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Ontario's Climate Change Plan: Protecting the Environment and Low-Income Communities

**The Canadian Environmental Law Association's
Submission to Ministry of the Environment, Conservation
and Parks**

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Introduction

Please accept this submission of the Canadian Environmental Law Association in response to the Ministry of the Environment, Conservation and Parks' consultation on Ontario's climate change plan.¹

The critical purpose of Ontario's climate change plan must be the implementation of stringent greenhouse gas reduction targets, commensurate with the scope of the threat of climate change and our international climate commitments under the *Paris Agreement*.² Every decision about the design of the new climate change plan must reflect the urgency of the climate crisis.

The impact of climate change on Ontario will be varied, with effects spanning human and ecological dimensions. Areas of most vulnerability include:

- **Public health** through the increased transmission of pathogens and pests
- **Ecological systems** due to fire and floods triggered by extreme weather events, and changes to growing seasons which will impact crop yields and the harvest of traditional, wild foods
- **Employment** dependent upon natural resources and ecological cycles, such as farming and forestry
- **Tourism** due to changes in seasonality
- **Water health** due to increased risks to the quality and quantity of water supplies

Climate change will also have disproportionate impacts on those who are least able to proactively respond. It is crucial that Ontario's climate change plan focus on measures to allow low-income people to participate in the transition to a low-carbon economy and be cognizant of physical, economic and social barriers faced by communities in adapting to climate change.

I. Background - Canadian Environmental Law Association

The Canadian Environmental Law Association ("CELA") is a non-profit, public interest organization established in 1970 for the purpose of using and improving existing laws to protect

¹ Ministry of the Environment, Conservation and Parks, "Consultation – Climate Change Plan," online: <https://www.ontario.ca/form/tell-us-your-ideas-climate-change> [Ontario Climate Change Plan]

² United Nations Climate Change, "The Paris Agreement (COP21)," online: <https://unfccc.int/resource/docs/2015/cop21/eng/l09r01.pdf>

public health and the environment. As an Ontario legal aid clinic, CELA's top priority is to represent low-income individuals and communities.

Our recommendations in this report also draw on our expertise as a founding member of the Low-Income Energy Network ("LIEN") which aims to address the energy needs of Ontario's low-income households. In collaboration with other legal aid clinics, housing advocates and anti-poverty organizations, LIEN seeks to ensure universal access to adequate, affordable energy as a basic necessity, while minimizing the impacts on health and on the local and global environment.³

II. CELA's Recommendations on Ontario's Climate Change Mitigation Plan

A. Principles

A climate change mitigation plan based on the following key mandatory principles should be developed. Several of these principles are further detailed in the subsections below.

1. The climate change mitigation plan should focus on environmental justice and emphasize mitigation measures for low-income and vulnerable communities.
2. Greenhouse gas ("GHG") reduction targets should be stringent and entrenched in law.
3. Without GHG pricing, the backbone of Ontario's climate change plan must be regulation:
 - a. Ontario must establish regulations to set emissions standards and pollution limits for large emitters.
 - b. Ontario must establish mandatory efficiency standards for buildings, appliances and equipment.
4. The climate change mitigation plan must include transitional incentives and supports for sectors contributing most to GHG emissions.
5. The climate change mitigation plan requires stable and adequate funding in the Ontario budget.

³ See Low-Income Energy Network, "About Us," online: <http://www.lowincomeenergy.ca/about/>

i. Environmental justice

Ontario's climate plan must recognize the impact of climate change on low-income and vulnerable communities. Ontario should commit to targeted mitigation and adaptation programs for those communities.

The link to climate change is simple: low-income communities have contributed least to GHG emissions, but will be impacted most by climate change.⁴ The need to address the rising costs of living caused by climate change and impacts of climate change plans on these groups must be specifically reviewed.

The Intergovernmental Panel on Climate Change (IPCC) identifies climate change equity as having three dimensions: intergenerational (fairness between generations), international (fairness between states), and national (fairness between individuals).⁵

According to 2016 data from Statistics Canada, over 700,000 Ontario households have gross household incomes at or below the low-income cut-off.⁶ These households are disproportionately comprised of single mothers, new immigrants, racialized communities and seniors.

While low-income individuals want to be part of the solution to climate change, their involvement can often be hampered by the systemic inequities in programs geared to these communities. For instance, as Portland, Oregon's *Climate Action Plan 2015* correctly observes, low-income populations have been under-served by programs and investments in the past, and are under-represented in climate change policy:

Communities of color and low-income populations have historically been under-served by programs and investments and under-represented in decision making on climate policy. Lack of low-carbon, safe transportation options, inefficient housing and the inability to afford healthy food are examples of disparities experienced by these communities that result in fewer benefits from climate action opportunities. These inequities primarily result from ongoing institutional racial bias and historical

⁴ Marc Lee, *Fair and Effective Carbon Pricing: Lessons from BC* (Vancouver: Canadian Centre for Policy Alternatives, February 2011) [*Fair and Effective Carbon Pricing*] online: https://www.policyalternatives.ca/sites/default/files/uploads/publications/BC%20Office/2011/02/CCPA-BC_Fair_Effective_Carbon_FULL_2.pdf.

⁵ Marc Fleurbaey et al. Fifth Assessment Report (AR5), IPCC, 2014 online: http://www.ipcc.ch/activities/activities.shtml#_UMzUkuB2MiA.

⁶ Statistics Canada, "Income measures by income source and household size in current dollars and 2016 constant dollars" online: <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1110023201>

discriminatory practices that have resulted in the inequitable distribution of resources and access to opportunities.⁷

Climate change programs must be specifically designed to include low-income people. For instance, building retrofit programs should include mandatory, minimum thresholds for employing low-income people.

Ontario's climate plan should establish minimum requirements for spending in low-income and vulnerable communities. We recommend the model adopted in California, where 35% of all climate change spending is required by law to be spent on low-income and vulnerable communities.⁸

RECOMMENDATION 1: Ontario's climate change mitigation plan should require that a minimum of 35% of climate change mitigation funds be spent on low-income individuals and communities.

ii. Emission Reduction Targets

According to the landmark report released by the IPCC on October 8, 2018, humanity has at most 12 years to drastically reduce GHG emissions, if we are to avert a climate crisis.⁹ The recent report makes it very clear that global climate change efforts must limit climate change to 1.5 °C to avoid catastrophic consequences¹⁰.

At the very least, Ontario must uphold a minimum commitment to reduce GHG levels by 15 per cent below 1990 levels, by 2020; 37 per cent by 2030; and 80 per cent by 2050. These targets are not ambitious enough to limit warming to 1.5 degree – therefore it is crucial that Ontario's target be legally enforceable and strengthened over time, to ensure compliance and respond to the immediacy of the threats posed by climate change.

RECOMMENDATION 2: Ontario's GHG reduction targets should be entrenched in law, based on a 1990 baseline, include mechanisms to enforce the targets, and meet the goal of limiting climate change to 1.5 °C.

⁷ City of Portland, 2015 Climate Action Plan: Local Strategies to Address Climate Change, (Portland: City of Portland, June, 2015) at 43, online: <https://www.portlandoregon.gov/bps/article/531984>.

⁸ AB-1550 *Greenhouse gases: investment plan: disadvantaged communities*

⁹ "Global Warming of 1.5 °C", Intergovernmental Panel on Climate Change, 6 October 2018, online: http://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf

¹⁰ *Ibid*

B. Mitigation Programs

CELA provides the following preliminary recommendations on programs that should be included in the climate change mitigation plan. The plan must take a whole-of-government approach, which recognizes that climate change mitigation action will be necessary across all Ministries of government. We look forward to further consultation on the details of the climate change plan.

i. GHG Emissions Reduction Fund

Ontario has signalled that Ontario's climate plan may include an emissions reduction fund.¹¹ CELA supports the establishment of a greenhouse gas emissions reduction fund, however, it must be accessible to low-income communities and include specific outreach criteria designed to ensure their inclusion.

The criteria for a GHG reduction fund should be carefully designed to ensure the inclusion of low-income and vulnerable community programs. A cost-effectiveness test would be ineffective in accounting for the impacts of climate change on low-income and vulnerable communities. It would likely act as a deterrent to the creation and delivery of appropriate and accountable programs.

Funding criteria must value equity and health concerns. For instance, the environmental impacts of air pollution are well documented and climate change mitigation measures that reduce air pollution provide significant health co-benefits. Those co-benefits should be valued and reflected in criteria to choose climate change mitigation measures.

A cost-effectiveness paradigm would favour programs with the fewest and least complicated barriers to delivery. The delivery of programs to low-income and vulnerable communities often require that the programs overcome significant additional barriers to be successful.

CELA recommends that the following principles be considered for low-income climate change mitigation programs and be reflected in any funding criteria for a GHG reduction fund:

- 1- Climate change programs should be accessible province-wide to low-income and vulnerable communities.
- 2- The programs should require no upfront cost to low-income and vulnerable people.

¹¹ Ontario climate change plan, *supra* note 1

- 3- The program design, and funding criteria, must address non-financial barriers to program success (i.e. communication issues, distrust of government programs).
- 4- The programs must assist with capacity in low-income and vulnerable communities to allows organizations representative of those communities to apply for program funding and deliver programs.
- 5- The programs should be simple to access. They should be integrated with other programs designed for low-income and vulnerable communities, for instance by including only one screening and intake process.
- 6- The programs must be “turnkey solutions”, which do not require additional efforts or resources to be expended by low-income and vulnerable communities.
- 7- The programs must include on-going measurement of results and mechanisms to gather and address feedback from low-income and vulnerable communities.

ii. Natural gas and electricity conservation programs

Natural gas and electricity conservation programs should be expanded. The climate change plan should focus on conservation efforts, which will also lower electricity and natural gas bills.

CELA recommends mandatory energy efficiency standards for all major appliances and equipment. Energy efficiency labelling should be required. A sales tax rebates for energy-efficient products may be introduced, until the product reaches 50% market saturation.

Electricity and natural gas efficiency programs provide important health co-benefits. For instance, old appliances can be both inefficient and pose potential safety hazards. Efforts to reduce energy costs can be dangerous.¹² One example is that old water heaters left at lukewarm temperatures, in order to reduce energy costs, are a breeding ground for Legionnaire’s disease.

iii. Housing retrofits

The climate change plan should include retrofit programs for low-income people living in social-housing, the private rental market, and low-income homeowners.

It is critical that housing retrofit programs target all low-income tenants and homeowners, not only those living in social housing. The majority of low-income renters live in the private rental market:

¹² Pembina Institute and CELA, *Power for the Future: Towards a Sustainable Electricity System for Ontario*, May 2004, online: <http://www.cela.ca/sites/cela.ca/pdf/energyreport-fullreport.pdf>

- Only 29% of low-income renter households in Ontario live in subsidized housing. 71% live in the private rental market.
- 87% of Ontario Works beneficiaries live in the private rental market.
- 68% of Ontario Disability Support Payment beneficiaries live in the private rental market.
- 37% of all renter households in Ontario are low-income; 9% of owner households in Ontario are low-income.

Affordable housing is a major issue in both urban and rural Ontario, and there are a variety of pressures on housing markets in each type of community that may limit access to affordable housing for low-income residents. In rural Ontario some of the major affordable housing issues include the age and poor condition of homes, as well as increases in housing prices and utility costs. Additionally, there are often limited supplies of alternative housing for low-income residents in rural Ontario.

The climate change plan should continue to fund the social housing retrofits previously targeted by the Social Housing Apartment Retrofit Program (SHARP) and the Social Housing Apartment Improvement Program (SHAIP).

The climate change plan should also include free programs to assist low-income people living in the private rental market, and low-income homeowners.

As well, buildings are a large source of emissions in Ontario, and the Ontario Building Code standards should mandate efficient performance and low-carbon technologies.

iv. Use of the gas tax

Ontario's gas tax should be used to invest in public transit and include rebates for individuals living in remote and rural regions.

A key focus of the climate change plan should be the transportation sector because of rising emissions. There are also important health co-benefits to addressing local air pollution. Provincial gas taxes should continue to be focused on public transit. Time-of-use road pricing will raise funds to be used on active and public transit and will encourage freight to drive at off-peak times.

Ontario must ensure profits from the gas tax are used equitably among Ontarians. These expenditures must also consider the historical lack of transit funding in the North and the overdue need for investment in transit infrastructure, including passenger rail services.

v. Renewable energy

Renewable energy needs to be prioritized and supported. The climate change plan should maintain programs to support net metering, rooftop solar, and other measures that promote energy resilience. The climate change plan should ensure that barriers to communities that wish to move toward renewable energy are removed.

vi. Landfills and organic waste

Ontario should ensure that no new landfills are created and organic waste is effectively diverted. Methane is a potent GHG. Landfills are overfilled and cause significant environmental problems, along with GHG emissions. The climate change plan should fund programs to ensure organic waste is more effectively diverted from landfills.

vii. Environmental assessments and climate test

Ontario's *Environmental Assessment Act* should be amended to include an enforceable climate change test.¹³

The Ontario *Environmental Assessment Act* is a planning tool. It should be amended to allow the province to ensure future development accounts for Ontario's GHG reduction targets, and climate change adaptation concerns.

III. CELA'S RECOMMENDATIONS FOR ONTARIO'S CLIMATE CHANGE ADAPTATION PLAN

Ontario's climate change plan should include a clear mandate to create a comprehensive and detailed climate change adaptation plan. This plan should also be framed by environmental justice concerns.

¹³ CELA letter, *Using Environmental Assessment to Address Climate Change*, October 17, 2016, online: <http://www.cela.ca/using-EA-to-address-climate-change>

When Ontario experiences more frequent and severe extreme weather events, low-income individuals and remote communities are most vulnerable to infrastructure disruptions. The rising price of food caused by disruptions to the global production and supply chain will significantly impact already food insecure low-income communities. Changes to plant and animal species ranges and the surge in invasive species will disproportionately affect First Nations traditional and subsistence food sources.

RECOMMENDATION 3: A robust climate change adaptation plan will include the following three interconnected components: (1) programs for remote and Northern communities, (2) climate change risk assessment, and (3) detailed action plans.

i. Programs for remote and Northern communities

Climate effects are unevenly distributed, with certain regions being more vulnerable to events such as fires and floods, and certain employment sectors more affected by changes in seasonal variability, such as those based on tourism, natural resources or agriculture.

In discussion with colleagues from legal aid clinics across the North, CELA has compiled a list of impacts which are distinct to Northern Ontario and require direct attention, to ensure their inclusion in Ontario's climate plan.

While far from exhaustive, we provide these comments as a starting point for discussion. Ultimately, CELA recommends that Ontario undertake a comprehensive consultative process to identify how low-income individuals and Northern communities will be affected by climate change, based on environmental exposure, effects, sensitive populations and socioeconomic factors.

Winter roads and accessibility

There is decreasing reliance on Ontario's winter road network due to shifts in seasonal freeze-thaw patterns. As a result, accessing medical services (when not available in the community), is becoming increasingly difficult.

The lack of ice roads can also create scarcity of resources, where goods and services are less able to reach communities formerly accessible during the winter months. CELA recommends Ontario's climate plan respond with programs to assist these communities in offsetting the increased costs of goods and food, and accessing health care.

Energy resources

Ontario's climate plan should include programs for Northern and remote communities to increase access to cheap, cleaner fuel. Diesel, wood, propane and oil are all used to heat northern and remote homes and are environmentally damaging and expensive. Electrical heating is also much more common in Northern Ontario than elsewhere in the province. The climate change plan should provide programs to address fuel use in these communities. CELA also urges the government to reverse its decision to indiscriminately cancel all recent renewable energy contracts, which were cost effective and primarily owned by municipalities, utilities, farmers and First Nations.

Small businesses and seasonal employment

Those whose livelihoods are based on seasonal employment and the tourism it generates, have already experienced the impacts of climate change. Threats of forest fire can create marked decreases in tourists, and due to unpredictable shifts in natural seasons, employment opportunities as outdoor guides, ski operators and outfitters are jeopardized.

Artisanal businesses and those reliant on traditional foods for harvest and crafts, are also observing climate changes impacts because of the decreasing availability of wild resources, due to decreases in biodiversity and harm caused by seasonal invariability.

Public health

The regions whose air was most affected by the forest fires of the Summer of 2018 were Northern towns and communities. These regions should be provided resources to ensure their emergency preparedness and sufficiency of plans to safeguard human health in light of acute health risks caused by poor air quality.

The increased resiliency of pests, due to warming temperatures and the lack of continuous sub-zero temperatures (which historically, provided a natural check on pest management), must also be taken into account in the design and implementation of programs with a Northern focus.

ii. Province-wide climate change risk assessment

There is currently a lack of evidence about how much funding is required to meet the climate change adaptation needs of Ontarians. The first step toward creating a robust and sufficient

climate change adaptation plan is to conduct a risk assessment which will identify areas of concern and provide details on how low-income and vulnerable communities will be disproportionately impacted by the effects of climate change.

The government should build on Ontario Climate Change and Health Toolkit¹⁴, and other previous work that has been done to assess climate change adaptation needs.

The risk assessment should include a Low-Income Barrier Study to identify the economic, social, psychological, technological and political challenges faced by low-income and vulnerable communities in adapting to climate change.

California's Senate *Bill 350* provides a model for Ontario to emulate in designing a Low-Income Barrier Study. *Bill 350* provides that Low-Income Barrier Studies should be conducted to better understand the barriers faced by low-income communities in establishing solar photovoltaic energy generation and in accessing renewable energy, energy-efficient investments, and zero or near-zero emission transportation options.¹⁵ In 2016, California completed its Low-Income Barrier Study regarding access to renewable energy, weatherization, and energy efficient technologies.¹⁶ The final version of the Low-Income Barrier Study on access to zero-emission and near zero-emission transportation options has not yet been released.¹⁷ The reports were informed by literature reviews, community meetings, and technical workshops.¹⁸

iii. Detailed action plan

A climate change adaptation plan requires stable and sufficient funding in the Ontario budget. The level of funding should be determined based on the results of the risk assessment.

Similar to CELA's recommendation for Ontario's climate change mitigation plan, a legislated minimum threshold of climate change adaption funds should be spent in low-income and vulnerable communities.

¹⁴ Ontario Ministry of Health and Long Term Care, *Ontario Climate Change and Health Toolkit*, by Kristie Ebi et al, (Toronto: Government of Ontario, 2016), online: http://www.health.gov.on.ca/en/common/ministry/publications/reports/climate_change_toolkit/climate_change_toolkit.pdf

¹⁵ US, SB 350, *Clean Energy and Pollution Reduction Act of 2015*, 2015-2016, Reg Sess, Cal, 2015, s 25327 (1)-(4)

¹⁶ California Energy Commission, *SB 350 Low-Income Barriers Study, Part A – Commission Final Report*, (California: December 2016) [*Low-Income Barrier Study*], online: http://www.energy.ca.gov/sb350/barriers_report/

¹⁷ California, California Air Resources Board, "Low-Income Barriers Study, Part B – Overcoming Barriers to Clean Transportation Access for Low-Income Residents", (February 2018), online: https://ww2.arb.ca.gov/sites/default/files/2018-08/sb350_final_guidance_document_022118.pdf

¹⁸ *Low-Income Barrier Study*, *supra* note 17, Part A at 2; *Low-Income Barrier Study*, *supra* note 16, Part B at 11.

In negotiations with the Federal government regarding infrastructure spending, funding criteria should prioritize climate-friendly applications from municipalities. For example, in Norfolk County, an infrastructure program is helping to fund storm-sewer upgrades; storm-sewers are among the hardest hit pieces of infrastructure from the weather impacts of climate change.

Extreme heat is most harmful for vulnerable people including the elderly, children and people with pre-existing health conditions. Along with the harmonized heat warning and information system, Ontario should create a province-wide strategy to ensure that an indoor maximum temperature of 26 °C is established throughout the province.

CONCLUSION

We look forward to providing feedback on future, more detailed proposals on climate change mitigation and adaptation in Ontario.

Summary of Recommendations

RECOMMENDATION 1: Ontario's climate change mitigation plan should require that a minimum of 35% of climate change mitigation funds be spent on low-income individuals and communities.

RECOMMENDATION 2: Ontario's GHG reduction targets should be entrenched in law, based on a 1990 baseline, include mechanisms to enforce the targets, and meet the goal of limiting climate change to 1.5 °C.

RECOMMENDATION 3: A robust climate change adaptation plan will include the following three interconnected components: (1) programs for remote and Northern communities, (2) climate change risk assessment, and (3) detailed action plans.

Yours truly,

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