can relate to conservation, biology, and ecology. While TK may be new to policy and government decision-making, Indigenous knowledge systems have been important to Indigenous peoples for thousands of years.

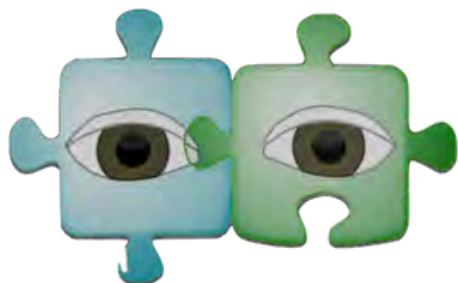
One definition of TK, as provided by the United Nations Educational, Scientific, and Cultural Organization ([UNESCO](#)) is knowledge that *"refers to the understandings, skills and philosophies developed by societies with long histories of interaction with their natural surroundings. For rural and indigenous peoples, local knowledge informs decision-making about fundamental aspects of day-to-day life."*

TK is central to the protection of [Indigenous rights](#). As CELA clients have shared: *"rights and accompanying responsibilities to the land are deeply rooted in the language, culture and practices of Indigenous people. They also reflect the natural laws that are fundamental to who they are, and what they do, including to have strength, to be kind, to share, and to be honest."*

There are also many instances of TK at the forefront of [science and conservation](#). For instance, actions by the [TEK Elders](#) of the North Shore of Lake Huron rely on Indigenous science when citing the risks of glyphosate-based herbicides and the need to ban the aerial spraying of forests.

In Inuit Nunangat to the north, the equivalent is known as *Inuit Qaujimagatuqangit* (IQ), which loosely translates to "Inuit traditional knowledge". IQ holds importance knowledge about arctic ecosystems. It is embedded in the Nunavut Department of Education [curriculum](#), and prospective researchers applying for permits and/or funding must [demonstrate](#) their plans to incorporate Inuit Qaujimagatuqangit (IQ) into their research.

The cross-Canada "[Land Needs Guardians](#)" movement also uses both Indigenous and Western science to "manage protected areas, restore animals and plants, test water quality, and monitor development project."



Two puzzle pieces fitting together.  
Picture courtesy of the [Institute for Integrative Health and Science](#)

[Two-Eyed Seeing](#) (*Etuaptmumk*, in Mi'kmaq) is a concept developed by Mi'kmaq Elder Dr. Albert Marshall (Nova Scotia). Two-Eyed Seeing is *"learning to see from one eye with the strengths of Indigenous knowledges and ways of knowing, and from the other eye with the strengths of Western knowledges and ways of knowing, and to use both these eyes together, for the benefit of all."* In the figure to the left, Two-Eyed Seeing is visually represented as two different eyes working together to fully see.

## Research Practices and Protocols

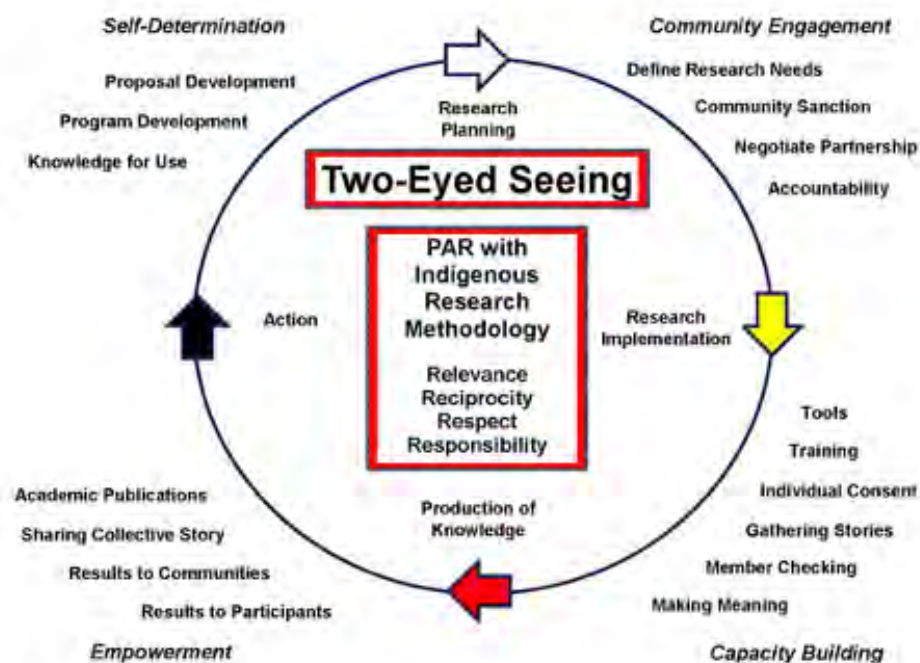
TK can also inform an Indigenous community's research protocols, which may be relevant during funding applications, collaborations with non-profits or academic institutions, and consultations on projects like environmental assessments. Many communities have created their own research protocols, often recognizing the value of TK, and referencing to two-eyed seeing.

One example is the Wikwemikong Community Needs Assessment Research Model (2008). This model contains a four-step research methodology based on Two-Eyed Seeing. An adapted version is displayed below.

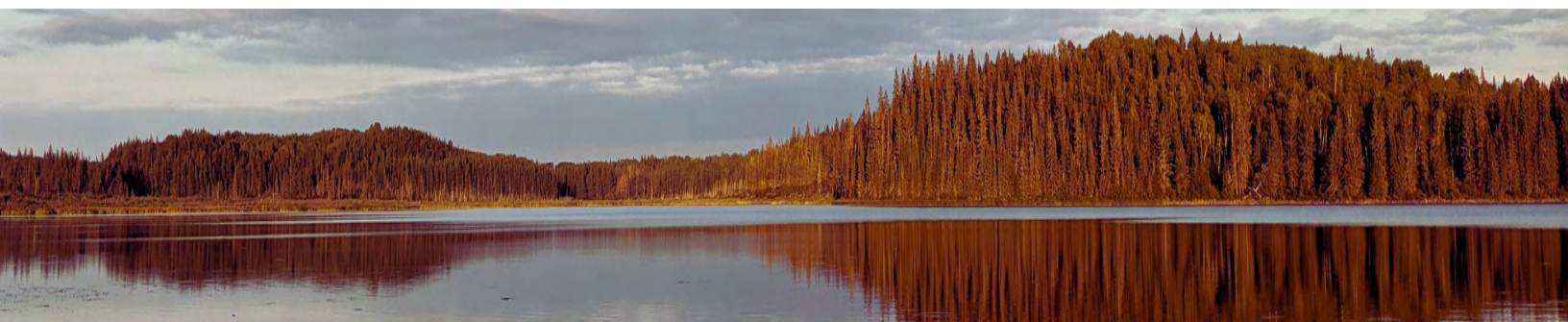
## Resources

Other examples of Indigenous nation-led research ethics polices include:

- A guide on research ethics from the [Assembly of First Nations](#)
- An ethics and research policy publication by the [Six Nations Elected Council - Ethics Committee](#)
- Protocols and principles for conducting research as set out by the [Nuu-chah-nulth Tribal Council Research Ethics Committee](#)



Two-Eyed Seeing four step diagram.  
Picture courtesy of Cindy Peltier



## Chapter 5: What is Informed Consent?

**Informed consent** is a principle that has important applications in environmental decision-making. Simply put, informed consent is consent which is given *after* there is full disclosure of what is being agreed to.

Often, individuals and community members are not informed of the risks that a new development or project may pose to their health and environment. This could result from a lack of meaningful, public participation opportunities or an unwillingness by government or industry to provide accessible and timely information. Absent the transparent sharing of information, individuals and communities are not in a position to give their full and informed consent.

One prominent example of this concept is in the search for an "informed and willing" host for a Deep Geologic Repository (DGR) for nuclear waste in Ontario. Substantial "goodwill" funds have been made to the communities who are potential hosts for the DGR and to local landowners who are willing to "co-operate". Local citizens fear short term economic incentives are being used to sway community sentiment.

To learn more about nuclear waste storage, see [Chapter 12](#) of this Toolkit.

**Research** has also found that economic and social vulnerability - for persons who are disadvantaged by the distribution of social goods and services, like housing, income and health - are especially at risk to coercion and undue influence due to monetary incentives. Proving informed consent in these circumstance is then difficult, because their situational circumstances puts them at risk of exploitation.



*Teeswater community members protesting against Nuclear Waste. Image courtesy of the [CBC](#).*

To read about informed consent and environmental toxins from a bioethics perspective, click [here](#).

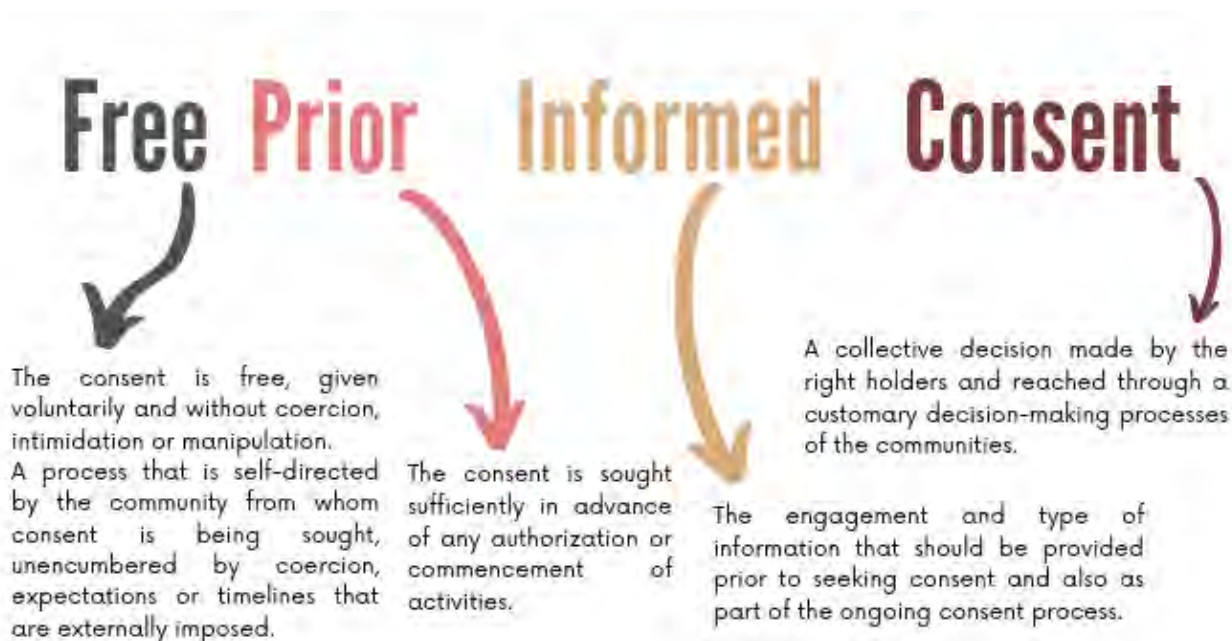


Building on the principle of informed consent, is the recognition of [Free, Prior, and Informed Consent](#) (FPIC) as detailed under the *United Nations Declaration on the Rights of Indigenous Peoples* ([UNDRIP](#)). As a principle of international law, FPIC is an inherent right of all Indigenous Peoples worldwide.

UNDRIP serves as an interpretative aid for domestic laws in Canada. It is an established principle of law that human rights standards, like UNDRIP, be used to interpret laws passed by federal and provincial governments. Unfortunately, as the [UN Special Rapporteur on Human Rights and Toxics](#) remarked, free, prior, and informed consent is frequently violated, and does not meet the standard required by UNDRIP: "*Canadian companies are implicated in intentional releases of toxic waste and tailings dam failures, beginning activities without meaningful consultation let alone the free, prior informed consent of indigenous peoples, and other conduct resulting in the exploitation and abuse of the human rights of workers and local communities.*"

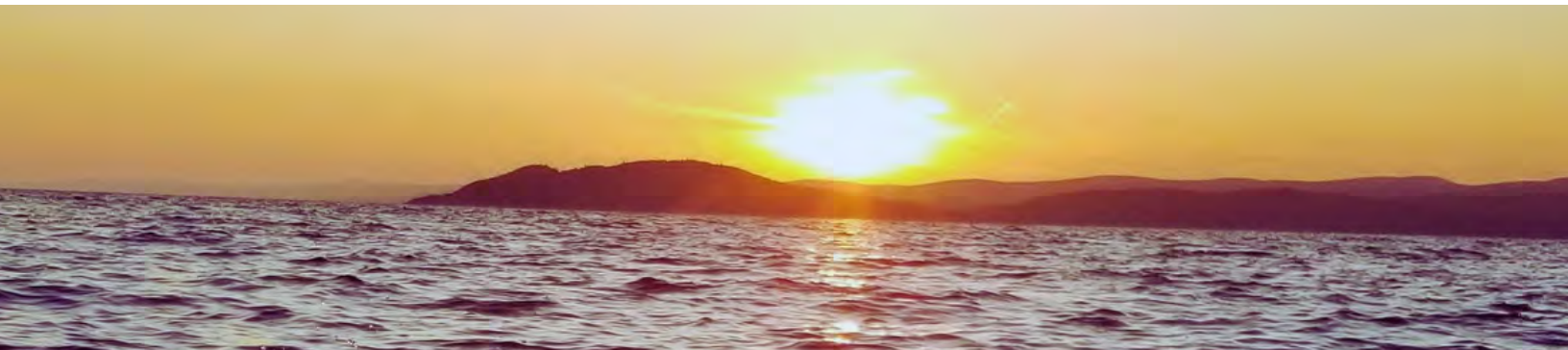
In June 2021, the Senate officially passed [Bill C-15](#), an Act respecting the *United Nations Declaration on the Rights of Indigenous People*. This law requires that Canada establish an action plan for making every federal law and policy consistent with UNDRIP.

To learn more about FPIC, and recent developments in Canadian law, see [Chapter 15](#) of this toolkit.



FPIC Diagram including definitions.

Picture courtesy of the [Food and Agriculture Organization of the United Nations](#)



## Chapter 6: What is the "right to know"?

The right to information, or "right to know" is a principle based upon a basic human entitlement to information which directly impacts health and bodily integrity. The right to information is crucial for protection of human rights of all people. Information must be available, accessible and in an appropriate and usable form, including to those most at-risk.

**A public 'right to know'** increases the transparency and accountability of industry and government. The right to know includes public information frameworks, inventories and databases which require the identity of chemicals to be disclosed, alongside their hazardous properties and potential health impacts. Having accessible, high quality data also raises the expectation of more rigorous oversight.

An encouraging example of the 'right to know' extending to the public is the City of Toronto's ChemTRAC program, which as a result of a municipal by-law, requires that information be reported and disclosed for 25 of the cancer-causing substances found in Toronto's air. As a result, companies - large or small - that use these substances and release them into the air, must report them to the public health authority annually.

This program was a first in Canada. By producing data reports for public viewing listing the 25 priority substances and accompanying health impacts, it provides the basis to tract and identify major sources of pollutants and advocate for plans to reduce exposure.

**A workers' 'right to know'** is an employee's right to know the hazards of work based upon a basic human entitlement to information that directly impacts their health and bodily integrity.

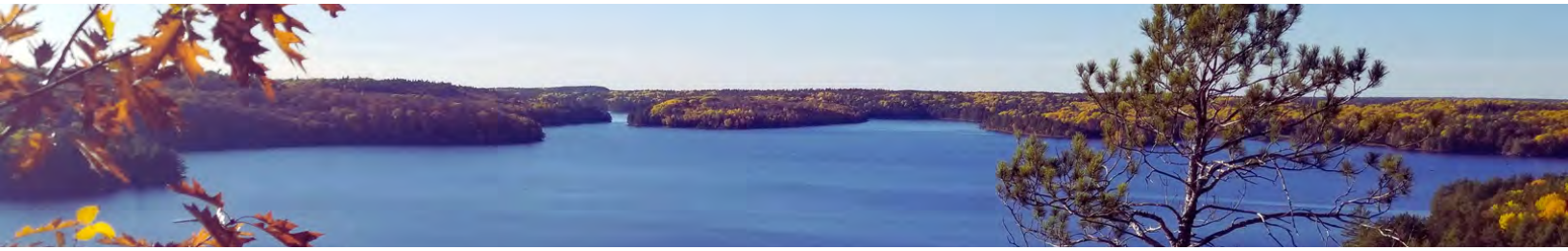
The Workplace Hazardous Materials Information System (WHMIS), legislated in 1988, was Canada's earliest response to workers' right to know about exposure to chemical hazards in the workplace. This national right to know was a first, and it created a national standard with complementary provincial and territorial laws, facilitating its implementation.

Despite the broad application of both federal and provincial laws that are included in WHMIS, limitations remain:

- There can be difficulty in predicting workers' exposure levels since health hazards are only known for a minority of substances.
- The lack of public information about the hazards for thousands of substances impairs the meaningfulness of this right.
- As adverse health effects are chemical or hazard specific, the cumulative impact of multiple, potentially simultaneous exposures in the workplace is often overlooked.



Click [here](#) to learn more about a report released by the National Union of Public and General Employees and CELA that advocates for workers' environmental rights in Canada.



# PART II: ENVIRONMENTAL HEALTH ISSUES IN NORTHERN ONTARIO

## A BRIEF INTRODUCTION

### Chapter 7: Water Rights and Contamination

Water pollution in Northern Ontario waterways remains a real and critical concern. Contamination jeopardizes access to safe water, and the health of fish and aquatic mammals. Its insidious burden is also disproportionately borne by Indigenous communities.

In 2010, the United Nations General Assembly explicitly recognized the human right to water and sanitation, acknowledging that "clean drinking water and sanitation are essential to the realization of all human rights." And yet in 2020, the UN Special Rapporteur on Human Rights and Toxics recognized "rights to safe water do not appear to be directly actionable under Canadian law."

Asubpeeschoseewagnog Anishinabek (ANA or Grassy Narrows First Nation) is the home of one of Canada's most infamous and tragic environmental health crises. Many people in this fishing community are still suffering from the toxic effects arising from the discharge of 9,000 kg of mercury from a paper mill into the Wabigoon River in the 1960s.

Forty-five years after the dumping was curtailed, mercury levels in the river remain in the highest risk category and in some areas close to Grassy Narrows the mercury levels in the river sediment are still rising. Remediation of the river remains outstanding even though a joint Ontario-Canada scientific panel recommended specific remediation measures in 1983.

**Alleging a breach of Charter rights, CELA and ANA have succeeded in halting logging in ANA traditional territory for the current Forest Management Plan. To learn about about FMPs, see [Chapter 19](#).**

## Drinking Water and Source Water Protection

Water advisories remain concentrated on First Nation reserves across Ontario, despite federal promises to end all long-term drinking water advisories in First Nations by [March 2021](#).

Advisories themselves can be "boil water advisories," where water must be boiled for at least 1 minute before drinking, cooking, or "do not consume advisories," where tap water should not be used for any purpose. The most stringent advisory is a "do not use," where water should not be used for any purpose.

In a recent [announcement](#) from Canada, there was an agreement in principle to settle a [Class Action Litigation](#) for \$8 billion with over 250 First Nations who had experienced drinking water advisories lasting at least a year. More information, including whether you can register as a class member, is available [here](#).

**Anishinabek Nation Chief Water Commissioner, and prominent youth leader, [Autumn Peltier](#) from Wikwemikong First Nation, recently addressed the United Nations on World Water Day. To watch her 2018 speech at the UN, click [here](#). Autumn also has a public [Facebook account](#) documenting her advocacy work.**

Click [here](#) to explore Ontario water advisories on WaterToday's interactive map.



## Community-Based Source Water Planning

In 2019, CELA produced a source water protection [toolkit](#) for First Nations in partnership with the Chippewas of the Thames First Nation, Munsee-Delaware First Nation, and Oneida Nation of the Thames. The toolkit proposes legal and policy tools to address concerns from community members, whose historical use and enjoyment of the Thames River had been diminished because of threats from industrial discharges and spills, sewage overflows, and the impact of phosphorus loading and pesticide use.

**To access CELA's Source Water Toolkit for Indigenous communities click [here](#).**

The project relied upon both traditional knowledge and practices, and Western science-based water quality studies. As [Wilson et al.](#), have recognized:

*"There is growing acknowledgement that the material dimensions of water security alone are inadequate; we also need to engage with a broader set of hydrosocial relationships. Indeed, more holistic approaches are needed to explain Indigenous peoples' relationships to water including the use of traditional water sources."*

Two-eyed seeing also [encourages](#) "a useful re-articulation of water security frameworks." This is also explored in the [paper](#) and multimedia project "Water Teachings: Water is Community" available [here](#).

Map is courtesy of [WaterToday](#).

**Red tags** : Do Not Consume Advisory  
**Yellow tags** : Boil Water Advisory  
**Blue tags** : Blue-Green Algae Advisory

# Chapter 8: Air Pollution and Exemptions from Standards

**Site-specific standards allow for emissions greater than the provincial standards. Currently, there are six site-specific standards for air emissions in Northern Ontario: three in Sault Ste. Marie, and three in Sudbury.**

Human reactions to air pollution range from short-term health effects such as asthma, and skin rashes to long term effects including bronchitis, emphysema, lung disease and cancer. Vulnerable populations – such as children, the elderly and people with respiratory diseases – may suffer more extreme effects from exposure to air pollution. In addition to its adverse effects on human health, air pollution impacts crops, animals, and water pollution. The degradation of air quality also has social and economic consequences, such as the morbidity impacts of air pollution.

While air pollution is caused by natural sources, human activities are responsible for the majority of air emissions. In the absence of smoking or other indoor pollution, industry emissions and urban vehicle emissions are main sources of exposure to air pollutants.

Ontario has prescribed air emission standards under O Reg 419/05 Air Pollution - Local Air Quality, under the *Environmental Protection Act* (available [here](#)). However, not all emissions from polluters conform to these standards. In fact, Ontario also has "site-specific standards" for facilities that "face(s) challenges in meeting a required air standard."

## SAULT STE. MARIE

*To note: the data presented below is based on publicly reported emissions data; gaps in data may exist due to errors, deficient methods of reporting or a lack of oversight. Additionally, site specific standard-holding facilities are not the only facilities that routinely over-emit.*

1) **Benzene**: Algoma Steel holds a site-specific standard (SSS) of 2.2 µg/m<sup>3</sup> for benzene until 2023, which is 488.89% of the Ontario standard of 0.45 µg/m<sup>3</sup>. In 2020, Algoma Steel had a maximum point of impingement (POI) of 3.57 µg/m<sup>3</sup> for benzene, which is higher even than the SSS; 162.29% of the SSS, and 793% of the Ontario standard [See Figure 1]. Benzene is particularly concerning, as the WHO has stated that as "benzene is carcinogenic to humans, [...] no safe level of exposure can be recommended."

2) **Benzo(a)pyrene**: Algoma Steel holds a SSS of 0.004 µg/m<sup>3</sup> until 2022, which is **40000%** of the Ontario standard of 0.00001 µg/m<sup>3</sup>. Algoma Steel's actual 2020 POI was 0.00477 µg/m<sup>3</sup> [See Figure 2].

3) **Particulate matter < 44microns**: Algoma Steel holds a SSS of 127 µg/m<sup>3</sup> until 2023, which is





105.8% of the Ontario standard of 120 µg/m<sup>3</sup>. In 2020, Algoma Steel was below both with a maximum POI of 102.2 µg/m<sup>3</sup>.

## SUDBURY

1) **Cadmium:** Glencore currently holds a site specific standard for Cadmium of 0.180 µg/m<sup>3</sup> until December 2021, and 0.061 µg/m<sup>3</sup> until July 31, 2030. The Ontario limit for Cadmium (air) is 0.025 µg/m<sup>3</sup>. Recent emissions data was requested, but not provided.

2) **Nickel:** Until December 31, 2022, Glencore holds a site-specific standard of 0.15 µg/m<sup>3</sup>, and a standard of 0.066 µg/m<sup>3</sup> until June 30th, 2026. The Ontario limit for Cadmium (air) is 0.0252 µg/m<sup>3</sup>.

3) **Nickel:** Vale holds a site specific standard of 1 µg/m<sup>3</sup> (annual) for nickel emissions, which is 2500% of the Ontario standard of 0.04 µg/m<sup>3</sup> (annual). However, as this standard is set to expire at the end of 2021, Vale is in the process of requesting a 10-year annual nickel site-specific standard 0.4 µg/m<sup>3</sup>. (1000% of the Ontario standard). In 2020, the measured POI was 0.307, which is **768%** of the Ontario standard, but falls below both current and future (requested) site-specific standards.

## Stay Tuned & Have Your Say

When a company requests a renewal or new site specific standard, notice of the request will be posted on the Environmental Registry for a mandatory minimum 30 day public consultation period.

- To access information on public consultation periods, see the Environmental Registry of Ontario (ERO)'s website: [ero.ontario.ca](http://ero.ontario.ca)
- To learn more about the request process for a specific standard, see [here](#)

As an example, the following picture shows the search result for a site specific standard request, including the public comment period.

Instrument type: Approval of a site-specific air standard

ERO number	019-0856
Notice type	Instrument
Notice stage	<b>Proposal</b> Updated
Proposal posted	May 8, 2020
Comment period	May 8, 2020 - June 22, 2020 (45 days) <b>Closed</b>
Last updated	July 17, 2020

This proposal is for a site-specific standard for cadmium for Glencore Canada Corporation's nickel smelter in Sudbury, Ontario. The Ministry of Environment Conservation and Parks has completed a review of the proposal and is seeking public input on the proposal and the proposed cadmium site-specific standard approval.

*Photo courtesy of the [ERO](#)*

For more information about the ERO, see [Chapter 14](#) in this Toolkit.

A [2019 study](#) of acute myeloid leukemia (AML, a type of blood cancer) found correlations between AML rates and cities with high rates of industrialization: Sarnia, Sault Ste. Marie, Thunder Bay, St. Catharines, and Hamilton. Specific results for the two northern cities are as follows:

Sault Ste. Marie (41.45 deaths per 100,000, or 135.4 % of Canadian avg )

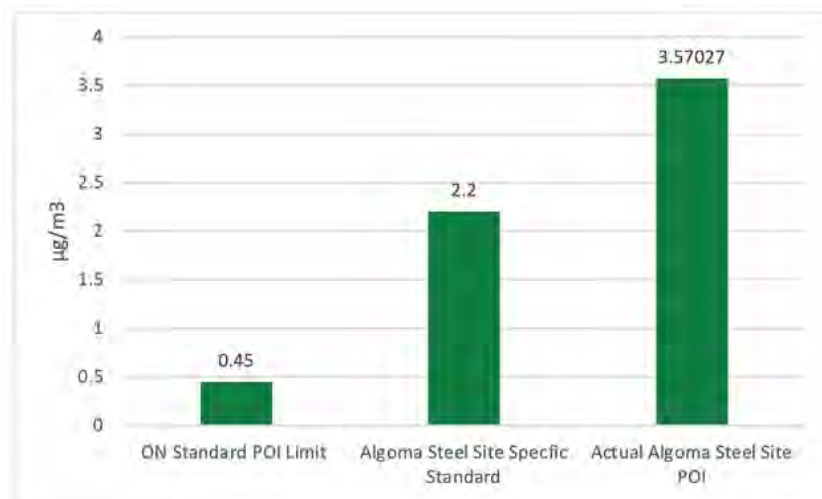
- Postal code P6C had a rate of 65.10 deaths per 100,000; **212.7% of the Canadian average**

Thunder Bay (31.09 per 100,000; 101.5% of Canadian avg)

- Postal code P7E had a rate of 59.66 deaths per 100,000; **194.9% of the Canadian average**

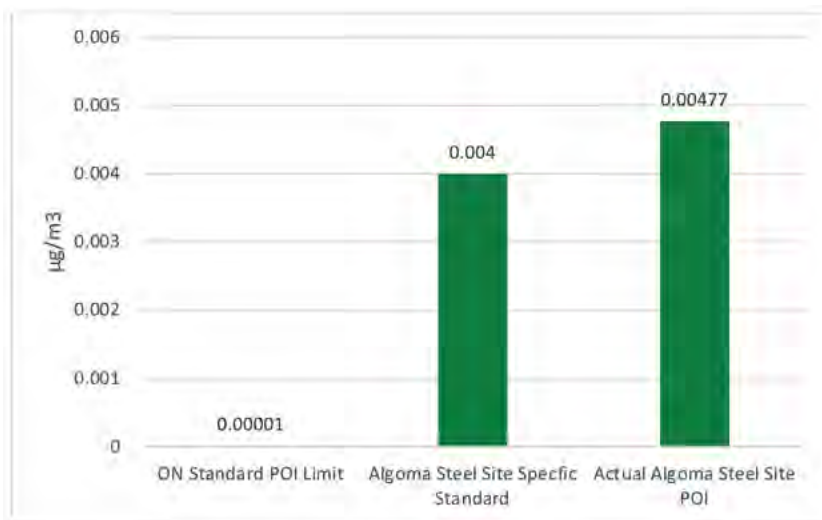


From the study, the results "potentially implicate exposure to materials/pollution from these plants as an important risk factor for developing AML in Canada". In the case of AML, benzene and formaldehyde are of particular concern.



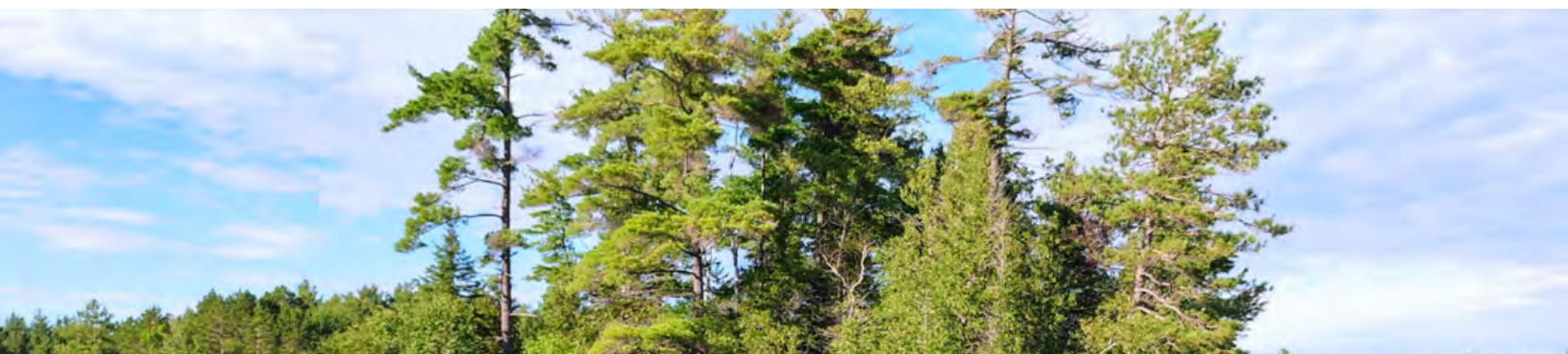
**Figure 1:** A comparison of the Ontario and Algoma Steel site-specific standard for benzene, and the actual benzene emissions in 2020.

Point of Impingement (POI) refers to "the point at which a contaminant contacts the ground or a building" in air emission modelling.



**Figure 2:** A comparison of the Ontario and Algoma Steel site-specific standard for benzo(a)pyrene, and the actual benzo(a)pyrene emissions in 2020.

Point of Impingement (POI) refers to "the point at which a contaminant contacts the ground or a building" in air emission modelling.



### Case Study: StackWatch Sault Ste. Marie

**StackWatch Sault Ste. Marie** (StackWatchSSM) is an organization committed to improving air quality, the environment, human health, and public accountability in Sault Ste Marie. They have two primary goals: (1) to encourage the Ontario Ministry of the Environment, Conservation, and Parks to enforce its air emissions regulations more routinely; and (2) to encourage the Ontario Ministry of the Environment, Conservation, and Parks and Algoma Public Health to erect an independently operated air quality monitoring network that is geographically diverse.

StackWatch is a movement which encourages citizens to speak out about local air-quality and water-quality concerns, encourages the Ministry of the Environment, Conservation and Parks to enforce existing regulations and build and operate a robust and independent air-quality monitoring system. It began in Hamilton in 2007, as a way to address local air-quality issues and StackWatchSSM is modelled after their program. They also have resources that link to local air-quality reporting, making it more easily accessible to the public.



**StackWatchSSM** encourages local reporting of air pollution events, and have already noted 31 on their website for 2022, as of May 10, 2022. You can report pollution in Ontario online via this form and email photos to [moe.tips@ene.gov.on.ca](mailto:moe.tips@ene.gov.on.ca) and directly to StackWatch at [stackwatchssm@gmail.com](mailto:stackwatchssm@gmail.com).

*Photos included with permission from StackWatchSSM*

## Chapter 9: Food Security and Traditional Foods

### Toxic Exposures

Food security is an issue affecting many Northern communities, particularly First Nations who are fly-in or have seasonal access roads. Many people rely heavily on harvesting traditional foods, through hunting, fishing, and gathering. This is especially important for both cultural and health reasons. As the Anishnawbe Mushkiki community health and wellness centre in Thunder Bay notes, benefits include social connections, cultural strength, spiritual wellness, and nutrition. Traditional foods are high in nutrients, whereas store-bought foods are often filled with preservatives, and very expensive.

Land degradation caused by industrial activity and climate-induced change has reduced the availability of healthy traditional foods. Human Rights Watch's recent "The Climate Crisis and First Nations' Right to Food in Canada" report outlines the climate crisis' impact on First Nations food security, responses of community resilience in the face of crisis, and the federal government's failure to address climate change and food poverty. When traditional food is available, levels of toxins from industry are an increasing concern, as per the Assembly of First Nations (AFN). Generally, the higher up the food chain a species is, the more the toxins accumulate. Toxins of particular concern are mercury, cadmium, arsenic, and lead.

In addition to human rights implications, the contamination of traditional foods has resulted in unaddressed health impacts to Indigenous communities. For example, in the case of Grassy Narrows First Nation, analysis of fish led researchers to conclude that there was "an association between long-term Hg (mercury) exposure from freshwater fish consumption and premature mortality."

First Nations deserve safe access to healthy and culturally relevant foods. This requires a drastic reduction in water pollution from industry, and as per the AFN, research to assess contaminants in traditional foods and to ensure quality traditional foods for Indigenous people.

### Mining Injustice

The risk posed to traditional foods and medicines from toxic exposures is also among the concerns raised by Friends of the Attawapiskat River and CELA to Canada in regard to proposed mining projects in the Ring of Fire.

The Friends of the Attawapiskat River, CELA and many other non-profits and individuals are advocating for an Indigenous-led Regional Assessment for the Ring of Fire, which would be consent base and uphold the rights of all Treaty rights holders, in accordance with UNDRIP.

Click [here](#) to read CELA's letter.

Click [here](#) to read the Friends of the Attawapiskat River letter.





### Case Study: Porcupine Lake

Porcupine Lake in Timmins had fish consumption guidelines based on sampling from 1999 until as recently as 2018—despite known threats from ongoing contamination, like the discharge of raw sewage to the lake. After a new fish health study was conducted in June 2019, the consumption guidelines were substantially altered for many species of fish, mostly due to the high levels of chromium [See Figure 3].

The following notable changes occurred based on the 1999 to 2018 data:

- Allowable Northern Pike consumption for the general population dropped from **4 meals to 2 meals per month**
- Allowable White Sucker consumption for the general population dropped from **8 meals to 1 meal per month**
- Allowable White Sucker consumption for the sensitive\* population dropped from **4 meals to 0 meals per month**



\*Sensitive populations are (1) women of child-bearing age, and (2) children under 15 years of age.

Species	Population Type	Advisory Year	Contaminant	15-20 cm	20-25 cm	25-30 cm	30-35 cm	35-40 cm	40-45 cm	45-50 cm	50-55 cm	55-60 cm	60-65 cm	65-70 cm	70-75 cm	>75 cm
Northern Pike	General	2017	Mercury			32	16	8	4	4	4	4	2	2	2	0
		2019	Chromium						2	2	2	2	2	2	2	2
	Sensitive	2017	Mercury			12	8	0	0	0	0	0	0	0	0	0
		2019	Mercury						0	0	0	0	0	0	0	0
Walleye	General	2017	Mercury						2	2	2	2	2			
		2019	Chromium				1	1	1	1	1	1	1			
	Sensitive	2017	Mercury						0	0	0	0	0			
		2019	Mercury						0	0	0	0	0			
White Sucker	General	2017	Mercury					8	8	8	8					
		2019	Chromium					1	1	1						
	Sensitive	2017	Mercury					4	4	4	4					
		2019	Chromium					0	0	0						
Yellow Perch	General	2017	Mercury	16	16											
		2019	Chromium													
	Sensitive	2017	Mercury	4	4											
		2019	Chromium													

**Figure 3:** Table outlining the changes in fish consumption guidance for Porcupine Lake between the 2017 and 2019 consumption guides. Red indicates significant changes.



# Chapter 10: Health, Disease, and Environmental Racism

**Environmental racism** refers to the disproportionate proximity and exposure of Indigenous and racialized communities to polluting industries, dangerous projects, and other environmental hazards. It occurs when environmental policies and practices either intentionally or unintentionally result in disproportionate negative impacts on certain communities including higher rates of cancer, reproductive diseases, respiratory illness, birth defects, and other health issues

This term is credited to Benjamin Chavas, who defined it as:

*"... racial discrimination in environmental policy-making, the enforcement of regulations and laws, the deliberate targeting of communities of colour for toxic waste facilities, the official sanctioning of the life-threatening presence of poisons and pollutants in our communities, and the history of excluding people of colour from leadership of the ecology movements."*

Health and disease impacts that disproportionately affect Indigenous, Black, and other racialized groups are often due to environmental racism. Environmental racism can also be exacerbated by other health outcomes, such as life expectancy (compared to Southern Ontario, life expectancy is 2.9 years lower in the North West Local Health Integration Network (LHIN) region, and 2.5 years lower in the North East LHIN region).

While a complex topic, that includes lack of access to physicians and health care services, intergenerational trauma, and socioeconomic status, many of the issues already discussed in this toolkit are contributing factors to environmental racism.

Contributing factors to environmental racism include a lack of clean drinking water, inaccessibility of fresh, affordable healthy food options, and exposure to pollution and environmental toxins. These inequities are recognized by governments, such as Ontario's 2018 report entitled "Northern Ontario Health Equity Strategy: A plan for achieving health equity in the North, by the North, for the North," which discusses the importance of safe drinking water, safe housing, and food affordability.

Environmental racism in Northern Ontario particularly affects First Nations, and Indigenous leaders have always been at the forefront of advocating for environmental justice. We also know that while "Indigenous peoples in Canada are among the lowest contributors to greenhouse emissions in the country, [...] academic research shows they are among the most exposed to climate change impacts."

## International Recognition

In 2019, the United Nations' Special Rapporteur on human rights and hazardous substances and wastes, Baskut Tuncak, visited Canada from May 24th to June 6th, 2019. His final report corroborated concerns of discrimination, concluding that



CELA hosted a meeting with the United Nations' Special Rapporteur on Hazardous Substances and Wastes on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; Picture courtesy of CELA.

"principles of equality and non-discrimination, requires urgent attention in Canada."

While the principle and right of non-discrimination is found in the Canadian Constitution, the UN Rapporteur observed that "it does not appear to have served as a significant protection or recourse for affected communities in cases of action or, more often than not, inaction by the Government."

This report was an important acknowledgement of the realities of environmental racism in Canada, and has put pressure on the Canadian government to enact remedies to the situation.

To read more, click [here](#).

Bill C-230, "An Act Respecting the Development of a National Strategy to Redress Environmental Racism" was a bill introduced before federal parliament in 2021. This Bill acknowledges environmental racism, and gives the Minister of the Environment two years (if enacted) to develop a "national strategy to promote efforts across Canada to redress the harm caused by environmental racism." This would include collecting information and links between:

- Race
- Socio-economic status
- Environmental health and health outcomes
- Compensation for individuals and/or communities
- Potential amendments to existing laws



CELA supports this bill and has offered [suggestions](#) to strengthen its impact, such as adding qualitative benchmarks, definitions, and tightening its timeline. Other NGOs have also added their thoughts in the form of brief submissions, which you can access [here](#) under "Briefs (11)."

Subsequently in 2022, Bill C-226 "An Act respecting the development of a national strategy to assess, prevent and address environmental racism and to advance environmental justice" was introduced before federal Parliament. As the text of Bill C-226 has remained the same as Bill C-230, our prior resources on Bill C-230 are still relevant.

You can read the full Bill-C226 [here](#), or a summary and discussion [here](#).





## Chapter 11: Forestry and Aerial Spraying

Every summer, forests across Ontario are sprayed with a defoliant with the goal of enhancing the timber-valued species, like pine. This aerial spraying of herbicides in forests prevents the growth of "primary successional species" or species that are considered pests, and grow after clearcutting of the mature trees in an area.

Aerial spraying purposely alters the makeup of the forest and results in their being less browse (ie. understory vegetation) for ungulates, like deer and moose. According to the Ministry of Natural Resources and Forestry (MNRF), herbicides are used to control 'unwanted herbaceous and woody competition, promote the establishment of more desirable regeneration (ie. conifers), and control or remove undesirable competition that impedes the growth of target or acceptable species.' Typically, spraying is accomplished by helicopter, air blast sprayers mounted on skidders, or by hand-operated backpack mist blowers. Glyphosate is the active ingredient used in the herbicide commonly used in forest management practices.

While the Ministry of Natural Resources and Forestry has stated "glyphosate has been used safely and effectively in Ontario's forests for more than 30 years, The International Agency for Research on Cancer (IARC), an autonomous unit of the World Health Organization (WHO), issued a report on its assessment of glyphosate in March 2015, ranking the substance as a Group 2a carcinogen – meaning a substance that probably causes cancer in people. This conclusion was based on its experts' view that there was "sufficient evidence" glyphosate causes cancer in animals and "limited evidence" it can do so in humans.

Despite this, Health Canada remains of the view that "glyphosate is not genotoxic and is unlikely to pose a human cancer risk."

Some forest ecologists have also cautioned that by prioritizing conifer species – and removing broadleaf species like birch and aspen from forest landscapes - potentially grooms forests for more severe fires. Forest ecologists studying the impact of herbicide use on fire have noted that hardwoods can provide a natural fire barrier, as they burn slower and due to subtle differences in shade, temperature, and humidity level, broadleaf forests can be more fire-resistant.

This is important, as Ontario has seen an increase in forest fires in the North. In July 2021, the Northwest was under an Emergency Area Order from the Ministry of Northern Development, Mines, Natural Resources and Forestry. This is only likely to increase, due to the causal connection between hotter and drier temperatures caused by climate change, and more frequent fires.



*Helicopter used to spray Glyphosate.  
Photo courtesy of [CTV](#).*

Researchers who work with both western science and TK have also produced work on the gaps in western science research around glyphosate and its impacts (direct and indirect) on flora, fauna, and whole ecosystems. From Patterson *et al.*, '[it is incredibly important](#) to use a holistic framework that acknowledges the interconnectedness and to have research led by communities.'

There have been many Indigenous-led calls for a moratorium on aerial spraying, including from the [TEK Elders](#) of the North Shore of Lake Huron region, who cite impacts to humans, wildlife, and water as well as implications to their treaty rights to hunt, fish, and gather resources in their traditional territories.

The [Anishinabek Nation](#) has also requested a moratorium, citing health risks and violations of UNDRIP by not allowing First Nations to participate in decisions impacting treaty and Aboriginal rights. Troy Woodhouse of Flying Post First Nation told [CTV News](#) that "*It's a silent bush you're walking through. [...] You can tell it's a dead forest after. Everything that was in that area has left.*" His First Nation also passed a resolution against the spraying.

Additionally, other jurisdictions have banned the practice, including Quebec in 2001. Importantly, it did not substitute glyphosate for another herbicide but rather opted for a new approach to forest management that is technically efficient and compatible with health and social considerations.

### Learn More

Greenpeace has recently launched a campaign against forest and aerial spraying, entitled "Stop the Rain of Death." A link to their online campaign is available [here](#).

To learn more about glyphosate, click [here](#) to access CELA's "Strategic Briefing for Lawyers and Activists" in response to the successful case against Monsanto (now Bayer) in California.

See **Chapter 19** of this Toolkit to learn more about **getting involved and your role in forest management planning.**



## Chapter 12: Nuclear Energy and Waste

Northern Ontario occupies a unique role within the development and use of nuclear energy. For instance, Elliot Lake was once dubbed the 'uranium capital of the world,' as its mines provided the uranium for CANDU fuel rods. The nearby refinery in Blind River continues process uranium and in the Northwest, the small community of Ignace is one of two communities in consideration for hosting an underground waste bunker to hold high-level radioactive waste.

- **Elliot Lake** is home to numerous now decommissioned uranium mines where 145.3 million tonnes of radioactive tailings are stored. The nearby Serpent Lake First Nation has chronicled the legacy of social, political, environmental, and health impacts.
- **Blind River** hosts what is considered the world's largest commercial uranium refinery, handling uranium ore concentrates (known as yellowcake) which is shipped there from mines in Canada, the U.S., and Australia and later transported offsite to the U.S. and Port Hope, Ontario. **Ignace** is a candidate site where the Nuclear Waste Management Organization (NWMO) may, as early as 2024, start constructing a 'deep geological repository' for burying nuclear waste.

Northern Ontario has witnessed the full extent of the nuclear fuel cycle - having once provided the uranium used in fuel rods and now facing proposals to store used waste, which remain unsafe for upwards of a million years.

Without a final waste disposal solution having been determined, Canada is managing its growing stockpile of nuclear waste through "interim storage". Canada has assigned the NWMO the task of finding a "willing community" to host a deep geological repository.

Without a DGR storing high-level nuclear fuel waste anywhere in the world, if approved in Ignace, this would be a global first.

Of the two Ontario communities where the NWMO is looking to find a "willing host," community members have raised concerns regarding coercion and bias, with tens of millions of dollars being spent to seek support and money being offered to local landowners who are "willing to co-operate." There is no Canadian case law which defines "willing host" in regard to high-level waste, but there are principles of environmental justice and ethics, which can help us understand what is "willingness". To learn more, watch CELA's presentation featuring Theresa McClenaghan and Kerrie Blaise titled Nuclear waste: an environmental justice perspective, hosted by the City of Dryden

Both Ignace and South Bruce have concerned citizen groups advocating against a deep geological repository in their communities.

- Protect South Bruce- No DRG
- We the Nuclear Free North



### Emerging Threats

Many remote Indigenous communities in the North are also the proposed future sites for so-called Small Modular Reactors (SMRs) to replace diesel reliance. Commentators have critiqued the lack of Indigenous representation in the early decision-making process and have also pointed to concerns about weapons proliferation, the risks of transporting fuel, and the legacy of waste, for which no solution remains.

**CELA continues to invite concerned communities and groups to sign on to its statement opposing SMRs, noting investment in unproven, next-generation nuclear technology is a dangerous distraction from tackling the climate crisis, especially when safe, renewable technology is scalable now.**



# PART III: GETTING INVOLVED

## Chapter 13: The Importance of Public Participation

Citizens in addition to federal, provincial, municipal, and Indigenous governments have a critical role to play in the oversight and protection of environmental health.

For instance, at the local or municipal level, citizens can provide input on matters such as land use planning or municipal by-laws. At the provincial level, citizens can provide input into law reform matters, such as changes to [endangered species laws](#), [environmental rights](#), or [environmental assessment](#). At the federal level, the public can also provide recommendations to modernize existing laws from [impact assessment](#) to [environmental protection](#) in line with the principles of environmental justice.

Public participation is especially crucial to environmental law. As noted in "[The Importance of Public Participation](#)" by Tori Chai, public participation:

- Enhances the democratic legitimacy of environmental decisions
- Manages social conflict by minimizing the conflicts that arise during a project, and lead to greater accountability and effectiveness in decision making

- Is an effective means (or sometimes the only means) through which local concerns, values, and traditional knowledge are raised.
- Helps to produce more accurate results that better suit the needs of a community.

Public participation is also enshrined in international environmental law. Here, the principle of public participation consists of three elements: (1) participation in decision-making processes on environmental issues, (2) access to environmental information, and (3) access to administrative and judicial proceedings.

Public participation often takes the form of public comment periods and consultation. On a personal level, environmental decisions and industry can have a large impact on your life and health. Participating in environmental decisions and advocacy is a helpful way to enact positive change in your community.

**At CELA, we continue to advocate for greater community engagement and accountability in environmental decision-making. This is crucial, as even the strongest of environmental laws are near meaningless if they are not enforced.**

## Chapter 14: Environmental Bill of Rights

Ontario's [Environmental Bill of Rights](#) (EBR), was proclaimed into force on February 15, 1994. Its goals are "to protect, conserve and restore the integrity of the environment, to provide sustainability of the environment, and to protect the right of Ontario residents to a healthful environment."

Among other things, the EBR entitles Ontarians to:

- Receive notice of, and file comments on, governmental proposals to make, amend, repeal or revoke environmental laws, regulations, policies, or instruments (e.g. licences, permits or approvals).
- Seek leave (aka permission) to appeal government decisions regarding instruments to an independent appellate body.
- File applications for (1) an investigation of suspected environmental offences under Ontario legislation or (2) an application for the review of an outdated, incomplete, or ineffective environmental law framework.
- Commence civil actions to protect natural resources or to address public nuisances causing environmental harm.



A more detailed guide to EBR rights is available [here](#), courtesy of The Environmental Commissioner of Ontario.

There remains room for improvement though, especially with regards to the Ministry's transparency and accountability to their Statement of Environmental Values. In a recently [penned letter](#) critiquing the Ministry's proposed revisions to its Statement of Environmental Values (SEV) under the Environmental Bill of Rights (EBR), CELA provides a number of formative recommendations aimed at improving the oversight and enforcement of environmental laws.



## Violation of the Environmental Bill of Rights

The EBR also figures prominently in CELA's litigation., including that against *Bill 197 (COVID-19 Economic Recovery Act, 2020)* that denied members of the public their legal right to be notified and consulted on environmentally significant legislative amendments. The amendments in Bill 197 included controversial changes to the Environmental Assessment Act, the Environmental Bill of Rights, and the Planning Act

On September 3, 2021, the Ontario Divisional Court held that the Government of Ontario broke the law when it failed to comply with the public consultation requirements of Ontario's Environmental Bill of Rights. However, the Court found the changes to the Environmental Assessment Act were lawful due to a "statutory exception" in Bill 197, which retroactively exempted the changes from the consultation requirements of the EBR.

For updates on this case, read [here](#).

### The Environmental Registry of Ontario

The Environmental Registry of Ontario (ERO) has all of the postings regarding permits, approvals, and open consultation periods. This is an important website to bookmark to stay up-to-date on developments and environmental impacts. Each posting contains information on the public comment period.

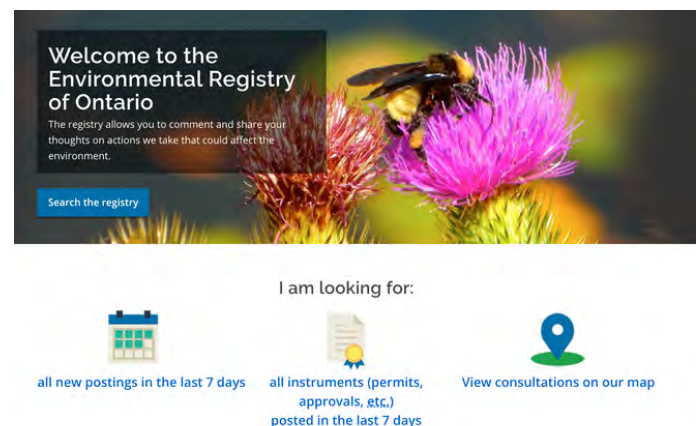


Photo of the ERO Website, courtesy of the [ERO](#)



# Chapter 15: Duty to Consult and s. 35 Constitutional Rights

Section 35 of the Constitution of Canada recognizes and affirms 'Aboriginal and treaty rights.' Flowing from this, the Crown has an obligation and legal duty to consult and accommodate Aboriginal (First Nations, Inuit, and Métis) peoples.

This duty arises "when the Crown has knowledge, real or constructive, of the potential existence of the Aboriginal right or title and contemplates conduct that might adversely affect it."

This can be visualized below, in the diagram below, courtesy of Olthius Klear Townshend LLP:



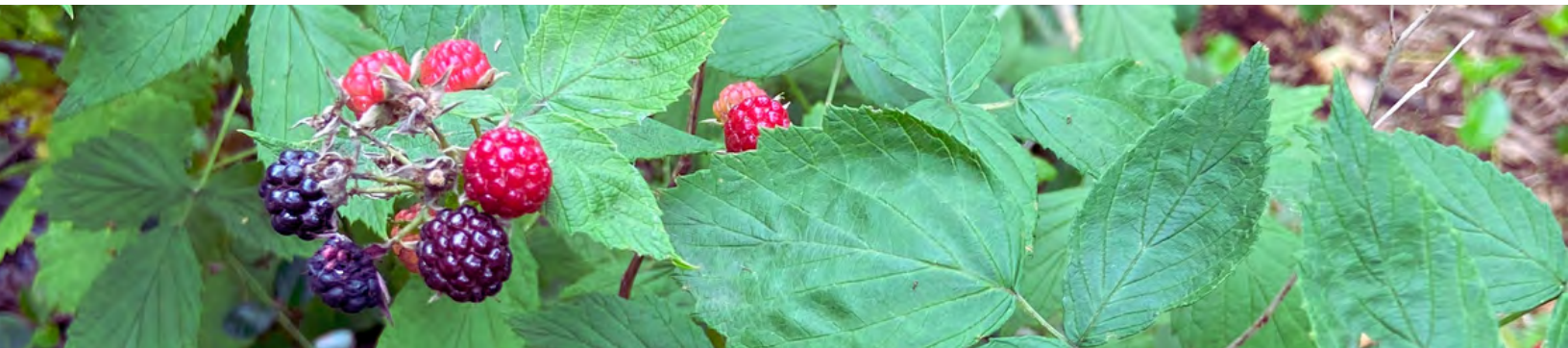
The scope of the Crown's duty to accommodate is based on:

- (1) The Crown's knowledge, actual or constructive, of a potential Aboriginal claim or right;
- (2) Contemplated Crown conduct;
- (3) The potential that the contemplated conduct may adversely affect an Aboriginal claim or right.

The degree or extent of consultation owed depends on:

- (1) The strength of the claim to particular rights;
- (2) The potential harm that could be caused to those existing or asserted rights

"Low End" Consultation	"High End" Consultation	Consent
<ul style="list-style-type: none"> <li>• Adequate notice</li> <li>• Disclose relevant information</li> <li>• Give enough time to respond</li> <li>• Discuss issues raised, and try to address concerns raised</li> </ul>	<ul style="list-style-type: none"> <li>• Negotiate how consultations should proceed (exchange info, meetings)</li> <li>• Site visits, researching, studies</li> <li>• Provide for participation in the decision-making process</li> <li>• Fund First Nation participation</li> <li>• Accommodate by mitigating harm or negotiating benefits</li> </ul>	<ul style="list-style-type: none"> <li>• Where the right is proven, consent is required (<i>Tsilhqot'in Nation v. British Columbia</i>, 2014 SCC 44)</li> </ul>



The United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”) references Indigenous peoples’ right to free, prior, and informed consent (“FPIC”).

Article 32(2) relates to the development of resources and often arises in the duty to consult context. It states that:

*"States shall consult and cooperate in good faith with the indigenous peoples concerned through*

*their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources."*

Canada has also recently adopted The United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”) with the royal assent of *Bill C-15: An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*.

The adoption of Bill C-15 and UNDRIP does not equate with an Indigenous veto. In fact, many have criticized Article 46 of UNDRIP as “a backdoor,” as it provides for qualifications and limitations. However, it does mean that the Crown must seek to obtain Indigenous consent in good faith in all situations where the rights of Indigenous peoples may be affected; not just in a situation with proven rights. This is wider than the duty to consult and accommodate, which only requires Indigenous consent in situations where they hold rights established in Canadian/settler law.



*In Ontario, the Ministry of Indigenous Affairs is involved in the duty to consult process. They have an email for "thoughts about the current consultation process and your ideas to improve it." The email is [dutytoconsult@ontario.ca](mailto:dutytoconsult@ontario.ca).*

*Federally, the responsible ministry is the Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC). Contact information for CIRNAC is available [here](#).*





The UN [Handbook for Parliamentarians](#) on implementing UNDRIP distinguishes between situations in which UNDRIP requires a government to seek consent and when it requires that consent be obtained.

**Requires a government to seek consent:**

- Resource development projects, legislation affecting Indigenous peoples, and administrative measures related to Indigenous lands, territories, natural resources, and sacred sites in accordance with the UNDRIP and the jurisprudence of international human rights treaty bodies.

**Requires that consent be obtained:**

- When Indigenous peoples are subject to relocation and in cases of storage or disposal of toxic waste on Indigenous lands or territories, as well as with regards to matters "of fundamental importance for the rights, survival, dignity, and well-being of indigenous peoples."

In the future, we will see how UNDRIP impacts case law in the Canadian judicial system. For a more detailed analysis of the changes that C-15 will prompt, see this analysis by [Olthius Kleer Townshend LLP](#).

Following the passing of Bill C-15, Canada is tasked with developing an action plan for achieving the objectives of UNDRIP by June 2023. Initial funding was available for Indigenous peoples, governments, and organizations to participate in the consultation, cooperation, and engagement process. Currently, [a portal is open](#) for Indigenous people to participate in the engagement process.

According to the Canadian government, "The consultation, cooperation and engagement process will be broad, inclusive and distinctions-based. It will include consultations and cooperation with First Nations, Inuit, and Métis rights holders, including modern treaty signatories, self-governing nations and historic treaty partners, as well as with national and regional Indigenous representative organizations. It will also include engagement with Indigenous women, youth, Elders, persons with disabilities, 2SLGBTQQIA+ persons, as well as urban and other Indigenous organizations and groups."

To read the announcement click [here](#).



## Chapter 16: Inherent and Treaty Rights

All Indigenous groups in Canada hold inherent rights, such as the right to self-government, rights to the land, and the right to practice their own culture and customs. These rights stem from Indigenous stewardship and relationships to their lands and are not derived from colonial or Crown-based laws.

Some Indigenous people also have treaty rights, and their existence is based on treaties signed between First Nations with the Crown.

To find out what treaty applies to the land that you live on, click [here](#) for an interactive map (pictured below). You can search this map by treaty, reserve, or address. The linked webpage also offers a short history of each treaty in Ontario.



Map of treaties in Ontario courtesy of the [Ministry of Indigenous Affairs](#)

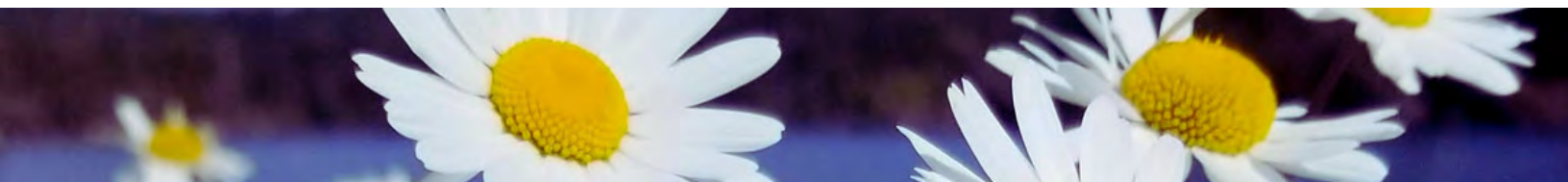
Specific rights negotiated during treaty signing are protected under s.35 of the constitution, however, they can be subject to some government infringement. The extent to which a right can be infringed has been set out by the Supreme Court of Canada, in cases including *R v. Sparrow*. OKT LLP has a helpful primer on Treaty Violations that is available [here](#).

Some treaties were recorded using a wampum belt. One of the best-known examples of this is the Two Row Wampum Belt (Guswenta) treaty between the Haudenosaunee and the Dutch. From the [Oneida Nation](#), "In one row is a ship with our White Brothers' ways; in the other a canoe with our ways. Each will travel down the river of life side by side. Neither will attempt to steer the other's vessel." This treaty has not been respected by the government, but Indigenous and settler efforts to live by the principle of the Two Row Wampum continue.



This rendering of a Two Row Wampum Belt is courtesy of [The Daily Orange](#)

Recognizing and honouring treaties is critical in advancing reconciliation. The oft-cited phrase "We are all treaty people" is intended to emphasize that we settlers also have a responsibility to uphold Treaty rights. As ecologist and frequent guest speaker Gary Pritchard shares, "every road, house, building or business that exists today in a treaty area was made possible because of a treaty."



## Case Study: Friends of the Attawapiskat River

The Friends of the Attawapiskat River have created a [video series](#) titled “Join a Treaty Peoples’ Briefing on the Ring of Fire” to educate the public and Minister of Environment and Climate Change Steven Guilbeault on community knowledge and insight about the Ring of Fire. Minister Guilbeault says he wants to stand for Treaty rights and obligations, however his current actions are not keeping with that standard.

Friends of the Attawapiskat River want to educate Minister Guilbeault and say to him that “There are so many things to consider in making a huge decision like this. Let’s start fresh in a better way. Please act now to stop the current regional assessment and instead allow Indigenous peoples to lead a process to determine the future of their homelands.”

The regional and environmental assessments for the Ring of Fire project have been scoped so narrowly as to exclude the downstream communities in Treaty 9. By defining the geographic boundary based on the location of the mineral deposit and not the watersheds where impacts will be felt, means the cumulative and distribution impacts will not be sufficiently considered.

Mike Koostachin, of the Attawapiskat First Nation, discusses the importance of listening to the grassroots in Treaty 9 and explains that “the land sustains us as Aboriginal people, as First Nations people, as Indigenous people. That land helps us to survive, get our food, our water, our medicine, our homes.” Chief Wayne Moonias of Neskantaga First Nation, explains that “one thing that is really understandable in our First Nation is the deep connections we have with the river system with our land, the connections that we have with our people to their way of life.” Chief Moonias also explains how the river system is integral to all the communities in Treaty 9, and the interconnectedness of these communities.

Indigenous peoples have been stewards of this planet since time immemorial. The fight against climate change is not possible without their knowledge and leadership. Any agreement on a path forward must protect the rights of Indigenous peoples. Full stop.

**Steven Guilbeault**  
Minister of Environment and Climate Change of Canada



The video series highlights several other important aspects to take into consideration in order to stand with the Indigenous communities. For instance, Impact and Benefit Agreements do not represent free, prior, and informed of Indigenous peoples. Instead, Indigenous communities must be able to exercise their own governing authorities on the land, which are they not currently able to do for the Ring of Fire.

Jobs and temporary economic prosperity do not erase the long-term costs and effects of mining. Mines can drastically affect the ecology, water, and traditional ways of life of communities in the area. Neskantaga Councillor, Gary Quises, discusses the DeBeers' "Victor Mine" and explains that although "this was a long time ago, it did a lot of damage." He goes on to explain that "the swamps were getting dried up, natural herbs were getting destroyed, rivers were getting diverted, beaver dams were getting destroyed, [...] the migrations slowly disappeared." His community has been under a boil water advisory for 27 years. He explains that the Ring of Fire "is going to really destroy the land."



He goes on to explain that "the swamps were getting dried up, natural herbs were getting destroyed, rivers were getting diverted, beaver dams were getting destroyed, [...] the migrations slowly disappeared." His community has been under a boil water advisory for 27 years. He explains that the Ring of Fire "is going to really destroy the land."

Jamie Kneen from MiningWatch Canada discusses why 'green mining' is a false solution. He explains that "continuing to extract more and more of the planet's non-renewable resources, but just substituting fossil fuels with metals and plastics is not green and it's not a just transition."

Chief Moonias emphasizes that the number one priority of the Neskantaga First Nation is to be continuing their way of life as Anishinaabe peoples so that future generations can live well. He explains that "the involvement and participation of our people is so critical, because we are the ones who live on this land". It is important to protect the land "for the future generations are our future."



# Chapter 17: Environmental Assessments

Environmental assessment (EA) is about 'looking before you leap' so that the impacts of a proposed project on human, ecological, economic, and social systems are considered *prior* to project development. Done well, the EA process can help to eliminate, or at the very least, reduce potential impacts on the environment from a proposed project. It is also a tool to prevent disproportionate impacts on at-risk communities and ecosystems, and ensure the public voice is heard in an accountable, decision-making process before any work begins. This precautionary approach enables informed decisions on whether a project should be approved (or not), and whether terms or conditions should be imposed to safeguard the public interest.

## (1) Canada's environmental assessment process

Federal environmental assessments, known as impact assessments (IAs), are overseen by the Impact Assessment Agency of Canada (the Agency) under the [Impact Assessment Act](#). Only a handful of large-scale projects listed in the Project List regulation or by Ministerial order require an IA.

The Act allows for members of the public and Indigenous communities to:

- Request a proposed project to be "designated" for an IA if it doesn't fall on the Project List regulation. Learn more [here](#).
- Request a regional assessment to study the effects of existing and future activities carried out in a region
- Request a strategic assessment of any government of Canada policy or plan relevant to IA. Learn more [here](#).

The Agency then screens the project and determines whether, on a case-by-case, an IA is necessary for a specific project. If the Agency decides to conduct an IA, the process is comprised of five steps - each providing some opportunity for the public and Indigenous engagement. The five steps are detailed [here](#), and in more detail through the links below:

- 1) [Planning](#)
- 2) [Impact Statement](#)
- 3) [Impact Assessment](#)
- 4) [Decision Making](#)
- 5) [Post Decision](#)

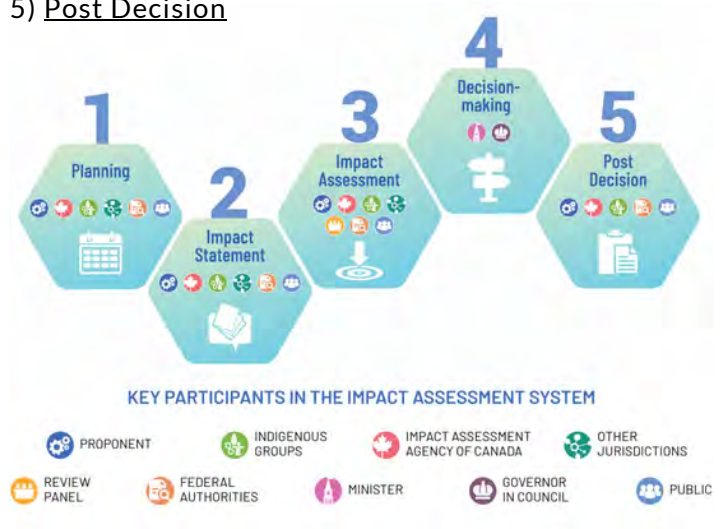
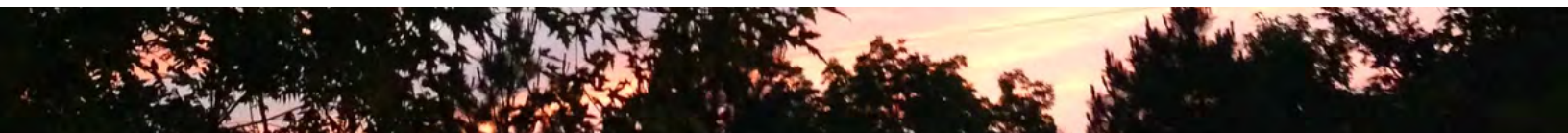


Photo of the 5 stages courtesy of the [Impact Assessment Agency of Canada](#).

In the recent 2021 report "[Is Canada's Impact Assessment Act Working](#)," leading EA experts and legal minds commented that "by failing to assess thousands of projects with harmful federal effects, the federal government is severely compromising its ability to effectively protect the environment, including climate and biodiversity."



## Find a Project and Comment Online

To learn more about ongoing IAs or upcoming comment opportunities on projects near you, you can search the Canadian Impact Assessment Registry [here](#). Each project has its own page where you can find information about the stage of assessment, funding opportunities to facilitate participation, or how members of the general public and/or Indigenous peoples are invited to comment.

As an example, let's select "Thunder Bay Harbour Rehabilitation" from the [Search Registry](#).



On its page, there is a map and an update that contains information on public engagement:



Pictures courtesy of the [Canadian Impact Assessment Registry](#).

## (2) Ontario's environmental assessment process

The Ontario EA regime is currently undergoing significant changes due to recent legislative and regulatory amendments. Until the new amendments are fully implemented, the former [Environmental Assessment Act](#) remains largely in force.

For more information on public involvement, read the Ministry's guidance materials on [public consultation](#) and [Indigenous consultation](#).

There are two kinds of EAs in Ontario: Comprehensive EAs (formerly called Individual) and Class EAs (which are now under the category of Streamlined EAs).

Comprehensive assessments are generally for large-scale and complex projects, that have the potential for significant environmental effects. They also require approval by the Ministry of the Environment, Conservation, and Parks.

There have been recent updates to the provincial EA process, which includes a proposed list of designated projects that will automatically trigger Comprehensive EAs under the Act. Anything that is left off the list will not be legally required to have an EA, undertake public consultation, or seek approval as per Part II.3 of the Act. Although there still may be other statutory approvals required and the Cabinet may use its discretionary authority to designate a project as being subject to the Act, there will be a great deal of uncertainty around EAs for any type of project that is not listed.

Streamlined assessments, which are intended for routine projects with 'predictable' environmental effects. These follow a self-assessment/decision-making process and do not require involvement from the Ministry of the Environment, Conservation, and Parks. However, the project proponent must still consult with the public, Indigenous communities, and government agencies. Examples of projects that use the streamlined process include Class EAs, electricity project regulations, waste management projects regulation, and transit projects regulation.

Recent amendments also remove the ability to request a Class EA be "bumped up" to an Individual EA, unless the request is based on s. 35 Constitutional rights for treaty and Aboriginal rights.

CELA, along with other environmental lawyers, non-governmental organizations, and Indigenous organizations, oppose many of the proposed amendments to the Act for a few notable reasons: the (1) questionable intent of the proposed list, (2) erroneous application of environmental factor, (3) unjustifiable exclusion of environmentally significant projects from the proposed list. For further details on these concerns, read CELA's letter to the Ministry of the Environment, Conservation, and Parks [here](#).

Community members in Northern Ontario have also [reflected on the need for stronger environmental assessment law in Ontario](#). Carol Tanguay, who was born and raised in Northern Ontario, commented to the Environmental Registry about the importance of the EAs for mining projects. She reflects that "Without the mines Timmins would not exist, however, without a clean environment, the people and wildlife will not exist.

Environmental assessments are required in order for everything to work well together. Protections need to be enforced and in place so that people and the environment are protected and that industry, etc. can work cohesively."

### Find a Project and Comment Online

You can view projects on the Ontario Environmental assessments page. [Public consultation](#) (including with Indigenous peoples) is mandatory for all projects undergoing EAs.

***For projects proposed near you, it is important to check both provincial and federal systems. If the project doesn't appear, consider requesting a designation (discussed above). If a project is subject to both processes, Canada and Ontario's legislation allows a joint (or harmonized) assessment.***



## Duty to Consult and EAs: Gitanyow Case Study

Despite Indigenous law having been largely excluded from the legal construction and operation of the duty to consult, Indigenous peoples have used their laws to influence the duty to consult in the environmental assessment (EA) context. The duty to consult is often carried out through EAs, as EAs evaluate local environmental impacts of proposed development projects and operate to mitigate these impacts on Indigenous communities who already disproportionately bear the burden of industrial development.

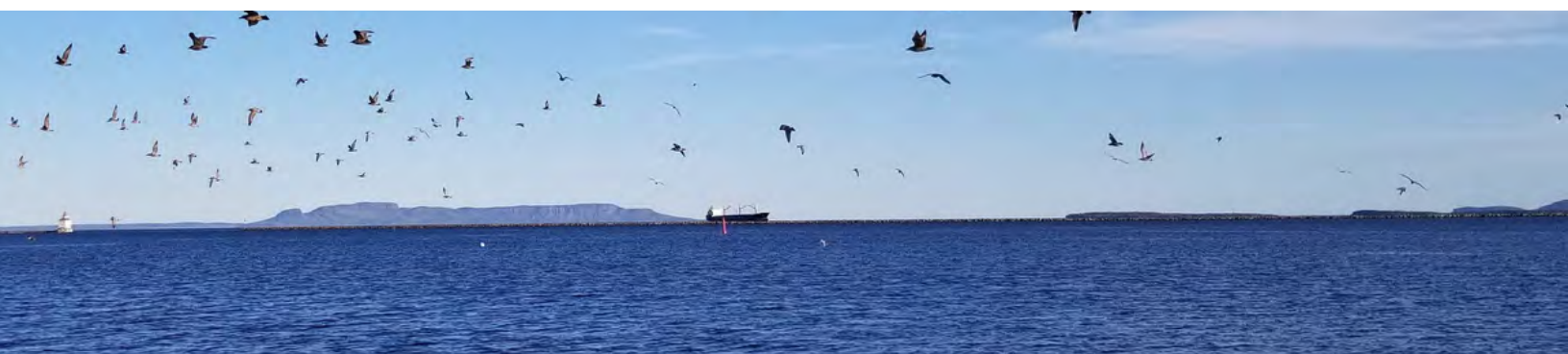


Picture of Gitanyow Lax'yip courtesy of [Google Maps](#).

One example of this is led by the Gitanyow (BC). In early 2021, they released the [Gitanyow Wilp Sustainability Assessment Process](#) (“GWSAP”), which is an Indigenous legal instrument that sets out requirements for fully Indigenous-led assessment of projects in Gitanyow Lax'yip (territory) based on the Gitanyow's own laws. The GWSAP aims to protect and restore the Gitanyow Lax'yip for present and future generations and upholds the decision-making authority of each Wilp (House Group) to determine what activities are permitted in their respective Lax'yip.

The GWSAP requires all actors (e.g. companies, Crown governments) to follow Gitanyow strategic direction, such as the Gitanyow Lax'yip Land Use Plan, and prohibits proposed projects from accessing the Lax'yip without the consent of the impacted Wilp. The GWSAP will parallel provincial and federal environmental assessment processes. Both levels of government were consulted during the development of the GWSAP. Furthermore, both levels of government have recently acknowledged Indigenous-led environmental assessment processes in their new environmental assessment legislation.

*Case Study courtesy of Maria Lucas, former CELA LLP student.*





## Chapter 18: Accessing Pollution Data

The [National Pollutant Release Inventory](#) (“NPRI”) is Canada's main pollutant release and transfer inventory. It is mandated under the Canadian Environmental Protection Act and is publicly accessible. It is published by Environment Canada and includes annual reporting from companies in manufacturing, chemical products, primary metals, transportation equipment, rubber products, pulp and paper, food products, wood products, textiles, mineral products, and electrical equipment.

Whether companies are mandated to report depends on a number of reporting requirements.

These [requirements](#) include: where employees work a total of  $\geq 20\,000$  hours (the employee threshold), and where there are 10+ full-time employees.

NPRI data is publicly available [here](#), or through clicking "[Pollution data and reports](#)" on the [main page](#). You can search by NPRI ID, company name, substance, and industry type, among others. Often, postal code is the most reliable search term.

However, NPRI data alone has important limitations:

- CELA and other NGOs have argued that the threshold levels for reporting are too high and that more pollutants should be included in the registry.
- Smaller facilities are also often not included, as with mobile sources such as cars, trucks, and construction equipment.
- There is a real updating backlog. For instance, search functions currently only offer data from 2017, though aggregate data is available for 2019.
- Provincial guidelines and limits on substances are also not provided for comparisons, nor are the health impacts of each pollutant. The

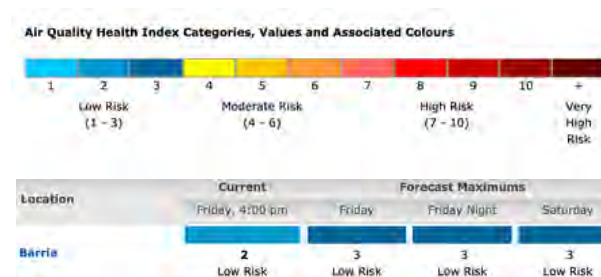
provincial standards for a certain chemical or pollutant is also often in the form of a rate (ie.  $\mu\text{g}/\text{m}^3$ ) that makes direct comparisons with NPRI reporting unworkable.

Other limitations are outlined in a CELA presentation [here](#).

*Note: This presentation references [Pollution Watch](#), which was a useful tool that is no longer available.*

At your community level, you may also wish to monitor your local air quality. Ontario produces an [Air Quality Health Index \(AQHI\)](#) that is updated hourly, although you are additionally able to access archived data. The data is available on a map, or in a table by city/town. This data explains the health risk of outdoor activity.

The following is an example from July 23rd, 2021 at 4:00 pm EST.



Images courtesy of [Air Quality Health Index \(AQHI\)](#).

Another useful resource is the catalogue of Environmental Compliance Reports available [here](#). For each year, there are reports on companies that exceed emissions limits in multiple categories, such as air emissions, and industrial sewage.

Finally, see [Chapter 21](#) of this toolkit for information on Freedom of Information requests when the information that you are seeking is not publicly available.

## NPRI Search Example

As an example, let's search for "Sault Ste. Marie" under "Major Urban Center (population of at least 10 000)" for the most recently available data.

Please select no more than **one** of the following location query options:

**Province or Territory:**  [Help on province/territory \(Op](#)

**Postal Code (Enter 1 to 3 characters):**  [Help on postal code \(](#)

**Major Urban Center (population of at least 10 000):**  
 [Help on r](#)

This search yields 12 results:

NPRI ID	GHGRP ID	Facility	City	Province
11215		Algoma Tubes Inc. - Tenaris Algoma Tubes	Sault Ste. Marie	ON
11148		Boniferro Mill Works ULC - Boniferro Mill Works ULC	Sault Ste. Marie	ON
10762		City of Sault Ste. Marie - West End Water Pollution Control Plant	Sault Ste. Marie	ON
11467		City of Sault Ste. Marie - East Wastewater Treatment Plant	Sault Ste. Marie	ON
11793		Essar Power Canada Ltd. - Essar Power Canada Ltd	Sault Ste. Marie	ON
1070		Essar Steel Algoma Inc. - Essar Steel Algoma Inc	Sault Ste. Marie	ON
5885		Flakeboard Company Limited - Flakeboard Company Limited	Sault Ste Marie	ON
10231		IMPERIAL OIL - Sault Sainte Marie Terminal	Sault Ste. Marie	ON
11244		Pioneer Construction Inc. - Sault Ste. Marie Facility	Sault Ste. Marie	ON
7265		Sault Ste. Marie Municipal Landfill - SAULT STE. MARIE MUNICIPAL LANDFILL	Sault Ste. Marie	ON
6672		Shell Canada Products - Sault Ste Marie Terminal	Sault Ste Marie	ON
11691		Triple M Metal LP - Sault Ste Marie	Sault Ste Marie	ON

As an example, let's select "1070: Essar Steel Algoma Inc. - Essar Steel Algoma Inc." This shows the reporting for various chemicals for the year selected.

Substance	List of Substances (excluding CAC)								Units
	CAS Number	On-Site Releases				Disposal <sup>(1)</sup>			
		Air	Water	Land	Total	On-Site <sup>(2)</sup>	Off-Site	Off-Site Recycling	
<u>Acenaphthene</u>	83-32-9	3.3	-	-	3.3	-	-	-	- kg

For example, Essar Steel Algoma released 3.3 kg of Acenaphthene by air in 2017.

*Images courtesy of the National Pollutant Release Inventory.*



## Chapter 19: Forest Management Planning

Another important aspect of forestry in Northern Ontario is the management of professional forestry. A Forest Management Plan (“FMP”) is a plan outlining objectives over a ten-year period for a specific management unit. It also delineates what forest operations may occur— there must be an approved FMP before any forest operations can take place. The planning consultation process is governed by the Ministry of Northern Development, Mines, Natural Resources, and Forestry:



Picture of MNDMNRF website courtesy of the [MNDMNRF](#)

The Crown Forest Sustainability Act requires that each FMP have regard for plant life, animal life, water, soil, air, and social and economic values. Each plan contains a long-term management direction (“LTMD”) that is supposed to be balanced objectives related to forest diversity, socio-economics, forest cover, and silviculture. An FMP is prepared by a plan author, who is a Registered Professional Forester, with the assistance of an interdisciplinary planning team and Local Citizens’ Committee (“LCC”). An FMP is approved when the MNRF Regional Director is satisfied that the plan provides for the sustainability of the forest and that all identified concerns have been addressed.

Opportunities for ongoing participation in the preparation of FMPs by interested and affected persons, organizations, First Nation and Métis communities, and the general public are provided through a formal public consultation process. This process is set out in Part A of the Forest Management Planning Manual (“FMPM”).



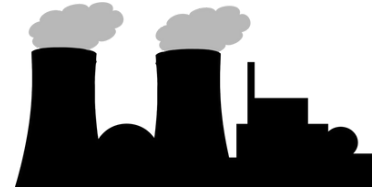
Cover of the FMPM courtesy of the [MNDMNRF](#)

There are five formal public consultation opportunities/stages in the preparation and approval of the FMP. Each stage is outlined on the [MNDMNRF](#) website, and includes FAQs such as “What if I have an unresolved issue?” The stages are as follows:

- 1) **Stage One** - Invitation to participate.
- 2) **Stage Two** - Review of the long-term management direction.
- 3) **Stage Three** - Review of proposed operations.
- 4) **Stage Four** - Review of draft Forest Management Plan.
- 5) **Stage Five** - Inspection of approved Forest Management Plan.

In addition to participating in the FMP consultation process, it is also useful to make your concerns known to your municipality or MPP.

## Chapter 20: Land Use Planning Decisions



Municipalities have an important role in land use planning in Ontario, including determining the future development of the community through the preparation of official plans, zoning by-laws, and other planning tools. In doing so, municipalities are bound by Ontario's provincial policies, plans, and laws. In order to make a change to a building or land use, property owners/developers are required to obtain appropriate permits and approvals from the municipality.

Public involvement is important to ensure that council is making informed decisions for the future. If you are concerned about a proposed zoning change, or by-law, you can attend and submit comments at public meetings organized by your municipality.

Outside of major cities and towns, a large part of Northern Ontario is categorized as "unorganized territory." This means that the land use planning process looks a little different. As noted by [Ontario.ca](http://Ontario.ca),

"Land use planning in some northern municipalities and in areas that have no municipal organization may be shared by three authorities:

1. Planning boards, which coordinate over-all future growth and land use planning activities. They can adopt official plans. They can also pass zoning bylaws in areas without municipal organization within their jurisdiction
2. The Minister of Municipal Affairs and Housing, who defines planning areas and initiates zoning controls in some areas without municipal organization
3. The Ministry of Natural Resources and Forestry, which manages Crown land on behalf of the public"

Planning boards vary by region. As an example, the planning board for the Sault Ste. Marie North area

is accessible [here](#).

It is crucial that you are involved and make comments to your municipality or local planning board either in person or in writing to secure appeal rights to the [Ontario Land Tribunal \(OLT\)](#).

The OLT is an independent adjudicative tribunal which hears and decides appeals relating to land use planning and development, heritage conservation and municipal governance. Prior to the OLT, the Local Planning Appeal Tribunal (LPAT) and the former Ontario Municipal Board (OMB) conducted hearings and made decisions on land use planning issues.

Issues that the OLT deals with include those identified in statutes such as the [Planning Act](#), [Aggregate Resources Act](#), [Heritage Act](#), [Municipal Act](#), [Development Charges Act](#) and [Expropriations Act](#). This includes planning appeals, zoning by-laws, land compensations, and aggregate resource issues.

The OLT has produced an [appeal guide](#) which lays out the steps for filing an objection or appeal, and participating in a hearing event, among other things. To check on the status of cases, visit the "E-Status" section of the OLT website, available [here](#). The OLT's Rules of Practice and Procedure is available [here](#).

For more assistance, the [Citizen Liaison Office](#) provides citizens help in understanding and navigating the OLT process. The office has a website with quick links and FAQs, as well as an email address: [OLT.CLO@ontario.ca](mailto:OLT.CLO@ontario.ca). However, the Citizen Liaison Office can not assist with content questions, or completion of forms. This is something that legal counsel may be needed to assist with.

## Chapter 21: Freedom of Information Access Requests

In some circumstances, you may not have access to the information you need to fully respond to an environmental issue. In these cases, you can make use of access to information legislation in order to access this information. This step should come after contacting the appropriate government department and asking the contact person to provide you with the information. You can also contact the [Freedom of Information and Protection Privacy Act Coordinator](#) for the relevant department and ask if the information is available without a formal request.

If this is not successful, then you may wish to proceed with filing a Freedom of Information request to the appropriate government office.

### Municipal access requests:

- Governing statute: [Municipal Freedom of Information and Protection of Privacy Act](#).
- Guides differ by municipality. As an example: [Freedom of Information and Protection of Privacy Guide \(Thunder Bay\)](#).

### Provincial access requests:

- Governing statute: [Freedom of Information and Protection of Privacy Act](#).
- [Guide to making a Freedom of Information request \(Ontario\)](#).

In order to determine to whom you should address your request, you can contact the relevant ministry and request the name of the FOI and Privacy Coordinator.

### Federal access requests:

- Governing Statute: [Access to Information Act](#).
- Guide: [Make an Access to Information or Personal Information Request](#).

Your FOI request must be made by using either the published form or by writing a letter. When you file a request for information, there is a \$5 application fee (whether you file with the municipal, provincial, or federal government).



If your request for information is denied, the department must provide you with notice of that decision in writing. For municipal and provincial requests, you have a right to appeal the decision to the Information and Privacy Commissioner of Ontario. You can find information about how to make an appeal on [the IPC's website](#).



## Chapter 22: Regulatory Nuclear Licensing Hearings

The Canadian Nuclear Safety Commission (CNSC) is an independent, quasi-judicial administrative tribunal and court of record. It was established in 2000 under the Nuclear Safety and Control Act (NSCA). The CNSC has over 800 employees that review applications for licences according to regulatory requirements, and make recommendations to the CNSC on licensing and compliance under the NSCA. There is room for public participation in hearings.

The CNSC must function in a way that aligns with the purposes set out in the NSCA. According to section 3:

The purpose of this Act is to provide for

(a) the limitation, to a reasonable level and in a manner that is consistent with Canada's international obligations, of the risks to national security, the health and safety of persons and the environment that are associated with the development, production and use of nuclear energy and the production, possession and use of nuclear substances, prescribed equipment and prescribed information; and

(b) the implementation in Canada of measures to which Canada has agreed respecting international control of the development, production and use of nuclear energy, including the non-proliferation of nuclear weapons and nuclear explosive devices.

As a tribunal, the CNSC has statutory powers (i.e., they only have the powers which have been given to them through statute), which are set out in section 9 of the NSCA. The licensing powers are also granted by statute and set out in section 24 of the NSCA.

There are three themes which emerge from the NSCA licensing parameters: protecting human health, the environment, and upholding international obligations. When making a licensing decision, the CNSC must conform to the purposes of the NSCA, the objects of the commission set out in the NSCA and the licensing parameters.

The public can participate in a CNSC Hearing by becoming an intervenor. Intervenors are members of the public or organizations who have an interest or expertise in the matter and who have requested the opportunity to present information on the subject of the proceeding. Depending on the hearing, intervenor submissions may be written or written and oral. When submitting an intervention, it is important to focus on:

- (1) Why is it important?
- (2) What's the key issue?
- (3) What are the facts?

As an intervenor is important to tell a story with your intervention and to make specific recommendations (which may include questions). To find out more about being an intervenor, [click here](#) for CELA's Resource Guide for Intervening at a Canadian Nuclear Safety Commission Hearing.

### What's it like during a hearing?

As CELA reflected upon in a three-part blog [series](#) from the hearing room, the [Nuclear Safety and Control Act](#) requires, per subsection 40(5), that there be an “opportunity to be heard” at a public hearing when a request is made for licence, or a request to renew that licence.

In general, during a licensing hearing, public intervenors are given 10 minutes to address the Canadian Nuclear Safety Commission. There is no opportunity to cross-examine, ask questions of the proponent or CNSC Staff. There is no qualification of experts or ability for experts, which may be retained by intervenors, to question staff or statements made by the proponent.

Following a 10-minute oral presentation opportunity, it is usual for the Commissioners to ask follow-up questions of clarification to both CNSC Staff and the licensee. There is not, however, a requirement that the intervenor have a chance to respond or weigh in. We recommend using the “raise hand” function in Zoom or raising your hand in person, should you wish to respond to what is said.

The Commission does not conduct pre-hearing conferences, which is common in many tribunal settings, where all parties and intervenors can weigh in on the issues to be heard during the hearing. This means, the Commission often makes statements throughout the hearing as to what is within or out of scope. We encourage intervenors to not feel limited by these comments and again, speak to the mandate of the Commission which is the protection of the environment and public health as set out in section 9 of the Nuclear Safety and Control Act.





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# ADDITIONAL READING

## Chapter 1:

- CELA: [Environmental Health and Equity: Public Participation in Environmental Decision-Making – A Toolkit \(2012\)](#)

## Chapter 3:

- The National Geographic: [The Origins of Environmental Justice—and why it’s finally getting the attention it deserves](#)
- APHA: [Environmental Health](#)
- [Canadian Association of Physicians for the Environment \(CAPE\)](#)

## Chapter 4:

- Parks Canada: [Indigenous Leadership in Conservation](#)
- Coastal First Nations: [Great Bear Initiative: Traditional Knowledge](#)
- United Nations: [Indigenous People’s Traditional Knowledge Must Be Preserved, Valued Globally, Speakers Stress as Permanent Forum Opens Annual Session](#)
- United Nations: [Thematic Paper on the Knowledge of Indigenous Peoples and Policies for Sustainable Development: updates and trends in the Second Decade of the World’s Indigenous People](#)
- Indigenous Climate Hub: [Traditional Knowledge \(TK\) and Climate Change](#)

## Chapter 5:

- [Self-determination & Free, Prior and Informed Consent Understanding the United Nations Declaration on the Rights of Indigenous Peoples](#)

## Chapter 6:

- [OH&S Legislation in Canada - Three Rights of Workers](#)

## Chapter 7:

- Human Rights Watch: [The Human Right to Water: A Guide for First Nations Communities and Advocates](#)
- CELA: [Freshwater Highlights From Budget 2022](#)

## Chapter 8:

- Canada: [Federal Air Quality Health Index](#)
- Ontario: [Air Quality Ontario](#)
- [Ministry of Environment website](#)





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# ADDITIONAL READING (CONT.)

## Chapter 9:

- [Impacts of traditional food consumption advisories: Compliance, changes in diet, and loss of confidence in traditional foods](#)
- [Digesting the Message about Contaminants and Country Foods in the Canadian North: A Review and Recommendations for Future Research and Action](#)

## Chapter 12:

- [Cold War Colonialism: The Serpent River First Nation and Uranium Mining, 1953-1988](#)
- CELA: [Casework: Proposed Deep Geologic Repository for Nuclear Waste](#)
- CELA: [Public Oversight of the Nuclear Sector](#)
- CELA: [Webinar: Who is liable for cleaning up a nuclear accident?](#)
- CELA: Law Reform: [Nuclear Waste Management in Canada](#)
- CELA: [Webinar: Willing or not? Nuclear Waste Burial and Community Consent](#)
- CELA: [Blog: Environmental Justice in a Nuclear Age](#)
- CELA: [Bait-and-Switch? A Look at CELA's Intervention Opposing Canada's first ever SMR in Durham Region](#)

## Chapter 17:

- Toronto Star Investigation: [Dirty Dollars](#)
- Parliament of Canada: [Federal and Provincial Jurisdiction to Regulate Environmental Issues](#)

## Chapter 18:

- Ontario Air Pollution Regulation: [O. Reg. 419/05: Air Pollution - Local Air Quality, under the Environmental Protection Act, R.S.O. 1990, c. E.19](#)
- Ontario Water Pollution Regulation: [Water management: policies, guidelines, provincial water quality objectives](#)
- Ontario Soil Pollution Regulation: [Soil, groundwater and sediment standards for use under Part XV.1 of the Environmental Protection Act](#)

## Chapter 22:

- Canadian Environmental Law Association: Blog Day 1: [Hearing for Radioactive Waste Dump Commences for Chalk River Laboratories Site](#)



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## Chapter 3:

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