

LINE 5 DUAL PIPELINES CLIMATE CHANGE, HUMAN RIGHTS, AND INDIGENOUS PEOPLES' RIGHTS IN THE GREAT LAKES

Gnoozhekaaning "Place of the Pike"

Bay Mills Indian Community



Implications

Issue 1: Previous Recommendations and Commitments

- Canada has ratified seven major international human rights treaties and passed legislation giving the Universal Declaration on the Rights of Indigenous Peoples (UNDRIP) “application in Canadian law.”
- The U.N. General Assembly (UNGA) and Human Rights Council (HRC) recognize “the right to a clean, healthy, and sustainable environment.”
 - Canada was among the 161 States that voted in favor of the UNGA Resolution.
- The HRC has recognized that, “in the case of [I]ndigenous [P]eoples, the enjoyment of culture may relate to a way of life which is closely associated with territory and the use of its resources, including such traditional activities as fishing or hunting.... Article 27 ... enshrines the inalienable right of [I]ndigenous [P]eoples to enjoy the territories and natural resources that they have traditionally used for their subsistence and cultural identity.”

Indigenous People of the Great Lakes

Issue 2: Indigenous People's Rights

- 150 + Tribal and First Nations throughout the Great Lakes
- Bay Mills Indian Community signatory of the 1836 Treaty of Washington
 - 14 million acres of land
 - 13 million acres of water
 - Continued right of usual privileges of occupancy = the right to fish, hunt, and gather.
- Great Lakes = Lake Superior, Michigan, Huron, Erie, and Ontario
 - 84% of North America's surface freshwater
 - 21% of the world's supply of surface freshwater

Indigenous People of the Great Lakes

Issue 2: Indigenous People's Rights

- Oil pollution in the Great Lakes would jeopardize access to drinking water for more than 48 million people.
- Active trespass on the Bad River Band of Lake Superior Chippewa's reservation.
- **Canada: During its last UPR, Canada accepted and noted recommendations to: respect and protect Indigenous Peoples' rights, including the right to free, prior, and informed consent.**

The Line 5 Dual Pipelines

Issue 3: Climate Change & Human Rights

- Line 5 transports 23 million gallons of oil and gas each day.
- Designed only for 50 years, but already at 70 year lifespan.
- Line 5 spilled 1.1 million gallons of oil since 1953.
- Line 5 was struck by anchor in 2018 and 2020.
- Ordered to shutdown, and easement terminated by the State of Michigan in 2021.
- An oil spill from Line 5 could contaminate more than 375,000 acres of land and wetlands, 450 lakes, and thousands of kilometers of shorelines and rivers.

The Line 5 Dual Pipelines

Issue 3: Climate Change & Human Rights

- Experts expect climate change to cause increased precipitation and flooding around the Great Lakes.
- Flooding causes soil runoff and erosion, which contributes to the excess nutrient pollution responsible for toxic algal blooms and “dead zones.” Lake Erie has already experienced multiple algal blooms which cause drinking water emergencies.
- **Canada: During its last UPR, Canada accepted and noted recommendations to: regulate Canadian businesses to prevent the human rights impacts of their operations; and (3) promote and protect human rights in the context of climate change.**

Recommendations

- Accordingly, the undersigned recommend that Canada:
 - Withdraw its invocation of the Pipeline Treaty and its positions in U.S. litigation opposing decommissioning Line 5.
 - Ensure that affected Indigenous Nations, who are sovereigns and human rights holders, are invited to participate in discussions regarding Line 5's future, including any negotiations under the Pipeline Treaty, so long as they continue;
 - Interpret all international treaties, including the Pipeline Treaty, consistently with Canada's human rights obligations;
 - Ensure affected Indigenous Peoples' FPIC before providing support for extractive sector projects and withdraw support from projects that do not have affected Indigenous Peoples' FPIC;
 - Ensure corporations under Canadian jurisdiction do not cause or contribute to foreseeable threats to human rights.

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- You can reach me at wgravelle@baymills.org for more information!