

FLOW
Position Title: Legal Director

Date Written: December 2020

Reports To: Executive Director

Position Status: full-time, salaried position with health benefits

About FLOW (For Love of Water): FLOW’s mission is to safeguard the Great Lakes, the planet’s largest freshwater lake system, as a shared public resource for current and future generations. We do this by analyzing the many and complex problems threatening this precious and magnificent resource through a public trust lens and proposing solutions grounded in the public trust principles. This might involve litigation, legislative, policy, and/or communication and education strategies.

The Public Trust Doctrine is the common-law legal framework to protect shared natural resources also referred to as “the commons.” The Doctrine holds that the Great Lakes and their tributary waters, and by extension, all water-dependent natural resources, are held in trust for the benefit of the people. As stated by the Michigan Supreme Court, this means that the Government has “a high, solemn, and perpetual” fiduciary responsibility, as trustee, to protect and preserve the trust for future generations. A recent example of FLOW’s successful efforts to utilize this ancient, foundational common-law doctrine to address current environmental threats is [Michigan Governor Whitmer’s November 2020 decision to shut down Enbridge’s Line 5 pipeline](#), which runs through the Straits of Mackinac -- where Lake Michigan meets Lake Huron -- on the basis of the Public Trust Doctrine. This decision represents the first case positioned to shut down an operating pipeline in North America, and is a [clear victory in FLOW’s 7-year campaign to elevate the public trust as a basis for closing Line 5](#) and to convene other environmental lawyers and organizations, the Michigan Attorney General, and the Whitmer Administration around this argument. Unsurprisingly, Enbridge has challenged Governor Whitmer’s Line 5 decision in federal court. The outcome will be precedential and consequential as the cases will almost certainly rise to the Michigan Supreme Court and the U.S. Supreme Court. The confluence of sovereign rights of tribes and the public trust doctrine in this litigation provides a powerful opportunity for the establishment and strengthening of tribal and public interest principles protecting the environment in our jurisprudence.

Public Trust principles strongly reflect values of stewardship and equity. These are at the heart of FLOW’s emerging work to ensure safe, affordable water for all in Michigan, developed in response to the scandals of the [Flint lead crisis](#) and the [water shut off crisis in Detroit](#) coupled with the fact that multinational companies like Nestle are reaping windfall profits for bottling and selling Michigan public trust water. FLOW has developed a critique of the current inequitable and unsustainable approach to ensuring safe, reliable water infrastructure and proposed [innovative model legislation](#) grounded in the public trust in water to deliver not only water but also equity, public health, and justice.

Position Summary: The Legal Director works in collaboration with FLOW’s staff, Board of Directors, and Founder to position FLOW as a leading Great Lakes policy and education center. The Legal Director has primary responsibility for establishing and implementing FLOW’s key legal priorities, strategies, programs, projects, presentations, papers, reports, and actions to achieve the goals consistent with FLOW’s public trust mission. The Legal Director contributes vision to the organization’s mission and strategic direction and provides leadership to the achievement of annual goals, objectives, and reports. The Legal Director will also be involved in seeking grant support, fundraising, communications, and public relations outreach. The Legal Director reports directly to the Executive Director.

FLOW works with some of the most respected and innovative lawyers and scientists working on Great Lakes and public trust issues in the region and in the country, and FLOW's leadership in building knowledge and developing well-crafted, well-grounded, essential, timely, and durable public trust solutions to environmental problems is widely recognized. This is an exciting opportunity to work with the top minds in public trust law and Great Lakes policy and to build a team of attorneys, scientists and journalists within FLOW's staff who are dedicated to addressing some of the most pressing issues in the Great Lakes Basin. Issues addressed include evaluating increased water conflicts and diversions, defending against water privatization, securing access to clean affordable water for all, addressing the region's water infrastructure crisis, restoring precious groundwater, protecting the climate, and restoring the water-energy-food cycle. While the issues and needs confronting the Great Lakes are vast and complex, FLOW's own contribution to this problem set is to elucidate how the public trust in water, the common law public trust doctrine, and the broader public trust principles they reflect can provide a strong foundation for the sustainable stewardship of the Great Lakes. A principal function of the Legal Director is to view these issues through a public trust lens, to discern and explain how public trust principles can frame problem analyses and solution proposals. Forward-thinking environmentalists and environmental lawyers are seeking to identify and develop environmental frameworks that can reimagine and reestablish a relationship between our environment and society that will ensure that both the Earth and all who depend on it can survive and thrive through the 21st century and beyond. The ancient doctrine of the public trust in water, which is already firmly rooted in our common law, has an essential role to play in this endeavor. The position of Legal Director at FLOW presents an opportunity to lead this challenge.

Essential Duties and Responsibilities:

This is a new position for our evolving organization. This position requires self-reliance, a willingness to adapt and to take the lead on projects and programs. This position will play a central role in evaluating, developing, and implementing legal and policy strategies to:

- Advocate with federal, state and local units of government, work in conjunction with non-profit agencies and citizen groups in the development, education and advocacy of Public Trust policy and solutions to the myriad of issues impacting the Great Lakes and their sustainability.
- Track legal, policy, scientific, and economic analyses relevant to priority Great Lakes policy issues, and synthesize that information for use in advocacy and legislation.
- Provide legal, policy and working science expertise to the FLOW staff and the entities it serves.
- Develop relationships with agency staff, state officials, conservation groups, frontline communities, justice organizations, scientists, and legislative offices to advance FLOW's Great Lakes – Public Trust goals within the Great Lakes basin.
- Identify and evaluate opportunities for FLOW to advance its Great Lakes and Public Trust priorities within the Basin, including areas such as advancing fresh water conservation and resilience in response to climate change, groundwater protection, coastal community planning and economic development, emergent chemicals of concern, diversions and exports from the basin, water privatization, water justice and equity, and financing solutions for drinking water and sanitation infrastructure through an equity lens, water and sanitation as a human right and commons.

- Conduct research and analysis of specific legal questions and prepare memoranda and opinions setting forth research results, recommendations, and conclusions.
- Draft Amicus Briefs, formal public comments, and other legal submissions as needed on significant public trust matters in the Great Lakes and nationally.
- Identify, assess and communicate legal and business risks, including reputational risks, to the organization's decision makers.
- Contribute to and participate in additional initiatives of the organization as requested.
- Other duties as assigned.

Public Policy

- Help guide FLOW as the leading public trust organization in responding to current and emerging issues affecting the health of the Great Lakes.
- Assist in design and lead on implementation of programs that may involve relying on key legal strategies of legal research and preparation of memoranda related to environmental law cases, review of proposed laws and regulations, drafting amicus briefs and other litigation documents, authoring legal reports for publication, helping partners evaluate potential legal strategies in campaigns, and occasional public speaking and media engagement.
- Work with Executive Director, Founder, Senior Legal Advisor, Senior Policy Advisor, Deputy Director, Staff, Board, and committees to identify policy opportunities to elevate the public trust and commons framework.
- Increase visibility and influence with federal and state agencies, leaders and legislators, working collaboratively and partnering with organizations like Michigan Citizens for Water Conservation (MCWC), Clean Water Action (CWA), Sierra Club, Michigan Environmental Council (MEC), Michigan League of Conservation Voters (MLCV), Healing Our Waters, People's Water Board (PWB) Coalition, Groundwork, Anglers of the Au Sable, We the People of Detroit, Freshwater Future, Environmental Law and Policy Center (ELPC), Oil & Water Don't Mix Coalition, Chippewa Ottawa Resource Authority (CORA), Michigan Climate Action Network (MICAN), Groundwork Center for Resilient Communities, Alliance for the Great Lakes, National Wildlife Federation (NWF), Tip of the Mitt Watershed Council, Natural Resources Defense Council (NRDC), and other regional and national organizations.

Fund Development

- Coordinate with staff, Fund Development Director, Deputy Director, and volunteers on development and implementation of key program and funding priorities.
- Responsible for program design, development, implementation, and reporting requirements to foundations and donors.

Administration

- Promote an organizational culture that fosters passion for the mission, cooperation, open and frequent communication, teamwork, and common organizational vision.
- Work in common to develop, review, and update FLOW's strategic plan and annual budget plan, providing key insights on programming funding needs.
- Serve as key staff liaison to the Policy Committee.

Qualifications:

- Must have 4 to 7 years of experience in environmental/administrative law, preferably in Public Trust, water law, and policy.
- Strong advocacy skills, including negotiation, agency advocacy, and legislative lobbying.
- Proven ability to develop and implement policy, advocacy and/or legal strategies to advance conservation objectives.
- Effective communication skills, including excellent public speaking and writing skills.
- Ability to conduct in-depth and efficient legal and/or policy research and analysis.
- High comfort level and facility with science.
- Working knowledge of the Public Trust Doctrine and other major environmental laws and policies.
- Ability to work well with colleagues and with diverse stakeholders in many different modes (from collaborative to advocacy situations).
- Must be able to work independently, as well as collaboratively in teams. FLOW is committed to workplace diversity, equity, and inclusion.

FLOW is an equal opportunity employer, committed to a diverse and inclusive workplace. FLOW considers qualified applicants for employment without regard to age, sex, ethnicity, religion, disability, marital status, sexual orientation or gender identity, military/veteran status, or any other basis prohibited by applicable law.

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