

**Written Submission for the Pre-Budget Consultations in Advance of the  
Upcoming Federal Budget**

**By: Canadian Environmental Law Association**

## List of Recommendations

**Recommendation 1:** Prioritize significant, multi-year investment in federal Great Lakes programs at Environment and Climate Change Canada beyond 2023.

**Recommendation 2:** Develop a pan-Canadian approach to freshwater that shares responsibility with provinces, territories, municipalities, and Indigenous governments to address the current fragmented jurisdictional framework for water governance.

**Recommendation 3:** Uphold the commitment to repeal the *Safe Drinking Water for First Nations Act*. Develop and introduce replacement legislation in collaboration with First Nations by the end of 2022.

**Recommendation 4:** Increase funding for water and wastewater infrastructure in First Nations communities.

**Recommendation 5:** Develop a comprehensive nuclear waste framework for decommissioning nuclear facilities that includes rules and policies to protect human and ecosystem health, while making the nuclear industry accountable and responsible.

**Recommendation 6:** Designate radionuclides as Chemicals of Mutual Concern (“CMC”) under Annex 3 of the Great Lakes Water Quality Agreement.

**Recommendation 7:** Eliminate federal funding for Small Modular Reactors, across all departments and funding streams, and reallocate those funds into cost-effective, socially responsible, renewable energy solutions.

**Recommendation 8:** Expand the CMC designation to encompass the full family of Per- and Polyfluoroalkyl Substances (“PFAS”).

**Recommendation 9:** Develop a clear, aggressive, and actionable transnational strategy to phase-out all PFAS in the Great Lakes region, consistent with the ultimate goals of virtual elimination and zero discharge.

**Recommendation 10:** Acknowledge Indigenous governments as rights holders with decision-making power.

**Recommendation 11:** Enhance engagement with Indigenous peoples in the structuring and operation of freshwater laws, policies and program, including funding to facilitate engagement by Indigenous bodies and communities, so that existing resources, staff and community capacity are not taxed.

## Background: About Canadian Environmental Law Association

Canadian Environmental Law Association (“CELA”) is a public interest law clinic dedicated to environmental equity, justice, and health. Through our Healthy Great Lakes program, CELA works to engage a broad network of individuals and organizations in understanding, shaping, effectively implementing, and making use of laws and policies that promote freshwater health in the Great Lakes – St Lawrence River region.

### Part I: Prioritize Continued Funding in Great Lakes Programs

In Budget 2022, the federal government proposed to “provide \$19.6 million in 2022-23 to Environment and Climate Change Canada to sustain the Freshwater Action Plan.”<sup>1</sup> Some of these funds were allocated to the Great Lakes Protection Initiative, which focusses on improving Great Lakes water quality and ecosystem health in 6 program areas:<sup>2</sup>

- preventing toxic and nuisance algae
- assessing and enhancing the resilience of Great Lakes and coastal wetlands
- evaluating and identifying at-risk nearshore waters
- reducing releases of harmful chemicals
- engaging Indigenous Peoples in addressing Great Lakes issues
- increasing public engagement through citizen science

Continued funding for the Great Lakes Protection Initiative is an important investment in the region’s resilience. Assessment of the US Great Lakes Restoration Initiative found the 2010-2016 return on investment was \$3.35 of additional economic activity for every \$1 expended.<sup>3</sup> Further, identified benefits will continue to be realized in communities where Great Lakes Areas of Concern are being restored.<sup>4</sup>

Continued federal investment, on par with equivalents in the US, is necessary to ensure implementation of the Canada-US Great Lakes Water Quality Agreement (“GLWQA”), which commits the two national governments to protecting and restoring freshwaters such that they are a source of safe, high-quality drinking water, are safe for swimming and recreational use,

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<sup>1</sup> Canada, Budget 2022, Section 3.3 Protecting Our Lands, Lakes, Oceans (2022), online:

<https://budget.gc.ca/2022/report-rapport/chap3-en.html#2022-3>

<sup>2</sup> Environment and Climate Change Canada, Evaluation of Freshwater Action Plan: Great Lakes Protection Initiative (April 2022), page I; online: [publications.gc.ca/pub?id=9.910913&sl=0](https://publications.gc.ca/pub?id=9.910913&sl=0)

<sup>3</sup> Great Lakes Commission, Assessing the Investment: The Economic Impact of the Great Lakes Restoration Initiative (2018); online: <https://www.glc.org/work/blue-economy/GLRI-economic-impact>

<sup>4</sup> Hartig, Krantzberg, and Alsip, “Thirty-five years of restoring Great Lakes Areas of Concern: Gradual progress, hopeful future”, *Journal of Great Lakes Research*, Vol 46, Issue 3 (June 2020); online:

<https://doi.org/10.1016/j.jglr.2020.04.004>

are unrestricted by environmental quality concerns, and allow for safe consumption of fish and wildlife.

CELA submits that significant, multi-year federal investment in the Great Lakes Protection Initiative and associated Great Lakes programs at Environment and Climate Change Canada is needed to continue working toward freshwater protection and restoration in the region.

**Recommendation 1:** Prioritize significant, multi-year investment in federal Great Lakes programs at Environment and Climate Change Canada beyond 2023.

## **Part II: Develop a Pan-Canadian Approach to Freshwater**

For decades, CELA has been actively involved in seeking freshwater protection at international, national, provincial, regional, and local levels. Based on this experience, CELA believes that a pan-Canadian approach to freshwater governance can provide an opportunity to address the current fragmented jurisdictional framework in Canada. A pan-Canadian strategy can provide a means through which the four levels of Canadian government (federal, provincial, territorial, municipal) and Indigenous governments can work collaboratively in a spirit of cooperative federalism. While Indigenous governments have historically been excluded from decision-making, a collaborative approach may be instrumental towards a road of reconciliation and braiding knowledge and governance systems. A collaborative approach will also provide for more effective water governance in Canada by eliminating duplication, facilitating knowledge mobilization, and consolidating data on water.

**Recommendation 2:** Develop a pan-Canadian approach to freshwater that shares responsibility with provinces, territories, municipalities, and Indigenous governments to address the current fragmented jurisdictional framework for water governance.<sup>5</sup>

## **Part III: Ensure Safe Drinking Water for All First Nations Communities**

As part of the federal government's responsibility for freshwater, it must ensure that First Nations have access to safe, clean, and reliable drinking water. Unfortunately, this is not the case for many First Nations communities across the Great Lakes region.

There is a severe gap in funding water-efficient infrastructure to ensure safe delivery of drinking water, construction of advanced water and wastewater treatment, source water protection, and building capacity within First Nation communities. Additionally, Indigenous peoples have historically been excluded from decision-making at the federal, provincial, and territorial levels,

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<sup>5</sup> For more details on CELA's recommendations, see: [https://cela.ca/wp-content/uploads/2021/06/CELA\\_Brief\\_Study\\_on\\_Fresh\\_Water\\_in\\_Canada.pdf](https://cela.ca/wp-content/uploads/2021/06/CELA_Brief_Study_on_Fresh_Water_in_Canada.pdf) and <https://cela.ca/wp-content/uploads/2021/03/CELA-Response-Proposed-Clean-Water-Agency.pdf>

highlighting a significant gap in meaningful consultation and accommodation where Indigenous peoples' relationship with water is impacted.

**Recommendation 3:** Uphold the commitment to repeal the *Safe Drinking Water for First Nations Act*. Develop and introduce replacement legislation in collaboration with First Nations by the end of 2022.

**Recommendation 4:** Increase funding for water and wastewater infrastructure in First Nations communities.

## Part IV: Address Nuclear Hazards and Risks in the Great Lakes Region

There are 38 nuclear power reactors located in the Great Lakes region—eight of which are permanently shut down and seven more are scheduled to be decommissioned by 2025.<sup>6</sup> This raises serious concerns related to contamination, long-term monitoring, and nuclear waste management.

CELA encourages the federal government to develop a comprehensive nuclear waste framework for decommissioning nuclear facilities, which includes rules and policies to protect human and ecosystem health, while making the nuclear industry accountable and responsible. This policy framework must be based upon meaningful consultation with Indigenous peoples and strong public engagement.

Further, given the long-term contamination concerns associated with radionuclides, CELA urges the federal government to designate radionuclides as Chemicals of Mutual Concern (“CMC”) under Annex 3 of the GLWQA.<sup>7</sup>

Finally, as old nuclear plants are being decommissioned, now is not the time to invest in new unproven reactor designs. Budget 2022 proposed substantial investment in Small Modular Reactors (“SMRs”). Like conventional nuclear technology, SMRs pose safety, accident, and proliferation risks. CELA encourages the federal government to eliminate federal funding for SMRs, and instead reallocate those investments into cost-effective, socially responsible, renewable solutions.

**Recommendation 5:** Develop a comprehensive nuclear waste framework for decommissioning nuclear facilities that includes rules and policies to protect human and ecosystem health, while making the nuclear industry accountable and responsible.

<sup>6</sup> See [https://ijc.org/sites/default/files/WQB\\_GLNuclearDecommissioningReport\\_202111.pdf](https://ijc.org/sites/default/files/WQB_GLNuclearDecommissioningReport_202111.pdf)

<sup>7</sup> For more information, see: [https://cela.ca/wp-content/uploads/2022/05/1474-CMCs\\_Radiation\\_and\\_Health\\_Comments.pdf](https://cela.ca/wp-content/uploads/2022/05/1474-CMCs_Radiation_and_Health_Comments.pdf); <https://cela.ca/renomination-of-radionuclides-as-chemicals-of-mutual-concern/>

**Recommendation 6:** Designate radionuclides as CMCs under Annex 3 of the GLWQA.

**Recommendation 7:** Eliminate federal funding for SMRs, across all departments and funding streams, and reallocate those funds into cost-effective, socially responsible, renewable energy solutions.

## Part V: Eliminate Harmful Pollutants

Per- and Polyfluoroalkyl Substances (“PFAS”) are chemicals of serious concern in the Great Lakes region. A recent report by the National Wildlife Federation<sup>8</sup> documents the extent of PFAS contamination in the Great Lakes, noting their toxic effect on humans, wildlife, and ecosystems.

In 2016, two individual PFAS compounds: perfluorooctanoic acid and perfluorooctane sulfonic acid, and one category: long-chain perfluoroalkyl carboxylic acids, were designated as CMCs under Annex 3 of the GLWQA. While this is a positive move, it only represents a fraction of the over 4,700 PFAS that may have historically been used.

CELA submits that there is a gap in federal policy as it relates to PFAS chemicals and, as stressed in the Action Plan to Protect the Great Lakes and St. Lawrence 2020-2030, elimination should be undertaken to reduce human and environmental exposure to toxics and other harmful chemicals.<sup>9</sup>

**Recommendation 8:** Expand the CMC designation to encompass the full family of PFAS.

**Recommendation 9:** Develop a clear, aggressive, and actionable transnational strategy to phase-out all PFAS in the Great Lakes region, consistent with the ultimate goals of virtual elimination and zero discharge.

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<sup>8</sup> See <https://www.nwf.org/-/media/Documents/PDFs/NWF-Reports/2019/NWF-PFAS-Great-Lakes-Region.ashx?la=en&hash=1299665082D4DAEBC613AE6DBF845C31084BB839>

<sup>9</sup> Great Lakes and St. Lawrence Collaborative, Action Plan to Protect the Great Lakes and St. Lawrence 2020-2030 (2020), online: <http://www.glf.org/pubs/pdfs/2020%20Great%20Lakes%20and%20St.%20Lawrence%20Collaborative-ENGWeb.pdf>

## Part VI: Enhance Engagement with Indigenous Peoples

The TRC Calls to Action 45-47 call for a restructuring of legal, governance and institutional structures in Canada to permit the participation of Indigenous peoples.<sup>10</sup> Given this legal and policy context, CELA submits that it is essential for the federal government to meaningfully engage with Indigenous peoples in the structuring and operation of freshwater laws, policies and programs. This includes funding to facilitate engagement by Indigenous bodies and communities, so that existing resources, staff and community capacity are not taxed.

**Recommendation 10:** Acknowledge Indigenous governments as rights holders with decision-making power.

**Recommendation 11:** Enhance engagement with Indigenous peoples in the structuring and operation of freshwater laws, policies and program, including funding to facilitate engagement by Indigenous bodies and communities, so that existing resources, staff and community capacity are not taxed.

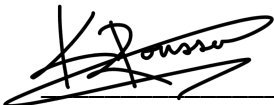
## Conclusion

As funding for 2023 and beyond is considered, CELA urges the federal government to recognize the continued need for significant, multi-year investment in Great Lakes protection to meet Canada's commitments to improve the water quality and ecosystem health of the region.

Thank you for your consideration of this matter.

With regards,

**Canadian Environmental Law Association**



Krystal-Anne Roussel  
Water Policy Coordinator, Healthy Great Lakes

[Krystal-anne@cela.ca](mailto:Krystal-anne@cela.ca)

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<sup>10</sup> Truth and Reconciliation Commission of Canada: Calls to Action (2015), online: [http://trc.ca/assets/pdf/Calls\\_to\\_Action\\_English2.pdf](http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf)