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Dear Mr. LaValley:

Thank you for the opportunity to comment on Elkhorn's proposed dock project. The Council of Canadians is Canada's largest member-based advocacy organization with tens of thousands of members and supporters and over 60 community-based chapters across the country. We have 16 Council chapters around the Great Lakes and have been working to protect water nationally and internationally for nearly 30 years. Maude Barlow, the National Chairperson of the Council of Canadians, also served as Senior Advisor on Water to the 63rd President of the United Nations General Assembly (2008-2009).

The Great Lakes holds nearly 20% of the world's freshwater. They provide drinking water to 42 million people in surrounding areas. We are extremely concerned about the plan proposed by Calumet Specialty Products Partners and Elkhorn Industries to build an oil barge and ship tar sands crude from Superior, Wisconsin on the western tip of Lake Superior, through the Great Lakes. The plan would increase the amount of tar sands crude shipped on the Lakes and not only threatens the lakes but also threatens wildlife and the drinking water of Great Lakes communities. We oppose this project and urge you to put a stop to it for the following reasons:

- Tar sands oil is already being shipped to the Great Lakes and adds to the numerous threats to the Lakes;
- Oil spills violate the human right to water;
- Governments have not obtained free, prior and informed consent of Indigenous communities;
- This project increases tar sands expansion;
- The Great Lakes must be protected as a commons and public trust.

The plan

While this comment opportunity focuses on dock repairs proposed for the site, it is impossible to separate this project from the merits of the oil terminal that would facilitate oil shipments across the Great Lakes.

This plan to build a \$25 million oil shipping dock in Superior, Wisconsin on the western tip of Lake Superior could be the launch point for oil shipments across the Great Lakes to refineries in Ontario, Michigan, Ohio and even the East Coast.

A tanker would hold approximately 77,000 barrels of crude oil, while a barge would hold about 110,000 barrels. This has also been reported as 13 million barrels a year.

Great Lakes communities' concerns about tar sands

National Chairperson Maude Barlow has been on a 15-city speaking tour over the last two years with a stop in Duluth – the twin city of Superior - on April 4, 2013. Throughout the Great Lakes, she was joined by community activists, residents, Indigenous representatives, academics, youth and non-governmental organizations and discussed concerns about tar sands being transported to the Great Lakes.

For the stop in Sarnia last May, also known as Chemical Valley, Maude Barlow, several community activists and I joined a 'toxic tour' of Aamjiwnaang First Nation which is community surrounded by 63 petrochemical facilities within a 25 kilometer radius. Tar sands are currently being transported to Sarnia and is having a devastating impact on Aamjiwnaang First Nation. Children who cannot read toxic warning signs beside a local creek and end up playing in the creek have come out with boils on their skin. We passed what they call seniors' island but we were struck with how few seniors there were living in the community. The average life expectancy in the community is 55 years of age. Aamjiwnaang has the first documented case of endocrine disruption where twice as many girl babies are born compared to boy babies.

There are already a multiplicity of threats to the Great Lakes including fracking, water withdrawals, invasive species and wetland loss. According to David Israelson's report *How the Oil Sands Got to the Great Lakes Basin*, there are currently 17 major refinery projects either being planned or developed around the Lakes. In 2010, the Canadian Office of the Auditor General stated that Canada is not ready for a major oil spill, which could put the drinking water of millions of people in Canadian and Indigenous communities at risk. Great Lakes communities cannot handle the further transport of tar sands to the Great Lakes.

Lake Superior is the cleanest of the lakes and we must stop further industrialization of it. Increases in extreme weather events due to climate change make Lake Superior even more dangerous for shipping.

The human right to water and sanitation

Based on several UN resolutions recognizing the human right to water and sanitation, governments have an obligation to protect the human right to water and Catarina de Albuquerque, the UN's special rapporteur on the human right to safe drinking water and sanitation, recommends that countries need to take "a holistic consideration of the right to water by factoring it into policies having an impact on water quality, ranging from agriculture to chemical use in products to energy production activities." This means that governments – including state governments in the U.S. - must consider this human right when making decisions about energy projects.

Free, prior and informed consent of Indigenous people

Governments also have an obligation to obtain free, prior and informed consent from First Nation communities before the approval of any project affecting their lands or territories and water sources. This project would impact the Bad River Band of Lake Superior whose reservation is the largest Chippewa reservation in Wisconsin, straddles Ashland and Iron Counties and encompasses 38 miles of Lake Superior shoreline.

Tar sands expansion

The oil terminal and Line 67, a pipeline that travels from Alberta directly to Superior and on which the terminal project hinges, enables tar sands expansion and increases climate pollution. When tar sands pipelines spill, they jeopardize freshwater supplies and cause extensive environmental damage that is difficult to clean up. Tar sands crude, known as bitumen, is heavy and requires toxic chemicals to dilute it. In 2010, a tar sands pipeline ruptured, flooding the Kalamazoo River in Michigan with 3.8 million litres of diluted bitumen that sank to the bottom of the river. Conventional clean-up methods have not worked and, despite costing over \$1 billion, the river is still polluted.

Canada and the U.S., highly industrialized countries, have a responsibility to cut their emissions to stop runaway climate change and the social and environmental impacts that result such as droughts, floods, loss of agricultural land, and forced displacement.

The Great Lakes are a commons and public trust

The Great Lakes is a commons, meaning that no one owns the Lakes but rather they are a common heritage that belongs to the Earth, other species as well as current and future generations. The Lakes are also a public trust meaning that certain natural resources, including groundwater, belong to communities and cannot be privately owned or controlled. This is because of the resources' inherent importance to each individual and society as a whole. The letter you sent to Elkhorn Industries dated October 23, 2013 also recognizes that the project affects "public waters held in trust by the state for all citizens."

We ask you to carefully examine this project in its entirety and the threats that it poses to the Great Lakes. We urge you to stop this dock repair project and shut down the broader oil terminal and shipment project in order to protect the Great Lakes and other shared waterways.

Sincerely,



Emma Lui
National Water Campaigner
Council of Canadians