

FLOW
FOR LOVE OF WATER
153½ East Front Street
Suite 203C
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231.944.1568
info@FlowForWater.org
FlowForWater.org

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FLOW FOR WATER

GREAT LAKES, BAD LINES: FLOW PRESENTS A FILM ABOUT LINE 5 PIPELINES

Movies are in our DNA. Our name – FLOW – in fact comes from Irena Salina's 2008 documentary about water: FLOW (For Love of Water).

We have been working with filmmakers, Paul Hendricks and Colin McCarthy, to produce Great Lakes, Bad Lines, the story of two Michigan adventurers and their 500-mile, fossil-fuel free journey across the Upper Peninsula along the route of Line 5 – a 63-year-old pipeline that threatens our inland waters and Great Lakes.

Join us for an evening of adventure and activism as we screen Great Lakes, Bad Lines and host a brief Q&A with experts. The film is supported by Patagonia, Founders Brewing Co., Moosejaw, and Cherry Republic.

FILM TOUR DATES

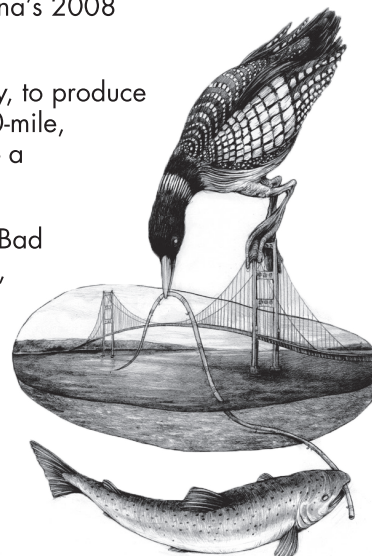
April 14 - Minneapolis, MN, 7pm @ Patagonia MN Store
Co-hosted by Minnesota 350.org

April 15 - Chicago, IL, 7pm @ Patagonia Magnificent Mile Store

**April 18 - Traverse City, MI, 6pm @ State Theatre (after party at
The Workshop Brewing Company)
Co-hosted by Oil and Water Don't Mix**

April 19 - Grand Rapids, MI, 7pm @ Urban Institute for Contemporary Art

April 25 - Ann Arbor, MI, 7pm @ Michigan Theater
Co-hosted by Michigan League of Conservation Voters Education Fund, National Wildlife Federation, and the Wolfpack, and Supported by Bivouac



NO STRAITS PIPELINE

Artwork by Pat Perry



2014-15 ANNUAL REPORT

"DIRE STRAITS": KEEPING OIL OUT OF THE GREAT LAKES

The Great Lakes are the pride and joy of the Midwest, belonging to all of us. Yet too many people are unaware of the catastrophic threat that twin 63-year-old oil pipelines resting on the public bottomlands of the Mackinac Straits pose to our cherished freshwater seas. Every day nearly 23 million gallons of oil flow through these pipelines just west of the Mackinac Bridge. Built in 1953, the 20-inch-in-diameter "Line 5" pipelines are owned by Enbridge, the Canadian company responsible for the disastrous 2010 Kalamazoo River oil spill.

FLOW's team of lawyers and scientists helped spark and define a growing public call to stop the flow of oil in Line 5 through the Mackinac Straits by:

- ◆ Identifying the State of Michigan as the key steward charged with protecting public waters and uses from a devastating oil spill under public trust law.
- ◆ Concluding that the Line 5 oil pipelines suffer from rust, dents, missing supports, and encrustation by corrosion-causing invasive mussels, presenting an imminent hazard to the Great Lakes that the State of Michigan has a public trust duty to eliminate.
- ◆ Studying readily available, alternative oil pipelines that do not use the Great Lakes as a high-stakes shortcut for crude oil pumped from fields in western Canada to refineries in eastern Canada.

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PROTECTING WHAT YOU LOVE

We are passionate about the Great Lakes and we know you are too. That's why we sincerely want to thank you for your support, which enables us to work on systemic issues threatening our waters, economy, and way of life here in the Great Lakes.

We target the region's big picture problems and develop lasting solutions while always striving to answer this core question: how can we empower the citizens of the Great Lakes Basin to hold governments accountable as trustees to preserve our waters for current and future generations?

What makes FLOW different is this: Our work promotes a new way to think about and manage water, energy, and food in the 21st century – one that educates and empowers the public to reclaim and reassert their rights. To chart this course, we rely on the ancient wisdom and laws of the commons and public trust doctrine.

Here's a sampling of what we've accomplished: We are influencing the International Joint Commission's overarching strategies on the Basin's water diversions and Lake Erie's massive toxic algal blooms. We made the legal and technical case to formally halt open-pen fish farming in the Great Lakes, and to prevent unlawful diversions out of the Basin. We are forcing the State of Michigan to address twin aging oil pipelines in the heart of the Great Lakes. And we blocked a state legislative proposal to keep essential details about pipeline networks in Michigan. In doing so we opened public scrutiny and comment to the potential risks of continuing to operate 98-year-old pipelines that cross the St Clair River.

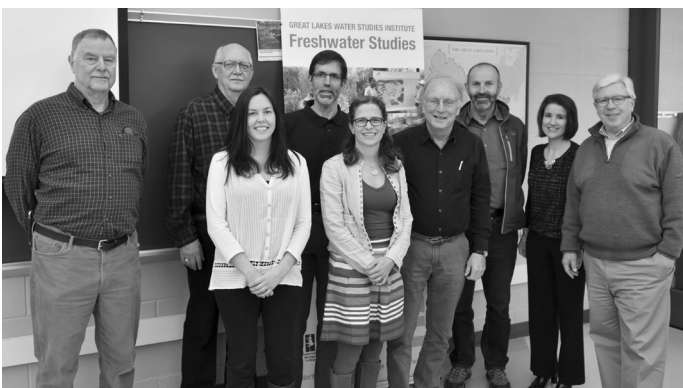
Preserving the most precious fresh water resource in the world is serious, important, and gratifying work. And our work has the potential to redefine how the Great Lakes region and the nation respond to the deepening ecological risks we face this century. We know that you trust FLOW to be your partner in this good work and to prioritize long-term solutions to prevent avoidable catastrophes like the lead poisoning in Flint and water-shutoffs in Detroit. Together, FLOW staff, board members, and volunteers thank you for the trust you place in us through your continued generous support.

With gratitude,

Liz Kirkwood
Executive Director



Mike Dettmer
Board Chair



FLOW Staff, Board, and Technical Advisors attend Dave Dempsey's Presentation at Jim Olson's NMC Course, March 2016.



FLOW Staff and Board Members at the 2015 Appreciation Gathering, October 2015.

FLOW'S PROGRESS ON LINE 5

WAVES OF CHANGE

When FLOW first started working on the Line 5 issue in 2013, a few concerned citizens and environmental groups were just beginning to sound the alarm. At that time, the likelihood of shutting down the pipelines in the Straits seemed like a dim prospect. Since then, FLOW and our 25 campaign partners of Oil & Water Don't Mix have dramatically moved the needle on this issue, uniting a growing number of citizens, municipalities, businesses, and nonprofit organizations to demand that Michigan's top officials fulfill their public trust duty as trustees of the Great Lakes and shut down the flow of oil in Line 5. More than 25 local governments have passed resolutions calling on the Governor and Attorney General to address the risk these pipelines pose to our waters, economy, and Pure Michigan way of life. We intend to hold our Attorney General to his word: Line 5's "days are numbered."

THE BRIDGE TO THE PUBLIC TRUST

Halting the flow of oil in Line 5 in the Straits is a priority for FLOW given the incalculable ecological and economic harm a big spill would cause to the public waters, commercial and tribal fisheries, drinking water supplies, public recreation, shoreline communities, and tourist-driven economy. Moreover, this issue falls squarely in our mission to educate the public, governments, and jurists about the overarching framework and principles of public trust law essential to protecting the long-term health of the Great Lakes.

Without the State of Michigan's 1953 easement, Enbridge could not have built these pipelines in our public waters and



By Dehk (Own work), via Wikimedia Commons

bottomlands. In the six decades since, the state has largely forgotten about its perpetual duty to evaluate the risks and likely harm to the ecosystem, waters, and uses from a potential oil spill in the powerful currents at the Mackinac Straits. Thus, it is our duty as beneficiaries to demand action from our leaders before it is too late.

NO REASON TO WAIT

The time to act is now. The University of Michigan's 2014 computer simulation showing how far and how fast a Mackinac Straits oil spill would spread called it the "worst possible place for a Great Lakes oil spill." As for emergency response measures, the U.S. Coast Guard has testified to the inadequacy of a response before Congress, highlighting the challenges of waves, wind, and winter ice that would make a cleanup nearly impossible.

Then there is Enbridge's troubled track record. In 2010 a crack that Enbridge was aware of caused a rupture in its pipeline across the Kalamazoo River in southern Michigan. A torrent of toxic and heavy tar sands oil – almost 1 million gallons – poured into the Kalamazoo River watershed. It was the largest inland oil spill in U.S. history. Enbridge spent more than \$1.2 billion on a clean up that still left visible levels of oil and toxins in river sediments. Enbridge is now responsible for monitoring the rust, cracks, dents and corrosion of the pipelines across the Straits of Mackinac that are already past the end of their design life.

The other big story with Line 5 is that it is not vital to Michigan's energy infrastructure as documented in FLOW's 120-page expert report. The pipeline provides only a tiny portion (5 to 10 percent) of oil to refineries in Detroit and Toledo. Moreover, stopping Line 5's oil flow at the Mackinac Straits would not impact propane deliveries to the U.P., or oilfield operations in northern Michigan, both of which are important to Michigan's communities and economy. Other pipelines that don't cross the open waters of the Great Lakes are available. With so much at stake, FLOW will continue to apply our innovative mix of law, science, communications, and advocacy to hold the State of Michigan accountable and demand enforcement action to eliminate the unacceptable risk Line 5 poses to our Great Lakes.



Line 5 on a Michigan County Map

DEFENDING OUR WATERS:

1. LOCAL FRACKING ORDINANCES

FLOW is partnering with counties, cities, and townships in Michigan to develop local ordinances to protect their communities and their water from the risks and impacts of hydraulic fracturing or “fracking,” a water-intensive oil and gas extraction method that permanently removes water from the hydrologic cycle. FLOW has worked with seven communities, including: Ada Township (Kent County), Cannon Township (Kent County), City of Grand Rapids, Conway Township (Livingston County), Emmet County, Grayling Township (Crawford County), and Gun Plain Township (Allegan County).

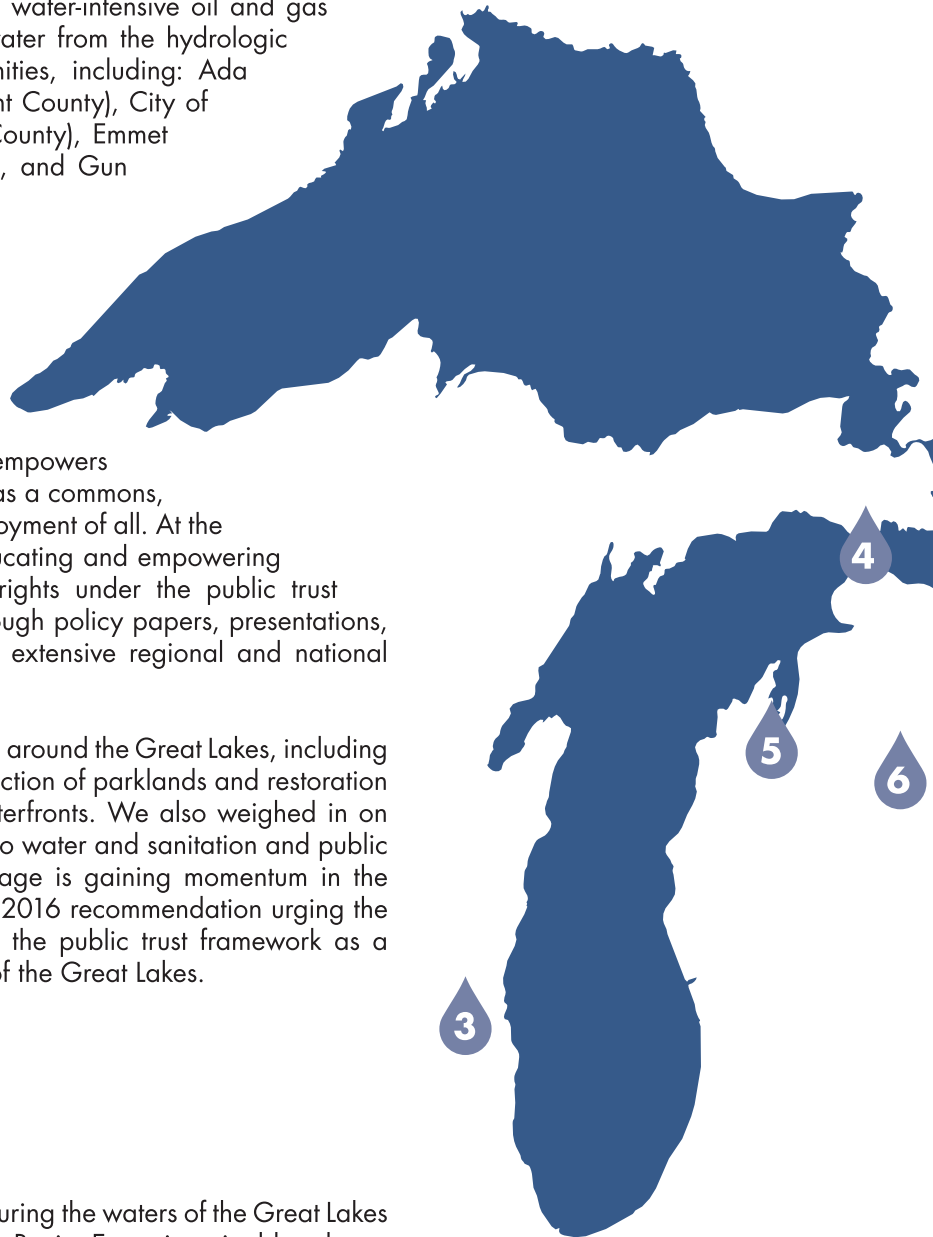
2. PUBLIC TRUST EDUCATION

The public trust is a key legal principle that empowers citizens and governments to protect our waters as a commons, owned and shared by the public for use and enjoyment of all. At the heart of our mission, FLOW is dedicated to educating and empowering citizens and leaders to know and use their rights under the public trust doctrine. Communicating the public interest through policy papers, presentations, conferences, and curricula, we have attracted extensive regional and national media attention.

2015 highlights included 25 formal presentations around the Great Lakes, including ones in Buffalo and Chicago to discuss the protection of parklands and restoration of abandoned filled bottomlands on urban waterfronts. We also weighed in on the Detroit water shut offs, raising human rights to water and sanitation and public trust concerns. Most notably though, our message is gaining momentum in the region with the International Joint Commission’s 2016 recommendation urging the U.S. and Canadian governments to implement the public trust framework as a “backstop principle” to safeguard the integrity of the Great Lakes.

3. DIVERSIONS

Since our founding, FLOW dedicated itself to ensuring the waters of the Great Lakes are not diverted or sold as a product outside the Basin. Every imaginable scheme to divert water from the Great Lakes has been contemplated, amounting to what historian Peter Annin has called “death by 1000 straws.” The latest threat comes from Waukesha, Wisconsin – a straddling county – that seeks to divert Great Lakes waters under the Great Lakes Compact. FLOW objected to this application based on the precedential effect of Waukesha on the Compact’s diversion ban, as well as the impact on public trust and riparian law.



FLOW'S BASIN WIDE IMPACT

4. LINE 5 PIPELINE IN THE STRAITS

FLOW continues to urge the State of Michigan to act as public trustee to prevent a catastrophic oil spill from two 63-year-old pipelines on the bottom of the Straits of Mackinac. Our expert reports, presentations, and leadership in the Oil & Water Don't Mix Campaign have helped skyrocket public awareness and action across the region. We continue this important work in 2016, collaborating with Patagonia filmmakers to increase public pressure.

5. WATER, ENERGY, FOOD & CLIMATE CHANGE NEXUS

Essential to life, water is interconnected to all of the systems we rely on. Food, energy, housing, and transportation all depend on water. FLOW's work influenced the International Joint Commission's decision to recommend that the public trust doctrine be a key framework to address systemic problems of water, food, energy, and climate change (see Founder Jim Olson's letter below). In 2015, FLOW developed a new course at Northwestern Michigan College –the first-of-its-kind college-level public trust policy curriculum for water, energy, and food in the 21st century.

6. AQUACULTURE

Commercial aquaculture or fish farming takes various forms in tanks, ponds, rivers, lakes, and the ocean. Some operations, however, are unsustainable, depositing high concentrations of fish waste, feed, antibiotics, and diseases directly into public waters. It is these types of open net-pen commercial operations that FLOW opposes. To this end, FLOW asserted public trust law to ensure that proposed legislation and permits do not use the public waters of the Great Lakes for harmful commercial fish farming operations. We are actively researching aquaculture impacts across the Basin, including inland waterways like the Au Sable River.

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Email info@flowforwater.org for volunteer opportunities, programs, and events.

SPECIAL THANKS

FLOW is especially grateful to our technical advisory team. Thanks to the incredible generosity and work of these individuals, FLOW authored three expert reports this past year, influencing the State of Michigan's position on the Line 5 pipeline. **Dr. Ed Timm** and **Gary Street** are both retired former Dow chemical engineers, **Rick Kane** is an environmental and emergency risk management expert, and **Kent Anderson** is a chemical industry trade association lobbyist. Our deepest gratitude for your hard work and dedication!

FLOW would also like to recognize and thank a few supporters who have gone above and beyond in their volunteer work. **Eric Olson** along with his brother, Jim, founded FLOW. He spent countless hours serving as an incorporator, executive director and board member. We are indebted to him and thank him for his early leadership. We also want to thank **Seamus Shinnars**, Traverse City's "Music Man" for coming to us with the idea of a fundraiser featuring the Claire Lynch band. Not only did he have the idea but he volunteered countless hours to FLOW in order to pull it off – and he did!

We would like to give a warm thank you to all of our interns and volunteers. We are so lucky to have dedicated people like you as an integral part of FLOW. And thank you to our greater community: we couldn't have pulled off events like the Bluegrass for Blue Water Benefit Concert or the Paddle Relay Around Lower Michigan without your generosity and support. A very special thanks to the Claire Lynch Band and Sour Mash who performed at our benefit concert, and to Nick & Kim Murray of the Paddle Relay for such an incredible event and donating the flagship boat to FLOW.



Board Chair Mike Dettmer with Ray Minervini at the Bluegrass for Bluewater Benefit Concert, April 2015.



L to R: FLOW Staff Claire Wood, Bluegrass Legend Claire Lynch, and Executive Director Liz Kirkwood at the Bluegrass for Bluewater Benefit Concert, April 2015.



Liz Kirkwood and Claire Wood prepped for the Paddle Relay Around Lower Michigan, July 2015.



L to R: FLOW Founder Jim Olson, Author Jerry Dennis, Groundwork Center's Jim Lively, FLOW Executive Director Liz Kirkwood, and Oil & Water Don't Mix's Bill Latka at Line 5: A Closer Look, a public event at the State Theatre, November 2015.



FLOW staff and volunteers at our September Adopt-A-Beach Cleanup at Bryant Park in Traverse City, September 2015.

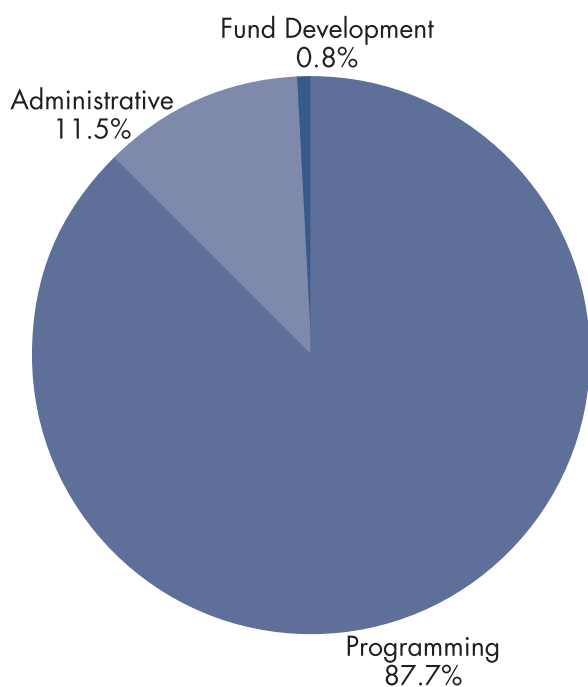
OUR GROWTH

2015 marked a banner year for FLOW as an organization. We doubled our support base, with almost half of supporters being first-time donors. We garnered unprecedented media attention this year, with more than 50 media appearances on TV, radio, and in newspapers, including op-eds. We made national news with coverage of our work on the Line 5 oil pipelines in the *Huffington Post* and on PBS NewsHour, and we were quoted in *The New York Times* about the Waukesha diversion application. Plus, we are building a strong digital presence and have been steadily expanding our reach. We increased our social media following by one third this year, and reached over 60,000 people with our top Facebook post. And we are looking forward to the launch of our new and improved website coming this spring, 2016.

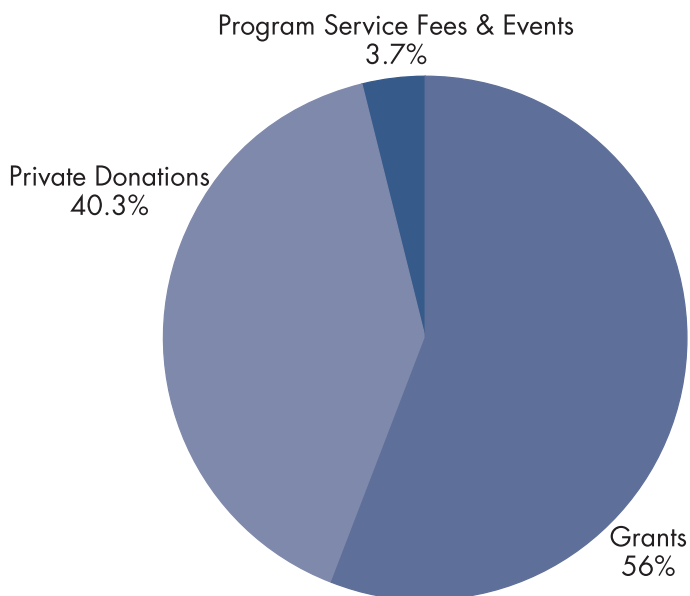


Photo by Beth Price

FLOW EXPENSES 2014-15



FLOW REVENUE 2014-15



TOTAL REVENUE: \$221,008

FLOW'S PIONEERING WORK TO ADVANCE PUBLIC TRUST PRINCIPLES TO PROTECT GREAT LAKES ENTERS THE MAINSTREAM

FLOW formed in 2008 after citizens' victory against Nestlé's water export from its Michigan bottled water plant. While citizens won the case based on Nestlé's unreasonable water use, the appellate court loosened limits on water diversions. Before this decision, Michigan law prohibited diversions that diminished the flow or level of a lake or stream. After the decision, the "non-diminishment" standard evaporated in favor of a "substantial harm" test that arguably would allow water losses from the Great Lakes Basin. The decision left the door open for foreign and domestic interests outside the Basin to claim the right to divert or use large quantities of water under the umbrella of trade agreements like NAFTA and TPP.

In 2008, Great Lakes states and provinces also passed the Great Lakes Compact diversion ban. FLOW research found that the definition of "diversion" excluded water as a "product," and the definition of "product" included water "intended for an intermediate or end use consumer"—which could mean export. The Compact also exempted diversions for public water supplies in communities that straddle the Basin and bottled water, creating dangerous possible loopholes to the diversion ban—sounding the alarm for action.

In 2011, FLOW convened a conference to address systemic threats to the Great Lakes that fall outside water laws from the 20th century. In 2012, FLOW with the Council of Canadians presented an in-depth study to the International Joint Commission, a binational body charged under a 1909 treaty to protect the Great Lakes. The study urged the IJC to adopt a new overarching principle based on the ancient public trust doctrine: This doctrine charges government, as trustee for citizen-beneficiaries, with a perpetual duty to prevent impairment or private control of water, as a commons, from one generation to the next.

From 2013 through 2015, FLOW submitted additional reports to the IJC and other governments to demonstrate how this game-changing principle would address threats to water as a commons and human right. FLOW launched public presentations, a new water policy course with Northwestern Michigan College, and recommended solutions to address algal blooms, extreme water levels, climate change, invasive species, and recent scientific and policy reports that called for removal of oil in Line 5 pipelines in the Straits of Mackinac.

In summer 2015, FLOW submitted a report to the IJC's 15-year review of water diversions that demonstrated how public trust principles would act as a backstop against known and unknown threats to the Great Lakes. In January 2016, FLOW's work took a giant step forward. The IJC issued a landmark recommendation that the states, provinces, and countries implement the public trust framework as a "backstop principle" to safeguard the integrity of the Great Lakes! In a world moving rapidly towards promotion of the common good, FLOW finds itself at the forefront of solutions to water crises here and elsewhere.



Jim Olson, FLOW President and Founder



L to R: IJC's Dave Dempsey with FLOW Founder Jim Olson, March 2016.

WHAT IS THE PUBLIC TRUST?

The public trust doctrine has been the cornerstone of western civilization, developed in ancient Rome 1,500 years ago, embraced in the Magna Carta in 1215, and grounded in U.S. and similar Canadian law. The doctrine holds that certain natural resources, like clean water, are so essential to life that they are held in common and must be managed for the benefit of current and future generations.

**"BY THE LAW OF
NATURE THESE THINGS
ARE COMMON TO
ALL MANKIND;
THE AIR, RUNNING
WATER, THE SEA, AND
CONSEQUENTLY THE
SHORES OF THE SEA."**

-EMPEROR JUSTINIAN

To this end, public trust law requires government to (1) block public and private ideas that cause harm to natural resources and communities and (2) prevent existing hazards from continuing to operate. Ultimately, with greater knowledge of these existing legal duties and responsibilities, we can better hold private interests and governments accountable to protect our lakes from catastrophic oil spills, toxic algal blooms, water diversions, pollution, and more.