



# Canadian Environmental Law Association

Defending the Environment and  
Vulnerable Communities for Over 40 Years

At CELA we work to protect human health and our environment by seeking justice for those harmed by pollution or poor environmental decision-making and by working to change policies to prevent such problems in the first place. For 40 years CELA has used legal tools, undertaken groundbreaking research and conducted public interest advocacy to increase environmental protection and to safeguard communities. In particular, as an Ontario Legal Aid Clinic, we strive to help those who lack the resources to take on big polluters or grapple with complex environmental threats.

## CELA'S OBJECTIVES:

- To provide equitable access to justice to those otherwise unable to afford representation for their environmental problems.
- To advocate for comprehensive laws, standards and policies that will protect and enhance public health and environmental quality in Ontario and throughout Canada.
- To increase public participation in environmental decision-making.
- To work with the public and public interest groups to foster long-term sustainable solutions to environmental concerns and resource use.
- To prevent harm to human and ecosystem health through application of precautionary measures.

In accomplishing all of these objectives, primary recognition is given to CELA's mandate to assist low-income people and disadvantaged communities.

# EXECUTIVE DIRECTOR'S MESSAGE

On behalf of the Staff and Board of the Canadian Environmental Law Association, it is our pleasure to provide the 2011 Annual Report. We are pleased to report on some of the highlights of the year. By combining our case work, advocacy for our clients, systemic law reform, and ongoing public legal education efforts we work to advance the utilization and improvement of environmental law.

## CASE WORK

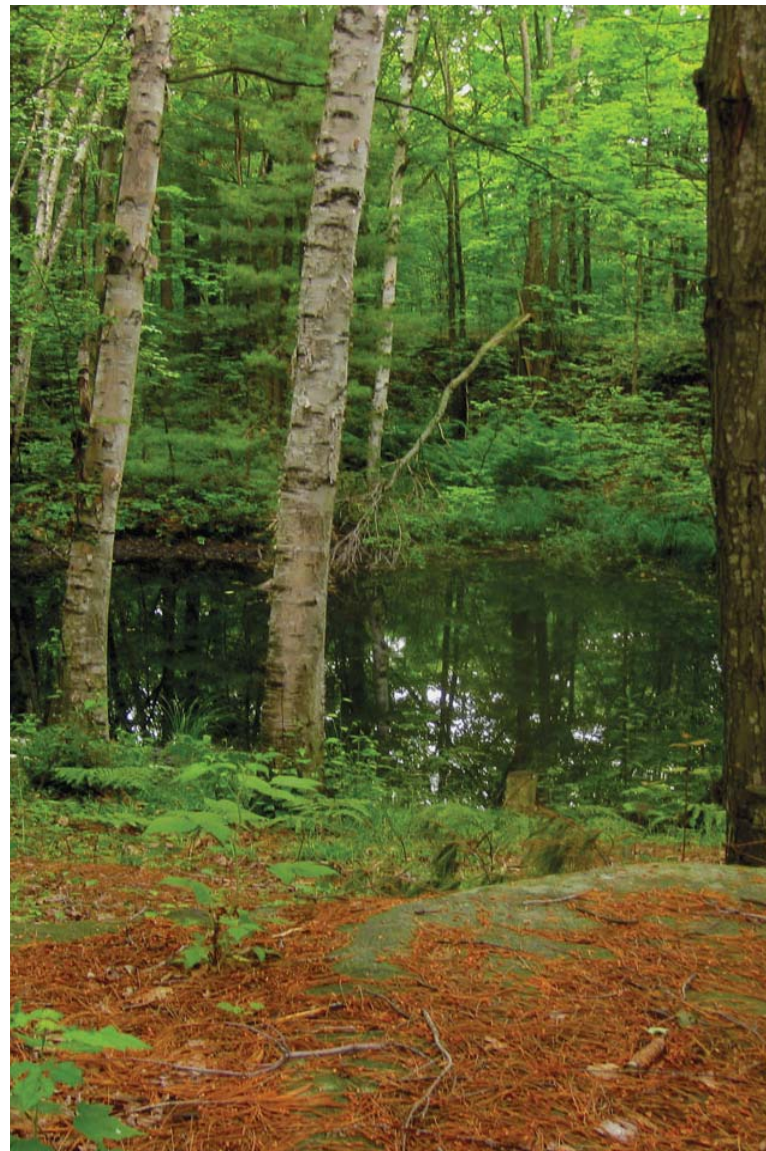
CELA's client and case work in 2010-11 covered issues all across the province, dealt with environmental and human health impacts and decisions ranging from local to national, and covered the entire range of environmental media including water, air pollution, energy, contaminated sites, and mining issues to name a few. CELA's clients are those who would not otherwise be able to get help with these environmental issues, and it is central to CELA's mandate to provide them with help as a matter of environmental justice. We strive to have our client advocacy help not only the immediate client but also others facing similar situations in the future.

## Contaminated Sites and Water Cases

One of CELA's landmark contaminated sites cases, on the verge of argument before the Supreme Court of Canada, was resolved this year. CELA is also seeking to intervene in a case before the Ontario Court of Appeal that would have significant relevance to the scope of offences that could be prosecuted under the Ontario *Environmental Protection Act*.

## Air Pollution Cases

In a long-standing case involving significant adverse effects caused by exposure to fluoride emissions from a coatings factory, the issues were resolved on the eve of trial. CELA also continued to provide advice regarding a situation of significant on-going air pollution problems in northeast Hamilton and summary advice with respect to air pollution in Sarnia and Sudbury, among others.



## Energy Cases

CELA continued to provide summary advice on various procedural matters to a number of Intervenor participants in the federal environmental assessment of a proposal to build a new nuclear generating facility at Darlington, and attended, participated and made extensive submissions in the Joint Review Panel (JRP) hearing as part of this federal environmental assessment. Subsequently, CELA issued an application for Judicial Review after the release of the JRP report, on behalf of a number of Intervenor participants. CELA also provides ongoing summary advice regarding the proceedings of the Nuclear Waste Management



Organization, which is seeking to find a location for a long term facility for storage of high level radioactive nuclear fuel waste.

CELA participated in a hearing before the Canadian Nuclear Safety Commission and provided summary advice on the issue of shipping radioactive waste (used steam generators) through the Great Lakes to Sweden, including recycling the contaminated steel. On behalf of itself and its client the Sierra Club of Canada, CELA issued an application for Judicial Review of the license subsequently granted by the Commission. We also maintain a watching brief in the National Energy Board's proceeding to review the rules for Arctic oil and gas exploration and drilling, particularly on the issue of limited liability for spills. Active involvement continues to oversee participation in a number of Ontario Energy Board matters on behalf of the Low Income Energy Network (LIEN) of which CELA is a founding member, as well as providing instructions on behalf of LIEN for a large number of matters before the Board and other provincial agencies as they move ahead with initiatives to implement low income energy poverty programs in Ontario. Other client advice this year included for a First Nation regarding a hydroelectric generating station expansion. CELA is also providing advice to a number of groups in relation to the issue of a recent regulatory standard that purports to allow radioactively contaminated materials into recycled waste streams.

## Waste Siting Cases

CELA has continued to assist clients concerned about new plans for the Richmond Landfill located near Napanee, Ontario, advising the client on an environmental assessment process for a new expansion proposal, and regarding *Environmental Protection Act* approval amendments for the existing landfill. In another case, CELA is assisting clients regarding contamination of their property and drinking water by leachate from the nearby municipal landfill. CELA applied for and was granted funding to retain expert assistance and participate in the environmental assessment of the

proposed Deep Geological Repository (DGR) for low and intermediate level radioactive waste which will proceed before a Judicial Review Panel this coming year.

### Access to Justice Cases

CELA has provided ongoing advice on freedom of information matters, and continued to represent a client seeking disclosure of information about hazardous releases in the event of a nuclear plant accident. This appeal has continued for three years to date with numerous interim rulings by the Freedom of Information (FOI) Commission.

### Pollution Cases

CELA continues to represent a group of Intervenor in the First Board of Review proceeding dealing with a chemical under the Chemicals Management Plan under the *Canadian Environmental Protection Act*. CELA is also providing ongoing summary advice on a number of pollution issues in several cities across the province.

### General Summary Advice

Every day CELA provides summary advice to diverse clients on a long list of environmental law questions and issues. They cover diverse topics such as municipal by-laws, financial assurance requirements under the *Mining Act*, information on how to make Access to Information requests, information relating to private prosecutions, information on the *Environmental Bill of Rights*, information and procedure related to Ontario Municipal Board hearings, information regarding conservation and endangered species, information relating to land use planning, information relating to how to appeal the passing of a rezoning decision or official plan amendment, responding to concerns about recycling and waste management, pesticides, toxic substances in consumer products, air pollution, PCB contamination, landfills, toxic mould

and contaminated properties, and information about the new renewable energy approval process.

### LAW REFORM

CELA's systemic Law Reform efforts focused on our five areas of strategic priority. We have led campaigns, provided advice to others, participated in proceedings and provided input to a range of issues ranging from local to global. CELA has been engaged over the past year in a significant exercise of reviewing its strategic law reform priorities which will be reflected in future work.



### Water

CELA continued to provide support to a range of groups in advocating improvements to the laws and policies around water conservation and saw the passage of the Ontario *Water Opportunities and Water Conservation Act* this past year. CELA also continued to provide input and advice along with other groups, to Canada and to the bilateral negotiators regarding the renewal of the Great Lakes Water Quality Agreement. This input included topics of pollution in the Great Lakes, nutrients, climate change and governance. CELA also

continued to provide advice to groups and comments to the federal government on Bill S-11, related to First Nations drinking water and attended at the Senate committee considering the Bill before it was pro-rogued prior to the 2011 federal election.

## Energy

CELA, along with the other members of the Low Income Energy Network (LIEN) continued to work very hard over the past year to secure progress on the issue of energy poverty in Ontario. CELA and LIEN have continued to provide extensive input to the Ontario Energy Board, the Ontario Power

Authority, and provincial government, among others, as to the development of these programs so as to best provide the much needed assistance of those living in energy poverty. CELA also made several submissions to federal agencies such as the National Energy Board and the Canadian Nuclear Safety Commission on issues such as participant funding, participation rights and other aspects of ensuring adequate input from the public into their decisions. CELA, along with many partners, is also in the midst of a two year project regarding safe and healthy energy retrofits with a particular focus on children, vulnerable and low income communities.



## Pollution and Environmental Health

CELA continued to advocate for reform to the air pollution approvals system, particularly arguing for taking into account cumulative impacts and equity issues. CELA also continued participation in Ontario Ministry of Environment (MoE) consultations on one of the main provincial air approvals regulation,

Regulation 419. Ongoing input also occurred into the content of the regulations and guidance materials for the new *Toxics Reduction Act*, 2009. Likewise, advocacy continued with federal government officials to discuss the Canadian implementation efforts for the Stockholm Convention on Persistent Organic Pollutants (POPs) as well as input to government regarding global negotiations for a treaty on mercury. CELA also contributed to input to the Rotterdam Convention meetings held in Canada in 2011, in particular in

a so far unsuccessful effort to have Canada support the inclusion of asbestos in listing under that Convention.

Over the past year, CELA continued to lead and advise on numerous submissions regarding implementation of the federal Chemicals Management Plan (CMP) including on draft assessments or risk management proposals on individual chemicals, groups of chemicals, and iterative batches of chemicals issued under the CMP “industry challenge” program. The federal legislative efforts to modernize the *Hazardous*

*Products Act* and related regulations were finally passed as the *Canada Consumer Product Safety Act* and CELA has continued to monitor and respond to consultations on implementation of that Bill which deals with issues that have been the subject of CELA advocacy for decades.

CELA also completed a major scoping review of the evidence for associations between early childhood exposures and chronic diseases.

### Access to Environmental Justice

CELA has continued its advocacy for anti-SLAPP legislation in Ontario. While not yet introduced as a Bill in Ontario, an expert panel provided its report to the provincial government on this much needed legislation which would reduce the concerns of the general public that participating in environmental decision-making will result in fighting a “SLAPP” or “strategic lawsuit against public participation”.

CELA also continued work on the MoE's Modernization of Approvals Round Table and the *Open for Business Act*, which established the legal framework for a two-tiered environmental approval system in Ontario.

CELA also undertook analysis and provided summary advice to a range of groups regarding the environmental implications of the proposed Canada-Europe Trade Agreement, in particular in relation to the issues relating to impacts on domestic environmental law and policy federally and provincially.

### Land Use, Waste and Environmental Assessment

This past year CELA worked with environmental, health and other organizations in proposals, reports and workshops for a better approach to waste management in Ontario. CELA also

continued project work advocating extended producer responsibility particularly in the auto sector. The Provincial Policy Statement (PPS) is under review under the *Planning Act*, and CELA participated in preparing submissions along with a number of other groups, especially on the water and energy aspects of the PPS and was asked to sit on the Ministry of Municipal Affairs and Housing Working Group on revisions to the PPS. CELA continued to work with various groups across Canada with respect to issues regarding federal environmental assessment and prepared for submissions to the Parliamentary committee conducting the five year review of the *Canadian Environmental Assessment Act* expected to resume shortly.



### PUBLIC ENVIRONMENTAL LEGAL EDUCATION

Every year, CELA undertakes extensive public environmental legal education. We try to reach as much of the province as possible, and to provide tools for people with limited resources to participate in environmental decision-making. We frame such participation as a matter of fundamental access to environmental justice, and provide our diverse audiences with examples of a

variety of concrete participation mechanisms. Some of our extensive environmental PLE work is mentioned here.

Legal Aid Ontario provided one-time funding for a French language series of regional environmental law public legal education sessions in several communities around Ontario. These included Hawkesbury, Timmins, Kapuskasing, Toronto, and a webinar for Sudbury, on matters of particular interest in their regions of the province.

Our environmental equity project, Making the Links, is in the midst of its third year with special funding from the Law Foundation of Ontario. CELA along with our project partners and steering committee members, held a variety of working sessions throughout 2010 and 2011 in our Links communities of Cornwall, Kenora, Sarnia, Brantford, Hamilton and Windsor on topics of environmental law, public participation, occupational health, and environmental health. This year we have been focusing on opportunities for ongoing work in these communities to increase the efforts to make links across disciplines, service providers, and communities, regarding their shared interests in environmental health. We also obtained special funding under the Legal Aid Ontario Innovations Fund together with a number of clinic and community partners to run a Speaker`s School project in Sarnia to empower injured workers to

advocate for both occupational and environmental health and law issues.

Many other public legal education sessions and materials were undertaken across our priority areas for a large variety of audiences including in respect of aboriginal children`s environmental health, water law and policy, energy law, and environmental equity.

Our public legal education work also continues to include editing the *Canadian Environmental Law Reports*, writing various articles and book chapters, attending as special lecturers at law school and other university programs helping to train future professionals on environmental law, and participating as speakers in continuing environmental law education sessions in Ontario and in Canada. In addition we continue to periodically publish the CELA e-bulletin to highlight our work.

CELA also benefitted again this year from intensive efforts by law students from Osgoode Law School and the University of Toronto, University of Ottawa and York University`s MES program, in projects regarding drinking water standards, public participation in renewable energy projects, and in relation to asbestos law, and in preparation of new or updated FAQs for our website and resource materials for our library. In June of 2011 we held a



CELA-CIELAP "Homecoming Celebration" to mark the achievements of CIELAP, the Canadian Institute for Environmental Law and Policy, and the reunion of CELA and CIELAP.

## PROJECTS

CELA continues with many innovative and far-reaching projects and partnerships to expand our systemic law reform and advocacy priorities. A few of these are highlighted here. CELA continued its strong role in a collaborative project between the Canadian Partnership for Children's Health and Environment, (CPCHE) and the Ontario Chronic Disease Prevention Alliance (OCDPA). CELA is also a lead in a project on "healthy retrofits," to research and develop educational materials to ensure energy efficiency retrofits do not result in toxic exposures or indoor air quality problems. CELA's PollutionWatch project continues to provide access to the public to learn about pollution emitters in their communities. CELA continues to maintain the Waterhole website for the Water Guardians Network to provide information to the public about participating in source water protection. CELA also provides input to CPCHE's educational materials and website to continue to provide a rich source of information on children's environmental health issues.

## OTHER RESOURCES FOR CLIENTS

CELA maintains a Lawyer Referral List on the CELA website and continues to welcome the addition of other environmental, municipal, and personal injury lawyers who wish to be on our referral list.

We also review quarterly, expressions of interest from lawyers, law students, scientists, engineers and others interested in volunteering with CELA in order to better increase our capacity for our case work and law reform efforts and truly appreciate the efforts of those who are able to work with us.



Hosted at CELA is the collection of the publicly accessible Resource Library for the Environment and the Law with a searchable online catalogue available to the public.

All of the staff and Board members of CELA wish to express our ongoing appreciation to all of our funders, to Legal Aid Ontario, to our many project partners and colleagues who work together in collaborative efforts and networks, and to our volunteer lawyers, law students and others. Collectively all of your contributions allow us to provide an extensive array of legal services, educational materials, and systemic law reform efforts, and we look forward to continuing all of these efforts in the coming year.

Theresa McClenaghan  
Executive Director  
October, 2011

## BALANCE SHEET

	Clinic	CELA Client Litigation Fund	Other	March 31	
				2011	2010
<b>ASSETS</b>					
Current					
Cash	\$ -	\$ 393,120	\$ 346,705	\$ 739,825	\$ 409,548
Grants and accounts receivable	19,134	395	63,057	82,586	113,732
Due from Clinic	-	-	-	-	2,267
Due from Litigation and Other	1,993	-	-	1,993	-
Prepaid expenses	14,680	-	500	15,180	15,880
	<u>35,807</u>	<u>393,515</u>	<u>410,262</u>	<u>839,584</u>	<u>541,427</u>
Lease deposit, due May 31, 2012	10,508	-	-	10,508	10,508
Capital assets	<u>-</u>	<u>-</u>	<u>341</u>	<u>341</u>	<u>486</u>
	<u>\$ 46,315</u>	<u>\$ 393,515</u>	<u>\$ 410,603</u>	<u>\$ 850,433</u>	<u>\$ 552,421</u>
<b>LIABILITIES</b>					
Current					
Bank overdraft	\$ 3,068	\$ -	\$ -	\$ 3,068	\$ 6,243
Accounts payable and accrued liabilities	33,739	110,655	27,164	171,558	96,506
Deferred revenue	-	-	166,370	166,370	147,045
Due to Clinic	-	342	1,651	1,993	-
Due to Other	-	-	-	-	2,267
	<u>36,807</u>	<u>110,997</u>	<u>195,185</u>	<u>342,989</u>	<u>252,061</u>
<b>NET ASSETS</b>	<u>9,508</u>	<u>282,518</u>	<u>215,418</u>	<u>507,444</u>	<u>300,360</u>
	<u>\$ 46,315</u>	<u>\$ 393,515</u>	<u>\$ 410,603</u>	<u>\$ 850,433</u>	<u>\$ 552,421</u>

Note: This information is a condensed financial statement consistent with and derived from the audited financial statements of the Canadian Environmental Law Association as at March 31, 2011. Audited financial statements were prepared by Chaplin and Co. Chartered Accountants, in accordance with the Canadian generally accepted auditing standards and who expressed an unqualified opinion on these financial statements in their report dated July 19, 2011. To obtain a better understanding of the organization's financial position and the results of its operations and cash flows for the year in question, the condensed financial statements should be read in light of the relevant audited financial statements, which are available upon request.

## STATEMENT OF OPERATIONS AND NET ASSETS

Year ended March 31

	Clinic	Litigation	Other	2011	2010
<b>REVENUE</b>					
Legal Aid Ontario	\$1,228,815	\$ -	\$ -	\$1,228,815	\$1,136,301
Legal Aid Ontario indirect payments	4,964	-	-	4,964	9,223
Grants	-	-	295,222	295,222	377,852
Cost/recoveries and rewards	-	151,697	-	151,697	-
Honouraria	-	-	4,329	4,329	8,313
Interest	83	118	2,272	2,473	5,070
Disbursement recoveries	1,067	15,651	1,047	17,765	3,454
	<u>1,234,929</u>	<u>167,466</u>	<u>302,870</u>	<u>1,705,265</u>	<u>1,540,213</u>
<b>EXPENSES</b>					
Amortization	-	-	145	145	205
Anniversary celebration	4,250	-	-	4,250	-
Communications, printing and distribution	18,263	-	17,619	35,882	31,335
Contract services	-	-	145,419	145,419	185,012
Equipment	9,232	-	-	9,232	5,347
Indirect payments	4,964	-	-	4,964	9,223
Legal Aid Ontario surplus recovery	-	-	-	-	3,332
Library purchases	14,607	-	-	14,607	14,538
Occupancy	137,450	-	2,200	139,650	130,608
Office and General	29,365	4,138	16,246	49,749	57,953
Professional dues	9,636	-	-	9,636	11,181
Professional development	6,976	-	-	6,976	-
Professional fees	6,945	-	2,619	9,564	9,225
Salaries and benefits	952,704	-	93,939	1,046,643	1,112,481
Travel	10,491	-	10,973	21,464	20,344
	<u>1,204,883</u>	<u>4,138</u>	<u>289,160</u>	<u>1,498,181</u>	<u>1,590,784</u>
Excess of revenue over expenses expenses over revenue) for the year	30,046	163,328	13,710	207,084	(50,571)
Net assets, beginning of year	(44,626)	119,190	225,796	300,360	350,931
Transfer between funds	<u>24,088</u>	<u>-</u>	<u>(24,088)</u>	<u>-</u>	<u>-</u>
Net assets, end of year	<u>\$ 9,508</u>	<u>\$ 282,518</u>	<u>\$ 215,418</u>	<u>\$ 507,444</u>	<u>\$ 300,360</u>

# THANK YOU!

CELA is blessed with wonderful staff, Board members and volunteers. We also deeply appreciate the support and good relationships we enjoy with our clients. We work collaboratively with many groups and individuals.

## CELA Core Staff:

Mary Anderson	Sharon Fleishman	Kaitlyn Mitchell
Kyra Bell-Pasht	Renee Griffin	Sarah Miller
Joe Castrilli	Leah Harms	Ramani Nadarajah
Kathleen Cooper	Rick Lindgren	Tracy Tucker
Fe de Leon	Theresa McClenaghan	Frederic Perron-Welch

## Contract Staff and/or Expert Advisors:

Alan Abelsohn	Rob Ellis	Louisa Samuels
Burgandy Dunn	John Jackson	Susan Toth
Chaplin & Company	Catherine Miller	Bernardine Tucker
Miriam Diamond	Andrius Ragainis	Katie Tucker
Alan Dixon	Sarah Rang	Anne Wordsworth

## CELA non-staff Board Members

Lauren Alcorn	Brian Chang	Jacinta O'Brien (President)
Michele Anderson	Bruce Davidson	Grace Patterson
Vicki Barron	Miriam Diamond	Graham Rempe
Elizabeth Block	John Jackson	Luke Wintjes
Margaret Casey	John Lang	
Lesley Cameron (Chair)	Kaitlyn Mitchell	

## Volunteers:

Isobel Foote	Louisa Samuels	Christopher Waffle
Leah Harms	Rachel Slingerland	Katie Wei
Debbie Nolan	Jessica Spina	Claire Yick

## Key Partners and Partnerships:

Advocacy Centre for Tenants Ontario  
Ban Asbestos Canada  
Campaign for Nuclear Phaseout  
Canadian Association of Physicians for the Environment  
Canadian Centre for Policy Alternatives  
Canadian Environmental Network  
Canadian Network for Environment Health and Social Equity

Canadian Partnership Against Cancer – National Committee on Environmental and Occupational Exposures  
Canadian Partnership for Children's Health and Environment  
Canadian Institute for Environmental Law and Policy  
Centre for Social Innovation  
Coalition on the Niagara Escarpment  
Community Legal Assistance Sarnia  
Environmental and Occupational Carcinogens Stakeholder Group the Ontario Branch of the Cancer Society  
Environmental Defence  
Environmental Health Institute of Canada  
Freshwater Future  
Frog Hollow Neighbourhood House – Vancouver  
Great Lakes Compact/Agreement Coalition  
Great Lakes United  
Greater Toronto Area Cancer Prevention and Screening Network  
HomeSafe  
Injured Workers' Consultants  
International POPs Elimination Network  
Low Income Energy Network  
Lowell Center for Sustainable Production -  
University of Massachusetts at Lowell  
Occupational Health Clinics for Ontario  
Workers Inc.  
McMaster Institute of Environmental Health  
Making the Links Research Group  
Ontario Chronic Disease Prevention Alliance  
Ontario Environment Network  
Ontario Network of Injured Workers Groups  
Ontario Public Health Association  
Northwatch  
Pollution Probe  
PollutionWatch  
the Biodiversity Project  
Take Charge on Toxics Campaign  
Toronto Cancer Prevention Coalition  
Toronto Environmental Alliance  
the Water Guardians Network and Wilfred Laurier University.



And we extend an extra special thanks to our funders who make it all possible. In addition to our core funding

support from Legal Aid Ontario, CELA staff and contract staff have worked for many of our partner organizations. We have also obtained generous project grants from several private foundations as well as some government agencies. This additional funding support, beyond that provided by Legal Aid Ontario, dramatically extends CELA's ability to conduct law reform and public legal education in Ontario and across Canada.

### Funders:

Canadian Auto Workers

Canadian Environmental Network

Chiefs of Ontario

Environment Canada

Environmental Defence

Frog Hollow Neighbourhood House - Vancouver and the Public Health Agency of Canada

Health Canada

Human Resources Skills Development Canada

International Joint Commission

Joyce Foundation

Law Foundation of Ontario

Legal Aid Ontario

Ontario Ministry of Environment

Ontario Trillium Foundation

Salamander Foundation

Walter and Duncan Gordon Foundation



## **Michelle's Prize** **Scholarship Fund in Honour of** **Michelle Swenarchuk**

In memory of the life and work of Michelle Swenarchuk, long-time CELA counsel, Executive Director and advocate, on the occasion of CELA's 40th Anniversary in 2010, we launched a scholarship in her honour. Fundraising has continued during 2011 for a one-time grant to support the work of students following the same legal and social justice pursuits in which Michelle pioneered and excelled.

More details are posted to [www.cela.ca](http://www.cela.ca) and donations can be made via [www.CanadaHelps.org](http://www.CanadaHelps.org).

For more information, please contact John Lang [[langjb@sympatico.ca](mailto:langjb@sympatico.ca)], chair of the scholarship committee.







## Canadian Environmental Law Association

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