STATE OF NORTH DAKOTA	IN DISTRICT COURT
COUNTY OF MORTON	SOUTH CENTRAL JUDICIAL DISTRICT
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 LLC, Plaintiffs, v. Greenpeace International (also known as "Stichting Greenpeace Council"); Greenpeace, Inc.; Greenpeace Fund, Inc.; Red Warrior Society (also known as "Red Warrior Camp"); Cody Hall; Krystal Two Bulls; and Charles Brown, Defendants.	Case No. 30-2019-CV-00180 **FIRST AMENDED COMPLAINT**

[¶1] Plaintiffs Energy Transfer LP, Energy Transfer Operating, L.P. (together with Energy Transfer LP, "Energy Transfer"), and Dakota Access LLC ("Dakota Access"), for their complaint against Defendants Greenpeace International (aka "Stichting Greenpeace Council"); Greenpeace, Inc.; Greenpeace Fund, Inc.; Charles Brown (collectively, the "Greenpeace Defendants"); Red Warrior Society (aka "Red Warrior Camp"); Cody Hall; Krystal Two Bulls; and Charles Brown, allege as follows:

INTRODUCTION

[¶2] This action arises from Defendants' unlawful and violent scheme to cause financial harm to Energy Transfer and Dakota Access, to cause physical harm to their employees and infrastructure, and to disrupt and prevent the companies' construction of the Dakota Access Pipeline ("DAPL") -- a 1,172-mile long underground crude oil pipeline which extends from the

Bakken region of North Dakota to Patoka, Illinois. Defendants' unlawful acts include violent attacks against Plaintiffs' employees and property, soliciting money for and providing funding to support these illegal attacks, inciting protests to disrupt construction, and a vast, malicious publicity campaign against Energy Transfer and Dakota Access. All the while, Defendants utilized the anti-DAPL platform to raise tens of millions of dollars in donations from the public under the guise of concern over indigenous peoples' rights.

[¶3] The conduct and harm alleged here has been described by the U.S. District Court for the District of North Dakota as "mindless and senseless criminal mayhem" that is not protected by the rights of free speech and assembly:

> With respect to the assertion the movement has been a peaceful protest, one need only turn on a television set or read any newspaper in North Dakota. There the viewer will find countless videos and photographs of the "peaceful" protestors attaching themselves to construction equipment operated by Dakota Access; vandalizing and defacing construction equipment; trespassing on privately-owned property; obstructing work on the pipeline; and verbally taunting, harassing, and showing disrespect to members of the law enforcement community. . . . The estimated damage to construction equipment and loss of work on the project is far in excess of several million dollars. . . . To suggest that all of the protest activities to date have been "peaceful" and law-abiding defies commonsense and reality.

Dakota Access, LLC v. Archambault, No. 1:16-cv-296, 2016 WL 5107005, at *2 (D.N.D. Sept. 16, 2016).

[¶4] Defendants advanced their extremist agenda -- to attack and disrupt Energy Transfer and Dakota Access's business and their construction of DAPL -- through means far outside the bounds of democratic political action, protest, and peaceful, legally protected expression of dissent. Instead, Defendants pursued "militant direct action" -- in the words of Defendant Two Bulls -- including trespass onto Dakota Access's private property; unlawful invasion of Dakota Access's easements; violent and destructive attacks on Dakota Access's

construction equipment and other private property; arson; and intimidation, harassment, and assault of Plaintiffs' employees.

[¶5] Defendants also engaged in large-scale, intentional dissemination of misinformation and outright falsehoods regarding both Energy Transfer and Dakota Access, DAPL's environmental impact, and the companies' extensive efforts to address the concerns of local North Dakota communities about the pipeline, including spreading defamatory falsehoods regarding DAPL's supposed, but actually nonexistent, intrusion on local indigenous peoples' -- the Standing Rock Sioux Tribe's -- historically important burial sites and water supplies; as well as a defamatory campaign to interfere with and, indeed, destroy Energy Transfer and Dakota Access's relationships with investors, financiers, and other constituents.

[¶6] In fact, prior to starting construction on the pipeline, Plaintiffs spent more than two years working closely with the United States Army Corps of Engineers ("USACE"), and North Dakota officials, to identify a route for the pipeline that would have the least impact on local stakeholders and resources. Plaintiffs went to great lengths to engage with all interested stakeholders potentially affected by the pipeline's construction, including the Standing Rock Sioux Tribe ("SRST"). As a result, DAPL almost exclusively tracks private land, does not encroach on SRST land, and entirely avoids disturbance to historic and cultural resources. Accordingly, USACE determined -- with the concurrence of the North Dakota State Historic Preservation Officer -- that the Project ***affected no historic properties***. USACE also determined that because DAPL was constructed with the latest safety and protective technologies, the risk of spill was extremely low.

[¶7] Notwithstanding Defendants' specific knowledge of the foregoing, Defendants' actions and words made clear that their purpose was to inflict as much financial harm as possible

on Energy Transfer and Dakota Access, whether or not they could actually prevent construction of the pipeline. In fact, when court decisions and other events confirmed the lawfulness and propriety of DAPL, Defendants stated openly that their efforts were nonetheless justified by the tremendous additional expense and delay they caused to Energy Transfer and Dakota Access.

[¶8] Defendants' malicious intent -- and their stunning hypocrisy -- were evidenced by, among other things, the fact that their calls for "direct action" incited, led, and financially supported by Defendants left tribal and other lands in an utterly degraded condition -- strewn with rotting garbage, pest-infested firewood, human waste, orphaned animals, abandoned tents and other structures, and over 830 dumpster loads of trash. The Greenpeace Defendants -- whose pockets were lined with tens of millions of dollars in anti-DAPL contributions they raised from around the globe -- disappeared, and contributed ***not a cent*** to restore North Dakota to the condition in which they found it. Instead, the bill for the multi-million dollar cleanup of the "environmental disaster" left by protestors fell largely upon the citizens of North Dakota, American taxpayers, and the Standing Rock Sioux Tribe.

[¶9] As the citizens of North Dakota experienced firsthand, the Defendants, purportedly protesting Energy Transfer, Dakota Access, and DAPL, inflicted other significant harm upon the State of North Dakota and its citizens in addition to the environmental mess they left behind. North Dakota citizens suffered months of harassment, intimidation, and threats from protestors; their property was destroyed; ranchers' cattle and bison were butchered or maimed; graves were vandalized; and local residents' private property was vandalized, leaving people feeling unsafe and under siege in their own homes. The State of North Dakota publicly condemned Defendants' conduct: "[t]he real brutality [was] committed by violent protesters who

use[d] improvised explosive devices to attack police, use[d] hacked information to threaten officers and their families, and use[d] weapons to kill livestock, harming farmers and ranchers."

[¶10] By this action, Energy Transfer and Dakota Access seek to recover the millions of dollars of damages caused by Defendants' unlawful, malicious, and coordinated attack on Energy Transfer, Dakota Access, and DAPL. Energy Transfer and Dakota Access in no way seeks to limit or threaten anyone's lawful exercise of their rights to free expression of their political and other beliefs and opinions, or in any way suppress political debate over important environmental issues. Defendants' actions, however, were not protected free speech or expression. Instead, they were designed to inflict damage, cause delay, defame Energy Transfer and Dakota Access, and disrupt their operations as much as possible. It is for all of this extensive, unjustified, and unlawful conduct, as detailed in this complaint, that Plaintiffs seek to vindicate their own legal rights.

PARTIES AND RELEVANT NON-PARTIES

Plaintiffs

[¶11] Plaintiff Energy Transfer LP is a master limited partnership organized under the laws of Delaware and headquartered in Dallas, Texas. Energy Transfer LP was formerly known as Energy Transfer Equity, L.P.

[¶12] Plaintiff Energy Transfer Operating, LP is a master limited partnership organized under the laws of Delaware and headquartered in Dallas, Texas. Energy Transfer Operating, L.P. was formerly known as Energy Transfer Partners, L.P.

[¶13] Energy Transfer owns the largest liquid petroleum and natural gas pipeline system by volume in the United States, spanning nearly 72,000 miles. Energy Transfer was the "project

lead" and "primary builder" of DAPL, and the subject and target of numerous false and defamatory statements by the Greenpeace Defendants.

[¶14] Plaintiff Dakota Access is a limited liability company organized under the laws of Delaware with its headquarters and principal place of business in Dallas, Texas. Dakota Access owns and operates DAPL, a project planned, designed, and constructed by Energy Transfer. Dakota Access also owns the easements with which Defendants unlawfully interfered, and owned or was otherwise in possession of the land on which Defendants trespassed at all relevant times. Dakota Access further owns or was otherwise in possession of machinery and construction equipment, the use of which Defendants wrongfully deprived Dakota Access by damaging, destroying or otherwise detaining such equipment.

The Greenpeace Defendants

[¶15] Defendants Greenpeace International, aka Stichting Greenpeace Council ("GP-International" or "GPI"), Greenpeace, Inc. ("GP-Inc."), and Greenpeace Fund, Inc. ("GP-Fund") are each constituents of the international "Greenpeace" organization, a network of legally distinct, yet coordinated, international, national, and regional associations, and are inextricably bound with each other.

[¶16] Defendant GPI is a Dutch not-for-profit foundation based in Amsterdam, the Netherlands. GPI reviews, approves, and underwrites the activities of national and regional "Greenpeace" entities, including GP-Inc. and GP-Fund. GPI also directs the activities of international Greenpeace entities, such as Greenpeace Netherlands and Greenpeace Japan.

[¶17] GP-Inc. is a nonprofit corporation organized under the laws of California and headquartered in Washington, D.C. GP-Inc. is licensed to do business in many states, including North Dakota.

[¶18] GP-Fund is a nonprofit corporation organized under the laws of California and headquartered in Washington, D.C. GP-Fund is licensed to do business in many states, including North Dakota.

[¶19] GP-Inc. and GP-Fund collectively hold themselves out as "Greenpeace USA" and share an executive director, Annie Leonard. Employees of GP-Inc. and GP-Fund are publicly identified as representatives of "Greenpeace USA." GP-Inc. and GP-Fund publish reports as "Greenpeace USA," and act together as "Greenpeace USA." GP-Inc. and GP-Fund have admitted in public filings that they jointly "control all Greenpeace operations in the United States" and "pursuant to a 'protocol' between [ ] all other Greenpeace entities worldwide, including . . . Greenpeace International, no Greenpeace operations are to occur in the United States without [their] consent." GPI and Greenpeace USA each purport to be "expert" organizations that publish reports based on "expert analysis and investigations."

[¶20] Defendant Charles Brown is a resident of Virginia. In 2018, Greenpeace USA recruited and hired Brown as a "pipeline campaigner" focused on "Greenpeace's priority project of 2018" -- stopping pipelines and interfering with Energy Transfer's infrastructure projects. Brown has trained, supported, and directed ongoing obstruction against Energy Transfer's infrastructure projects, including the Bayou Bridge Pipeline in Louisiana.

Defendants Red Warrior Society aka Red Warrior Camp, Cody Hall, and Krystal Two Bulls

[¶21] Defendant Cody Hall is a resident of South Dakota. Defendant Hall is a leader, organizer, spokesperson, and fundraiser for Red Warrior Society.

[¶22] Defendant Krystal Two Bulls is a resident of Montana. Defendant Two Bulls serves as a leader, organizer, media coordinator, and fundraiser for Red Warrior Society.

[¶23] Red Warrior Society is an informal organization of the most violent, most radical anti-DAPL activists in North Dakota and across the country. Red Warrior Society is a front organization for Greenpeace USA intended to provide cover for Greenpeace USA's support of and engagement in illegal, violent "direct action" against DAPL. Defendant Hall formed Red Warrior Camp, the physical incarnation of Red Warrior Society, near the DAPL crossing at Lake Oahe in the fall of 2016 with the financial support and direction of Greenpeace USA and Earth First! in connection with anti-DAPL protests in North Dakota.

[¶24] Red Warrior Society, and its members at Red Warrior Camp, distinguished themselves from other activists by their express rejection of non-violent protest, and embrace of violence and "militant direct action" tactics against DAPL. "Militant direct action," as the term is used by Red Warrior Society, means the destruction and/or damage of DAPL construction equipment and other property, attacks on and intimidation of Plaintiffs' employees, and operations specifically designed to damage or destroy DAPL. In the words of Defendant Two Bulls, "Militant direct action is a strategy we use to build real movements, change power dynamics, shift societies and even remove governments."

Non-Party Banktrack

[¶25] Banktrack, aka Stichting Banktrack, is a not-for-profit foundation based in Nimegen, the Netherlands. Banktrack coordinated with Greenpeace Defendants to publish and disseminate false statements about Energy Transfer, Dakota Access, and DAPL. Banktrack also coordinated with Greenpeace Defendants to disseminate false statements about Energy Transfer, Dakota Access, and DAPL to Dakota Access's and Energy Transfer's respective lenders to induce the termination or impairment of these relationships.

Non-Party Earth First!

[¶26] Earth First!, an unincorporated association, is a radical environmental activist group. In connection with DAPL protests, Earth First! provided $500,000 to extremist

protestors, including Cody Hall and Krystal Two Bulls, to form and fund the violent Red Warrior Camp at DAPL crossing near Lake Oahe; coordinated with Greenpeace USA to provide training in "direct action" and criminal sabotage to Red Warrior Camp; and distributed copies of its Direct Action Manual and Ecodefense Guide -- which provide instruction on "direct action" techniques -- at protest camps in North Dakota and other sites along DAPL's route.

JURISDICTION AND VENUE

[¶27] This Court has jurisdiction pursuant to N.D. R. Civ. P. 4(b)(2) because each defendant directly and through agents transacts business within the state; committed tortious acts within or outside the state causing injury to another person or property within the state; and/or has committed a tort within the state causing injury to another person or property within or outside the state.

[¶28] Venue is proper in Morton County pursuant to N.D.C.C. § 28-04-05 because Plaintiffs' causes of action arose in Morton County and the vast majority of the events and conduct giving rise to this action occurred in this county.

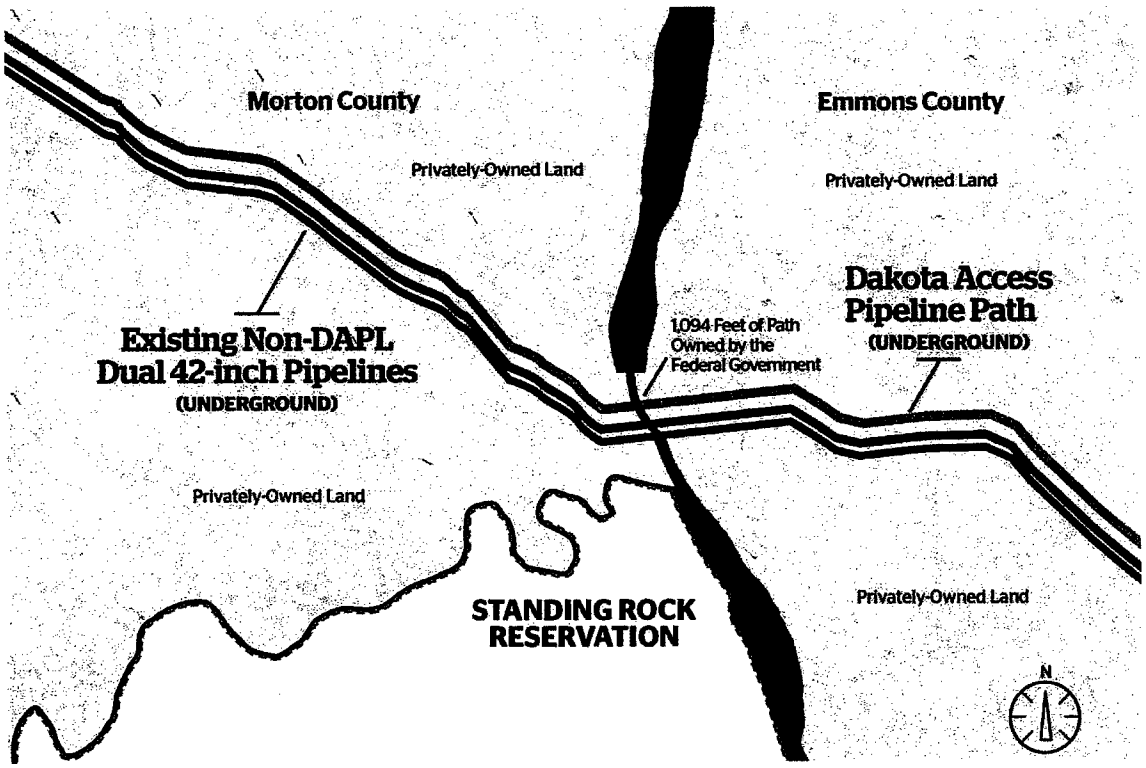
FACTS

A. Energy Transfer and Dakota Access carefully and extensively plan and design DAPL to track privately owned land and minimize environmental impact.

[¶29] On June 25, 2014, Plaintiffs announced the development and construction of DAPL -- a 1,172 mile underground oil pipeline -- to transport nearly a half-million barrels of domestically produced crude oil across four states on a daily basis. Via the pipeline, oil is transported from the Bakken region in North Dakota, across South Dakota and Iowa, to Patoka, Illinois, where it connects to the national and international oil refining and distribution networks.

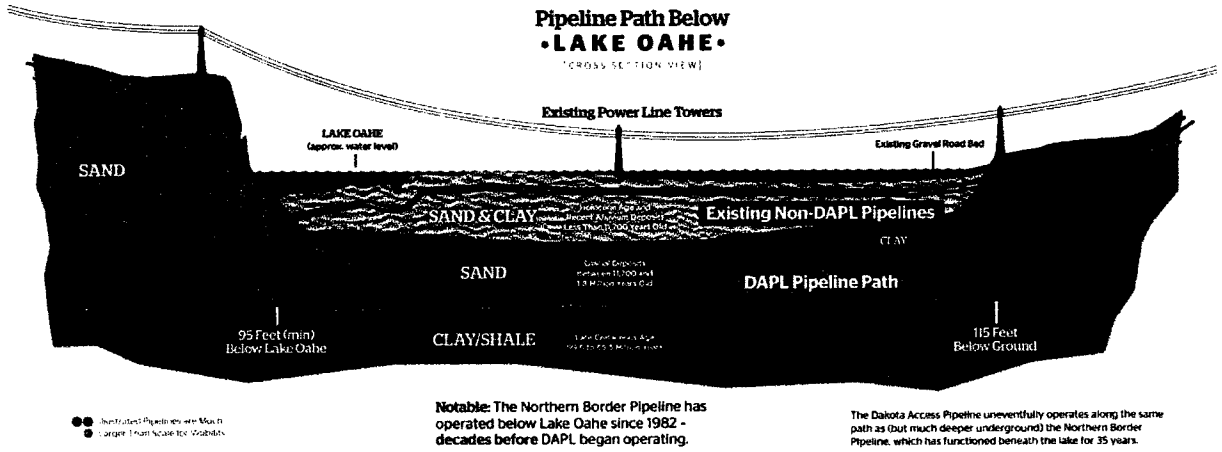
[¶30] For the next 25 months, Plaintiffs -- working closely with USACE and North Dakota state officials -- conducted extensive planning to identify a route for the pipeline that would have the least impact on community stakeholders, the environment, and other natural and cultural resources.

[¶31] As a result of Plaintiffs' careful planning, DAPL traverses private land for 99% of its route. One exception is where DAPL crosses federally-owned and regulated waters at the Missouri River under the man-made Lake Oahe -- a reservoir that begins just north of Pierre, South Dakota and extends nearly to Bismarck, North Dakota. Lake Oahe is federally owned and regulated, as is the land surrounding it. The Lake Oahe crossing is located a half mile above the northern boundary of the SRST reservation. As shown in the image below, ***DAPL does not cross any SRST-owned land or water.***



[¶32] As depicted in the image below, the pipeline "crosses" 90 to 115 feet beneath Lake Oahe along the route of an existing pipeline -- the Northern Border Pipeline. Plaintiffs

selected this crossing location because it would traverse a path that was already disturbed by existing infrastructure, thus minimizing the impact to the environment and reducing the risk of any negative impact to historic resources or cultural features.



[¶33] On July 25, 2016, USACE issued a Final Environmental Assessment for DAPL with a Mitigated Finding of No Significant Impact, concluding that the risk of spill was very low, and authorizing the pipeline's route under Lake Oahe.

B. Defendants execute an unlawful and violent campaign to cause financial and reputational harm to Energy Transfer and Dakota Access and to obstruct construction of DAPL.

[¶34] No later than July 2016, as DAPL neared completion, the Greenpeace Defendants conspired and agreed with Banktrack, Earth First!, Cody Hall, and Krystal Two Bulls to engage in a coordinated campaign to obstruct Energy Transfer and Dakota Access's construction of DAPL and their business operations and to inflict the maximum amount of financial and reputational harm possible upon Energy Transfer and Dakota Access.

[¶35] Defendants' operations against Energy Transfer and Dakota Access consisted of three components. First, the Greenpeace Defendants and Banktrack disseminated false statements about Energy Transfer, Dakota Access, and DAPL to the public for the purpose of

raising funds to further their anti-DAPL agenda, inciting thousands of protestors to descend on Lake Oahe to halt construction of DAPL, and damaging Energy Transfer and Dakota Access's reputation. Second, Greenpeace USA and Earth First! organized, funded, and supported unlawful acts of trespass, property destruction, and violence by protestors (including Hall and Two Bulls) to obstruct construction and operation of DAPL. Third, the Greenpeace Defendants and Banktrack disseminated false statements about Energy Transfer, Dakota Access, and DAPL directly to Energy Transfer and Dakota Access's respective lenders and investors to induce the termination or impairment of these relationships and/or contracts and damage both Energy Transfer's and Dakota Access's reputations. Defendants' defamatory attacks on "DAPL," the "pipeline," "Dakota Access," and "Energy Transfer" were intended to harm both Dakota Access and Energy Transfer. While Dakota Access and Energy Transfer are separate corporate entities, Defendants made no distinctions between Plaintiffs in their defamatory attacks, and used these names and phrases interchangeably to attack all Plaintiffs.

1. Defendants disseminate malicious false statements about Energy Transfer, Dakota Access, and DAPL in a misinformation campaign.

[¶36] Beginning in (at the latest) August 2016 and continuing through the months of protests at Lake Oahe, the Greenpeace Defendants and Banktrack commenced large-scale dissemination of false claims about the impacts of the development, construction, and operation of DAPL. These misrepresentations were disseminated via, *inter alia,* mass emails sent by these Defendants to their membership, donor, and other email lists, websites operated by these Defendants, press releases, social media accounts, and other means.

[¶37] The Greenpeace Defendants' and Banktrack's specific misrepresentations are set forth in detail in Appendix A to this Complaint. Defendants' misrepresentations regarding Energy Transfer, Dakota Access, and DAPL fall into six broad categories: (a) false statements

regarding DAPL's path, (b) false statements alleging Energy Transfer "desecrated" cultural resources, (c) false statements regarding the environmental impact of DAPL on water supplies, (d) false statements regarding the impact of DAPL on climate change, (e) false statements regarding Energy Transfer's pre-construction environmental assessments of the DAPL project, and (f) false statements regarding Energy Transfer's treatment of anti-DAPL protestors. A number of Defendants' false publications specifically identify Energy Transfer as DAPL's "project lead" and "primary builder," and describe DAPL as "a project of Energy Transfer," thereby defaming Energy Transfer by false statements about the planning, approval, and construction of DAPL.

[¶38] As will be shown at trial, each of Defendants' misrepresentations, individually and collectively, caused substantial harm and damage to both Dakota Access and Energy Transfer.

a. <u>Defendants misrepresented that DAPL traverses SRST lands.</u>

[¶39] The Greenpeace Defendants and Banktrack made, and repeated countless times, baseless claims regarding DAPL's route. Specifically, they falsely represented that the pipeline would traverse under and/or across sovereign SRST land. This is false. ***In fact, the pipeline does not traverse SRST property, at all.*** The Lake Oahe crossing is located a half-mile north of the legal boundary of the SRST reservation. Its waters are federally owned and regulated, as is the 1.4 miles of land beneath Lake Oahe where DAPL passes *<u>under</u>* the waterway. The land adjacent to Lake Oahe, through which the pipeline traverses, is likewise federally owned. The facts regarding DAPL's specific path have been publicly known since before construction on the pipeline ever commenced. Yet the Greenpeace Defendants and Banktrack repeatedly disseminated this false claim to thousands upon thousands, if not millions, of people, including

their constituents and the general public, as part of their effort to raise funds and to incite anti-DAPL protests.

b. Defendants misrepresented that Energy Transfer and Dakota Access desecrated cultural resources.

[¶40] The Greenpeace Defendants and Banktrack also falsely claimed that Energy Transfer "deliberately desecrated documented burial grounds and other culturally important sites" and "destroyed sacred Native Lands" and "religious and other historical sites." Contrary to these claims, the DAPL route was meticulously planned to, and does, avoid historically or culturally important sites. In fact, as the Defendants were well aware, Plaintiffs went to extraordinary lengths to ensure cultural resources were not disturbed or destroyed, including by consulting with SRST prior to construction. Indeed, in April 2016, USACE determined -- with the concurrence of the North Dakota State Historic Preservation Officer -- that the pipeline affected no historic properties.

[¶41] Moreover, findings of the North Dakota State Historical Society, released on September 22, 2016, refute any claim that Energy Transfer or Dakota Access desecrated historical resources near Lake Oahe. In fact, after conducting its own, independent cultural resource survey of the Lake Oahe corridor and DAPL's impact on the cultural and historical resources, the North Dakota State Historical Society concluded that there was "no evidence of infractions . . . with respect to disturbance of human remains or significant sites" as a result of the DAPL project.

c. Defendants misrepresented that DAPL would "poison" SRST water supplies.

[¶42] The Greenpeace Defendants and Banktrack falsely alleged that DAPL would result in "[m]illions of people los[ing] access to a clean water supply, including the Standing Rock Sioux Tribe." This is not only false, but impossible. There is consensus among the

scientific community that pipelines are the safest method to transport energy products and the risks of any pipeline rupture are minimal. Moreover, regardless of false assessment of the risks to the SRST's water supply in the future, these Defendants asserted that, as a matter of current fact, residents of North Dakota including the SRST would lose access to clean water upon the construction of DAPL.

[¶43] Again, it is beyond cavil that these assertions are false. Plaintiffs designed and constructed DAPL in strict compliance with federal safety requirements and industry best practices, and utilized the latest safety and protective technologies. Safety features of the pipeline include a technologically advanced corrosion-resistant, external coating over the pipeline; advanced, automated leak detection; and remote-controlled isolation valves to allow rapid sealing in the event of a leak in the pipeline. DAPL employed advanced, low-impact horizontal directional drilling techniques for installation of the pipeline below bodies of water and other sensitive sites. Plaintiffs were, or should have been, aware of all of these facts as they were publicly available. Moreover, DAPL's construction did not result in any North Dakota resident losing access to clean water, as was asserted.

d. <u>Defendants misrepresented that DAPL would catastrophically alter climate.</u>

[¶44] The Greenpeace Defendants and Banktrack falsely claimed that DAPL is a "climate destroying project" as a result of increased greenhouse emissions purportedly caused by the pipeline. In fact, DAPL has a net positive climate impact because it provides infrastructure to transport oil that would otherwise be carried by fossil fuel-intensive railroads, trucks, or barges, all of which have a higher likelihood of causing environmental damage from spills or leaks. Since DAPL became operational, oil-carrying train traffic within North Dakota has decreased from 12 daily trains, or 1,200 cars, at similar oil production volumes, to 2 trains, or

200 cars, and has thus lowered net fossil-fuel consumption and carbon emissions. Again, these facts were publicly available and were, or should have been, known by Defendants.

e. Defendants misrepresented that DAPL was routed and approved without adequate environmental review or consultation.

[¶45] The Greenpeace Defendants further misrepresented that DAPL's approval "was rushed, lacked proper government-to-government consultation with [SRST]," was "rubber-stamp[ed]," and "approved without adequate environmental reviews." This too is false, and, in fact, has been rejected twice by the U.S. District Court of the District of Columbia (the "DC Court") in *Standing Rock Sioux Tribe, et al. v. U.S. Army Corps of Engineers*, 16-cv-1534, a lawsuit challenging the adequacy of the consultation and environmental review process for DAPL.

[¶46] On September 9, 2016, the D.C. Court found that Dakota Access "prominently considered" the "potential presence of historic properties" in choosing a route for the pipeline:

> Using past cultural surveys, the company devised DAPL's route to account for and avoid sites that had already been identified as potentially eligible for or listed on the National Register of Historic places. With that path in hand, in July 2014, the company purchased rights to a 400-foot corridor along its preliminary route to conduct extensive new cultural surveys of its own. These surveys eventually covered the entire length of the pipeline in North and South Dakota, and much of Iowa and Illinois. Professionally licensed archaeologists conducted Class II cultural surveys, . . . [and] [i]n some places, . . . intensive Class III cultural surveys. . . .
>
> Where this surveying revealed previously unidentified historic or cultural resources that might be affected, the company mostly chose to reroute. In North Dakota, for example, the cultural surveys found 149 potentially eligible sites, 91 of which had stone features. The pipeline workspace and route was modified to avoid all 91 of these stone features and all but 9 of the other potentially eligible sites. By the time the company finally settled on a construction path, then, the pipeline route had been modified 140 times in North Dakota alone to avoid potential cultural resources. Plans had also been put in place to mitigate any effects on the other 9 sites through coordination with the North Dakota SHPO. All told, the company surveyed nearly twice as many miles in North Dakota as the 357 miles that would eventually be used for the pipeline.

[¶47] The D.C. Court also detailed Dakota Access's efforts to consult with the SRST, noting that, despite "dozens of attempts to engage Standing Rock," the "Tribe largely refused to engage in consultations." Nonetheless, the D.C. Court also concluded that the USACE -- who provided critical oversight of DAPL planning -- independently consulted with the SRST regarding DAPL's proposed path. In fact, the D.C. Court found that the USACE "exceeded its NHPA obligations" in considering the SRST's concerns:

> For example, in response to the Tribe's concerns about burial sites at the James River crossing, the Corps verified that cultural resources indeed were present and instructed Dakota Access to move the site to avoid them. Dakota Access did so. Furthermore, the Corps took numerous trips to Lake Oahe with members of the Tribe to identify sites of cultural significance. [The USACE commander] also met with the Tribe no fewer than four times in the spring of 2016 to discuss their concerns with the pipeline. Ultimately, the Corps concluded that no sites would be affected by the DAPL construction at Lake Oahe, and the State Historic Preservation Officer who had visited that site concurred. The Corps' effort to consult the Tribe on this site – the place that most clearly implicated the [SRST's] cultural interests – sufficed under the NHPA. . . . [T]his is not a case about empty gestures. . . . [T]he Corps and the Tribe engaged in meaningful exchanges that in some cases resulted in concrete changes to the pipeline's route.

[¶48] In addition, on June 14, 2017, the D.C. Court rejected the SRST's claim that the USACE's review process was inadequate; finding instead that the USACE amply considered viable alternatives to the final route, the risks of spill, and the environmental impact of any potential spill. The D.C. Court found that the environmental analysis extensively "discuss[ed] DAPL's 'reliability and safety,'" providing "the necessary content" to support its conclusion that the risk of a spill is very low.

[¶49] Further, the D.C. Court held that Dakota Access's choice of the approved route, rather than an alternative route that traversed closer to Bismarck, North Dakota, was not only legal, but prudent because, among other reasons, the proposed Bismarck route would have been co-located with existing utility or pipeline routes for only 3 percent of the total route, and thus

posed a substantially greater risk of negative impact to cultural resources and the environment than the selected route.

f. Defendants misrepresented that Plaintiffs used excessive force against peaceful protests.

[¶50] The Greenpeace Defendants and Banktrack also repeatedly published false statements that Energy Transfer and/or Dakota Access "commit[ted] grievous human rights violations" against "peaceful" and "non-violent" anti-DAPL protestors. This too is false. Neither Energy Transfer nor Dakota Access utilized "excessive force" -- let alone committed "human rights violations" -- against anyone. Construction workers and private security officers exercised restraint, and proportionately responded to extreme violence and intentional sabotage directed at Plaintiffs' employees and property by protestors. In fact, the protests incited and funded by Defendants at Lake Oahe were not remotely peaceful. The State of North Dakota publicly concluded that it was not Energy Transfer or Dakota Access that was violent, but the protestors: "[t]he real brutality [was] committed by violent protesters who use[d] improvised explosive devices to attack police, use[d] hacked information to threaten officers and their families, and use[d] weapons to kill livestock, harming farmers and ranchers."

[¶51] The U.S. District Court for the District of North Dakota likewise described the protests as "mindless and senseless criminal mayhem," with "protestors attaching themselves to construction equipment operated by Dakota Access; vandalizing and defacing construction equipment; trespassing on privately owned property; obstructing work on the pipeline." *Dakota Access, LLC v. Archambault,* 2016 WL 5107005, at *2 (D.N.D. Sept. 16, 2016).

2. Defendants organize, fund, and support unlawful acts of trespass, property damage and destruction, and violence.

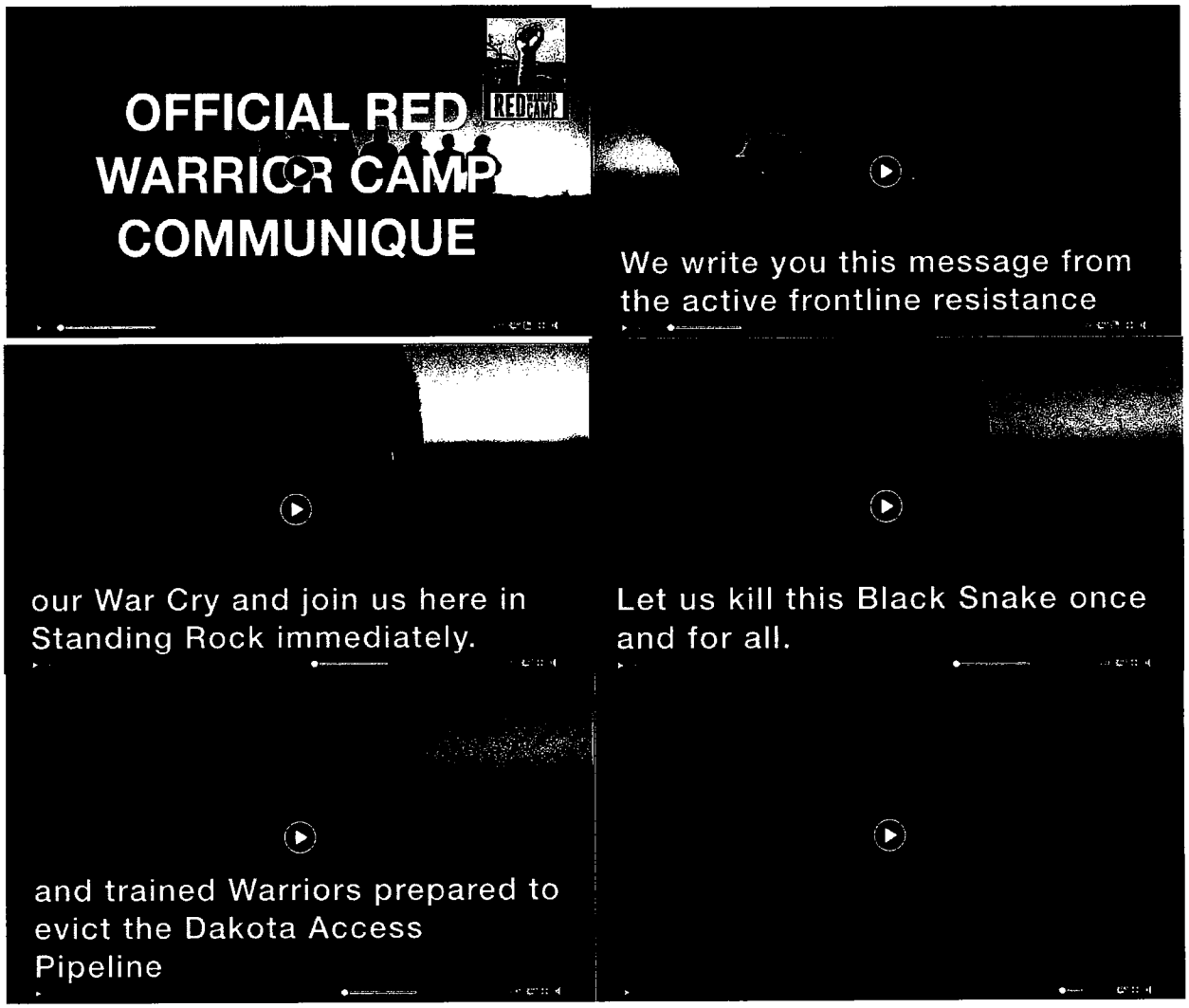
1. Defendants obstruct construction of the pipeline in North Dakota.

[¶52] In or around August 2016, in response to the Defendants' misinformation campaign, thousands of protestors from around the country and the world traveled to North

Dakota to join what to date had been small, local protests against DAPL. As more and more out-of-state protestors descended on the Lake Oahe crossing, they formed massive encampments on surrounding land. Greenpeace USA sent its "direct action trainers," including direct action trainer Harmony Lambert, to the camps to lead "daily direct action trainings," including instruction in "hard lockdown blockades" and "technical blockades." Among other things, Greenpeace USA taught protestors how to use U-locks, steel cables, chains, and heavy metal pipes to attach themselves to construction equipment. Protestors proceeded to employ these tactics at DAPL construction sites on an almost daily basis between August and November 2016, causing a total shutdown of pipeline construction.

[¶53] In or around August 2016, Earth First!, in concert with the Greenpeace Defendants, gave $500,000 in seed money to the most extreme anti-DAPL protestors to form and support "Red Warrior Camp." Red Warrior Camp was formed to organize the protestors most willing to engage in violence against DAPL and Plaintiffs' employees. Greenpeace USA supported Red Warrior Camp by providing direct action training to its members and excusing its own employees from their jobs at Greenpeace to join Red Warrior Camp (while being paid by Greenpeace USA) to protest DAPL as members of Red Warrior Camp. Greenpeace USA also held a donation drive in ten or more cities across North America to raise money and supplies to support Red Warrior Camp, whose advocacy of violent protest against the pipeline, and demonstrated willingness to engage in violence against Plaintiffs' employees, was well known.

[¶54] Red Warrior Camp openly announced its violent intentions and spread its violent message on social media via a series of recruitment videos posted by a purported parent organization styled the "Red Warrior Society." One video, called an "Official Red Warrior Society Communique," uses stylized footage of Red Warrior Camp members wearing hoods and masks standing in front of a camera as the sun rises behind them. One masked member holds a large bolt cutter over his shoulder. The video claims to bring a "message from the active front line resistance" and issues a call for "skilled and trained warriors who are prepared to evict the Dakota Access Pipeline."

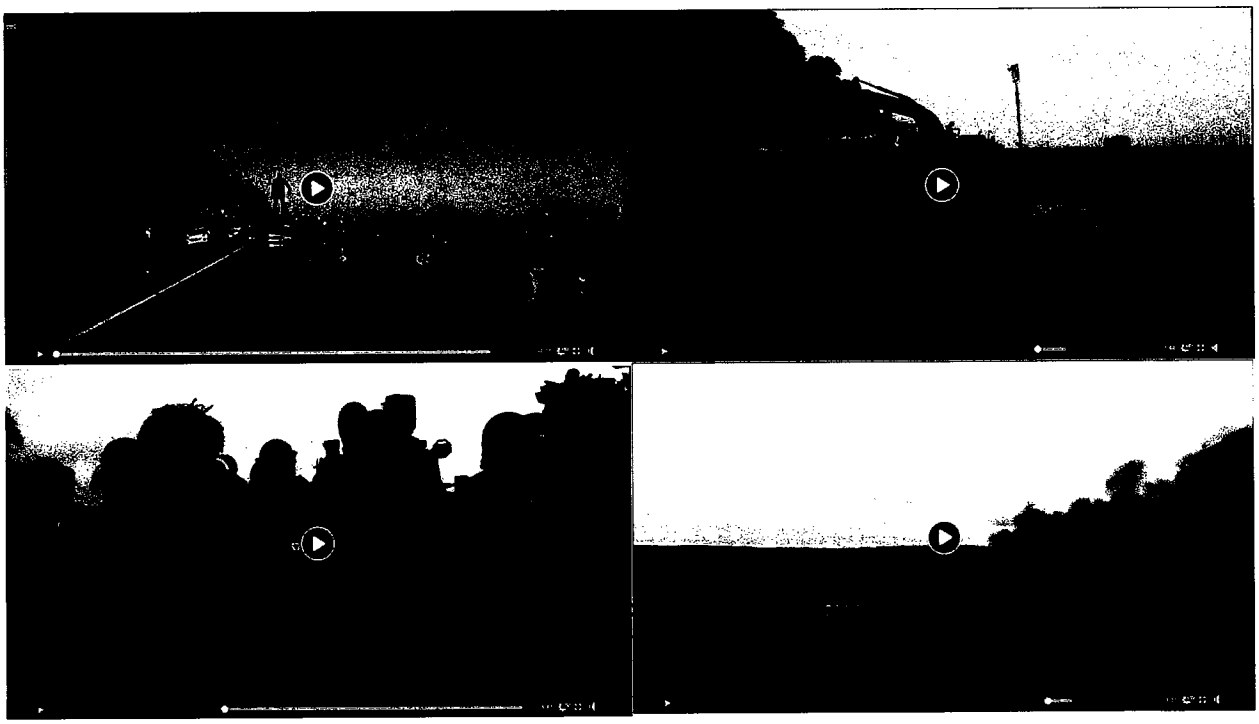


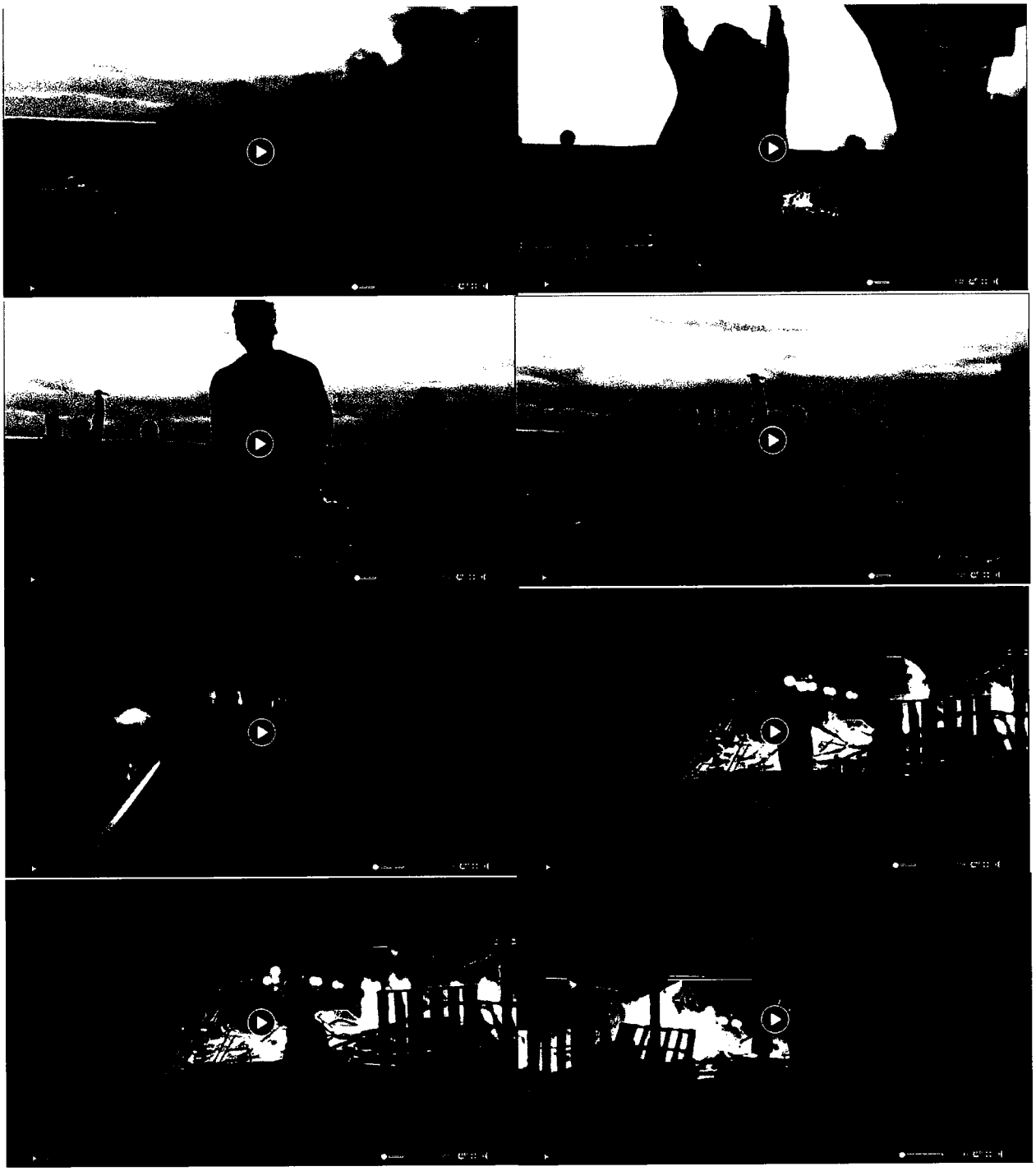
[¶55] Another video, entitled an "Official Warrior Communique From the Front Lines," and produced with digital effects imitating a coded military transmission, features a masked Red Warrior Camp member issuing a call to action. The video repeatedly cuts to footage of violent anarchic riots across the world and urges the viewer to "take railroads. Take bridges. Do it! They cannot stop us all!"

[¶56] Another video documents Red Warrior Society's "Mask Up and Donate" tour of the United States to seek financial support. The video states that the Red Warrior Society is "looking for likeminded warriors" who will "join [them] in [their] fight for water by any means

necessary." The video refers to Red Warrior Society members as "Black Snake Killaz" who eat "rubber bullets for breakfast."

[¶57] Red Warrior Society also produced documentary-style recruitment and fundraising videos that glorified and celebrated its members' unlawful acts. One video, titled "The Water Wars Have Begun #NODAPL," focused on conflicts between members of Red Warrior Camp and law enforcement in North Dakota on October 27, 2016. The video displays images of burning barricades, burning cars, and violent confrontations between masked Red Warrior Camp members and law enforcement. A masked and hooded member of Red Warrior Camp states, "This is on the frontlines, right now. This is War." As Red Warrior Camp burns roads and barricades, a masked member of Red Warrior Camp threatens, "This is nothing compared to what the corporate greed does."





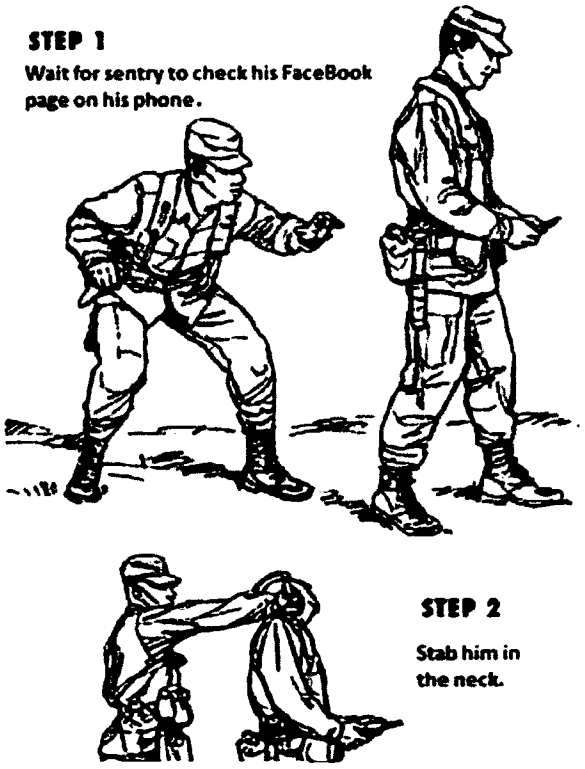
[¶58] Another video shows an event held at 8th Street and Memorial Highway in Mandan, North Dakota, in which members clad in military-style camouflage jackets, black hoods, ski goggles, and bandanas chant "black snake killas" and "no pipeline pigs." The video also contains images of a mock Thanksgiving feast with a severed pig's head covered in blood as law enforcement personnel stand nearby.

[¶59] Red Warrior Society's violent anti-DAPL propaganda was also spread to the public through social media posts, primarily via Facebook. These posts often featured images of masked Red Warrior Society members, calls to arms, and other violent, anti-DAPL imagery.

[¶60] One image stated, "No Compromise, Stand For Water" and depicted masked Red Warrior Society members pointing drawn bows at a Native American wearing a shirt inscribed "DAPL" sitting in front of stacks of money:

Red Warrior Society posted the image above with text that read: "By Any Means Necessary stand where ever [sic] you are the waters connect us all #EARTHSARMY."

[¶61] In another Facebook post, Red Warrior Society provided "instructions" for disabling security guards or other law enforcement that stated: "Step 1. Wait for sentry to check his Facebook page on his phone. Step 2. Stab him in the neck" and depicted a man dressed in a military-style uniform being stabbed in the neck."



[¶62] In yet another post, Red Warrior Society posted an image of a masked Red Warrior Society member superimposed on a picture of a group of soldiers, with text that read "Grassroots Warriors Aren't All Pacifists."

[¶63] The image above was accompanied with a post from Red Warrior Society that criticized non-violent protestors, who pursued a non-violent, pacifist approach.

> Red Warrior Society is full of prayerful people, we pray with our bodies as well as our spirits! Pacifism and those who use it and defend it in a laterally (sic)

> violent matter and even a violently physical matter (which makes no sense) need to educate and inform themselves on a diversity of tactics! #realitycheck #warriorup #grassroots #redwarrior #ancestralpride #warriorblood

[¶64] Red Warrior Society also used social media to post "communiqués," including an October 10, 2016 message asking supporters to hear Red Warrior Society's "War Cry" and issuing a call for "skilled and trained Warriors prepared to evict the Dakota Access Pipeline" to join the group in North Dakota and help Red Warrior Society "kill this Black Snake once and for all."

[¶65] Each and every one of these videos and social media posts by Red Warrior Society illustrate Red Warrior Society's rejection of peaceful protest, and its embrace and advocacy of violence and intimidation as a means to stopping construction of DAPL. Moreover, the posts served to incite mayhem and violence against DAPL.

[¶66] Throughout this period, Defendant Two Bulls served as, in her own words, Red Warrior Society's "media coordinator," and would have been responsible for publication of the images above.

[¶67] In addition, on October 12, 2016, in the midst of the violence inflicted on DAPL by Red Warrior Society, Two Bulls published an editorial article entitled "The Financial Powers Behind the Dakota Access Pipeline Must Be Confronted" on the website www.commondreams.org that called for "militant direct action" in the "fight against the Dakota Access Pipeline." In the article, Two Bulls set forth "lessons moving forward" to guide opponents of DAPL, including to:

> **Make militant direct action the organizing strategy, not just a tool in the toolbox**. . . . Movements around the world use confrontational action as a strategy, not just as a tactic. Militant movements in Serbia ousted Milosevic . . . . Militant direct action is a strategy we use to build real movements, change power dynamics, shift societies and even remove governments.

A copy of Two Bulls article is attached hereto as Exhibit 1.

[¶68] As set forth below, Two Bulls and her Red Warrior Society cohorts heeded their own calls for "militant direct action" against DAPL and carried out a string of militant attacks on DAPL operations in North Dakota.

2. Hall leads Red Warrior Camp's violent attacks on Plaintiffs and DAPL.

[¶69] On August 10, 2016, roughly 100 protestors led by Red Warrior Camp and Hall entered Dakota Access property near Lake Oahe. Upon entering, Red Warrior Camp members sought to obstruct Plaintiffs' employees from gaining access to the property. One member -- who openly carried a 12-inch knife on his hip -- threatened DAPL personnel on their way to work that if they tried to enter the site they would get "hurt." Another member chained himself to a DAPL fence.

[¶70] The following day, August 11, 2016, approximately 200 protestors led by Red Warrior Camp and Hall again raided Dakota Access property near Lake Oahe, jumping fences, threatening Plaintiffs' employees by brandishing knives and other weapons, and further threatening to attack them. Upon entering the property, Red Warrior Camp members destroyed barricades constructed by Dakota Access to prevent trespassers from entering the construction site. Local police were called to provide protection to Plaintiffs' employees.

[¶71] Attacks continued on August 12, 2016, when Red Warrior Camp members again raided Dakota Access property and threatened violence against Plaintiffs' employees on the property and prevented others from entering to perform their jobs. As a result of the persistent and escalating threats of violence against Plaintiffs' employees, local police -- who had been called on each of the previous days -- were again called in to provide protection to employees attempting to evacuate the property. As the police escorted the employees out, Red Warrior Camp members attacked departing cars with rocks and bottles.

[¶72] On September 3, 2016, Red Warrior Camp and Hall led hundreds of protestors in an attack on construction crews working on DAPL. Members of Red Warrior Camp stampeded horses, loosed dogs, and drove cars onto federal and private land where construction was occurring. Red Warrior Camp members attacked security personnel with knives, fence posts, flagpoles, and other improvised weapons.

[¶73] Red Warrior Camp members again attacked Plaintiffs' employees and Dakota Access property on September 6, 2016.

[¶74] Days later, Defendant Hall was arrested by local police and charged with criminal trespass for his role in the multiple attacks on DAPL.

[¶75] Red Warrior Camp attacked again on September 9, 2016. Masked members, armed with knives and hatchets, swarmed a DAPL construction site two miles east of Highway 1806, leaving a wake of destruction in their path.

[¶76] On September 13, 2016, members of Red Warrior Camp again illegally entered a DAPL construction site and used steel pipes to lock themselves to DAPL construction equipment. The next day, September 14, 2016, Red Warrior Camp members trespassed at a DAPL construction site and attached themselves to a DAPL excavator, preventing its use.

3. The Greenpeace Defendants raise funds to support Red Warrior Camp's violent mission.

[¶77] Simultaneous with and after the attacks described above, the Greenpeace Defendants mounted a nationwide campaign to raise money and supplies to support and further Red Warrior Camp's attacks on DAPL. During this time, Greenpeace USA organized donation drives in ten cities across the United States to collect supplies to fund, feed, and house Red Warrior Camp members at Lake Oahe. Greenpeace USA directed funds be sent directly to Red Warrior Camp, notwithstanding Hall's recent arrest, and Greenpeace USA also delivered funds

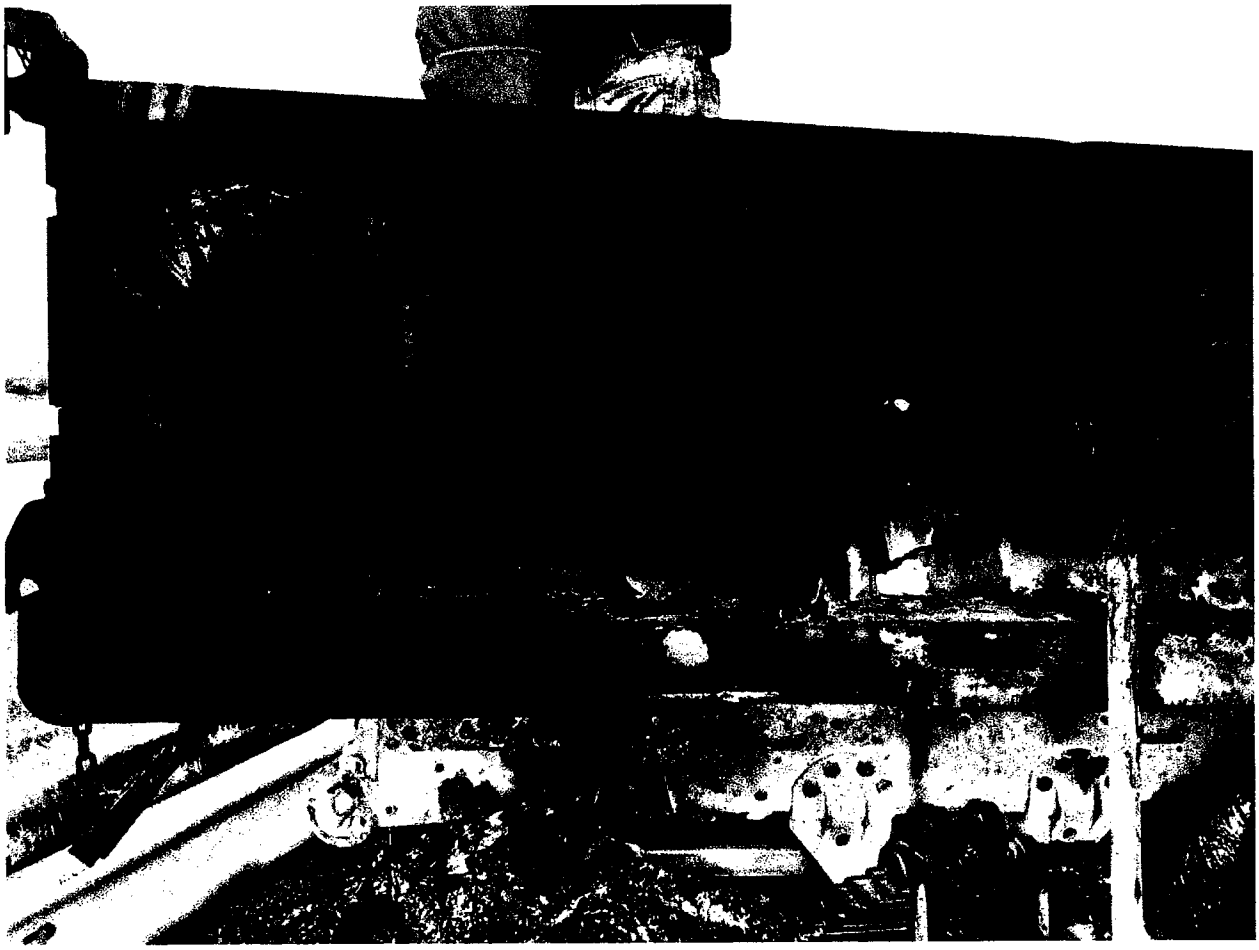
that it collected to Red Warrior Camp. At this time, Red Warrior Camp's record of violence against DAPL personnel was well known, including within Greenpeace USA, and yet, with full knowledge that their aid to Red Warrior Camp would sustain it and allow its members to perpetrate violence, Greenpeace USA continued its fundraising activities on Red Warrior Camp's behalf. The supplies and funds Greenpeace USA raised directly enabled Red Warrior Camp's violent attacks on DAPL through October and November 2016.

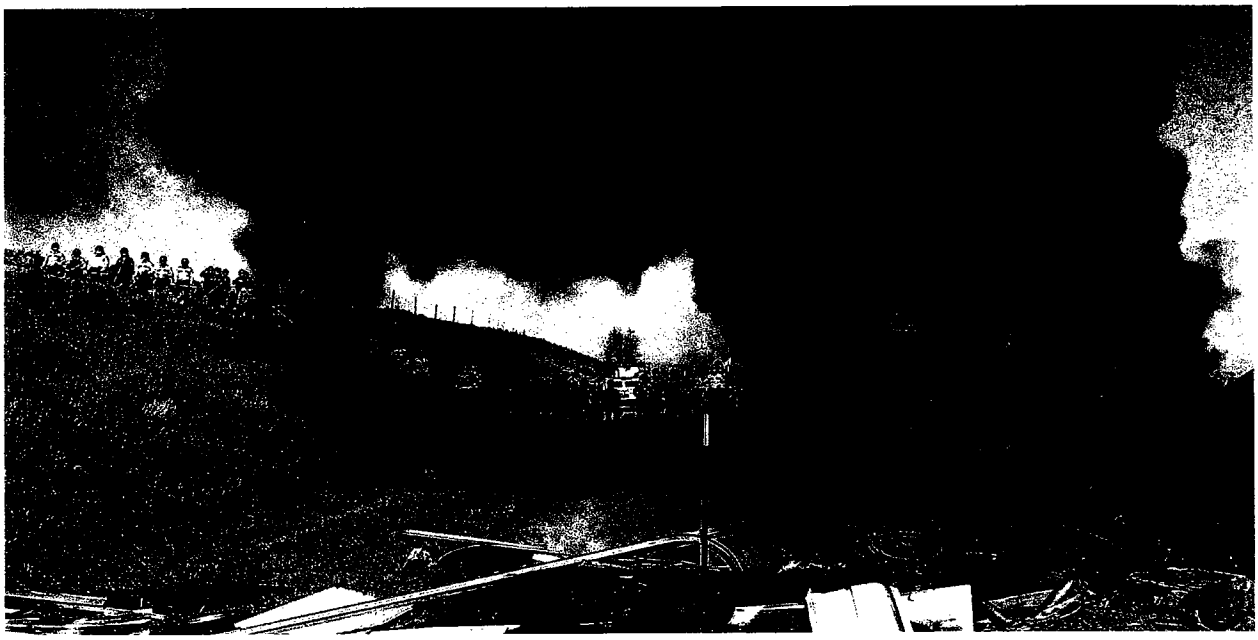
[¶78] Greenpeace USA published an advertisement of its donation drives on its website, https://www.greenpeace.org/usa/campaign-updates/supply-drive-for-dakota-red-warrior-camp/:

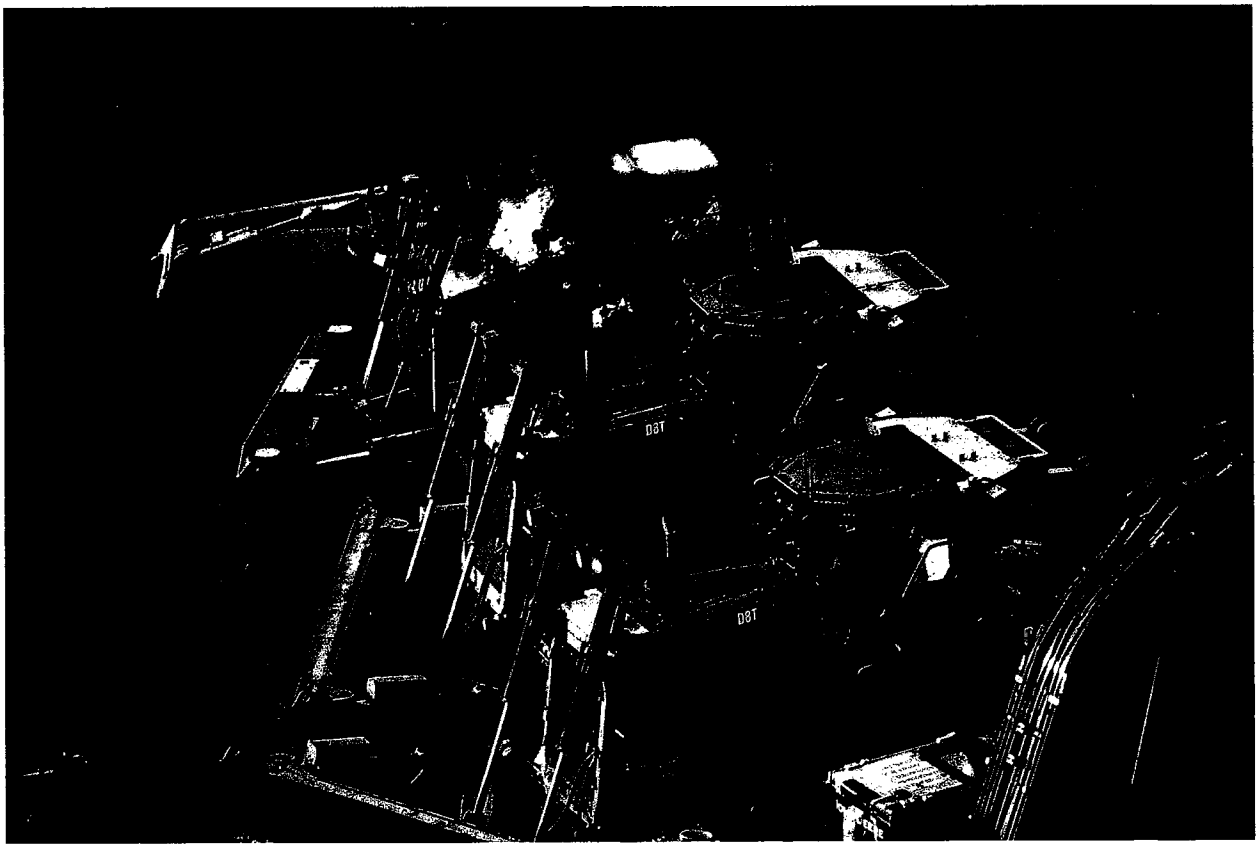
[¶79] During this same time period, Greenpeace USA published Red Warrior Camp's public "call to action" -- authored by defendant Two Bulls -- on its website. This communique urged the public to ***"take escalated action to stop the pipeline."*** A copy of the communique is attached hereto as Exhibit 2.

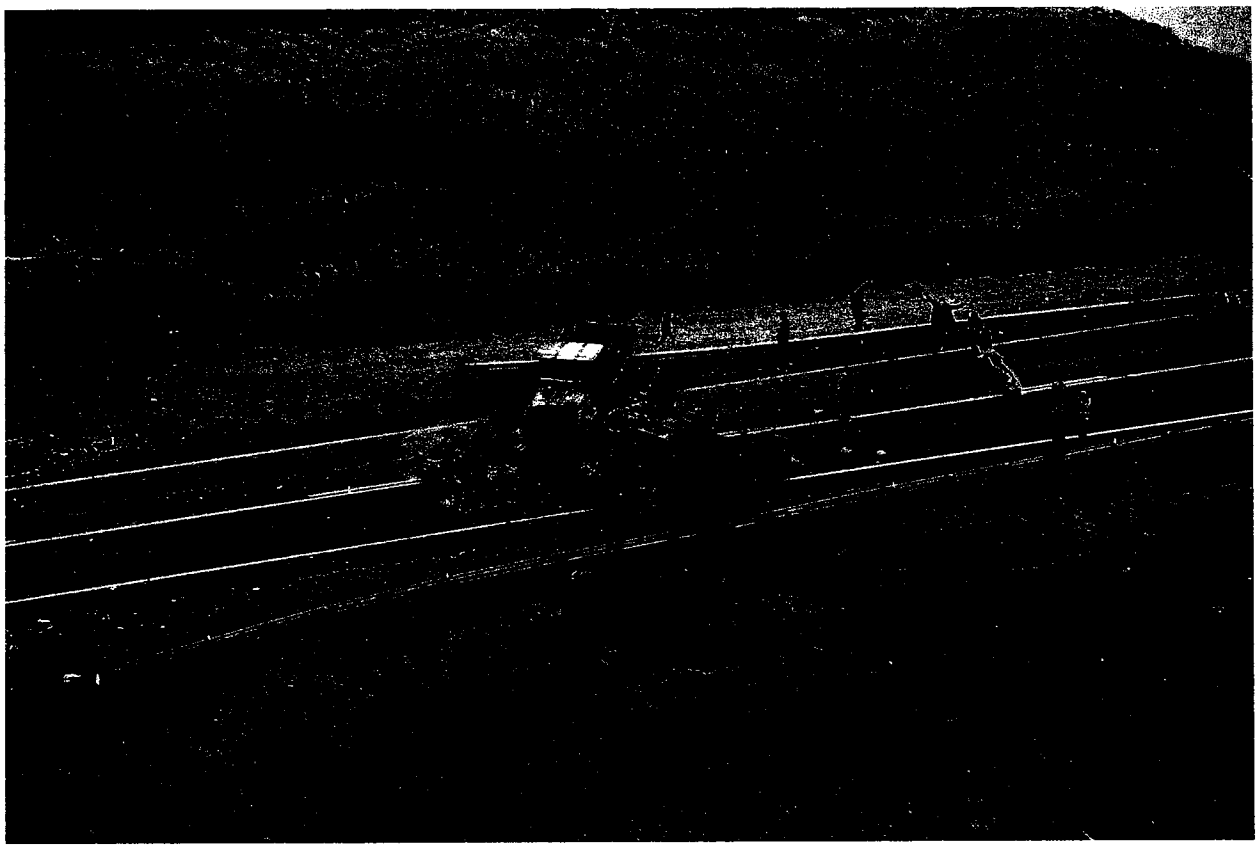
[¶80] Red Warrior Camp continued violent attacks on DAPL over the following months. On September 25, 2016, Red Warrior Camp led hundreds of protestors who trespassed on Dakota Access property west of Highway 6, damaging equipment on site. When security personnel informed Red Warrior Camp members they were trespassing, members brandished knives and assaulted a security guard, dragging the security guard 100 yards. Paramedics were called to treat the security guard for injuries.

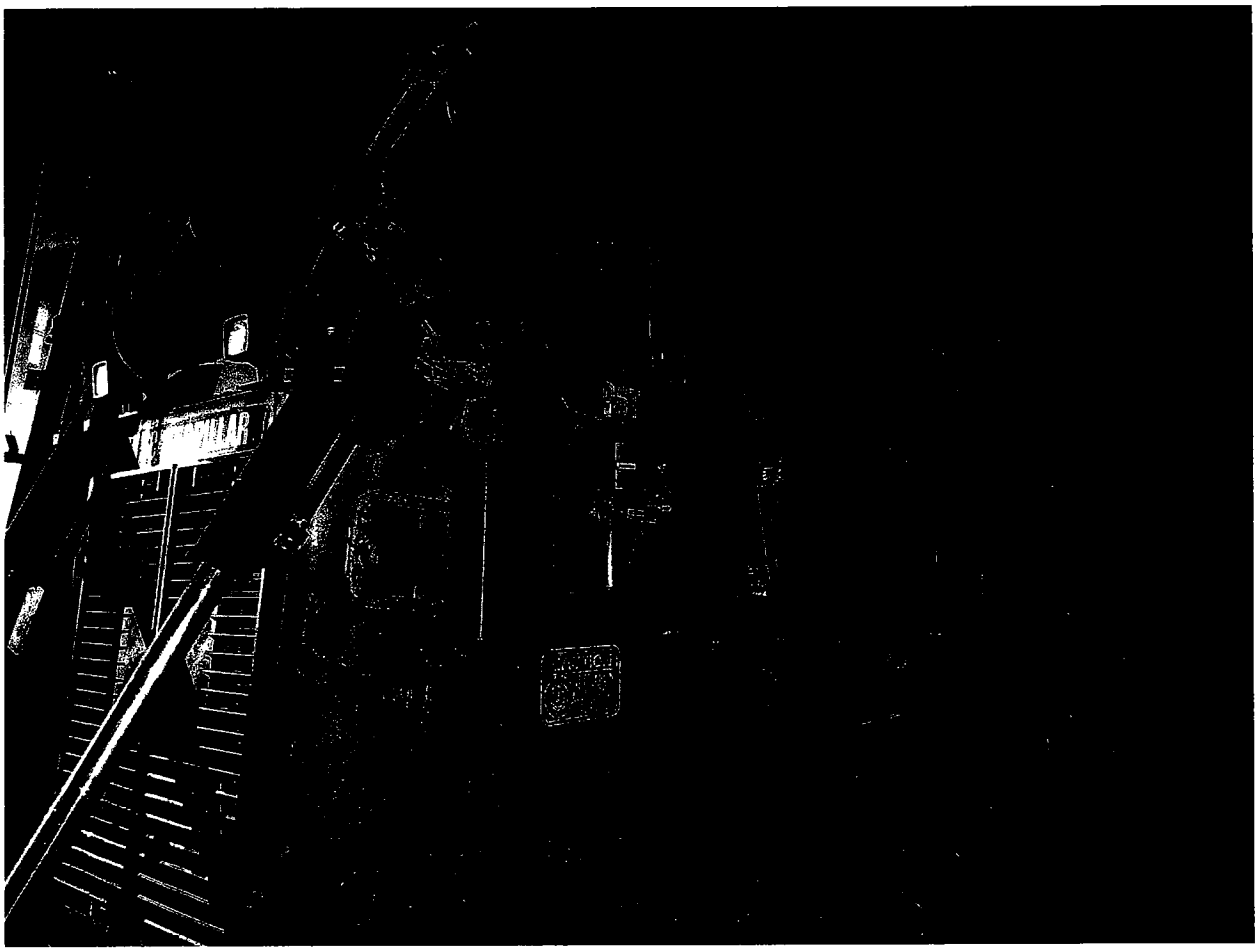
[¶81] On October 27, 2016, Red Warrior Camp led protestors who again trespassed on Dakota Access property near Highway 1806, set up roadblocks to prevent access to the area, and erected an encampment on Dakota Access property. When law enforcement requested that Red Warrior Camp members remove the barricade and leave Dakota Access's property, Red Warrior Camp members responded with violence. On this night, Red Warrior Camp members built makeshift barriers between themselves and the police and lit them on fire to prevent law enforcement from evicting them from the site. Red Warrior Camp members threw Molotov cocktails at law enforcement, setting fire to Dakota Access land and appurtenant structures. Red Warrior Camp members also deliberately set fire to numerous DAPL vehicles and its heavy construction equipment, destroying the property in the process.






D8T
D8T





[¶82] On November 20, 2016, Red Warrior Camp members gathered at a location known as Backwater Bridge. Red Warrior Camp members tore down barbed wire fencing and illegally entered Dakota Access property. Armed Red Warrior Camp members attacked police, ignited fires on and near the bridge, and threw grenades and flares at law enforcement officers.

4. SRST votes to evict Red Warrior Camp, condemning its violence against DAPL.

[¶83] As a result of Red Warrior Camp's violent tactics, on November 1, 2016, the SRST Tribal Council unanimously voted to ask Red Warrior Camp to decamp from the Lake Oahe area out of concern for the safety of non-violent protestors opposing DAPL and because SRST rejected Red Warrior Camp's violent tactics. Red Warrior Camp ignored SRST's request, and not only did not leave the area, but continued to perpetrate violent operations against DAPL, rather than adopt the non-violent means of protest that SRST preferred and supported.

3. Defendants target Energy Transfer and Dakota Access's respective business constituents.

[¶84] In addition to the misrepresentations regarding Energy Transfer, Dakota Access, and DAPL that the Greenpeace Defendants and Banktrack disseminated to the general public and their followers in the anti-fossil fuel and environmental activist communities, these Defendants also mounted a misinformation campaign directly targeted at both Energy Transfer and Dakota Access's business constituents in an effort to induce the termination of existing contracts or relationships or the impairment of these relationships. In particular, the Greenpeace Defendants and Banktrack focused their efforts on banks financing DAPL and "any other credit facilities to the Energy Transfer Family of Partnerships," as wells as Energy Transfer's other ongoing and prospective infrastructure projects. The specific misrepresentations directed by the Greenpeace Defendants and Banktrack are set forth in detail in Appendix A to the Complaint. These actions, together with those detailed below, were designed to inflict maximum financial harm to Energy Transfer and Dakota Access, and succeeded in doing significant damage to the companies and their relationship with the financial marketplace.

[¶85] For example, on November 8, 2016, Banktrack and Greenpeace USA sent a joint letter to the Equator Principles Association, a consortium of global banks that includes Energy Transfer and Dakota Access lenders DNB, ING, Nordea, and BNP Paribas. The letter falsely alleged that Energy Transfer and Dakota Access committed "gross violations of Native land titles," "deliberately desecrated documented burial grounds and other culturally important sites," and violated human rights.

[¶86] In reliance on these misrepresentations, DNB, one of the banks funding DAPL, sold its equity interest in Energy Transfer, totaling approximately $3 million. DNB also

promised to reconsider its participation in the lending facility to DAPL. Greenpeace USA took credit for DNB's divestment of shares in Energy Transfer, but continued to call on DNB to exit its loan to Energy Transfer.

[¶87] Days later, Greenpeace USA published a communique on its website entitled "Another Major Norwegian Investor Divests From Companies Behind Dakota Access Pipeline." The article stated, falsely, that Energy Transfer was "disregard[ing] Indigenous sovereignty to destroy Native lands and water supply." The article reiterated calls on DNB and Citibank to halt funding for DAPL, and called on Norwegian funds, such as KLP and Storebrand, to divest its shares in Energy Transfer.

[¶88] Between November 28-30, 2016, Banktrack, GPI, and Greenpeace USA sent joint letters to 17 banks involved in the $2.5 billion lending facility to DAPL, including DNB, Citigroup, and ING, urging these banks to exit DAPL loan facility based on false claims about the impact of DAPL on the environment and cultural and historical resources. Immediately after, Greenpeace USA delivered a separate letter to Citibank reiterating the same false statements demanding that Citibank "withdraw from the [DAPL] loan agreement and any other credit facilities to the Energy Transfer Family of Partnerships."

[¶89] In response to Greenpeace Defendants' and Banktrack's misrepresentations, Citibank announced the retention of Foley Hoag LLP, a law firm with human rights expertise, on behalf of the consortium of banks financing DAPL. The consortium retained Foley Hoag to review various matters relating to the permitting process. Over the course of the following four months, Energy Transfer incurred fees and diverted resources to respond to requests for information in connection with Foley Hoag's investigation.

[¶90] The Greenpeace Defendants and Banktrack continued to disseminate misrepresentations to the banks throughout 2017. In reliance on these misrepresentations, banks terminated their relationships with Energy Transfer and Dakota Access. In January 2017, ING divested its shares in Energy Transfer.

[¶91] Misrepresentations continued in February 2017, when Greenpeace Defendants demanded that Credit Suisse terminate its $850 million loan to DAPL "project lead Energy Transfer Partners," falsely stating that Energy Transfer was responsible for "fast-tracking projects without regard for local communities" and DAPL "violates Indigenous rights and threatens our climate," forcing Energy Transfer to expend resources to correct these false representations.

[¶92] On February 2, 2017, after meeting with Greenpeace Netherlands and Banktrack, who misrepresented that Energy Transfer violated the SRST's rights, ABN AMRO announced that it would not pursue new business with Energy Transfer. On February 8, 2017, following in-person meetings where Greenpeace USA falsely represented that DAPL "go[es] through the [SRST]'s reservation land," Nordea announced it would exclude Energy Transfer from all investments.

[¶93] In March 2017, after representatives of Greenpeace Netherlands dug room for and planted 15 meters of super heavy pipe at ING headquarters in protest against DAPL, ING sold its share of the $2.5 billion DAPL credit facility, totaling $120 million. DNB sold its estimated $340 million share of DAPL loan, after numerous calls by Greenpeace Defendants and Banktrack to end its participation. Norwegian funds KLP and Storebrand sold their shares in Energy Transfer.

[¶94] On April 5, 2017, BNP Paribas sold its $120 million share of the DAPL loan.

[¶95] Even after DAPL's completion, Greenpeace Defendants continue to interfere with Energy Transfer's business relationships through their dissemination of false statements about Energy Transfer and DAPL. Beginning around March 2018 and continuing to this day, Greenpeace Defendants have demanded banks that have "provided and/or arranged loans to ETP and related companies" -- labeled the "dirty dozen banks" -- "to end their financial relationship with ETP and relevant subsidiaries," based on representations already proven demonstrably

false, including the false allegations that Energy Transfer "damag[ed] at least 380 sacred and cultural sites along the DAPL pipeline route" and "bulldoz[ed] an area of the pipeline corridor filled with Tribal sacred sites and burials."

C. Defendants' criminal scheme caused substantial harm in North Dakota.

[¶96] Defendants' campaign against Energy Transfer and Dakota Access has had significant contact with, and effects in, North Dakota where Energy Transfer and Dakota Access were actively involved in the construction of 357 miles of DAPL.

[¶97] Defendants' unlawful scheme was intended to -- and did -- cause harm to Energy Transfer and Dakota Access in North Dakota. First, Greenpeace Defendants' campaign of misinformation was directed at disrupting lawful construction activity near the Lake Oahe crossing in North Dakota. Second, Greenpeace Defendants, Red Warrior Camp, Cody Hall, and Krystal Two Bulls organized, funded, and directed violent activities against DAPL construction sites in North Dakota. Third, Greenpeace Defendants targeted Energy Transfer and Dakota Access's business constituents, intending to interfere with Energy Transfer and Dakota Access's financing and stop construction in North Dakota.

[¶98] As a result of Defendants' wrongful acts, Energy Transfer and Dakota Access each suffered substantial damage in North Dakota, including costs of delayed construction, unanticipated costs of professional security services to ward off violent protesters, and costs associated with mitigating Defendants' misinformation campaign in North Dakota.

[¶99] Defendants' wrongful conduct also caused immense harm to the state of North Dakota and its citizens. North Dakota taxpayers were damaged in an amount of more than $38 million to pay for state and local responses to the protests and related illegal activities. The SRST -- on whose behalf Defendants purported to act -- incurred significant damages to begin

major cleanup and restoration in January 2017 to prevent snowmelt from washing tens of thousands of pounds of garbage into the Cannonball and Missouri Rivers and contaminating the very waters the Defendants were purporting to protect. On federal land alone, it took USACE approximately three weeks in March and April 2017, and $1.1 million of taxpayers' money, to clean up after the protesters left 835 dumpsters worth of trash and debris in their wake.

D. Defendants continue to organize, fund, and direct unlawful and destructive attacks on Energy Transfer's infrastructure projects.

[¶100] Greenpeace and Earth First! members continue to jointly target Energy Transfer's infrastructure projects. Greenpeace USA and Earth First! members have funded and directed protestors to establish encampments to protest the Mariner East 2 pipeline in Pennsylvania and the Bayou Bridge Pipeline in Louisiana. In 2018, Greenpeace USA hired defendant Charles Brown as a pipeline organizer solely to interfere with Energy Transfer's projects. Greenpeace USA sent Brown and other employees to train hundreds of protestors at both campsites. Using Greenpeace/Earth First! blockade techniques, protestors have stopped construction on an almost daily basis for both projects. Additionally, unknown individuals have used Ecodefense Guide techniques to vandalize bulldozers and other construction equipment at both sites. Earth First! members, through Earth First! Journal, have called for "further sabotage" and a "proliferation of more actions like these."

CAUSES OF ACTION

COUNT I

TRESPASS TO LAND AND CHATTEL (DAKOTA ACCESS AGAINST THE GREENPEACE DEFENDANTS, RED WARRIOR SOCIETY, HALL, AND TWO BULLS)

[¶101] Dakota Access re-alleges and incorporates every allegation in the foregoing paragraphs as if set forth in full.

[¶102] As set forth above, the above-named Defendants willfully entered Dakota Access's property without consent or other privilege.

[¶103] The above-named Defendants funded, trained, directed, and caused others to willfully enter Dakota Access's property without consent or other privilege.

[¶104] Upon willfully entering Dakota Access's property without consent or other privilege, the above-named defendants and individuals funded and trained by the above-named Defendants maliciously and wantonly damaged and destroyed DAPL property, prevented Dakota Access from using its land and construction equipment, disrupted Dakota Access's operations, and caused financial harm to Dakota Access.

[¶105] As a result of the above-named defendants' intentional trespass, Dakota Access suffered harm and damages in an amount to be proven at trial, including damages for damaged or destroyed construction equipment, fencing and other barrier systems, and land; loss of use of Dakota Access's land and construction equipment; numerous construction delays; and increased costs of operations.

COUNT II

AIDING AND ABETTING TRESPASS TO LAND AND CHATTEL (DAKOTA ACCESS AGAINST THE GREENPEACE DEFENDANTS, HALL, AND TWO BULLS)

[¶106] Dakota Access re-alleges and incorporates every allegation in the foregoing paragraphs as if set forth in full.

[¶107] Individuals funded, trained, directed, and supported by the above-named Defendants committed unlawful acts of trespass onto and conversion of Dakota Access's property.

[¶108] Each of the above-named Defendants knew that these individuals intended to and did commit unlawful acts of trespass onto and conversion of Dakota Access's property.

[¶109] Each of the above-named Defendants provided substantial assistance or encouragement to the trespass onto and conversion of Dakota Access's property, including by providing funds, personnel, supplies, and training in support of the commission of unlawful acts against Dakota Access, and the intentional infliction of financial harm resulting therefrom.

[¶110] As a direct, proximate result of each Defendant's substantial assistance and encouragement, Dakota Access has been injured and suffered damages in an amount to be proven at trial.

COUNT III

CONVERSION
(DAKOTA ACCESS AGAINST THE GREENPEACE DEFENDANTS, RED WARRIOR SOCIETY, HALL, AND TWO BULLS)

[¶111] Dakota Access re-alleges and incorporates every allegation in the foregoing paragraphs as if set forth in full.

[¶112] As set forth above, Defendants intentionally detained or destroyed Dakota Access's personal property and wrongfully exercised dominion over Dakota Access's personal property, in violation of Energy Transfer's property rights, and causing it material financial harm.

[¶113] Defendants funded, trained, directed, and caused others to willfully detain or destroy Dakota Access's personal property and wrongfully exercise dominion over Dakota Access's personal property, in violation of Dakota Access's property rights, and causing it material financial harm.

[¶114] As a result of Defendants' unlawful conversion, Dakota Access suffered harm and damages in an amount to be proven at trial, including damages for damaged or destroyed construction equipment and fencing and other barrier systems; loss of use of Dakota Access's land and construction equipment; numerous construction delays; and increased costs of construction and operations.

COUNT IV

AIDING AND ABETTING CONVERSION (DAKOTA ACCESS AGAINST THE GREENPEACE DEFENDANTS, HALL, AND TWO BULLS)

[¶115] Dakota Access re-alleges and incorporates every allegation in the foregoing paragraphs as if set forth in full.

[¶116] Individuals funded, trained, directed, and supported by the above-named Defendants committed unlawful acts of trespass onto and conversion of Dakota Access's property.

[¶117] Each of the above-named Defendants knew that these individuals intended to and did commit unlawful acts of trespass and conversion of Dakota Access's property.

[¶118] Each of the above-named Defendants provided substantial assistance or encouragement to the trespass onto and conversion of Dakota Access's property, including by providing funds, personnel, supplies, and training in support of the commission of unlawful acts against Dakota Access.

[¶119] As a direct, proximate result of each Defendant's substantial assistance and encouragement, Dakota Access has been injured and suffered damages in an amount to be proven at trial.

COUNT V

NUISANCE (DAKOTA ACCESS AGAINST THE GREENPEACE DEFENDANTS, RED WARRIOR SOCIETY, HALL, AND TWO BULLS)

[¶120] Dakota Access re-alleges and incorporates every allegation in the foregoing paragraphs as if set forth in full.

[¶121] As set forth above, the above-named Defendants committed unlawful acts that unreasonably interfered with Dakota Access's ability to use its easements.

[¶122] The above-named Defendants funded, trained, directed, and caused others to willfully invade Dakota Access's easements without consent or other privilege.

[¶123] Upon willfully invading Dakota Access's easements without consent or other privilege, the above-named defendants and individuals funded and trained by the above-named Defendants maliciously and wantonly damaged and destroyed DAPL property, prevented Dakota Access from using its land and construction equipment, disrupted Dakota Access's operations, and caused financial harm to Dakota Access.

[¶124] As a result of the above-named defendants' unlawful interference with Dakota Access's easements, Dakota Access suffered harm and damages in an amount to be proven at trial, including damages for loss of use of its easements; numerous construction delays; and increased costs of operations.

COUNT VI

AIDING AND ABETTING NUISANCE (DAKOTA ACCESS AGAINST THE GREENPEACE DEFENDANTS, HALL, AND TWO BULLS)

[¶125] Dakota Access re-alleges and incorporates every allegation in the foregoing paragraphs as if set forth in full.

[¶126] Individuals funded, trained, directed, and supported by the above-named Defendants committed unlawful acts that unreasonably interfered with Dakota Access's ability to use its easements.

[¶127] Each of the above-named Defendants knew that these individuals intended to and did commit unlawful acts that unreasonably interfered with Dakota Access's ability to use its easements.

[¶128] Each of the above-named Defendants provided substantial assistance or encouragement to the unlawful acts that unreasonably interfered with Dakota Access's ability to

use its easements, including by providing funds, personnel, supplies, and training in support of the commission of unlawful acts against Dakota Access.

[¶129] As a direct, proximate result of each Defendant's substantial assistance and encouragement, Dakota Access has been injured and suffered damages in an amount to be proven at trial.

COUNT VII

DEFAMATION (ENERGY TRANSFER AND DAKOTA ACCESS AGAINST THE GREENPEACE DEFENDANTS)

[¶130] Energy Transfer and Dakota Access re-allege and incorporate every allegation in the foregoing paragraphs as if set forth in full.

[¶131] As set forth above, Greenpeace Defendants and Banktrack knowingly and intentionally published false and injurious statements about and concerning Energy Transfer and Dakota Access, including:

a. DAPL traverses SRST lands;

b. DAPL will poison SRST's water supply;

c. DAPL will catastrophically alter the climate;

d. DAPL was routed and approved without adequate environmental review or consultation with SRST;

e. Energy Transfer and Dakota Access used excessive and illegal force against peaceful protestors; and

f. Energy Transfer and Dakota Access intentionally desecrated SRST's cultural resources.

[¶132] Greenpeace Defendants and Banktrack published these false and misleading statements in numerous publications on the internet, social media platforms, and in direct emails, letters, telephone communications, and in-person meetings to Energy Transfer and Dakota Access's creditors, investors, and other critical market constituents, as well as to the public at large.

[¶133] Greenpeace Defendants and Banktrack made and published the false and defamatory statements set forth herein with actual malice, as such statements were made by Greenpeace Defendants and Banktrack with knowledge of their falsity or reckless disregard for their truth.

[¶134] Greenpeace Defendants and Banktrack published these falsehoods to third-parties and understood and intended that these false statements would have the effect of injuring Energy Transfer and Dakota Access's reputation, preventing others from doing business with Energy Transfer and Dakota Access, and interfering with Energy Transfer and Dakota Access's existing business relationships.

[¶135] Greenpeace Defendants and Banktrack's false statements directly harmed Energy Transfer and Dakota Access's business, property, and reputation in an amount to be determined at trial. Energy Transfer and Dakota Access have each been injured. Their damages include lost financing; lost profits; increased expenses; legal fees; and monies expended to mitigate the impact of Greenpeace Defendants' and Banktrack's defamation campaign.

COUNT VIII

TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS (ENERGY TRANSFER AND DAKOTA ACCESS AGAINST THE GREENPEACE DEFENDANTS)

[¶136] Energy Transfer and Dakota Access re-allege and incorporate every allegation in the foregoing paragraphs as if set forth in full.

[¶137] Energy Transfer and Dakota Access had many existing and prospective valid business relationships with third-parties, including with: (i) existing and prospective creditors; (ii) existing and prospective investors; and (iii) existing and prospective long-term capacity transportation shippers.

[¶138] The Greenpeace Defendants knew of Energy Transfer and Dakota Access's existing and prospective business relationships with these third-parties.

[¶139] The Greenpeace Defendants intentionally interfered with Energy Transfer and Dakota Access's existing and prospective business relationships with these third-parties by disseminating false, misleading, and defamatory statements concerning Energy Transfer and Dakota Access's business and DAPL and supporting, funding, and committing acts of trespass and violence on Dakota Access's land and property. This interference was committed intentionally and without justification or excuse.

[¶140] Energy Transfer and Dakota Access each had a reasonable expectation of obtaining the benefits of these existing and prospective business relationships. Each of the Defendants was aware of, and intended to cause, this detrimental impact on Energy Transfer and Dakota Access's existing and prospective business relationships.

[¶141] The Greenpeace Defendants' tortious interference directly and proximately harmed Energy Transfer and Dakota Access's business relationships. Energy Transfer and Dakota Access's damages include lost financing, increased cost of capital, increased operating costs, lost revenue, injury to reputation, mitigation costs, and attorney's fees in an amount to be determined at trial.

COUNT IX

CIVIL CONSPIRACY
(ENERGY TRANSFER AND DAKOTA ACCESS AGAINST ALL DEFENDANTS)

[¶142] Energy Transfer and Dakota Access re-allege and incorporate every allegation in the foregoing paragraphs as if set forth in full.

[¶143] Each of the Defendants conspired with the others with respect to committing the unlawful acts set forth in Counts I through VI. Defendants shared and agreed upon the same conspiratorial objective, which was to stop construction of DAPL and harm Energy Transfer and Dakota Access through the publication and dissemination of false statements concerning Energy Transfer, Dakota Access, and DAPL; obstruction of DAPL construction by means of trespass, vandalism, violence, property destruction, and other unlawful activity; and interference with Energy Transfer and Dakota Access's critical business relationships.

[¶144] Defendants carried out their conspiratorial scheme by the commission of wrongful and overt acts, including publishing and disseminating numerous defamatory statements concerning Energy Transfer, Dakota Access, and DAPL; organizing, supporting, funding, and committing acts of trespass, vandalism, property destruction, and violence to obstruct construction; and interfering with Energy Transfer's and Dakota Access's business relationships.

[¶145] As a direct, proximate result of the operation and execution of the conspiracy, Energy Transfer and Dakota Access have each been injured and suffered damages in an amount to be proven at trial.

PRAYER FOR RELIEF

[¶146] WHEREFORE, Energy Transfer and Dakota Access pray for judgment as set forth below.

A. For actual, consequential, special, and restitution damages in an amount to be proven at trial.

B. For pre- and post-judgment interest as permitted by law.

C. For such other legal and equitable relief as the Court may deem Energy Transfer and Dakota Access are entitled to receive.

DATED this 23rd day of August, 2019.

FREDRIKSON & BYRON, P.A.

By: _____

Lawrence Bender ND Bar #03908
1133 College Drive, Suite 1000
Bismarck, ND 58501-1215
Telephone: 701.221.8700
lbender@fredlaw.com

Attorneys for Plaintiffs Energy Transfer LP, Energy Transfer Operating, L.P., and Dakota Access, LLC

67798047 v1