

# Climate change and Low Income Communities

**LIEN ANNUAL  
CONFERENCE**

**June 29, 2021**

**Theresa McClenaghan**



**Canadian  
Environmental Law  
Association**

EQUITY. JUSTICE. HEALTH.

# Canadian Environmental Law Association



- Specialty Legal Aid Clinic
- Leader in environmental law reform
- Represent low income individuals and communities
- Advocate for their right to better environmental protection

# Environment is a Social Justice Issue

- Poverty and environmental degradation or adverse environmental impacts have multiple impacts on vulnerable communities - an extensive empirical and academic literature such as “Child Poverty and Environmental Justice” by Hornberg and Pauli, Int.J.Hyg.Envirn.Health (2007) 571-580
- Vulnerable people are poorly reflected in climate laws to date: Vink et al, “International Comparison of Measures Taken for vulnerable People in Disaster Risk Management Laws”, Int’l Jrnal of diaster risk Reduction (2013) V.4 63-70  
<https://www.sciencedirect.com/science/article/pii/S2212420913000137>
- Communities who lack power or a voice are often more adversely affected than others and are disproportionately exposed to higher pollution levels or historic pollution legacies
- Low income neighbourhoods receive relatively poor protection from adverse environmental impacts under Ontario and Canadian law
- Blog: <https://cela.ca/access-to-environmental-justice-in-canada-the-road-ahead/>

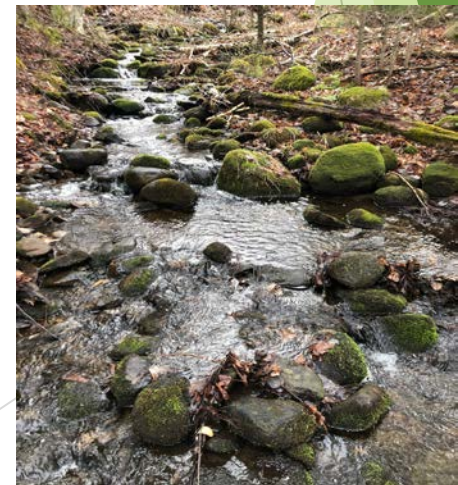
# Why does climate change law matter?

- ▶ Climate affects low income and vulnerable communities more than others
  - ▶ Fewer resources to purchase mitigation
  - ▶ Housing less resilient and often located in situations more likely to be impacted by changing and adverse climate issues including heat, storms, flooding
  - ▶ Seniors medication may make them more prone to impact from heat related issues
  - ▶ Children are less able to respond to extreme temperatures due to body size and immature temperature regulation
  - ▶ Poverty exacerbates environmental health impacts



# What kinds of climate laws do we have in Canada

- ▶ Laws aimed at mitigation such as carbon pricing laws or laws encouraging green tech
- ▶ Laws aimed at adaptation such as building codes and adaptation innovation funds
- ▶ Laws aimed at protection from impacts of climate change, and from inequitable impacts of additional burdens of responding to climate change



# Laws protecting vulnerable communities from climate impacts

- ▶ **By-laws** and requirements re heat islands and tracking of heat-related deaths
  - ▶ Mississauga climate action plan includes climate impacts on vulnerable communities as an area of focus
  - ▶ In Montreal heat-related deaths are counted; but not in Ontario cities according to an in depth Toronto Star report earlier this year
- ▶ **Social housing retrofits** from climate / carbon related revenue such as in BC, Efficiency Manitoba or the First Nations On-Reserve Housing Retrofit Initiative supervised by the Canada Mortgage and Housing Corporation
- ▶ Offsetting the increased costs from carbon schemes for low income residents such as BC's Climate Action Tax Credit
- ▶ The federal **rebate** (the Climate Action Incentive Payment) for residents of provinces where the carbon tax is imposed is set based on location of residence and family composition, (but is not based on income level)
- ▶ **Energy Conservation** program requirements such as Ontario's Save On Energy program delivered by the IESO

# Samples of protective laws aimed at communities most vulnerable to climate impacts

## ▶ Public Health:

- ▶ “The Chief Public Health Officer may identify and monitor the impact of climate change on public health and develop adaptation strategies to minimize the adverse effects of climate change on the health and well-being of people in Nunavut.”
- ▶ Public health standards such as under Ontario’s Health Protection and Promotion Act: the Healthy Environments and Climate Change Guideline, 2018, calling for **surveillance, epidemiological assessment** and mitigation programs to alleviate environmental risks
- ▶ **Energy poverty prevention** measures such as the suite of initiatives advocated by the Low Income Energy Network and adopted in Ontario - including electricity bill assistance, conservation programs, emergency financial assistance, better terms of service all designed specifically around the energy security issues facing low income residents
- ▶ I haven’t addressed impacts on First Nations in this presentation; a starting point is the AFN resolution declaring a climate emergency <https://www.afn.ca/wp-content/uploads/2019/08/19-05-Declaring-a-First-Nations-Climate-Emergency.pdf>

# Need for ongoing analysis

- ▶ We also need ongoing analysis and evaluation in each jurisdiction (national, provincial-territorial, municipal, First Nations) of how well the various energy poverty and climate mitigation programs are doing in addressing energy poverty. This information would help reveal best practises and what needs to be changed to eliminate inappropriate barriers to energy security and inequitable climate impacts.







# Low Income Consumers and Climate Change Policy Data Needs

- ▶ Need for national energy data that analyzes and reports on potential differential impacts on low income consumers of policies directed to mitigation of and response to climate change.
- ▶ Difference in the percentage of income directed to climate-change specific policies depending on income profile or other demographic factors? ( As reported in the Ontario FAO office report, low income consumers may be spending a much higher percentage of their resources on energy and energy related costs than higher income demographics.)
- ▶ Whether these differential impacts are imperilling access to necessary energy services, or diverting scarce resources in these families from food, basic shelter, medication and other needs.

# Example of policy response to differential impacts

- ▶ One notable jurisdiction that has done good work to identify issues and solutions specific to low income consumers vis a vis climate impacts is California and we have called for emulation of their Low Income Barrier Study. For a recent submission by CELA on this topic, please see our January 2018 brief at <http://www.cela.ca/sites/cela.ca/files/1161-CELALIENSubmissionsClimateChangeAdaptationProposal.pdf>
- ▶ 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/business\\_meetings/2016\\_packets/2016-12-14/Item\\_08/Item\\_08.pdf](http://www.energy.ca.gov/business_meetings/2016_packets/2016-12-14/Item_08/Item_08.pdf)



# Refining carbon pricing approaches

- ▶ The Canadian federal government's carbon pricing scheme needs to be refined to more effectively calculate rebates to target low-income communities - and becomes even more critical given the federal government's proposals for significant increases in its carbon price.
- ▶ The potential for wider integration of low-income energy programs with federal housing programs and new programs arising from carbon pricing mechanisms remains largely untapped.
  - ▶ Government of Canada *A HEALTHY ENVIRONMENT AND A HEALTHY ECONOMY: Canada's strengthened climate plan to create jobs and support people, communities and the planet* (Ottawa: December 2020)  
[https://www.canada.ca/content/dam/eccc/documents/pdf/climate-change/climate-plan/healthy\\_environment\\_healthy\\_economy\\_plan.pdf](https://www.canada.ca/content/dam/eccc/documents/pdf/climate-change/climate-plan/healthy_environment_healthy_economy_plan.pdf).



# CELA Equity and Climate Change Toolkit

## Project

- Consolidate information collected by past students on climate change and equity policies/programs
- Prepare a simplified toolkit to share with municipalities

## Call for information

- Programs/policies not yet publicized that address equity in climate change context
- Equity considerations in other plans (i.e. Urban Forest Management Plans, Transportation Plans, etc.)

Equity frameworks used to inform policy decision-making - send to

**Sara Shams**

**Summer Legal Intern**

**[ssham026@uottawa.ca](mailto:ssham026@uottawa.ca)**

▪

# Conclusions

- ▶ Our clients are often the most impacted but least responsible for climate impacts and sometimes the additional impacts are even from the mitigation laws themselves if they are not set up to avoid this.
- ▶ There are a surprising number of diverse climate laws across Canadian jurisdictions, many falling into the categories of pricing or market mechanisms, especially for industrial emitters, as well as emissions regulations, establishment of funds for research and innovation, infrastructure and planning requirements.
- ▶ There are fewer climate laws that are aimed specifically at protecting vulnerable communities. However, law is both normative and enabling, and some of the laws that might prove useful include those that provide space for the impacts on vulnerable communities to be assessed and response measures developed, such as public health standards.



# Information on our Websites

## [WWW.CELA.CA](http://WWW.CELA.CA) &

## [www.celafoundation.ca](http://www.celafoundation.ca)



### **Friends of the Attawapiskat River comments on Ring of Fire**

January 28, 2020

Comments on behalf of the Friends of Attawapiskat River regarding Webequie Supply Road Project and Marten Falls Access Road, draft Tailored Impact Statement Guidelines and draft Indigenous Engagement Plan.



### **Environmental Law 2020: Looking Down the Road**

January 13, 2020

CELA Counsel Rick Lindgren looks ahead to environmental law matters that litigators and legislators can expect in 2020.



### **Water Wells Remain at Risk in Ontario**

January 8, 2020

By: Theresa McClenaghan, CELA Counsel and Executive Director and Richard Lindgren, CELA Counsel The December 2019 annual report by the Auditor General of Ontario has focused public and political attention on the need for effective provincial action to reduce greenhouse...