



INTERVENOR

*Dedicated to environmental equity, justice,
health for over 50 years*

Neighbours of a Nuclear Plant

Ontario's power grid has become increasingly reliant on nuclear energy. Currently, Ontario is home to three active nuclear stations - two of them are located in Durham Region, a heavily populated area home to more than 696,000 people.

It is critical that people living near these generating stations are fully informed about what do in the case of an accident at one of the plants - while accidents are rare, the aftermath can be catastrophic.

Both plants are also undergoing changes. The Darlington nuclear generator units are currently under refurbishment, and the Canadian Nuclear Safety Commission recently decided that a 15-year-old environmental assessment can apply to a proposal for new Small Modular Reactors; a hearing is expected this fall. At Pickering, Ontario Power Generation (OPG) is seeking to extend its licence (again) to operate some of the units beyond their original operating life span; the province has also asked OPG to propose refurbishment of the units at Pickering to operate for several more decades.

To learn more about how you can protect yourself and become more engaged, read CELA's [recent blog post](#), or listen to the recordings from [this webinar](#). More detailed information can also be found on our website regarding the [refurbishment](#) and the [new build](#) at the Darlington nuclear generating station, and the [proposed extension](#) at the Pickering nuclear generating station.



Image courtesy of @Tyler Mulholland via Canva.com

Action Alert

Bill 185 Threatens Public Appeal Rights

The province's latest bill (Bill 185, Cutting Red Tape to Build More Homes Act, 2024) again seeks to remove the public's ability to appeal the adoption or amendment of Official Plans and Zoning By-Laws. These amendments were first included in Bill 23 in 2022 but were rightly removed in response to public concern. We urge the government to - once again - **remove these proposed amendments and maintain the public's critical, long-standing right to appeal local land use decisions** to the Ontario Land Tribunal.

CELA has serious concerns with these proposals. A strong land use planning regime helps to protect critical resources like water and agricultural lands, and relies on robust community engagement to be properly informed about local circumstances and prevent costly mistakes.

The public deserves to maintain their say in how their neighbourhoods develop and the quality of their local environments. We urge you to:

1. Contact your local MPP and tell them that [Bill 185, Schedule 12](#) should not remove the long-standing right of the public to appeal the adoption or amendment of Official Plans and Zoning By-Laws to the Ontario Land Tribunal.
2. Make a submission under the [Environmental Registry Posting # 019-8369](#) by May 10, 2024 to oppose the removal of the public's appeal rights.

More information can be found on [CELA's website here](#).



Image courtesy of @Vintage Medical via Canva.com

Case Updates

Permanent Asphalt Plant in Napanee - Cost Decision

After its rezoning appeal was allowed by the Ontario Land Tribunal, the proponent of a permanent asphalt plant in Napanee brought a motion seeking costs against CELA's client and the Town of Greater Napanee, both of which had opposed the plant at the Tribunal hearing.

In a [recent ruling](#), the Tribunal dismissed the cost motion and found that neither party "acted unreasonably and/or demonstrated any type of clear misconduct" in the "thoroughly contested" hearing in which "examinations of witnesses were extensive, and cross-examinations were careful and intense." More generally, the Tribunal held that since the *Planning Act* "encourages public participation in the decision-making process surrounding land use planning matters in the Province through a public hearing process," the Tribunal "endeavours to facilitate public involvement in line with its Rules and emphasizes that costs should not be employed to discourage participation." More information on this case can be found on [CELA's website here](#).

Proposed Brownfield Development in Kingston

On behalf of [No Clearcuts Kingston](#), CELA lawyers participated in a five week video hearing by the Ontario Land Tribunal in relation to the proposed development of a heavily contaminated property in Kingston's inner harbour.

The [hearing](#) focused on the developer's appeals against the City's refusal to approve the development, which would destroy part of a provincially significant wetland and remove significant woodlands that exist on-site. In support of the City's refusal, our client's expert witnesses provided opinion evidence on

potential impacts to groundwater, surface water, natural heritage, ecological receptors, and public health and safety. Our client's final written argument was recently filed with the Tribunal, and the developer's reply argument is due in early May.

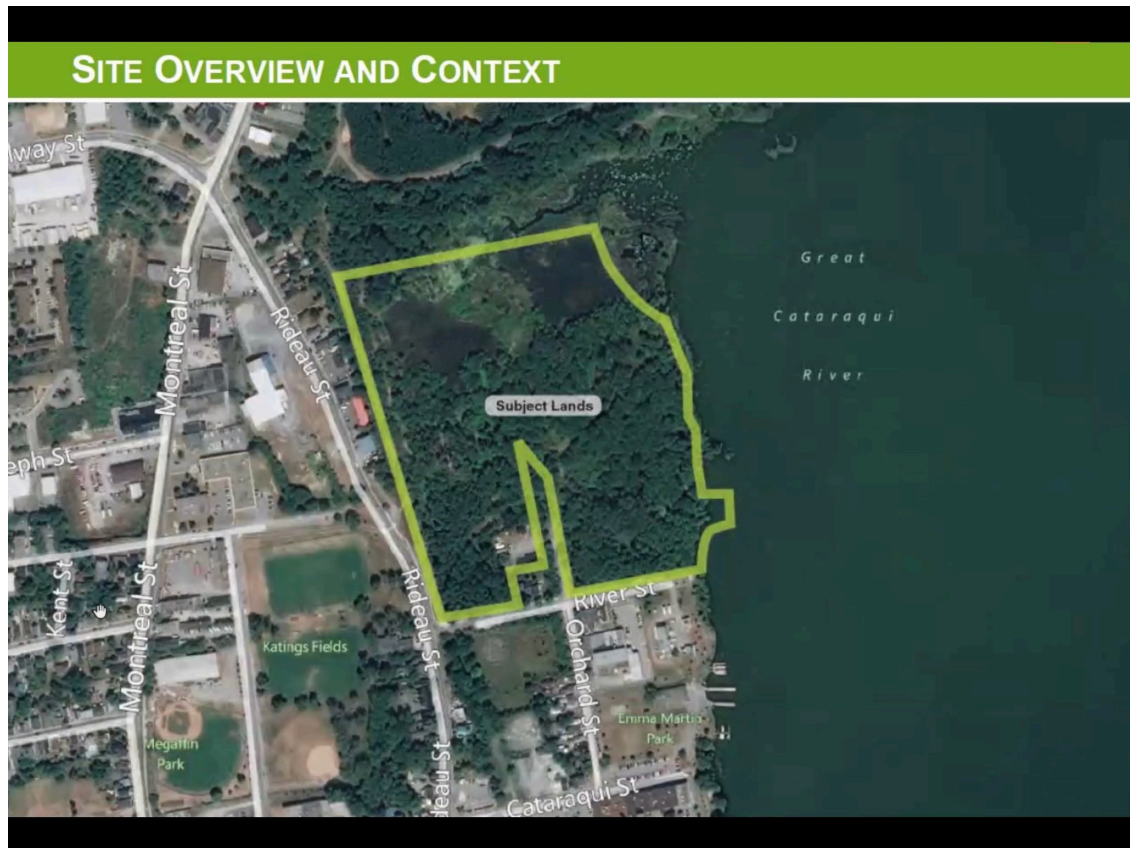


Image courtesy of No Clearcuts Kingston

Law Reform Updates

Update on Action Alert: Protecting Public Consultation Rights under the Environmental Bill of Rights

Last month we asked you to submit comments in response to a posting by the Ministry of Natural Resources and Forestry proposing regulatory amendments under the *Environmental Bill of Rights* that would remove public consultation rights for dam-related orders under the *Lakes and Rivers Improvement Act*.

The comment period closed on April 19th, but you can always contact your MPP and urge them to ask the province not to proceed with the exclusion of these important environmental rights. Updates will be posted on [CELA's website here](#).

Response to Proposed Regulations Aimed at Reducing VOCs

Current regulatory and non-regulatory approaches in place across Canada do not effectively address fugitive emissions of toxic air pollutants from petroleum facilities. For communities that are in close proximity to these facilities, these sources of toxic air pollutants - such as Volatile Organic Compounds (VOCs) and even greenhouse gases - have significant impacts on their health.

Storage facilities and loading racks in petroleum sectors are major sources of such air emissions of toxic air pollutants. The federal government recently proposed new regulations to reduce the release of VOCs from liquid petroleum storage and loading facilities. CELA provided its [initial comments](#) on the proposed regulations aimed to reduce emissions of toxic air pollutants including VOCs (such as benzene, a known carcinogen) and even methane gases.

Concerns Over Bill 165 Impacts on the Ontario Energy Board

CELA, along with Advocacy Centre for Tenants Ontario, Low-Income Energy Network, and Seniors for Climate Action Now! [submitted comments](#) in response to proposed Bill 165, Keeping Energy Costs Down Act, 2024.

New provisions proposed in Bill 165 would allow the Minister of Energy to be directly involved in ongoing proceedings at the Ontario Energy Board (OEB) and seeks to suspend the rules of procedural fairness. CELA opposed Bill 165 because of its impact on the OEB's ability to conduct fair proceedings, which can incorporate evidence about the impacts of climate change, the energy transition, and the affordability of energy for lower-income communities in Ontario. CELA is also concerned with the impact of Bill 165 on the public's perception of the OEB as a credible and independent decision maker.

Plastic Chemicals and Right-to-Know are Key Areas to be Addressed in Plastics Treaty

The global community continues its negotiations towards an international legally binding instrument to address plastic pollution. CELA and Health and Environment Justice Support [submitted comments](#) urging the Canadian government to take a strong position to ensure countries advance the mechanisms supporting clear transparency, traceability, and labelling requirements for chemicals in plastics.



Image courtesy of @Stephane Bidouze via Canva.com

CELA Comments on the Implementation Framework for a Right to a Healthy Environment Discussion Document

Every person in Canada has a right to a healthy environment now recognized under the *Canadian Environmental Protection Act, 1999*. The Government of Canada is required to develop an Implementation Framework by 2025 to outline how to consider the right to a healthy environment. CELA's [submission](#) provides initial comments and recommendations in response to the Federal Government's Discussion Document for the development of the Implementation Framework on the right to a healthy environment.

Private Water Testing is a Public Health Issue

There have been recent reports from various sources about Public Health Ontario's planned phase out of public access to free bacteriological testing for private water wells.

Objections have been raised by environmental groups, public health advocates, and Source Protection Committees established under the *Clean Water Act*. While Ontario's Health Minister recently claimed that "no decisions" have been made on whether to proceed with this plan, the current government subsequently voted to reject a motion that called upon the province to continue this important testing program. Nevertheless, days after this vote, the Health Minister then announced that the program would be continued after all:

"We will continue to test the well water in the province of Ontario. We've had it for decades. I grew up with it. It is a system that many of us understand the value and importance of in rural Ontario because we lived it every single day. We're going to continue that process."

CELA strongly supports this governmental commitment to the continuation of free well water testing by public health laboratories.

Despite this good news, it is unclear to CELA how the free water testing will continue to be carried out in a timely and effective manner since almost half of the regional public health laboratories which do this testing are still slated for closure by the provincial government.

For more information, read this [recent blog post](#).

CELA Applauds New Report by Law Commission of Ontario

The Law Commission of Ontario (LCO) recently released its much-anticipated final report on updating and strengthening the province's 30-year-old Environmental Bill of Rights (EBR).

CELA strongly endorses the recommended EBR amendments laid out in the report, and we believe that they set out a workable and well-founded blueprint for improving the EBR to meet the key environmental challenges of the 21st century (i.e., climate change, biodiversity loss, and pollution).

Given our experience over the decades, CELA concurs with the LCO's conclusion that it is now time to enact long overdue improvements in the EBR. Accordingly, we call upon the Ontario government to start developing (with public input) the statutory amendments that will turn the LCO recommendations into legislative reality for the benefit of all Ontarians. Read more on [CELA's website here](#).

Inside CELA

Welcoming New Environmental Leaders

Environmental law is most effective when there are trained, talented leaders to champion environmental protection and advocate for communities in decision-making processes.

CELA is excited to be welcoming three new law students for the summer term, starting in May. **We also have an opportunity for an articling student for 2025-2026; details are on our [website here](#) and applications are due June 28, 2024.**

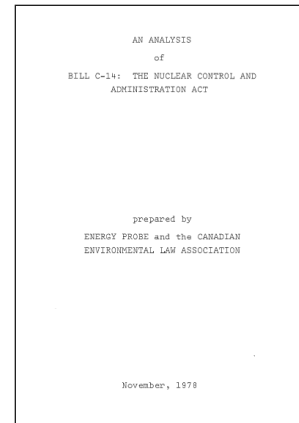
Funded in part by the [Canadian Environmental Law Foundation](#), CELA offers one of the country's oldest public-interest articling programs. The program provides real-world experience and training to law students, training them to navigate the complexities of environmental law while representing public interests.

Legal professionals who articulated with CELA in the past have gone on to lead nonprofit organizations and legal clinics. Many have become influential environmental lawyers in their own rights. Their achievements create a ripple effect that extends beyond the direct impact of CELA's legal successes.

From the Foundation

April Feature

This month's [feature from the Canadian Environmental Law Archive](#) is a 1978 analysis of Bill C-14: The Nuclear Control and Administration Act, written by Energy Probe and CELA. The analysis identifies many concerns with Bill C-14, opening with: "The use and potential abuse of nuclear energy and the materials and technology required to produce it is one of the most contentious issues facing Canada today. A fair and effective system of obtaining adequate data, identifying, analyzing and prescribing for environmental, social and health problems, of assessing impacts, and of resolving conflicts in an orderly and objective manner must be found, or the result will be social chaos."



Webinars & Resources

Webinar - Getting the Lead Out: Challenges and Lessons Learned in the U.S.

Friday, May 10th, 11:00am ET
Register for this [free webinar here](#).

Hosted by the Ontario Municipal Water Association (OMWA) in collaboration with nonprofit Natural Resources Defense Council (NRDC), this webinar will provide an overview of the lead in water issues that have been addressed in the U.S. from a leading expert and advocate who has worked on the problem for decades. Discussion topics will include the need for and challenges with lead service line replacement, the current and proposed USEPA rules for lead in water, and funding approaches being used in the US to address the problem. Hosted by Kathy Vassilakos from OMWA, co-hosted by Jacqueline Wilson from CELA, and featuring speaker Erik D. Olson from NRDC.

Recording - Neighbours of a Nuclear Plant: An Information Session for Durham Residents

Durham Region is host to two large nuclear generating stations, Pickering and Darlington. If you're one of the over 645,000 people who call Durham Region home, you might wonder... What are the risks of living near a nuclear power plant? What are you supposed to do in the event of an accident? What

opportunities are there to weigh in on the decisions that affect your community?

Watch a [recording of this webinar](#) to learn more about living in a nuclear host community, and how you can get more engaged in the issues that impact you, your family and your community.

Recording - Healthy Environments for Learning Day: Speaker Series

Healthy Environments for Learning Day (HELD) took place on Thursday, April 25th. In the lead up to HELD, Canadian Partnership for Children's Health and Environment (CPCHE) presented a series of interactive events to build awareness and catalyze action on key aspects of indoor air quality in schools and child care settings. These free online events are a great opportunity for parents, educators, administrators, policy-makers and others to gain evidence-informed and practical knowledge on the 'why' and 'how' of tackling indoor air quality concerns in early learning and school settings. The recordings are [available online](#). CELA is a founding partner of CPCHE.

Looking for a Publication?

CELA's charitable arm, the Canadian Environmental Law Foundation, maintains digital and physical collections that document the history of environmental protection across the country.

The Foundation recently launched a new website for the [Canadian Environmental Law Archives](#), allowing you to browse and search all of CELA's publications and historical records, as well as those of government agencies, watchdog authorities, nonprofit organizations, lawyers, and many of the country's most influential environmental advocates. In addition to the Archives, all of CELA's publications are listed in reverse chronological order on our [website here](#).

CELA also knows how fragile gains are and how easily they can be lost. One of the driving forces behind the creation of the CELA Foundation and the Archive was a desire to protect and document the history of environmental law and environmental decision-making.

Support Our Work



Intervenor, Volume 48, No. 4
April 2024

[View this email in your browser](#)

Want to change how you receive these emails?
You can [update your preferences](#) or [unsubscribe from this list](#)