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## CELA at the Turn of the Century

## EXECUTIVE DIRECTOR'S REPORT

By Paul Muldoon

On March 27, 2001, CELA celebrated its 30<sup>th</sup> anniversary with a reception at the Great Hall at the Osgoode Hall courthouse in downtown Toronto. With over 200 guests, it was a wonderful opportunity for both staff and board alumni to meet again and to touch base with lawyers, consultants, fellow environmentalists, former and present clients and others in a causal atmosphere. Those on hand also had the honour of hearing from a number of speakers. The speakers included: Robert Armstrong, Q.C., Treasurer of the Law Society of Upper Canada; Angela Longo, C.E.O. of Legal Aid Ontario; Justice Stephan Goudge, Ontario Court of Appeal; Gord Miller, Environmental Commissioner of Ontario; Brennain Lloyd from Northwatch; John Willms, Barrister and Solicitor; Bruce Davidson, Concerned Walkerton Citizens; and Patty Barrera, Common Frontiers. A special presentation was made to Sarah Miller, CELA coordinator, for her some 23 years of service at CELA. A very special thanks is due to Alan Levy, a CELA board member, who spearheaded the organizing of the event and made the event happen through his expert fundraising skills.

This issue contains an article written by Alan Levy to commemorate CELA's 30<sup>th</sup> anniversary. Furthermore, this issue marks the first issue of the new electronic format of the *Intervenor*. As an on-line newsletter, the articles and information found in the *Intervenor* is more easily accessible to a broader audience. Moreover, the new format yields valuable savings to CELA at this time when the organization's resources continue to be stretched. Since last fall, CELA has been trying to focus more of its communications through its website. Hence, the *Intervenor* is only one component of its communication strategy and in this regard it is being formatted with the website in mind. One recent innovation is the CELA E-Bulletin. This short but dense information package is forwarded to anyone on the CELA list and includes important CELA events, updates on cases, important law reform and community public education information, and much more. Anyone interested in subscribing only needs to contact CELA at [cela@web.ca](mailto:cela@web.ca).

The Walkerton Inquiry continues to consume considerable time at CELA. This issue of the *Intervenor* includes a section dedicated to the Inquiry. It updates readers on the formal hearings of the Inquiry as well as the policy

development aspects of it. CELA's formal role in the Inquiry is expected to be completed by the end of the summer or early fall.

## REVISITING THE PAST: A BRIEF LOOK AT CELA'S HISTORY

By Alan Levy (input by David Estrin and John Swaigen)

Once upon a time, there was no Ontario Ministry of the Environment (MoE) or Environment Canada. Environmental law was not taught in the law schools, and there was not even an index listing in legal texts, digests and journals. And it was in these days, long ago, that CELA was born.

The idea of CELA was established in 1970 by a group of young people that included some Pollution Probe staffers (Peter Middleton and Tony Barrett), law professors at Osgoode Hall (Barry Stuart, now a Judge, and Harry Arthurs), lawyers (Clay Hudson, Harvin Pitch), and some law students and graduates, mostly from the Faculty of Law at the University of Toronto (U. of T.). David Estrin was an exception, having studied law in Alberta. The organization's original name was Environmental Law Association (ELA), with 'Canadian' being added sometime in the early 1970s.

The concept was to create a public interest law clinic that could provide support for environmental groups like Pollution Probe that needed expertise (there was very little at that time in the private bar) at little or no cost (Probe, like most environmental groups then and now, had no money to spare). At the time, Probe was receiving numerous calls from people living in Ontario and beyond with environmental concerns and problems, and wanted a legal team mobilized to be able to assist them.

The first step was the establishment of the Canadian Environmental Law Research Foundation (CELRF) in 1970, complete with federal charitable status and the power to issue tax receipts. This work was quickly undertaken by Clayton A. Hudson (Shibley Righton LLP), one of the founding members. CELRF would be CELA's twin and try to raise funds to launch and finance the clinic; it would also undertake related legal and policy research projects.

From the fall of 1970 until the spring of 1971, the complaint files generated by Probe were fielded primarily by a group of my classmates (the U. of T. Faculty of Law graduating class of 1970) who were articling at that time. I still recall a tense discussion with the Faculty's Assistant Dean who wanted an organizing notice I posted at the law school to be removed, since in his view it created the impression that something radical was being planned. Perhaps it even used the word 'radical' in describing our fledgling group.

For the first year we had neither office nor operating funds, and worked strictly as volunteers - we met often at our homes after hours. In the spring or summer of 1971 a small federal grant became available (each full-time staffer was paid \$70 per week), and temporary space in the U. of T.'s Ramsey Wright building was donated by Prof. Donald Chant. Thus began the full-time operation of CELA. At the same time, in a corner of David Estrin's law office, a student (now a Superior Court judge) toiled away doing environmental legal research for CELA.

Prof. Stuart worked part-time as a volunteer director of CELA for a period of many months, and then David Estrin became its first full-time lawyer in late 1971. One of the first law reform projects at that time was a thorough critique of the bill which would create the *Environmental Protection Act* (EPA). Among other things, CELA fought to remove the bill's prohibition against private prosecutions.

After lengthy negotiations with the Law Society, CELA was granted permission to establish a roster of private lawyers so that referrals to the private bar could be made in appropriate cases. We tried to keep it a secret that the outside lawyer in private practice who started the incorporation work *pro bono* for CELA was sent to jail for an unrelated fraud. Someone else eventually finished the job of

incorporating CELA. Within a short time, the board of directors was faced with a demand by staff that they wanted membership on the board with voting rights (except of course for personnel matters). After all, staff were paid very little, had to share a single one-room science laboratory as their "office," and were working long hours to do most of the important work of the organization. The board resisted, the staff protested and after a spirited stand-off-turned-negotiation session, the board relented and corporate democracy was established. This model of governance, unique in the Ontario legal aid clinic system, I understand, continues to the present and has served CELA well. I feel that it may be one of the most significant factors in CELA's survival and success.

Periodic newsletters were published and still continue in the form of the *Intervenor* and an E-mail Bulletin. Reports of environmental court and tribunal decisions were summarized (initially David Estrin typed decision summaries at home on his old typewriter - clearly without the aid of any spell-checker) and printed in-house (the *Environmental Law News*); they were later published professionally with Canada-wide circulation by Carswell. The *Canadian Environmental Law Reports*, the country's primary environmental law reporting service, continues to be edited by a team which includes three CELA staff lawyers. Several books were written by staff, including the encyclopedic *Environment on Trial*, currently in its third edition.

In 1975, staff lawyer John Swaigen organized a fund-raising *Stringband* concert to support the litigation costs of public interest environmental cases. The event was a success and raised \$5,000, thereby launching the first Canadian Environmental Defence Fund (CEDF). After a subsequent period of dormancy, the CEDF was revitalized and now continues to operate on a much larger scale than ever before.

The two siblings, CELA and CELRF, lived together with overlapping staff and boards of directors, until

CELRF decided that it could not expand and have more clout unless it had an identity very distinct from CELA. There was a perception on the part of some at CELRF that CELA was too radical in the eyes of foundations, sponsors from the business community, and government. Some of us resisted the separation but to no avail. And so it was that CELRF left home and eventually changed its name to the Canadian Institute of Environmental Law and Policy (CIELAP). Neither organization was a fund-raiser's delight, mind you. Core funding and financing of projects involving law reform and legal process were difficult to find, and CELA board members were as disinterested and unskilled in fund-raising as they were learned and keen about environmental law.

Similar public interest environmental law clinics soon opened in Sudbury (Sudbury Environmental Law Association) and British Columbia (B.C.)(West Coast Environmental Law Association (WCELA)). The Sudbury office closed after a time, although in its short life it had the distinction of being the first organization to prosecute Inco for pollution, long before the MoE got around to doing so. WCELA in Vancouver still remains. Dean John McLaren and Associate Dean Ron Ianni at the University of Windsor's Faculty of Law, two of CELA-CELRF's backers in the early days, opened the Windsor Environmental Law Association. One of its active law students at that time was a young Eva Ligeti.

Meanwhile, in Toronto, CELA expanded and moved offices, but without permanent and adequate funding, life for staff and the board was very strained. Staff lawyers toiled with little administrative assistance or legal support. Signing personal guarantees (which several board members and other CELA supporters did in 1975) to back CELA's bank indebtedness and sustain operations when funding ran out, was an experience some of us try to forget.

It was probably due to this austerity that CELA's preferred form of retreat in those days was an annual canoe trip over the May long weekend - it was all we

could afford. How many other organizations do you know that met and traveled in the wilderness during the most buggy time of year? On the other hand, it may help to explain why some of us have remained good friends ever since.

Provincial legal aid funding arrived just in the nick of time. A one-year group certificate was issued in 1976 for \$2,000 per month to cover the salaries of our two staff lawyers. CELA was recognized by legal aid as a clinic, one of the first in the system which now numbers more than 70, and we remain forever indebted to Legal Aid Ontario for its continuing financial support. Although legal aid never accounted for the entire budget, and other fund-raising efforts continued, the change permitted salaries at a level at which staff were no longer forced to leave CELA in order to obtain a measure of financial security and a lifestyle beyond that expected by summer students. As a result, CELA ceased to be just a training ground for environmental lawyers and researchers and also became a potential career base. Not that all board members agreed with this shift - and it took a difficult and heated board debate in the 1980s before the new paradigm prevailed. This change too has served CELA well.

Staff had time to learn and practice their craft, and many chose to remain when higher-paying opportunities inevitably beckoned. CELA was consulted more and more by government on legislative and policy initiatives, and CELA lawyers spoke regularly at professional conferences. Still, opportunities continued for law students and others to work or volunteer at CELA for short periods. And CELA itself is now a volunteer partner in the Environmental Law Practicum, which commenced last year at U. of T.'s Law Faculty. The Practicum provides opportunities for law students to earn an academic credit by working on client files with an environmental lawyer as supervisor. CELA has not forgotten its roots.

Occasional board controversies were always interesting, if not entertaining. Once a board member defended a large public corporation that CELA successfully prosecuted. After the conviction, he campaigned on behalf of the polluter to repeal that part of the *Fisheries Act* which permitted our client's private prosecution, or at least to split the fine. On a later occasion, CELA was attempting to stop a large scale water diversion project only to discover that one of its directors was publicly supporting it. Sometimes, we had to create new rules for board governance on the fly, in order to deal with situations which we never expected to encounter. Most of the time, however, we operated through consensus. At CELA, there was usually an understood and shared set of values to guide us through the maze.

Many of those who worked for CELA (and CELRF) in summer jobs, as articling students or as staff lawyers, or who served on its board of directors, remained in the environmental law and policy field and have distinguished themselves elsewhere. Although there is not space to name them all, examples (in addition to those named above) include: environmental law professors (Paul Emond and Marcia Valiante), the first Environmental Commissioner of Ontario (Eva Ligeti), a founder and head of the Non-Smokers' Rights Association (Gar Mahood), a publisher of many environmental law titles (Paul Emond - he was one of the first group of summer students and years later wrote and published the important 1978 text, *Environmental Assessment Law in Canada*), Graham Rempe who worked as solicitor for the Environmental Compensation Corporation 1986 – 1988 and now with the City of Toronto practising environmental and municipal law, a member of an Ontario Royal Commission on Planning who later chaired the B.C. Environmental Appeal Board (Toby Vigod), the first (and only) special Ontario Cabinet advisor on environmental issues (Steve Shrybman), former executive director of the Canadian Coalition on Acid Rain and current Director of the Ontario Campaign for Action on Tobacco (Michael Perley), former Chair of the

Environmental Assessment Board (Grace Patterson), former Chair of the Environmental Appeal Board (John Swaigen), and heads and members of environmental law departments in large Bay Street and small environmental specialty firms (Chuck Birchall, Joe Castrilli, Roger Cotton, David Estrin, Robert Fishlock, David & Harry Poch, Stan Stein, John Willms and Dennis Wood, to name just a few).

Sadly, we also lost some former staff (Dolores Montgomery, Nettie Vaughan and Barbara Rutherford) and at least one board member (Pat Reed) along the way to illness and accident. Dolores, a good friend, died tragically in a small plane crash (it hit a hydro line) while doing public consultation work for the Porter Royal Commission on hydroelectric power in 1976. The third edition of *Environment on Trial* is dedicated to Dolores and Pat.

CELA has been an important player in several law reform projects, such as the creation of the *Environmental Assessment Act* (EAA), the *Intervenor Funding Project Act* and the *Environmental Bill of Rights* (EBR). In fact, CELA has been an advocate in these three legislative areas for almost all of its 30 years. The EAA 1970s campaign was long, elaborate, expensive and successful - it also left us in perilous debt. CELA has also been involved in numerous cases before the Ontario Court of Appeal and Supreme Court of Canada - more than many lawyers will see in their career.

Now, CELA has five lawyers in a full-time staff totaling 13 people, its own in-house international environmental law team, and an extraordinary library. When the MoE and Pollution Probe disbanded their libraries due to cutbacks, CELA filled the void. That library is now managed by the Resource Library for the Environment and the Law (RREL), a non-profit charitable corporation housed at CELA. Its collection is vast. CELA has collaborated with CIELAP, CEDF and RREL on research projects. CIELAP, having separated from CELA years ago, is now located just

down the hall from CELA's offices. And CEDF is located on the same street, just blocks away.

CELA has seen provincial and federal governments and politicians come and go - some who genuinely tried to help and advance the cause of environmental protection, and some who have unfortunately tried to undermine it. CELA was active when environmentalism was flourishing, and continued on during the low points. CELA has survived the efforts of a few people who regarded environmentalism as a problem to be eliminated.

An environmental consultant informed me just weeks ago that CELA is often considered "a little too radical" by many of his firm's clients. Maybe they heard about that notice posted long ago on a law school bulletin board. Another opinion, offered by the federal Environment Minister in a letter last month, is that the "founding members can be justly proud of the work the Association has done, and the influence it has had on Canadian environmental policy over the years." He congratulated the board and staff for "achieving 30 years of committed service to Canadians."

And it is not only the founders of CELA who continue to be very proud of its many accomplishments.

## A PERSPECTIVE BY JOHN SWAIGEN

Today, the world is run by "bean counters" - management gurus, efficiency experts, "quality assurance" types (and even governments) that seem to think that process is more important than product. To run an efficient and effective organization, they claim, you need "visioning" exercises, mission statements, strategic plans, long term goals, medium range objectives, short term targets, action plans, blah, blah, blah.... . These goals, objectives and targets must all be "measurable" and the results are to be measured and compared against "indicators" and "benchmarks" and "best practices."

And when, pray tell, is one expected to find the time to actually do the work?

Given this context, it is instructive to “measure” CELA’s performance against its vision, mission, goals, objectives, targets, and all the rest of the paraphernalia of the bean counters. Around 1970, CELA enunciated what we now might call a vision or mission or a set of long term goals. CELA stated that Ontario needed an EBR and set out to make it happen. In my days at CELA I don’t remember anyone ever developing a strategic plan or setting goals or targets as to how we would get there. Nevertheless, using this simple measuring stick quickly makes clear just how effective CELA has been.

CELA’s EBR included:

***Standing to sue in courts and appear before tribunals:***

Result? Numerous court decisions broadening the right to participate, a report by the Law Reform Commission recommending broader standing, and standing provisions in the actual EBR passed by the Ontario government

***Class actions:***

Result? Ontario’s *Class Proceedings Act*, as well as similar legislation in at least one other province

***Funding to participate in proceedings before courts and tribunals:***

Result? The establishment of a case-by-case intervenor funding program by former Environment Minister Andy Brandt as a result of lobbying by a coalition spearheaded by CELA, followed by the *Intervenor Funding Act*, passed by a previous Ontario government and killed by the current one; the existence of the CEDF, which CELA helped to found. CEDF raises money to fund citizen interventions; and the fund set up under the *Class Proceedings Act* to support class actions; as well as funds for disbursements and to relieve against adverse cost

awards available to clinics like CELA through Legal Aid Ontario

***Reform of the party-and-party costs rule that acts as a barrier to citizens enforcing their environmental rights:***

Result? Well, you can’t win ‘em all. We still have the same old costs rule, but CELA’s efforts have brought a new approach closer to reality. CELA’s submissions resulted in the Osler Task Force on Legal Aid commenting in its report that a one-way costs rule should be considered in public interest lawsuits, an idea that the Law Reform Commission of Ontario (disbanded by the current government) ran with in one of its reports – either the one on standing or the one on class actions, I think.

***Freedom of information laws:***

Result? The federal government, Ontario, and every other province have freedom of information laws which make it easier (somewhat, sometimes, depending on how hard government departments fight to avoid complying) to get government information about the environment.

***Whistleblower protection:***

Result? Added to the EPA around 1981 and incorporated in the EBR in 1993

***An environmental Ombudsman:***

Result? Ontario and the federal government both have appointed environmental commissioners and the B.C. government has just announced that it will establish such an office

***Laws requiring environmental impact assessment of environmentally significant projects and programs:***

Result? Ontario passed the first environmental assessment act in Canada in 1975, and today most, if not all provinces, have such legislation, as well as the federal government. In addition, many other laws governing specific matters such as pipelines or land use planning require assessment of environmental impacts before approvals are granted.

### ***Public participation in setting environmental standards:***

Result? In the 1980s, the Ontario government set up several advisory committees to review proposed environmental standards and guidelines. They have all been disbanded by the current government, but the EBR remains. It requires an opportunity for public participation before many regulations, policies, guidelines and enforcement and compliance instruments are issued.

### ***The right to a healthy environment:***

Result? Well, again, you can't win 'em all, but the EBR contains a new cause of action that gives ordinary citizens the right to protect public resources when governments decline to do so, and CELA was probably the first organization in Canada to argue that a clean and healthy environment should be enshrined in the Canadian *Charter of Rights and Freedoms*.

When Toby Vigod went to Ottawa in 1978 or 1979 to argue before a joint committee of the House of Commons and the Senate that our Constitution should contain a right to a clean environment, her submissions were ignored not only in the committee's report but also by the media (possibly the only time in 30 years that a CELA press release has not resulted in media coverage). Today, however, there is a respectable body of academic literature arguing for such a constitutional right and the Supreme Court of Canada in at least four cases has talked about environmental protection as an important, and even fundamental, value in Canadian society.

So, measured against its original goals, even the bean-counters would have to concede that CELA, despite its lack of a detailed 30 year plan with monthly measureables, is somewhat of a success.

I was at CELA from December 1972 to the summer of 1980, with seven months off to attend the Bar Admission Course. Unlike the governments of today, the governments of the Trudeau-Davis era didn't always feel compelled to act when CELA made a

suggestion or revealed a problem in the way they dealt with the environment. Back in those days, it often took a disaster or near disaster, like the Mississauga derailment, Bhopal, Three Mile Island, or mercury poisoning in Japan, on First Nations reserves in northern Ontario, and in the St. Clair River in southwestern Ontario to convince a government that something needed to change. Of course, now governments are so much more responsive. It is inconceivable that today it would take, for example, children dying, to persuade a government to set drinking water standards and enforce existing laws to protect our water supplies.

Nevertheless, despite recalcitrant governments, we had many small victories, and some major ones. The major ones included, of course, the EAA, shaped by a CELA campaign lasting several years run by Gar Mahood, Joe Castrilli, John Low (for a while) and the late Dolores Montgomery with important input from CELA directors such as Cliff Lax and Dennis Wood (forgive me if I've forgotten anyone). Less well known perhaps is CELA's success in raising the issue of compensation for pollution victims, which may have been a factor in the Ontario government's introduction of the *Spills Bill* in 1979 and CELA's partially successful efforts to protect that bill from a strong industrial and commercial lobby to weaken it. These efforts led to the addition of an Environmental Compensation Corporation to the bill. (Note: the ECC has been killed by the current government, which declared that it is not the business of government to compensate pollution victims. Its rush to compensate the people of Walkerton seems to suggest a change of mind).

Other successes in the 1970s and 80s included CELA's success in using the media and private prosecutions to embarrass the MoE into abandoning a policy that it would not prosecute noise violations under the EPA (the current Ministry has instructed its staff not to investigate or prosecute offences involving noise, vibration, dust or odours); CELA's role along with the Conservation Council of Ontario (CCO) in

persuading the government to replace a weak *Pits and Quarries Control Act* with a strong *Aggregate Resources Act* (the current government amended the latter Act to remove some of the strong provisions that CELA had argued for); CELA's role, again along with the CCO, in persuading the government to amend legislation intended to immunize farmers against lawsuits resulting from certain types of pollution; and CELA's success in persuading municipalities to pass stronger urban tree protection by-laws.

I could go on, and perhaps I will when it comes time for CELA's 40th. But there is one last story that I think is worth telling for the first time, some 20-odd years later. It was a small victory in the scheme of things, but an important one, I think.

Some time in the mid-1970s, the media got wind of the fact that the Ontario government planned to grant a logging company the right to clear cut vast areas of northwestern Ontario, without an environmental assessment and without any notice to the First Nations communities that inhabited the area. The resulting outcry became such an acute embarrassment to the government that it moved quickly to control the damage by appointing a Royal Commission to report on how to protect the Northern Environment. (Bill Davis did that a lot. My, how things have changed).

One day, an employee of the Ontario government came to CELA's office and asked to see a lawyer. He was visibly shaken; close to tears, in fact. Only a year or so away from retirement, he had been accused of

leaking to the press the document that had revealed the secret deal to sell off much of northern Ontario. He was facing a disciplinary hearing and would likely lose his job and his pension if the hearing concluded that he was the whistleblower. He needed CELA's help.

A phone call was made on the alleged whistleblower's behalf to a Tory power broker who had the ear of the Premier. The CELA staffer explained that CELA wanted to help the government avoid any embarrassment. If the discipline proceedings went ahead, every organization advocating freedom of information legislation (non-existent at that time), civil liberties, protection of the environment, and native rights would undoubtedly feel compelled to ride to the rescue. The martyrdom of the alleged whistleblower would be a boon to their causes and a bane to the government. Indeed, such a disciplinary proceeding might be the best thing that ever happened to these groups.

Two days later, CELA received a curt telephone call. The alleged whistleblower would not be fired, which was "more than he deserved." The alleged whistleblower was stripped of his usual duties, moved to an isolated office, given an impressive-sounding but useless research project to work on, and permitted to spend his days chasing chimeras until he retired, with full pension, a year or so later.

*Alan Levy is a long serving member of the CELA board.*

## CELA IN THE COURTS - UPDATES

### **Adams Mine Intervention Coalition**

In 1998, CELA acted as counsel for an environmental coalition which is opposed to the proposed establishment of a 20 million tonne landfill in an old iron mine near Kirkland Lake. A scoped hearing was held before the Environmental Assessment Board in the spring of 1998 on the proposed leachate collection system. In June 1998, the Board issued a split decision, 2:1, that gave conditional approval to the proposal. CELA's client brought a judicial review application to quash the Board's decision. The judicial review application was dismissed by the

Divisional Court in 1999, and leave to appeal was denied by the Ontario Court of Appeal. CELA's client continued to monitor the implementation of the Board's decision and were very active in the Toronto City Council debates over whether the City should enter into a long term disposal contract. In a surprising turn of events, Toronto City Council decided against using the Adams Mine site in late 2000. Coincident with these events, opponents to the landfill set up railway blockades and investigated First Nations' interest in the matter (as well as other potential areas of federal jurisdiction). CELA continues to monitor this situation as part of a legal team consisting of other lawyers in Northern Ontario and Toronto.

### **Property Contamination**

CELA is counsel for a dairy farmer near Teviotdale, Ontario. Waste asphalt from a provincial highway project was buried in the 1960s on the farm property, and the family alleges that contaminants from the asphalt have leached into the shallow groundwater and the farmer's well water. Among other things, the plaintiffs allege that these contaminants have caused significant problems with cattle health and milk production, forcing the farmer to abandon the property and re-locate his family and dairy operations to another farm. The plaintiff's action was dismissed on limitation grounds upon a motion for summary judgement brought by the defendant. This judgement was upheld by the Ontario Court of Appeal in March, 1999. In 2000, however, the plaintiffs were successful in obtaining leave to appeal to the Supreme Court of Canada. This precedent-setting appeal, which focuses on Ontario's *Public Authorities Protection Act*, was heard by the Courts in May 2001, and a decision is pending.

### **Contamination of Ground Water**

CELA is representing clients who reside in close proximity to an illegal tire dump. Approximately 33,000 tires were buried at the site, resulting in the leaching of tire contaminants. The MoE issued an order requiring the tenant of the site and the mortgagee to remove the tires. The case was appealed and the Environmental Appeal Board (EAB) ordered the public authorities who had acquiesced in the burial of the tires to unearth the tires and also ordered the mortgagee to remove the tires from the site. CELA's clients, who had participated in the EAB hearing, have sought CELA's representation in pursuing all legal options in effecting a removal of the tires. In late 1997, the mortgagee appealed the Board's decision to Divisional Court. In late 1998, CELA's clients commenced an action against various defendants after the tire dump was only partially cleaned up by public authorities in the summer of 1998. In 1999, the plaintiffs brought an interlocutory motion regarding EBR notice since the precedent-setting action includes the first-ever claim under Part VI of the EBR. CELA counsel examined the personal defendant for discovery in 2000, and additional discovery will occur in 2001.

### **Manufacturing Plant**

CELA represents clients concerned with a neighbouring manufacturing operation. The plant, which coats frying pans with *Teflon*, emits fluoride as a by-product. CELA's clients suffered adverse impacts from the plant, including health effects and property impacts that are consistent with fluoride poisoning. In August 1997, CELA's clients discovered dead birds in their backyard. After contacting the company's supplier and distributor to enquire about the health effects of *Teflon*, the company launched a SLAPP suit (Strategic Lawsuit Against Public Participation) against the clients, alleging wrongful interference with economic relations. CELA prepared a Statement of Defence and Counterclaim for the nuisance effect of the plant on behalf of its clients. A Freedom of Information request of both the Municipality of Metropolitan Toronto and MoE was made. Both requests produced substantial documents. CELA has prepared and forwarded its Affidavit of Documents to the defendants, and is awaiting the defendants' Affidavit of Documents.

## **Campaign for Nuclear Phaseout – Mixed Oxide Plutonium**

In late August, of 2000, CELA claimed a partial - but fleeting - victory for public accountability and dropped its lawsuit launched on behalf of opponents to the plan to import mixed oxide (MOX) plutonium for use as a fuel in Canadian nuclear reactors. The lawsuit was seeking proper public consultation on any changes to MOX transportation plans. Consultation on the plans for flying Russian MOX occurred for a brief 30 days in the summer. Despite discovering serious deficiencies in Atomic Energy of Canada Limited's (AECL) plans, the consultation was extended for another 15 days until mid-September. CELA and other public interest organizations sought an extension to the consultation so concerns could be reasonably addressed. However, with startling speed, the consultation was closed in mid-September and within less than a week the Russian MOX flights were approved and the flights occurred by fixed wing aircraft to Trenton and by helicopter to Chalk River Laboratories.

## **Canadian Environmental Law Association v. Minister of the Environment**

In 1998 the Canadian Council of Ministers of the Environment (CCME) concluded the *Canada-Wide Accord on Environmental Harmonization* (Accord). This Accord devolves significant federal environmental roles and responsibilities to the provinces. In March of 1998, CELA brought a judicial review application challenging the legality of the Accord on two grounds: first, that the Respondent did not have the legal authority to conclude the Accord under the *Department of the Environment Act*; and second, that, in any event, the Respondent fettered her discretion in exercising her statutory duties. The matter was heard on January 12 and 13, 1999. A decision was rendered in the case and CELA was unsuccessful in obtaining the relief sought. However, the judge made important findings concerning the shortcomings of the Accord. The federal government has responded to some of these concerns in subsequent activities. CELA appealed the decision to the Federal Court of Appeal. The Court heard the matter in June of 2000 and declined to reverse the trial judgement with the result that the Accord and its Sub-Agreements signed by the federal Minister of Environment and most provinces were not struck down or altered as CELA had requested.

## **Re: Friends of West Country v. Attorney-General (Canada)**

In July of 1998, the Federal Court of Canada granted a declaration sought by the applicant that the *Canadian Environmental Assessment Act* (CEAA) includes the requirement to take cumulative effects into account. This decision clarified the broad scope of this federal law. In this case, the federal government had previously accepted that CEAA could be complied with by separately assessing two bridges without having to include either the road or the reason that the road was being built, namely, a related forestry operation, in the assessment. In the fall of 1998, the Respondent, the Attorney-General (Canada) appealed the decision. A number of industrial groups and provinces sought intervention at the Federal Court of Appeal as did CELA, in its own name, and with another Canadian NGO as a client. Leave was granted and the case was heard in September 1999. The Friends of the West Country were successful in resisting the appeal and the case sets a very important precedent in federal environmental assessment law on issues of scope of a project and cumulative impacts. A further application for leave to appeal to the Supreme Court of Canada was dismissed in 2000.

## **Re: President and Fellows of Harvard College v. Commissioner of Patents**

In mid-1998, the Federal Court ruled against Harvard College in refusing to grant a patent for its genetically-altered mouse or any other mammals bred to carry the same gene. Later in the year, Harvard College appealed the Federal Court ruling. In late 1998, CELA sought leave from the Federal Court of Appeal to intervene in the appeal of the decision. In 1999, CELA was granted intervention status in this precedent-setting appeal concerning

the patenting of life forms. The Court stated that leave was granted to CELA specifically to enable CELA to present the public interest implications of this kind of patenting. The case was argued in December of 1999 and in a decision issued in August of 2000, the Federal Court of Appeal overturned the decisions of the Federal Court Trial Division and the Commissioner of Patents. As an intervenor, CELA could not appeal the case. However, after several weeks of efforts, CELA and many others successfully urged the federal government to seek leave to appeal the decision to the Supreme Court of Canada. This case has huge ramifications for life form patenting. The Supreme Court has just granted leave to appeal. CELA will be seeking intervention status, along with others in this ongoing case.

### **Coalition on the Niagara Escarpment (CONE)**

In 1998, CELA represented CONE at a Plan Amendment hearing under the *Niagara Escarpment Planning and Development Act* (NEPDA) with respect to a proposal by the Niagara Land Company to build a winery, a culinary centre and 56 guest cottages. The proposed development would be on lands designated as Escarpment Protection Area within the Niagara Escarpment Plan (NEP) area. CONE intervened at the hearing as they were concerned about the precedent-setting nature of the decision. In particular, CONE was concerned that if the Plan Amendment was approved, it would open the floodgates to resort type development in the NEP Area. CONE was opposed to the development because it believed it violated two key objectives of the NEP, namely, to maintain and enhance the open landscape of the Escarpment and to protect unique ecological areas. The Hearing Officer's report approved the resort, but made some minor modifications, including reducing the square footage from the proposed 750 square feet to 500 square feet. CONE and CELA were very active in raising public concern about this decision, including meeting with Members of the Provincial Parliament and senior Ministry of Natural Resources (MNR) staff to voice concerns about the proposed development. In June of 2000, the Provincial Cabinet rejected the entire proposed development. In a second matter, CELA represented CONE with respect to an inappropriate development proposal on the Niagara Escarpment. An April 2000 decision by the Niagara Escarpment Commission approved a development permit application to construct a public mini-storage facility at the base of the Niagara Escarpment. CELA represented CONE at a hearing on this matter held in July and in October, 2000 the Minister of Natural Resources adopted the Hearing Officer's recommendation not to issue a development permit. CELA's articling student won her first hearing three weeks into the job.

Third, CELA is representing CONE in a judicial review application against a Hearing Officer with the Niagara Escarpment Commission and two others. In April of 2000, a hearing was held to determine whether a family owning land on the escarpment should be entitled to a development permit to sever a one acre portion of their property. The property is located within the Niagara Escarpment Plan Area and is subject to the NEPDA, as well as to the NEP. The NEPDA only permits new lots to be created provided there has been no more than one previous severance. This property had been the subject of two previous severances. The Hearing Officer, however, approved the application for a development permit, thereby permitting the creation of a third lot. CELA has filed a judicial review application of the Hearing Officer's decision on grounds that he erred in law by concluding that the NEPDA provides discretion to approve a development permit which overrides the requirements of the NEP. The judicial review application will determine whether the NEP should be interpreted as a set of guidelines or a rulebook in regards to protecting the Niagara Escarpment.

Also, in this issue of the *Intervenor* read the review of NEP in the article, "Determining the Future of the Niagara Escarpment: Province's Plan Up For Review."

### **Concerned Walkerton Citizens - Walkerton Inquiry**

CELA is representing Concerned Walkerton Citizens (CWC) at the Walkerton Inquiry which is investigating how the town water supply was contaminated with *E. coli* causing at least seven deaths and illness for hundreds of residents last year. CWC is a local public interest group comprised mostly of Walkerton residents seeking both answers and prevention of a similar situation in any other community. Chaired by Mr. Justice Dennis O'Connor, the Inquiry began in October of 2000 and is divided into two phases. CELA's clients obtained standing for both phases of the hearing and Phase IA is set for completion in early 2001. It has dealt with the most direct causes of the water contamination and resulting tragedy in Walkerton. Phase IB, to be conducted in early 2001, will deal with the contribution of provincial policies and other broader institutional and systemic causes of the Walkerton events. Phase II of the Inquiry, which is to assist with recommendations for improvement, will be conducted in the form of study papers on a broad range of topics, which are to be commissioned by the Inquiry.

The Management Board Guidelines of the Ontario government define funding opportunities for the parties. While some counsel received funding pursuant to a tariff, CELA, as a legal aid clinic, was not allocated any money for counsel fees. Nor is any funding being provided for expert witnesses to assist parties in preparation of their cases.

A unique aspect of the Inquiry, compared to civil litigation or administrative hearings, is that the all of the evidence is lead by the Commission. It is not an adversarial procedure insofar as parties calling their own witnesses at their own discretion. Instead, the Commission, through its counsel, determines the witnesses to be called and the documents to be introduced. Parties have had an opportunity, and will continue to have the opportunity to suggest to Commission counsel the witnesses, experts and documents that should be heard or admitted at the hearing. Ultimately, it is up to the Commissioner to determine the witnesses to be heard. Nevertheless, some witnesses, especially those who were directly involved in the Walkerton events, will have the opportunity to have their evidence initially led by their own counsel. The *Public Inquiries Act* includes protection for witnesses testifying at an Inquiry, *vis-à-vis* subsequent civil and criminal proceedings. The Commission also benefits from search powers under that Act.

Because of the unique nature of a Public Inquiry, parties, for the most part, do not have an opportunity to bring their own expert witnesses forward, unless they can persuade the Commissioner that an evidentiary gap exists or that a particular perspective is missing, and the Commissioner gives leave for a party to call that evidence themselves. Otherwise, parties' participation will be primarily by way of cross-examination and submissions. However, expert witnesses are often very important to counsel in preparation of cross-examination, in preparation of submissions and recommendations, and in noting gaps in the evidence or sources of information that should be considered in the hearing. Accordingly, CWC is fund-raising so that it can retain expert assistance through CELA both to advise CWC on the evidence and to assist counsel. Legal Aid Ontario, and in particular, the Test Case and Group Fund, has assisted CWC through additional funding.

CELA is devoting extensive clinic resources to this file. For more information on CELA's involvement in drafting study papers for the Commission, read the section titled "CELA At The Walkerton Inquiry."

### **Gypsum Mining and Water Taking in Southwestern Ontario**

CELA was retained in 1998 as counsel to advise two families residing on the Six Nations First Nation in southwestern Ontario. They and others were significantly affected by very large volume water takings by a gypsum mining and processing company whose operations are based immediately adjacent to the First Nation.

The mining operations were taking place in the subsurface below CELA's clients' properties. Large volume pumping of water to facilitate the mining operations has continued to occur below and immediately adjacent to CELA's clients' and others' properties. Well water volumes, local stream flow, and local water table levels have been seriously affected. CELA assisted the clients with respect to a proposed 10-year water taking permit renewal. In June 1998, a six-month temporary permit with conditions was issued. CELA was then retained in late 1998 as counsel to 15 additional families in order to provide comments to the Ontario Minister of the Environment with respect to a proposed two and one-half year renewal of the water taking permits. Comments were provided based on a posting of the application on the Ontario EBR. On December 24, 1998, the Minister of the Environment granted a three month temporary permit with additional conditions. CELA continued to assist the clients with respect to the water taking permit application in 1999. In the fall, the MoE issued a five-year water taking permit despite the fact that only a two and a half year permit had been sought. CELA represented one of the families in seeking leave to appeal the decision under the EBR. The Appeal Board did not grant leave to appeal. This case illustrates a serious concern with the EBR leave test. In the meantime, the clients have commenced civil litigation against various defendants with CELA as co-counsel with a member of the private bar.

### **Aggregate Pit**

CELA is counsel to an organization challenging the development of an aggregate pit immediately adjacent to its property, which has been in its possession since the 1920s. The land proposed for aggregate extraction has been subject to a restrictive covenant since the 1950s. CELA is assisting the client in its negotiations with the company to protect its client's property from impacts of the aggregate operation, particularly noise impacts. At the end of 2000, formal applications for a zoning change and an official plan amendment were filed by the applicant. CELA is on co-retainer with a member of the private bar on this file.

### **Friends of Red Hill Valley**

CELA represented a Hamilton-based citizen's group in a Federal Court Trial Division challenge brought by the Region of Hamilton Wentworth. The Region's challenge was against the application of the CEAA to a major expressway intended to run through the Red Hill Valley in Hamilton. The Region brought a wide ranging judicial review application which, if successful, would have major repercussions for federal environmental assessment in Canada. Their application is based on both statutory interpretation and constitutional grounds. CELA's clients successfully obtained intervener status in the application. The Region's judicial review application was heard for five days by the Federal Court in the late fall of 2000. The intervention by CELA on behalf of its clients supported the proper application of the federal environmental legislation to projects of this type, and the terms of the referral to the environmental assessment panel. A decision was released in May 2001, granting the Region's application. The federal government has appealed this case to the Federal Courts Attorney and CELA is representing the Friends of Red Hill Valley in seeking an intervention at the Federal Court Attorney hearing.

### **Lanark County Landfill**

In 1999, CELA was retained by an individual opposed to the establishment of a new "greenfield" landfill in Lanark County. The proposed landfill has been approved without a hearing under the EAA and the proponent's application for a certificate of approval under the EPA is pending. This case raises important statutory interpretation questions about the validity of a recent EPA regulation which purports to dispense with the mandatory public hearing under Part V of the EPA. In 2000, CELA continued to monitor this situation, particularly since the proponent has not proceeded to establish the proposed landfill.

### ***EBR Investigation***

CELA assisted a client with the preparation of a Request for Investigation under the EBR regarding noise and dust impacts from a grain mill. The request was successful and the MoE is investigating the matter.

### ***Mushroom Composting***

In 1999, CELA represented two residents at a hearing before the Normal Farm Practices Board in an effort to get a mushroom composting facility to install aerated floor and biofilter technologies to control the discharge of odours. Witnesses at the hearing compared the odour to rotting animal carcasses. The Board's decision noted that witnesses had vomited as result of the odours and their lives were "certainly detrimentally affected." The Board, however, reluctantly found that the composting facility's operation met the definition of normal farm practice as aerated floor technology and biofilters in Ontario were still at an experimental state. At that time, only one commercial mushroom producer in Ontario was using an aerated floor and even that aerated floor formed only a small part of the facility's total production. In 2000, the Co-op sought to expand its operation and applied for a site plan amendment. Brant County planners raised numerous concerns and sought additional information from the Co-op. The Co-op, in turn, appealed the matter to the Ontario Municipal Board (OMB) and CELA intervened on behalf of a local resident. After the hearing started the Board asked the parties to mediate a settlement. Four days of negotiation later, a revised site plan amendment was agreed upon including, among other terms and conditions, an agreement to install aerated floor technology in bunkers at an approximate cost of \$1.5 million dollars. The Co-op also agreed to construct the bunkers to accommodate biofilters in the future. The Co-op is the first operation to install aerated floor technology inside bunkers in Ontario. The settlement goes a significant way towards improving operating standards for mushroom composting facilities in Ontario.

### ***Innisfil Landfill***

CELA acted as counsel for over six years for a family living beside the Innisfil Landfill site near Barrie. The facts of the case are succinctly summarized in a Joint Board decision which refused to permit expansion of the site. Leachate (contaminated groundwater) from the landfill site has trespassed onto the family's property and the family has experienced significant nuisance impacts. A number of legal activities occurred in relation to this matter: (1) the Environmental Compensation Corporation awarded the family interim compensation for the spill of leachate; (2) the family reached an out-of-court settlement with one party respecting this matter; (3) the family discontinued a regulatory negligence action against the Crown; and (4) the family continued to pursue other parties who caused or contributed to the leachate contamination on their property. In February 1999, the Environmental Appeal Board granted a motion by CELA's clients to dismiss appeals against cleanup orders issued to the former owner and operator of the landfill. A motion for summary judgment brought by CELA's clients was granted in March 1999 and substantial damages were awarded to CELA's clients. In late 1999, the Environmental Compensation Corporation authorized a final compensation payment to CELA's clients, and in early 2000, CELA's clients received the compensation. The landfill was closed and leachate collection equipment was installed, but CELA continues to monitor this situation in case the site is reopened or expanded.

### ***Ontario Hydro Discharges***

In 1998, CELA represented two clients in requesting an investigation of Ontario Hydro for alleged discharges of toxics including zinc, tin, lead, arsenic and copper into Lake Ontario from its nuclear and fossil fuel generating plant in Pickering, Ontario. The discharges were caused by the scouring of the brass tubing used in the condenser units at the plant. A request for investigation was brought pursuant to the EBR and filed with the Environmental

Commissioner of Ontario. Following the request for investigation, Ontario Hydro established an independent review team, headed by the Dean of the Faculty of Environmental Studies at York University to evaluate and assess a report on the discharges. The report was critical of the lack of environmental accountability, environmental awareness and internal and external reporting within Ontario Hydro. In addition, Ontario Hydro indicated it would be replacing the condensers at the Pickering plant at an approximate cost of \$30 million. The MoE provided a response advising that the investigation would not be commenced. The MNR provided its response, advising that an investigation would not be commenced. However, MNR made a number of recommendations to Ontario Hydro including the establishment of an ongoing scientifically sound monitoring program for metals at Ontario Power Generation generating stations.

### **Groundwater Contamination**

CELA continued to serve as counsel for the plaintiffs who reside in Belleville, Ontario. In the early 1970s drums containing toxic waste were buried near the plaintiffs' property. Over the years the drums started leaking and discharging hazardous waste causing groundwater contamination. The plaintiffs relied on well water and used the water for drinking and bathing purposes until advised not to do so by the MoE. In 1994, CELA commenced a lawsuit on behalf of the plaintiffs for trespass, nuisance and negligence. In mid-July of 1997, CELA brought a motion seeking production of a Crown Brief which consisted of approximately 5000 pages of documents relating to Criminal Code charges against the defendant, Goodyear Canada Inc. The defendants then brought a motion in the Ontario Court (General Division) to quash the plaintiffs' motion. Cross-examinations were done on affidavits filed by both CELA's clients, as well as Goodyear Canada Inc. with respect to the motion to quash. The motion was dismissed by the Court and CELA clients were awarded costs. Further motions regarding production were heard in September 1998. The decision on the motions was released on January 26, 1999 granting in favor of CELA's clients' position. Goodyear appealed the decision. The Superior Court of Justice (Divisional Court) heard the appeal on February 16, 2000 and the Court ordered Goodyear to produce the Crown brief and to pay \$5000 in costs to the plaintiffs.

### **SWARU Incinerator**

This matter involved representation regarding a Request for Review under the EBR of the operating permits for the SWARU incinerator in Hamilton, Ontario, one of the oldest and most controversial incinerators operating in Canada. The request was favourably received by the MoE in that one of the approvals is now under formal review. In part, this review has questioned the viability of continued operation of this incinerator.

### **PCBs Incineration Facility Proposed in Northern Ontario**

CELA is representing an organization opposing the development of a new PCB Incinerator in Kirkland Lake. Comments on the Terms of Reference required under the EAA were completed in December, 2000. The scope of the environmental assessment will be determined in 2001. A hearing is possible late in 2001 or in 2002. This case has significant implications given that the proposed service area is all of North America.

### **Protection of Croplands in Niagara Region**

CELA represented an organization in an OMB hearing held in March of 2000. The case involved protecting 500 acres of specialty croplands in the Town of Pelham and raised two key principles of the Region of Niagara Official Plan; to preserve tender fruitland and direct development to the south of the region. CELA called a microclimatologist to provide expert evidence of the microclimate in the proposed urban expansion area as well as

a planner to provide evidence on municipal planning issues. The OMB ruled in favour of the expansion and CELA filed a request for a re-hearing on grounds that the Board erred in law in concluding that the lands did not have a suitable microclimate for tender fruit production and for erring in its application of the Provincial Policy Statement. The Board refused the request for the re-hearing. CELA's client has focused its efforts on raising the public profile of this issue.

### ***Proposed Development by Amos Ponds***

At the hearing in the fall of 2000, CELA's client successfully opposed highrise development next to Amos Ponds a provincially significant wetland straddling the eastern border of Toronto's Rouge Park. In a written decision, OMB chair M.A. Rosenberg ruled that two 11-story high-rises proposed by Map Realty Ltd. would have had "an unacceptable adverse impact on the environment" and would have broken the natural link between the Amos Ponds in the west and the Petticoat Stream Corridor in the east. The developer had claimed that wildlife could use a railroad and hydro-corridor to pass the proposed development, but CELA argued that these areas are highly disturbed by regular cutting of all woody vegetation and spraying of particularly toxic herbicides. As well as destroying the forest itself, the OMB found that development so close to the Amos Ponds would have "seriously and negatively impacted" the wetland, an area so rich in wildlife that it is considered one of Pickering's most significant natural assets. The OMB decision was issued on October 23, 2000.

### ***Save the Rouge Valley System***

CELA was retained to intervene in the City of Toronto's appeal to Divisional Court to obtain standing before an OMB hearing into developments on the Oak Ridges Moraine. CELA was successful in obtaining intervention status and arguing before the Court but the appeal to grant standing to the City of Toronto was dismissed.

### ***Whistleblower Provisions and the Ontario Labour Relations Board***

CELA is representing a client in an application before the Ontario Labour Relations Board under the whistleblower provisions in the EPA. CELA's client, an employee of the Regional Municipality of York (RMOY) for two decades raised concerns regarding safety issues to RMOY. The applicant also made a complaint regarding these issues to the Ontario Ministry of Labour (MOL) resulting in an order against RMOY. The applicant was subject to various disciplinary actions following his complaint to MOL and in response, the applicant filed a number of grievances against RMOY. In March 1998, the MoE investigated RMOY for discharge of sewage into the East Don River. The applicant gave a statement to a MoE investigator which outlined a number of environmental and safety problems at RMOY's pumping station. Shortly after MoE's Crown Counsel disclosed the statement to RMOY, the applicant was fired. The Ontario Labour Relations Board commenced its hearing on this case in November of 2000. After hearing two days of evidence, the case continued in February, March and April 2001 with the case expecting to conclude in September. This action seeks to take advantage of the whistleblower provisions of the EPA that protect persons from reprisal when reporting.

### ***Municipal By-law on the Use of Pesticides***

CELA successfully obtained intervention status for TEA and ten other clients, being local and national grassroots groups concerned with local cosmetic use of pesticides, in an application to the Supreme Court of Canada dealing with a municipal by-law providing for control on the use of pesticides on private property. The by-law was passed by the municipality of Hudson, Quebec. The matter was heard by the Supreme Court in December of 2000. The court decision will have significant ramifications in Ontario, and in fact, across the country, because the municipi

legislation under which the by-law was passed is very similar in its provisions to that under which municipalities in Ontario would act. CELA's clients argued in support of the ability of a municipality to pass such a by-law, both on statutory interpretation grounds and on constitutional grounds. A decision is expected in the summer of 2001.

### ***Richmond Landfill***

In mid-1999, CELA was retained by a residents' group which opposes the proposed mega-expansion of the Richmond Landfill near Napanee. CELA intervened in the EAA process on the group's behalf, and made submissions on the Terms of Reference which were approved under the EAA by the Minister of Environment in September 1999. In 2000, CELA commenced a judicial review application in respect of the Minister's approval decision. A similar judicial review application has been brought by a First Nations community located near the proposed landfill expansion. This precedent-setting case will likely be heard in 2001.

### ***Water Taking in the Headwaters of the Saugeen River***

CELA represented a local community group in a leave application under the EBR, 1993. The group was formed in December 1998 to raise local residents' concerns over a bottling company's request to take 76 million litres of spring water per year from a shallow surface aquifer at the headwaters of the Rocky Saugeen River. CELA filed an application for leave on behalf of its clients raising a number of issues, including: the failure of the Director to consider an ecosystem approach in his decision to issue the permit; violation of a neighbour's riparian rights by the virtual elimination of the flow of a stream into a wetland; conflicting expert opinions regarding potential impacts on the wetland; and concerns over the development of severe drought conditions subsequent to the completion of the proponent's hydrogeological study. In a very surprising decision, the Environmental Appeal Board found the Director's decision to issue the permit reasonable having regard for the relevant law and government policies and denied the application for leave. CELA's client is considering other options including legal remedies to address its concerns. The case highlights the on-going concerns regarding increased water taking in the Province as well as the need to reform the permit process to ensure the application of an ecosystem approach to water taking permits. In 2000, CELA continued to provide summary advice to its client in relation to this matter.

## **CELA AT THE WALKERTON INQUIRY**

### ***Looking Ahead At The Walkerton Inquiry***

By Paul Muldoon

Since September of 2000, CELA has been acting as counsel for CWC at Part IA of the Walkerton Inquiry.

Part IA dealt with the question of what happened that lead to the death of seven people and some 2000 2000. Since that time, the Inquiry has been on-going. Part IB deals with what impact government policy had

people to become ill. This Part of the Inquiry lasted over 40 hearing days.

Part IB of the Inquiry commenced on March 6 for a total of three days and then adjourned until April 12, on the tragedy. A full list of issues for this Part are now posted on the Walkerton Inquiry website

([www.walkertoninquiry.com](http://www.walkertoninquiry.com)). What is interesting is the scope and breadth of the issues. Most importantly, changes at the MoE (such as the privatization of testing laboratories), budget cuts at the ministry and other ministries, deregulation and other regulatory changes affecting drinking water are now being fully examined. Other issues like the role of the Red Tape Commission, the findings of the Environmental Commissioner, the role of the Federal-Provincial Drinking Water Coordination Committee has also come before the Inquiry. Thus far, the Inquiry has provided an unique insight into how the ministry works and its relationship with central agencies (such as Cabinet). In particular, the funding levels of the MoE, and more important, how the decision-making processes were undertaken as the ministry budget was reduced over 30% highlight just how much the ministry has changed in the 1990s.

Part IB is scheduled to continue until June 29, 2001, followed by a five week break in order for the parties to write their arguments for Parts IA and Part IB of the Inquiry.

Commencing August 13, 2001, two weeks has been reserved for the parties to formally present their argument to the Commissioner in Walkerton.

While Part I of the Inquiry has been on-going, Part II of the Inquiry is concurrently being conducted. Part II of the Inquiry deals with its broader mandate to develop recommendations directed to protecting the province's drinking water. This Part of the Inquiry is being undertaken through the commissioning of expert papers, the submission of position papers, expert meetings, public and town hall meetings. Part II has been on-going since March and will continue until September. The list of issues and schedules for Part II are available on the Walkerton Inquiry website.

With CWC, CELA has been active in participating in the Part II process. It has also drafted position papers on the need for a *Safe Drinking Water Act* and a Model Water Law. These papers are available on the CELA website ([www.cela.ca](http://www.cela.ca)).

Based on Part I and II, the Commission will draft its report to the Government of Ontario. It has committed to submit its report in December of this year.

## **Does Ontario Need a Safe Drinking Water Act?**

By Rick Lindgren

Since the early 1980s, CELA and other non-governmental organizations have advocated passage of a *Safe Drinking Water Act* (SDWA) to protect drinking water and its sources. Similarly, since 1989 there have been at least six private members' bills introduced in the Ontario Legislature to enact a SDWA in the province. However, none of these private members' bills were passed into law.

Therefore, at the present time, Ontario does not have any specialized drinking water legislation. Ontario's legislative inertia stands in contrast to the experience in the United States, which enacted strong drinking water legislation in 1974.

In the wake of the Walkerton tragedy, there has been renewed interest in strengthening the protection of drinking water in Ontario. For example, the Ontario government recently passed the *Drinking Water Protection Regulation* (O.Reg. 459/00), which imposes minimum testing, treatment and reporting requirements upon drinking water suppliers.

In light of this new regulation and related provincial initiatives, it is both timely and desirable to determine whether Ontario still needs a SDWA. Accordingly, CELA has obtained funding via the Walkerton Inquiry to research and write a comprehensive paper to address this specific question.

In particular, the CELA paper will:

- provide a detailed review of Ontario's current legal regime for protecting drinking water and its sources;
- undertake a comparative analysis of safe drinking water laws, regulations and practices in other key jurisdictions (e.g., United States, England, Australia, etc.); and
- contain recommendations for further legislative reform in Ontario to address shortcomings in the current legal regime.

## **CELA's Response to the Efforts of Privitizing Water**

By John Jackson

Water treatment and delivery systems are one of the items that the Harris government repeatedly flirts with privatizing. The Walkerton crisis has escalated the questions of the probable impacts of privatizing water services. For example, did the pushing of municipalities onto private water labs for testing in anyway affect how quickly the public became aware of the water problem? If the Walkerton water system were privately owned or operated would the water have been in better condition?

CELA, the Canadian Union of Public Employees, and the Ontario Public Service Employees Union are preparing a paper on this issue for the Walkerton Inquiry. The paper makes the case for why it is essential to avoid the privatization of the ownership, operation and delivery of water services in Ontario's municipalities.

The paper is based on the experiences of those who have privatized their water systems (partially or completely) or flirted with privatizing them. In the paper, we describe the negative experiences in places such as England where water systems were privatized,

The CELA paper is being prepared under the auspices of Part II of the Walkerton Inquiry. Among other things, this means that the CELA paper will be posted on the Walkerton Inquiry website for public review/comment, and will be considered by Mr. Justice O'Connor as he drafts Part II recommendations aimed at preventing a recurrence of the Walkerton tragedy. This paper was completed in mid-spring and is now available online.

places in Canada that flirted with privatizing but backed off when they realized the negative impacts that would be created (York Region, Quebec City, Montreal), and places in the U.S. that sold off their water systems and are now trying to buy them back. The transnational water industry is also explored.

A reason frequently given for privatizing the water treatment and delivery system is that municipalities cannot afford to upgrade failing water infrastructure. Our paper shows that this is a myth. Municipalities have plenty of financial capacity to upgrade and maintain the water infrastructure and are able to do it at a more reasonable cost than can private companies. We recommend that municipalities do a better job of planning for long-term rebuilding and financing of their systems. In addition, we recommend that small municipalities develop co-operative arrangements with each other for water delivery, as has been done in some other parts of Canada. This paper was completed in late spring and has been posted online.

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*John Jackson is coordinator of this project. He is also a board member of CELA*

## THE GLOBAL COMMUNITY AGREES ON A TREATY TO ELIMINATE POPs

By Stéphane Gingras

On December 9, 2000 in Johannesburg, South Africa, 122 countries reached agreement on eliminating the use and production of 12 persistent organic pollutants (POPs) intentionally produced and the elimination of by-products such as dioxins and furans as a long term goal. This treaty is a major step forward because it is about elimination of production and use of chemicals and prevention of the creation of new chemicals that would meet the POPs criteria. It creates the needed international legal framework for action on these chemicals. Great Lakes activists see this agreement as a victory as it makes the *Great Lakes Water Quality Agreement* stronger because it reinforces the need for elimination of the most toxic chemicals on earth.

The presence of environmental activists throughout these negotiations were effective as they organized direct actions and demonstrations to emphasize the need for a strong treaty. The most important part of that effort was the corridor talk that took place between delegates and observers to exchange views on some significant aspect of the treaty. The delegates came to an agreement on the final text after 24 hours of continuous negotiations.

The highlights of the proposed treaty are:

1) Intentionally produced POPs will be prohibited according to Article D(1) of the new treaty.

Every country will have to take legal and administrative measures to eliminate the production and use of the 12 chemicals listed in annex A of the treaty, with the exception of DDT.

Countries who are still fighting malaria will be able to get an exemption to continue to use DDT for killing mosquitoes who are the main malaria vector.

2) An overall goal of elimination of POPs with some qualifications.

For by-products such as dioxins and furans, the treaty calls for reduction of anthropogenic sources of POPs by-products and, where feasible, ultimate elimination. It also calls for substitution of materials or products to prevent the formation and release of POPs by-products.

3) POPs stockpiles are targetted.

For waste containing POPs, the treaty calls for the identification of stockpiles of POPS and wastes containing POPs. These wastes are to be disposed of in ways that irreversibly transform the POPs or ensures that they no longer exhibit POPs characteristics. Substantial discussion happened on the use of the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal* as a mechanism to deal with disposal of wastes containing POPs. Many countries felt that the Basel Convention does not require the use of specific disposal technologies that would insure that POPs are destroyed. In the spirit of cooperation, the parties to the POPs treaty agreed to work closely with the Basel Convention secretariat on this topic.

4) General and country specific exemptions are included.

Some general exemptions (Article D(5)) were agreed upon for use of POPs in laboratories and as trace contaminants in products. Other exemptions are country specific and are related to the use of DDT to fight malaria. For example, trade in POPs or products containing POPs will not be allowed except for

specific reasons such as exporting DDT to countries that need it to control malaria.

### 5) The precautionary principle is operationalized.

A significant focus of these negotiations was on the precautionary principle, in general, and more specifically identifying how the approach can be incorporated into key articles of the treaty such as the preamble, the objectives of the treaty and selection of new chemicals. The language around the use of the precautionary approach was a major corridor debate among many delegates. Several delegates such as the U.S. and Australian delegation expressed strong opposition to the inclusion of precautionary language mainly due to the pressures of the chemical industry lobby. Other delegations such as the European Union pushed strongly to include precautionary language in every part of the treaty mentioned above. Events such as the mad cow disease, where usual risk based science was unable to prevent or stop the spreading of that disease into the human population stimulated the support of this strong precautionary approach by the European Union.

Canada played the lead role in brokering this issue between the two sides. As a result, the precautionary language has been included in the following:

- Objectives stating that the treaty be “mindful of the principle 15 of the Rio declaration;”
- Addition of POPs (Article F (5)), where it states that “lack of full scientific certainty shall not prevent the proposal from proceeding;” and
- in Article F(7) where the parties can use precaution to decide whether to list a chemical or to decide what other course of action should be taken.

### 6) Financial commitments to the treaty by developed countries.

Finance mechanisms were a major focus of these negotiations. Developing countries rightfully stated

that without financial help they would not be able to implement the treaty. The developed countries committed to financially assist developing countries and countries with economies in transition to carry out the commitments in the treaty. The Global Environment Facility has been identified as the interim mechanism for funding, and has agreed to provide up to \$150 million (U.S.) to these countries for the phase out of the production and use of POPs.

While the outcome of the fifth and final negotiating session was viewed as a success, there is work to be done. Delegates to the negotiating session are expected to convene once again in Stockholm, Sweden in May 2001 to participate in the signing ceremony for the treaty. The treaty will only come into force and be a legally binding agreement once 50 countries have ratified the treaty. This will require countries to include the treaty's provisions in their national legal framework. This process can take up to four years.

### *The Canadian challenge*

For Canada, the challenge of this new treaty and its implementation nationally is considerable. If Canada is to be the leader of the international charge against POPs it needs to focus its national action plan on the two following family of substances: PCBs and dioxins and furans. In the case of PCBs the main problem is to find and promote destruction technologies that would not produce additional POPs compounds such as dioxins and furans. The actual plan to burn PCBs in the Swan Hill incinerator in Alberta or the proposed incinerator in Kirkland Lake, Ontario is unacceptable from a social and environmental perspective because it will create more environmental contamination by releasing POPs in the surrounding area of those facilities.

The dioxin and furan challenge is a major one too! The Canada-wide standard setting process which is currently on-going, is the main process by which Canada has planned to eliminate dioxin and furan

emissions. We have to be concerned ... As we all know there are major flaws in this process and there is essentially no guarantees that public health and the environment will be protected from these dangerous emissions.

Members of the Toxics Caucus of the Canadian Environmental Network including Great Lakes United, CELA, Reach for Unbleached and World Wildlife Fund Canada have played a significant role during these negotiations and will continue to monitor

the activities of the Canadian government as it begins to address the issue of ratifying the treaty.

*Stéphane Gingras, Great Lakes United, was a member of the Canadian delegation for the fifth Intergovernmental Negotiating Committee Session in Johannesburg, South Africa.*

*A version of this article was published in Great Lakes United newsletter, Toxic Watch (Volume 5, Number 1) December 2000.*

## DETERMINING THE FUTURE OF THE NIAGARA ESCARPMENT: Province's Plan up for Review

By Jason Thorne

The province has launched its second Five-Year Review of the Niagara Escarpment Plan (NEP), the provincial plan which has regulated development on the Niagara Escarpment since 1985.

The NEP has been admired worldwide as a model land use plan which balances the needs of human populations with the protection of the environment. In 1990, the Niagara Escarpment was declared a United Nations World Biosphere Reserve, in large part because of the protections afforded it in the NEP. Environmentalists credit the progressive provisions of the NEP for protecting the Escarpment from the rampant urban sprawl that has spread across much of the rest of southern Ontario.

The *Niagara Escarpment Planning and Development Act* (NEPDA) requires the government to undertake Five-Year Reviews of the NEP as a way of evaluating the Plan's effectiveness in protecting the Niagara Escarpment, and updating it to address new issues. The last Five-Year Review concluded in 1994. Changes to the NEPDA under the Red Tape

Reduction Bill (1999) now require reviews every 10 years, so the next review after this one is not expected to take place until 2011.

Unlike the 1994 Review which re-opened the entire NEP for discussion, the 2001 Five-Year Review has been scoped to examine just five emerging issues: estate winery developments on the Niagara Peninsula, rural tourism, signage and billboards along Escarpment roads, environmental monitoring, and intensive recreational development in Escarpment parks and the status of land trusts.

The government's decision to scope this review has been supported by the environmental community, and reflects the growing consensus that the NEP is sound as it is, so "if it ain't broke don't fix it."

On January 25, 2001, the Niagara Escarpment Commission (NEC), a provincial agency appointed by Cabinet to implement the NEP, released Discussion Papers on each of the issues being considered in the Review for a 60-day public comment period. On Apr

11, 2001, they will release a Plan Review Document, outlining all of their proposed amendments to the NEP. The Niagara Escarpment Hearing Office will then hold public hearings on the proposed changes from April 16 to August 10, 2001.

In January of this year, the hearing office released its draft rules of procedure for the hearing. The rules were immediately condemned by the Coalition on the Niagara Escarpment (CONE), a coalition of 26 organizations across Ontario, including CELA. Calling it a "kangaroo court", CONE blasted the draft rules for not allowing any witnesses, cross-examination, or closing arguments.

On March 1, 2001, the Hearing Officer released its final rules of procedure which improved on some of the issues identified in CONE's critique. There will be an opportunity prior to the oral hearing for participants to ask written questions of one another regarding their respective written submissions. Also, participants will be given the option of filing written closing arguments.

Written submissions can be made between April 16 and June 1. The oral portion of the hearing begins July 16 and is scheduled for 4-6 weeks with dates in St.

Catharines, Milton, Orangeville and Owen Sound. All stakeholders, including members of the public, municipalities, and organizations, will be given 30 minutes to make their presentations.

The entire process will wrap up when the NEC makes its final recommendations for changes to the NEP to Cabinet in November, 2001. The final decision rests with Cabinet.

CONE is taking a leadership role during the Five-Year Review, preparing written submissions, promoting the opportunities for public comment, and providing advice to groups and individuals on their comments. CONE participated in the hearings which gave rise to the original NEP in 1985, and was a full party during the first Five-Year Review in 1990-1994 with legal representation from CELA. CONE is maintaining a page on its web site dedicated to the Review at [www.niagaraescarpment.org](http://www.niagaraescarpment.org). For more information please contact CONE at (416) 960-2008 or e-mail [cone@niagaraescarpment.org](mailto:cone@niagaraescarpment.org).

*Jason Thorne is the Executive Director of the Coalition on the Niagara Escarpment*

## POLLUTIONWATCH WEBSITE GENERATES CLOSE TO 3 MILLION HITS IN THE FIRST 48 HRS.

By Fe de Leon

On April 10, 2001, the CELA along with its partners, the Canadian Environmental Defence Fund, and the Canadian Institute for Environmental Law and Policy launched PollutionWatch, a unique Internet-based service that allows Canadians to find out about local toxic pollution by simply typing in a postal code. In the first 48 hours, PollutionWatch received close to 3 million hits, establishing online links from CBC Newsworld and the Globe and Mail.

Modelled on the U.S. Scorecard, a website designed by Environmental Defence in Washington D.C. and Locus Pocus in California, PollutionWatch uses pollution data compiled through Canada's National Pollutant Release Inventory, a federal registry that tracks the release of 268 pollutants from about 2000 facilities across Canada. Visitors to the site can identify the facilities that are releasing chemical pollution, the types of chemicals that are being

released, and how a community's pollution ranks compared to other communities in Canada. PollutionWatch also provides profiles of chemical, describes their potential health effects, and explains the laws and regulations that govern toxic pollution in Canada.

With support from the Joyce Foundation in Chicago, the Laidlaw Foundation in Toronto, and the North American Fund for Environmental Cooperation, the project partners are providing the public with a new tool to improve their understanding on environmental pollution and enhance their right to know. Visit PollutionWatch at [www.pollutionwatch.org](http://www.pollutionwatch.org).

## UNDERMINING COMMUNITIES

By Ken Traynor

Noranda, Cominco, Teck and Barrick are all common names in Canada's mining circles and they are increasingly common names in Peruvian mining circles, too. The Australian company, BHP, which opened Canada's first diamond mine, Ekati, in the Northwest Territories (NWT), is now one of Peru's biggest copper miners. A junior Canadian mining company, Manhattan Minerals, is trying to develop a mine in the centre of the Peruvian town of Tambogrande. The industry is increasingly international, the challenge communities face is increasingly international and importantly, there are growing international links among non-governmental organizations, as well.

For the last three years CELA has collaborated with the Environmental Mining Council of B.C. and CooperAcción, a Peruvian non-governmental organization, on mining issues. Using Canadian International Development Agency (CIDA) funds, we have developed materials on mining and sponsored workshops in communities affected by mining. We have organized exchange visits between the Innu of Labrador and the Association of Mining Communities of Peru. A representative from the Cusco area, the site of BHP's Tintaya mine, went to Yellowknife, NWT to meet with aboriginal organizations and local environmentalists to learn about their experience with BHP at the Ekati mine. CELA's present articling student, Karyn Keenan, spent seven months working

with CooperAcción in Peru, on CELA's behalf, before beginning her articles.

In January, 2001, we received funding from CIDA for a third year of collaboration. This year's program of work will include five components:

- 1) Researching and developing workshop material on ideas to better structure the community-company relationship on the ground. Materials will be prepared on the use and effectiveness of Impact Benefit Agreements by a number of Canadian aboriginal organizations. We will also look at the experience of the Independent Monitoring Group which was established to monitor the impacts from the operations of the Ekati Mine;
- 2) A national workshop in Cusco, Peru using the materials described above;
- 3) Publishing the project materials in English and Spanish online and in hard copy;
- 4) Organizing another exchange visit between Peruvian and Canadian community representatives; and
- 5) On-going research about Canadian mining companies' activities.

Through our participation in MiningWatch Canada and our direct collaboration with CooperAcción, CELA works actively to link up communities affected

by mining so that they can learn from each other's experience in order to better pursue their interests.

## Announcements

### **BikeShare**

BikeShare is born. Finally, after many months of planning and hard work, the much-anticipated BikeShare program launched on May 7th, 2001 at Nathan Phillips Square. For the small price of \$25.00 you can purchase a membership. With your card you can sign out a bike and get discounts at certain bike stores.

You bring your membership card into a hub, show them your card, they verify the card on the World Wide Web and then give you a key to a lock. You unlock your bike, and away you go to enjoy the beauty of cycling in Toronto.

With Bikeshare you will have unlimited use for one business day. If you sign out the bike on a Friday, you get to keep it for the whole weekend. You don't even have to return the bike to the hub that you signed it out of.

Current hubs are located at City Hall, 100 Queen St. West, Metro Hall, 55 John St., U.of T. SAC, 12 Hart House Circle, OPIRG, 563 Spadina Ave. and Grassroots at 406 Bloor St. West. With more to follow.

But the question remains, how do I get a BikeShare membership? Just come down to BikeShare World Wide Headquarters at 761 Queen St. West with proper identification to get your card. Must be 18 years of age or older. Call before you come down just to make sure we are here. **CONTACT:** BikeShare Phone 416-504-2918, or visit: [www.bikeshare.org](http://www.bikeshare.org), or [hello@bikeshare.org](mailto:hello@bikeshare.org).

### **Join the Office Paper Buying Club: Promote recycled chlorine free paper**

Next order is due July 30, 2001. Save Money AND Save the Environment.

Buy recycled certified chlorine free copy paper with the Bulk Office Paper Buying Club, from the Reach for Unbleached! Foundation in partnership with Paper Choice. A pre-order pre-pay system allows the Buying Club to offer 80% recycled (60% post consumer), chlorine-free high performance office copy paper for \$53.50/box plus taxes and delivery, a 20% savings.

We estimate that the Buying Club has saved environmental groups and small businesses about \$20,000 in the last two years. We love saving people money, but we also want to prove to that there is a good market for clean paper. The Buying Club was started in British Columbia in 1999 by Reach for Unbleached!, a registered charity, to promote recycled Process Chlorine Free paper. We are now offering delivery in the Toronto area for pre-paid orders. If you need 6 boxes every two weeks, our partner, EnviroShred, will deliver! The Buying Club is facilitated through Reach for Unbleached! charitable activities. Your pre-payment is essential to assure our purchasing level and, keep prices as low as possible. **CONTACT:** Reach for Unbleached!, Box 39, Whaletown BC V0P 1Z0; Phone: 250-935-6992 or 250-923-3867, Email: [info@rfu.org](mailto:info@rfu.org) or [dbroten@rfu.org](mailto:dbroten@rfu.org).

## **CELA 30<sup>th</sup> Anniversary souvenirs - Available Now**

To commemorate CELA's 30<sup>th</sup> Anniversary, CELA is selling baseball caps and t-shirts (available in large and x-large sizes only) embroidered with the CELA logo. These items are available for \$20.00/each. **CONTACT:** Sharon Fleishman to place your order at 416-960-2284 ext. 211.

## **Register on CELA E-Bulletin listserve**

In a recent mailing to *Intervenor* subscribers, we announced that the *Intervenor* would be posted on our website ([www.cela.ca](http://www.cela.ca)) beginning with this issue. We provided all subscribers the option to register on the CELA-BULLETIN-L (dedicated listserve) or continue to receive a print copy of the *Intervenor* by post. The CELA-BULLETIN-L provides brief updates of CELA's activities, relevant internet links, and announcements of new issues of the *Intervenor* available on our website. The main objective of posting the *Intervenor* online allows CELA to reach more people, reduce the cost of printing and distribution while maintaining the quality of its feature articles.

Your response to the survey was very encouraging. The response unequivocally re-iterated the strength of the *Intervenor* in its ability to provide subscribers with detailed information on CELA's involvement in protecting the environment through its litigation and policy reform activities.

For those who have yet to respond to our survey, we will continue to mail a copy of the *Intervenor*. However, if you would like to receive electronic announcements that new issues are available online, send an email to [cela@web.ca](mailto:cela@web.ca) and indicate that you would like to subscribe to CELA-BULLETIN-L.

## **MEMBERSHIP INFORMATION**

Please fill out this order form if you want to join CELA or if you want your organization to subscribe to CELA's newsletter, the *Intervenor*.

**Only individuals can be members. As a member, you receive:**

- voting privileges at the CELA Annual General Meeting;
- free subscription to *Intervenor*;
- discount of 50% on the cost of briefs, reports and tapes; and
- invitations to CELA special events.

## SUBSCRIPTION FORMS

If your organization wants to subscribe to the *Intervenor*, please fill out the appropriate section. Make a cheque or money order out to CELA "Membership" (or "Subscription" if an organization) and mail it, with this form to ..

**CELA Membership/Subscriptions, 517 College St., Ste. 401, Toronto, ON M6G 4A2.**

**YES, I want to be a member of CELA**

1 year (regular \$25/yr)

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## RECENT CELA PUBLICATIONS

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Please list the numbers you want from the Publications List. \_\_\_\_\_

- 394. Towards the Development of a Global Treaty on Persistent Organic Pollutants. Comments by the Canadian Environmental Network Toxics Caucus towards the Intergovernmental Negotiating Committee 5 Session in Johannesburg, South Africa. Prepared by the Canadian Environmental Law Association for the Canadian Environmental Network Toxics Caucus, \$5.00
- 395. Affecting Environmental Policy in the Great Lakes-St. Lawrence River Basin: A Primer for Community Foundations. Prepared by J. Jackson and F. de Leon, September 2000, \$5.00
- 396. The "New" Toxic Torts: An Environmental Perspective. Prepared for the Canadian Institute's Special National Summit on "Litigating Toxic Torts and other Mass Wrongs" December 4 & 5 2000. Prepared by R. Lindgren, December 2000, \$5.00
- 397. General Agreement on Trade in Services: negotiations concerning Domestic Regulations under GATS article VI(4). Submitted to the Department of Foreign Affairs and International Trade and to Industry Canada. Prepared by M. Swenarchuk, November 24, 2000, \$2.50
- 398. Submission of the Canadian Environmental Law Association to the Ministry of the Environment regarding proposed guidelines under the Environmental Assessment Act (EBR Registry nos. PA7E0001, PA7E0002, PA01E001). Prepared by R.D. Lindgren, March 2001, \$2.50
- 399. Civilizing Globalization: Trade & Environment, Thirteen Years On. M. Swenarchuk, March 2001, \$5.00
- 400. Public Consultations on Intensive Agricultural Operations: Mushroom Composting Operation and Anerobic Odours. Prepared by R. Nadarajah, February 2000, \$5.00
- 401. Commentary for an Act to Conserve Ontario Waters. Prepared by J. Castrilli, May 2001, \$2.50

## CONTACT US

General telephone: 416-960-2284; General email: [cela@web.ca](mailto:cela@web.ca)

Paul Muldoon, *Executive Director*, [muldoonp@lao.on.ca](mailto:muldoonp@lao.on.ca), ext. 219  
Rick Lindgren, *Counsel*, [r.lindgren@sympatico.ca](mailto:r.lindgren@sympatico.ca), ext. 214  
Ramani Nadarajah, *Counsel*, [nadarajr@lao.on.ca](mailto:nadarajr@lao.on.ca), ext. 217  
Theresa McClenaghan, *Counsel*, [mcclenat@lao.on.ca](mailto:mcclenat@lao.on.ca), ext. 218  
Sarah Miller, *Coordinator*, [millers@lao.on.ca](mailto:millers@lao.on.ca), ext. 213  
Kathleen Cooper, *Researcher*, [kcooper@cela.ca](mailto:kcooper@cela.ca), ext. 221  
Michelle Swenarchuk, *Counsel International Programme*, [swenar@cela.ca](mailto:swenar@cela.ca), ext. 212  
Ken Traynor, *Coordinator International Programme*, [traynork@lao.on.ca](mailto:traynork@lao.on.ca), ext. 222  
Lisa McShane, *Researcher*, [mcshanel@lao.on.ca](mailto:mcshanel@lao.on.ca), ext. 215  
Fe de Leon, *Researcher*, [fdeleon@cela.ca](mailto:fdeleon@cela.ca), ext. 223  
Karyn Keenan, *Student-at-Law*, [celaarts@lao.on.ca](mailto:celaarts@lao.on.ca), ext. 216  
Sharon Fleishman, *Clinic Assistant*, [fleishms@lao.on.ca](mailto:fleishms@lao.on.ca), ext. 211  
Bernice Kaye, *Clinic Assistant*, [kayeb@lao.on.ca](mailto:kayeb@lao.on.ca), ext. 210