



North Dakota jury says Greenpeace must pay at least \$660m over Dakota pipeline protests - video

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Greenpeace must pay at least \$660m over Dakota pipeline protests, says jury

Non-profit, which will appeal decision, says lawsuits like this are aimed at 'destroying the right to peaceful protest'

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A jury in **North Dakota** has decided that the environmental group **Greenpeace** must pay hundreds of millions of dollars to the pipeline company Energy Transfer and is liable for defamation and other claims over protests in the state nearly a decade ago.

Energy Transfer Partners, a Dallas-based oil and gas company worth almost \$70bn, had sued **Greenpeace**, alleging defamation and orchestrating criminal behavior by

protesters at the Dakota Access pipeline in 2016 and 2017, claiming the organization “incited” people to protest by using a “misinformation campaign”.

Greenpeace, which had denied the claims, said in a statement after the verdict that lawsuits like this were aimed at “destroying the right to peaceful protest”; constitutional rights experts had expressed fears that the case could have a wider chilling effect on free speech.

The nine-person jury in Mandan, [North Dakota](#), found in favor of Energy Transfer on most counts after more than two days of deliberations. It awarded Energy Transfer at least \$660m, according to calculations from Greenpeace.

The environmental group, which had expressed concerns before the trial about getting a fair hearing in oil and gas country, said that a loss and an enormous financial award could bankrupt their US operation. Energy Transfer sued three Greenpeace entities, claiming that they are a single organization rather than independent members of the Greenpeace network.

Greenpeace will appeal the decision, the organization said.

The case has been closely watched by the wider non-profit community and first amendment experts amid [concerns](#) over how it could affect activism.

“What we saw over these three weeks was Energy Transfer’s blatant disregard for the voices of the Standing Rock Sioux Tribe. And while they also tried to distort the truth about Greenpeace’s role in the protests, we instead reaffirmed our unwavering commitment to non-violence in every action we take,” said Deepa Padmanabha, Greenpeace’s senior legal adviser.

“We should all be concerned about the future of the first amendment, and lawsuits like these aimed at destroying our rights to peaceful protest and free speech. Greenpeace will continue to do its part to fight for the protection of these fundamental rights for everyone,” Padmanabha said.

Greenpeace International was one of the three entities sued by Energy Transfer. Its general counsel, Kristin Casper, said the organization’s fight would continue: “Energy Transfer hasn’t heard the last of us in this fight. We’re just getting started with our anti-Slapp [strategic lawsuits against public participation] lawsuit against Energy Transfer’s attacks on free speech and peaceful protest. We will see Energy Transfer in court this July in the Netherlands. We will not back down, we will not be silenced.”

Energy Transfer thanked the judge and jury in a statement, saying: “While we are pleased that Greenpeace has been held accountable for their actions against us, this win is really for the people of Mandan and throughout North Dakota who had to live

through the daily harassment and disruptions caused by the protesters who were funded and trained by Greenpeace. It is also a win for all law-abiding Americans who understand the difference between the right to free speech and breaking the law. That the disrupters have been held responsible is a win for all of us.”

Trey Cox, Energy Transfer’s counsel for the case, said the jury’s verdict was “resounding” and showed Greenpeace’s actions had been unlawful. “It is also a day of celebration for the constitution, the state of North Dakota and Energy Transfer,” he said.

During jury selection, potential jurors appeared to largely dislike the protests, and many **had ties to the fossil fuel industry**. In the end, more than half the jurors selected to hear the case had ties to the fossil fuel industry, and most had negative views of anti-pipeline protests or groups that oppose the use of fossil fuels.

“Today’s verdict is not a reflection of wrongdoing on Greenpeace’s part, but rather the result of a long list of courtroom tactics and propaganda tricks that Energy Transfer used to deny Greenpeace its right to a fair trial,” said Kirk Herbertson, a New York attorney and the US director for advocacy and campaigns for EarthRights International. “We hope that the North Dakota supreme court will question why this case ever made it to trial in the first place.”

Concerns over finding an unbiased jury plagued the case even before it began, given the rightward political leanings of Mandan, North Dakota, and the distaste for the protests among local residents. Mysterious rightwing mailers, made to look like a newspaper called “Central ND News”, that contained articles slanted against the pipeline protest or in favor of Energy Transfer were also sent to residents in recent months, which Greenpeace alleged could taint the jury pool.

Greenpeace sought to move the trial to another venue in North Dakota multiple times, but was shot down by the county court and the North Dakota supreme court. The judge, James Gion, who was brought in to preside over the case after all Morton county judges recused themselves, denied requests for livestreaming, which the state supreme court also denied.

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Legal sources **have said** the case is a classic example of a Slapp – a form of civil litigation increasingly deployed by corporations, politicians and wealthy individuals to deliberately wear down and silence critics including journalists, activists and watchdog groups. These cases, even when the entities suing lose, cause significant legal costs for defendants and can have a chilling effect.

The five-week trial saw Energy Transfer attempt to tie a host of misdeeds or disruptions caused by the protests to Greenpeace, which has maintained that its involvement was small and at the request of the Standing Rock Tribe.

Standing Rock **released a statement** after the trial began affirming it had led the protests and claiming the tribe had had ongoing issues with getting safety information from Energy Transfer. The pipeline company was “frivolously alleging defamation and seeking money damages, designed to shut down all voice supporting Standing Rock. The case is an attempt to silence our Tribe about the truth of what happened at Standing Rock, and the threat posed by DAPL to our land, our water and our people. The Standing Rock Sioux Tribe will not be silenced,” the tribal chairperson, Janet Alkire, wrote.

In the final days of the case, Kelcy Warren, Energy Transfer’s billionaire founder and a major donor to **Donald Trump**, said in a video deposition that his company had offered financial incentives – including money, a luxury ranch and a new school – to the Standing Rock Sioux Tribe to stop the protests, which the tribe declined, **according to** a group of monitors attending the trial because of concerns over its fairness. Warren said he believed the tribe refused the offer because it was offered more by Earthjustice, which has served as a legal representative of the tribe.

The trial-monitoring committee released a statement after the verdict saying that the trial had been “deeply flawed” and denied Greenpeace the ability to present a full defense. The committee monitored every part of the trial and concluded the jury had been biased in favor of Energy Transfer and the judge lacked full legal knowledge of the complex issues at hand.

Marty Garbus, a longtime first amendment lawyer who is part of the monitoring group, said: “In my six decades of legal practice, I have never witnessed a trial as unfair as the one against Greenpeace that just ended in the courts of North Dakota ... Greenpeace has a very strong case on appeal. I believe there is a good chance it ultimately will win both in court and in the court of public opinion.”

The trial came after Energy Transfer first filed a Rico lawsuit in federal court in 2017.

The federal racketeering case was dismissed on 14 February 2019, but seven days later Energy Transfer refiled a virtually identical suit in North Dakota state court.



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