Canadian Environmental Law Association
EQUITY. JUSTICE. HEALTH.

November 3, 2026

RE: Bill 140, the *Building Ontario Faster Act, 2026* (ERO #026-1109, ERO #026-1114)

The Canadian Environmental Law Association ("CELA") is strongly opposed to Bill 140's proposed repeal of key environmental safeguards and participatory rights that currently exist in Ontario's environmental legislation. The effect of the proposed amendments in Schedules 7, 8, and 9 of Bill 140 is to cut members of the public out of decision-making that affects them and their communities. It is the people who live in communities around the province, and who care about their local environments and the health of the community, that will suffer the consequences of poorly understood and poorly analyzed development.

The existing *Environmental Bill of Rights* ("EBR") requirements for posting notice of environmentally significant legislation, regulations and policies is how the public finds out about and responds to key decisions. It allows the public to inform governmental officials about adverse environmental or health impacts that they may not have considered adequately or at all.

The EBR's third-party appeal rights are also how the public can challenge environmentally harmful provincial decisions on approvals and permits before an independent tribunal. EBR applications for review, applications for investigation, and right to sue provisions are also key elements of Ontario's environmental safeguard framework. All of these pathways for communities to raise their concerns with the government will be lost if Bill 140, Schedule 8 is not withdrawn, despite their essential role in securing environmental protection, ensuring public participation, and enhancing governmental accountability.

Statements of Environmental Values required under the EBR ensure that core principles such as considering the cumulative impacts of a proposal, or its impacts on the ecosystem, are incorporated into environmentally significant decisions. These fundamental pillars of sound environmental decision-making will also be lost if Bill 140, Schedule 8 is not withdrawn.

For over 30 years, the EBR has been an absolutely essential safety net for communities across the province, including numerous CELA clients. It is counter-productive, unfair, and more costly for all parties to force environmental disputes to be fought in the courts, which will be the likely result if Bill 140 is not withdrawn. We urge provincial government to immediately withdraw Schedules 7, 8 and 9 of Bill 140.

1. Schedule 8 – Environmental Bill of Rights

Bill 140 repeals most of the EBR and must be withdrawn. The people impacted by environmentally significant decisions in their community deserve to know about them before they happen, have a meaningful say in what their community looks like, and understand what environmental risks they may face.

i. Purposes of the Act Should be Maintained

In many areas of Ontario, the natural environment is already contaminated or degraded from past or ongoing activities and facilities. Schedule 8, s.1(1) proposes to amend the EBR by removing an existing purpose to "where reasonable, restore the environment".[1] The EBR should still seek to undertake restoration "where reasonable".

Bill 140, Schedule 8, s.1(2) also proposes to remove the current provision in the EBR which states that to fulfil the purposes of the Act, the EBR provides for "increased access to the courts by residents of Ontario for the protection of the environment".[2] It is a critical aspect of environmental justice that members of the public have access to the courts to protect their environment and health. As discussed below, Schedule 8's corresponding proposal to wholly remove – but not replace – the existing legal rights in Part VI of the EBR must be withdrawn.

ii. Statements of Environmental Values Provide an Important Environmental Protection Framework for Decision-Making

Bill 140, Schedule 8, section 2 proposes to wholly remove the Statement of Environmental Values ("SEV") provisions in sections 7 to 11 of the EBR. SEVs, which were developed and amended with public input over time, are significant documents that establish important core principles to be considered in provincial decisions that can significantly impact the environment. They should be maintained within the EBR.

For example, the Ministry of Environment, Conservation and Parks' SEV outlines core principles to protect the environment. The SEV stresses that although the government has the primary responsibility for the protection, conservation and restoration of the environment for the benefit of present and future generations, Ontarians should have the means to ensure that it is achieved in an effective, timely, open and fair manner.[3] When making environmentally significant decisions, the Ministry has been required by law to consider the principles in the SEV such as adopting an ecosystem approach, considering the cumulative effects of its decisions, the effects of its decisions on current and future generations, using a precautionary and science-based approach, and polluter pays principle.

The government's proposal to place notice of legislation, regulations, and policies on the Ontario Regulatory Registry instead of the EBR registry is unacceptable for several reasons. For example, eliminating SEVs means that prescribed ministries will no longer be required by law to consider or apply the environmental principles and commitments contained in SEVs when they are posting proposals on the Regulatory Registry.

---

[1] *Bill 140*, *Building Ontario Faster Act, 2026,* Schedule 8, s.(1) [Bill 140]; *Environmental Bill of Rights*, *1993,* SO 1993, c 28 [EBR], s.2(1)(a).
[2] *Bill 140,* Sched. 8, s.1(2); EBR, s. 2(3)
[3] Statement of Environmental Values: Ministry of Environment and Climate Change. Online at: https://ero.ontario.ca/page/sevs/statement-environmental-values-ministry-environment-and-climate-change

iii. Notice and Comment on Proposed Legislation, Regulations, Policies and Forms Should be Maintained

Bill 140, Schedule 8, sections s.3(2), 3(3), 4(2) and 4(3) would virtually eliminate notice and comment opportunities under the EBR in relation to legislation, regulations, policies and forms that may significantly impact the environment. Sections 15 and 16 of the EBR should be maintained.

Effectively, the proposed amendments leave no apparent legislation, regulations, policies or forms subject to notice and comment pursuant to sections 15 and 16 of the EBR. That is because all instruments, as defined very broadly in the *Modernizing Ontario for People and Businesses Act,* are exempted. In essence, any analysis of any legislation, regulations, policies and forms under a piece of legislation designed to look only at "direct compliance costs" for regulated entities will mean that notice is no longer given to analyze significant environmental impacts under the EBR.

The Environmental Registry of Ontario notice and comment provisions on proposed regulations are not adequately replaced by notice provisions under Ontario's Regulatory Registry. There are no mandatory minimum timelines under the business-centric Regulatory Registry to post proposals for comments before decisions are made, and the focus of this limited comment opportunity is not on significant environmental effects or risks to human health and safety.

iv. Leave to Appeal to the Ontario Land Tribunal from a Class I or Class II Instrument Must be Maintained

Bill 140, Schedule 8, section 10 proposes to wholly eliminate sections 38-48 of the EBR, which are the provisions that currently enable members of the public, First Nations and communities to seek leave (permission) to appeal Class I or II instruments. Class I and Class II instruments encompass a broad range of environmental permits and approvals, many of which can have significant environmental impacts on the community, such as permits to take water, approval for municipal drinking water systems, *Environmental Protection Act* and *Ontario Water Resources Act* orders, and environmental compliance approvals for discharge of air contaminants, sewage works, and landfills.

Even where Class I or Class II instruments will have significant environmental or health effects on a member of the public, First Nations, or other communities, there will no longer be an avenue to seek administrative relief if Bill 140 is enacted. Instead, interested or aggrieved parties will likely be forced to go to Court to challenge harmful or unreasonable environmental decision-making in relation to the issuance or amendment of environmental approvals.

These leave to appeal provisions, and an ability to challenge a Class I or Class II decision by the Ministry of Environment, Conservation and Parks, have been used by individuals, First Nations, and communities for decades. They are the primary way to challenge fundamentally deficient or impactful projects, but they are also a significant opportunity to encourage better terms and conditions in approvals.

For example, Grassy Narrows First Nation recently used the leave to appeal provisions to challenge an Advanced Exploration water-taking permit for a proposed gold mine in Northwestern Ontario. The Ontario Land Tribunal found the following:

> Given the potential for methylmercury production and the release of contaminants as a result of the proposed water takings under the Permit, the Tribunal finds that it appears that there is a threat of serious environmental impacts. In circumstances where even a small amount of contamination can cause significant health and environmental harm, the use of monitoring and after-the-fact adaptive management measures have reduced value. The conditions imposed under the Permit are not, in the view of the Tribunal, sufficient to eliminate the risk of causing significant harm to the environment.[4]

After granting Grassy Narrows First Nation's leave to appeal, the Tribunal ultimately issued an order revoking the permit. Without the EBR leave to appeal provisions in place, the serious health concerns of a downstream First Nation about mining activities could not be raised with an independent tribunal.

The EBR third-party appeal rights were successfully used by CELA clients to obtain more stringent conditions in an approval issued under the *Environmental Protection Act* for a large landfill near Napanee, Ontario. The Environment Ministry issued an amended approval to govern the closed site, but leave to appeal under the EBR was granted by the Environmental Review Tribunal on the grounds that the Ministry decision appeared to be unreasonable and could result in significant environmental harm. The Tribunal allowed the appeal and imposed several new and more protective conditions in the approval to strengthen monitoring, reporting and contingency plan requirements, especially in relation to groundwater and surface water contamination.[5]

Another EBR appeal example is a case involving a proposal of a cement manufacturing facility to burn used tires, shredded solid waste, pelletized municipal waste, and meat and bone waste as part of an "alternative fuels" strategy. Members of the community successfully utilized the EBR leave to appeal provisions to raise their concerns about the impacts of the proposal on the local community.[6] The approvals issued by the Ministry to allow this controversial waste-burning proposal were ultimately revoked.

Existing leave to appeal provisions and appeal rights at the Ontario Land Tribunal must be maintained under the EBR.

---

[4] *Grassy Narrows First Nation v Ontario (Environment, Conservation and Parks),* 2025 CanLII 21796 (ON LT) at para 94, <https://canlii.ca/t/kb2wz>.
[5] *CCCTE v. Ontario* (2012), 67 CELR (3d) 94; *CCCTE v. Ontario* (2015), 100 CELR (3d) 1.
[6] *Lafarge Canada Inc. v. Ontario (Environmental Review Tribunal),* 2008 CanLII 30290 (ON SCDC), <https://canlii.ca/t/1z17k>.

v. Applications for Review are an Important Public Accountability Mechanism and Should be Maintained

Bill 140, Schedule 8, section 13 proposes to repeal Part IV of the EBR in its entirety, thereby removing current provisions which allow members of the public to formally request that government review existing legislation, regulations, policies and instruments to protect the environment. Local residents, communities, and First Nations have used this important EBR tool for decades to bring the attention of the government to unacceptable pollution and inadequate environmental permits and approvals. Applications for review have also sometimes been the impetus for important legal reform.

The EBR was successfully used by CELA clients in revoking an outdated *Environmental Protection Act* approval that was issued by the Environment Ministry to the ED-19 dump located in eastern Ontario. The landfill was never built despite being approved two decades earlier and the proponent wanted to sell the site to a private waste disposal company. CELA filed an EBR application for review on behalf of residents and requested revocation of the unused approval. The residents were concerned that opening the landfill would adversely impact public health, well water quality and wildlife habitat. The CELA application for review was granted, and the Environment Ministry revoked the approval in 2020.

vi. Applications for Investigation are an Important Public Accountability Mechanism and Should be Maintained

Bill 140, Schedule 8, section 13 proposes to wholly repeal Part V of the EBR, eliminating applications for investigation. Members of the public, First Nations and communities have used these provisions to bring contraventions of legislation, regulations and instrument to the attention of the Ministry of Environment, Conservation and Parks.

For example, community members raised concerns unsuccessfully for almost 30 years with municipal and provincial governments about the noise and particulate emissions impacts of a nearby business operation. CELA filed an EBR application for investigation on behalf of local community members. The Environment Ministry ultimately laid charges and the company was convicted and fined.

*vii. **P**art VI Right to Sue Must be Maintained and Improved*

Bill 140, Schedule 8, section 13 would wholly remove the current right for Ontario residents to sue in civil court to protect public resources or address public nuisances causing environmental harm, in accordance with sections 82-103 of the EBR. While this right has not been frequently used over the years, Bill 140 proposes to eliminate these rights but proposes no substitute or replacement for it. As per the 2024 EBR report prepared by the Law Commission of Ontario,[7] the EBR right to sue should be retained but improved to allow for easier public access to a fair civil process for protecting public resources (i.e. air, water, public land, etc.) or for obtaining

[7] Law Commission of Ontario, *A New Environmental Bill of Rights for Ontario,* Final Paper, March 2024. <https://lco-cdo.org/wp-content/uploads/2025/11/LCO-Environmental-Accountability-Final-Paper.pdf>.

compensation or redress for environmental harm caused by public nuisances. There is no public interest justification for eliminating these provisions altogether under Bill 140.

viii. Bill 140 Seeks to Limit Liability

Section 16 of Schedule 8, Bill 140, proposes to limit liability arising from the repeal of most of the EBR. Should Bill 140 be adopted, this provision seeks to make the government legally unaccountable to the public for the results of the repeal of most of the core components of the EBR, and therefore should be removed to ensure access to environmental justice.

ix. Transition Provisions are too Broad

Currently, Bill 140 provides for broad authority on transitional matters, including allowing for regulations to be "effective with reference to a period before it is filed".[8] There are many ongoing EBR processes at the Ontario Land Tribunal, or active and unanswered applications for investigation or review, which should proceed to be determined on their merits.

2. Schedule 7 – Environmental Assessment Act

Schedule 7 of Bill 140 proposes to repeal section 17.5 of Ontario's *Environmental Assessment Act*, which currently requires proponents of large landfill projects to obtain written support (i.e., municipal council resolutions) from municipalities in which the projects are proposed. This section has been in place since 2020, and provides municipalities with greater leverage for safeguarding the local environment and residents' health and safety when faced with proposals to build or expand large landfills within their communities. Schedule 7's proposed elimination of section 17.5 of the *Environmental Assessment Act* will deprive municipalities of an important legal tool for addressing landfill proposals and their adverse environmental impacts. Schedule 7 should be withdrawn.

3. Schedule 9 – Environmental Protection Act

Schedule 9 proposes to repeal third-party appeal rights under Ontario's *Environmental Protection Act,* which currently enable residents, citizens' groups, and other persons, to appeal the issuance of Renewable Energy Approvals (REA) to the independent Ontario Land Tribunal for a public hearing and decision (i.e. uphold, vary, or revoke the REA). These rights have existed since 2009. Appellants must demonstrate that carrying out the renewable energy project, such as a solar facility or wind farm, in accordance with the REA will cause: (a) serious harm to human health; or (b) serious and irreversible harm to plant life, animal life, or the natural environment.

Schedule 9 also proposes to amend the Act's definitions of "renewable energy project" and "renewable energy generation facility" to include prescribed types of bio-mass (i.e., organic material) used for energy production purposes, i.e. energy-from-waste incinerators.

[8] Bill 140, Schedule 8, s.17(1.3).

Schedule 9's proposed elimination of existing REA appeal rights and the amended definitions under the Act pave the way for burning organic material rather than diverting this important resource from waste disposal, despite public concerns or objections. Schedule 9 should be withdrawn.

Conclusion

Before the EBR was passed in 1993, environmentally significant decision-making was largely confined to consultation between governments and private proponents. The public, First Nations and local communities were cut out of decision-making that affected them. Bill 140, Schedule 8 is an ill-conceived proposal to turn back to that approach. Individuals, First Nations and communities will be deprived of the most important EBR tools that they can use to protect their communities against environmental impacts and risk.

A former Environmental Commissioner of Ontario highlighted the positive and far-reaching impacts of the EBR:

> Over the past 20 years, Ontarians have been able to use the EBR and its tools as a catalyst for important new environmental laws and policies. For the past 14 years of my appointment as Commissioner, I have been privileged to see an ongoing dialogue unfold between the public and the government ministries entrusted with the stewardship of our common natural environment. Thousands of people use the Environmental Registry each year to comment on government initiatives, ranging from technical compliance rules to sweeping policies on land use. Communities and individuals have also had input into site-specific permits and licences, commenting on concerns such as local air and water quality, habitat protection, and noise. Ontarians have also used EBR applications and appeals to convince the government to overhaul legislation, change approvals, and bring in new environmental protections. We, as Ontarians, can be proud and celebrate how the EBR has contributed to improved environmental protection and conservation in our province.[9]

In short, the Bill 140 improperly proposes to strip away long-standing public participation rights, reduce environmental protection, and decrease governmental accountability for its decisions. Schedules 7, 8 and 9 of Bill 140 must be withdrawn.

---

[9] Environmental Commissioner of Ontario, *The Environmental Bill of Rights at 20 Your Environment, Your Rights,* p. 3.

Sincerely,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



Theresa McClenaghan
Executive Director & Counsel



Richard Lindgren
Counsel



Ramani Nadarajah
Counsel



Joseph Castrilli
Counsel



Jacquline Wilson
Counsel



Fe de Leon
Senior Researcher & Paralegal