

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MORTON

SOUTH CENTRAL JUDICIAL DISTRICT

Case No. 30-2019-CV-00180

Energy Transfer LP, (formerly known as)
Energy Transfer Equity, L.P.), Energy)
Transfer Operating, L.P. (formerly known)
As Energy Transfer Partners, L.P., and)
Dakota Access, L.L.C.,)
Plaintiffs,)

OPINION AND ORDER DENYING
MOTION TO ALLOW
LIMITED DISCOVERY ON DIRECT
MAILING TO POTENTIAL MORTON
COUNTY JURORS

-vs-

Greenpeace International (also known as)
"Stichting Greenpeace Council";)
Greenpeace Inc.; Greenpeace Fund, Inc.)
Red Warrior Society (also known as "Red)
Warrior Camp; Cody Hall and Krystal Two)
Bulls;)
Defendants.)

¶1. The Greenpeace Defendants moved the Court to allow limited discovery on the issue of direct mailings sent to Morton County residents that mentioned a donation made by the Plaintiff Energy Transfer, and also referred to events occurring 8 years ago – mainly the protests of the Dakota Access Pipeline by protestors from various organizations. The direct mailing, in the general format of a newspaper, also mentioned the existence of the instant legal action in general terms and commented on the replacement of an executive in the Greenpeace hierarchy. Greenpeace alleges the potential existence of evidence that indicates Energy Transfer orchestrated the direct mailing to curry favor of the Morton County residents from whom the jury in this matter will be chosen. Greenpeace requests the Court allow the limited discovery despite the fact the scheduling order closed discovery some time ago.

¶2. Energy Transfer opposes any limited discovery beyond the date in the scheduling order. Energy Transfer also maintains Greenpeace's request goes beyond the appropriate way to address the concerns Greenpeace identified. Energy Transfer believes the appropriate remedy is the use of jury questionnaires and *voir dire* to identify any problem with the pre-trial publicity that concerns Greenpeace.

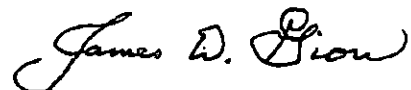
¶3. The Court specifically notes a technical issue with the court filing system. Greenpeace notified the Court, through the court reporter, that Greenpeace attempted to file their motion and supporting documents on November 22, 2024. The Court notes that Energy Transfer filed its Opposition and supporting documents on December 6, 2024, within the 14-day time period. However, as of December 12, 2024, the Odyssey filing system still does not show any filings by Greenpeace as to this matter. The Court notified Greenpeace of this issue on the morning of December 3, 2024, and Greenpeace e-mailed, in a PDF format, the documents it had attempted to file to the court reporter. Additionally, at the hearing, Energy Transfer agreed to submit, via e-mail, a copy of the newsletter they received in the filings from Greenpeace.

¶4. The Court takes an extremely dim view of attempts to influence a jury panel before the trial. The parties have already questioned the likelihood of seating a jury in Morton County because of pre-trial publicity in the request for change of venue. Greenpeace alleges an attempt by someone to influence the jury pool. There is only one way to determine if such an attempt is successful, and unfortunately the Court agrees with Energy Transfer that way is through the jury questionnaires and jury selection. Should jury questionnaires and *voir dire* reveal improper influence on the jury panel, the Court would find the motion more timely and appropriate. If the Court cannot empanel a jury in Morton County, there will obviously be a delay in the trial and

the Court can revisit this issue at that time. Accordingly, the Court denies Greenpeace's motion to allow limited discovery at this time.

Dated this 17th day of December, 2024.

BY THE COURT:

A handwritten signature in cursive script that reads "James D. Gion". The signature is written in black ink and is positioned below the text "BY THE COURT:".

James D. Gion, Judge