



Ensuring the Waters of the Great Lakes Basin Are
Healthy, Public, and Protected for All

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FLOW Appeals MPSC Permit to Site Replacement Line 5 Pipeline in Proposed Great Lakes Tunnel

Traverse City, Mich.— For Love of Water (FLOW), a Great Lakes water law and policy center, filed an appeal on December 22, 2023 with the Michigan Court of Appeals to overturn the Michigan Public Service Commission's December 1 decision to approve the application from Canadian oil company Enbridge to relocate its twin Line 5 crude oil and natural gas liquids (NGLs) pipelines to a proposed new underground tunnel. Line 5 currently spans 4.5 miles on the lakebed floor of the Straits of Mackinac.

In its approval, the MPSC dismissed alternatives to routing Line 5 through the Straits. However, [recent industry reports](#) show that there are a range of commercially feasible and operationally viable alternatives to transport crude and NGLs in the event of a Line 5 shutdown. These alternatives include leveraging excess capacity in existing pipelines that do not run through the waters of the Great Lakes.

FLOW contends that the Commission's decision to permit relocating Line 5 to a yet-to-be-approved tunnel violates the Michigan Environmental Protection Act (MEPA). MEPA requires all agencies to determine if a proposed project is likely to impact the air, water, and natural resources, or public trust in those resources, and to deny approval when, as here, there are feasible and prudent alternatives.

Multiple studies demonstrate that the North American energy market is flexible, adaptable, and resilient, and that Line 5 could be decommissioned without causing supply shortages or price spikes. It is clear that the region has the capacity for a planned and orderly transition to shut down Line 5 and to protect the Great Lakes – which comprise 95% of North America's fresh surface water – from a catastrophic oil spill. Since 2017, large energy firms and refineries have developed contingency plans for a Line 5 shut down.

Enbridge has yet to obtain the required federal authorization from the US Army Corps of Engineers to construct this mega-infrastructure tunnel project. A final environmental impact statement is expected from the Army Corps in spring of 2026, following public meetings and comment period in 2025.

"Because the Snyder administration cut a deal in 2018 to let Enbridge continue to use the vulnerable

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dual pipelines in the Straits until a tunnel is built, the State unlawfully and prematurely gave the green-light to Enbridge to operate Line 5 for another 99 years,” James Olson, Sr. Legal Advisor and attorney for FLOW said. “This has poisoned decisions by state agencies, most recently the MPSC, to assume that they don’t have to consider the risks, effects, and alternatives to the continued operation of Line 5.”

FLOW, and other organizations and tribes who have appealed the Commission’s December 1 order will ask the Court of Appeals to overturn the decision and require the Commission to apply the rule of law under MEPA and consider feasible and prudent alternatives to the tunnel and reevaluate its improper, short-sighted commitment to this major piece of new fossil fuels infrastructure in the face of undeniable climate change impacts and risks.

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FLOW is an independent, 501(c)(3) nonprofit that serves as a Great Lakes water law and policy center dedicated to ensuring the waters of the Great Lakes Basin are healthy, public, and protected for all. The enduring idea of the commons and legal principles of the public trust offer unifying adaptive solutions to address basin-wide threats. FLOW’s staff of legal and policy experts, journalists, and community-builders makes FLOW an authoritative resource for Great Lakes advocates. FLOW’s staff of legal and policy experts, journalists, and community-builders serves as an authoritative resource for Great Lakes advocates. FLOW builds a knowledge base for communities, state agencies, and legislators to inform policy and advocacy for water issues. Learn more at www.ForLoveOfWater.org.

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