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; and Krystal Two Bulls, Defendants.	Case No. 30-2019-CV-00180

PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' MOTION FOR ORDER FOR FINAL JUDGMENT

[¶1] Greenpeace's latest motion (Dkt. 5444) is nothing more than its latest thinly veiled attempt to delay entry of judgment on the verdict the jury returned over a year ago.

[¶2] This Court entered a final judgment that disposed of all claims and all parties that had either been served or appeared on February 27, 2026. Dkt. 5305.

[¶3] Greenpeace's argument—raised nearly a month later—that the Court's final judgment isn't actually final because it didn't dispose of three defendants (Red Warrior Society, Cody Hall, and Krystal Two Bulls) that had neither been served nor appeared should be rejected for two separate and independent reasons. First, it's waived. Second, it's meritless.

[¶4] Energy Transfer first sought entry of judgment—and provided a proposed form of judgment that said nothing about the three unserved, non-appearing defendants nearly a year ago—

in April 2025. Dkt. 5063. And Greenpeace said nothing about the unserved, non-appearing defendants. Dkt. 5170. Energy Transfer renewed its motion for entry of judgment five months ago—in November 2025. Dkt. 5326. Again, Greenpeace said nothing about the unserved, non-appearing defendants. Dkt. 5343. Indeed, Greenpeace waited nearly four weeks after this Court entered its final judgment to assert for the very first time that the judgment wasn't, in fact, final. Dkt. 5444.

[¶5] Make no mistake, Greenpeace has known ***for years*** that Red Warrior Society, Cody Hall, and Krystal Two Bulls weren't served and hadn't appeared. *See*, *e.g.*, Dkts. 237–41. And it affirmatively asserted arguments on this ground—that Red Warrior Society "has never been properly served and never appeared"—in May 2024. Dkt. 3603 ¶ 13. But Greenpeace waited until the week before Rule 62(a)'s automatic stay on enforcement of the judgment expired to raise this argument for the first time. So its motion should be denied on wavier grounds. *See*, *e.g.*, *Motschman v. Bridgepoint Mineral Acquisition Fund, LLC*, 2011 ND 46, ¶ 10, 795 N.W.2d 327, 330 ("the district court may decline to consider an issue or argument raised for the first time on a motion for reconsideration if it could have been raised in earlier proceedings") (citing *Dvorak v. Dvorak*, 2001 ND 178, ¶¶ 8–9, 635 N.W.2d 135 ("motions for reconsideration may be treated like motions to alter or amend judgments")); *Flaten v. Couture*, 2018 ND 136, ¶¶ 36–40, 912 N.W.2d 330, 340–41 (affirming denial of post-trial motion raising issue about a particular defendant not raised "until after the judgments were entered").

[¶6] Greenpeace's argument is meritless in all events. It's black-letter law that a judgment need not address unserved, non-appearing defendants to be an enforceable, appealable final judgment. 10 Wright & Miller, *Federal Practice & Procedure* § 2656 ("the winning party or parties ***can rely on and enforce the judgment without obtaining an order under Rule 54(b)***")

(emphasis added); *see* Ex. 1, 10 *Moore's Federal Practice and Procedure* § 54.22[2] ("If the unadjudicated claims relate only to defendants that were never served with process and thus never properly made parties to the action, an order finally disposing of the interests of those parties that have ***actively participated*** in the litigation ***is final*** despite the absence of a Rule 54(b) certificate.") (emphasis added).[1]

[¶7] Greenpeace's sole authority (at ¶ 5), *Striegel v. Dakota Hills, Inc.*, isn't to the contrary. There, the defendant appeared, answered, and asserted counterclaims. 343 N.W.2d 785, 786 (N.D. 1984). The problem was that those counterclaims—against a plaintiff who'd appeared—weren't resolved by the judgment, so the Supreme Court held there wasn't a final judgment. *Id*.

[¶8] Here, by contrast, Red Warrior Society, Two Bulls, and Hall weren't served, didn't appear, and neither answered nor otherwise participated in the litigation. So they aren't "parties for purposes of Rule 54(b)," and the Court's February 27, 2026, judgment is final. *Fed. Sav. & Loan Ins. Corp. v. Tullos-Pierremont*, 894 F.2d 1469, 1472 (5th Cir. 1990); *Loman Dev. Co. v. Daytona Hotel & Motel Suppliers, Inc.*, 817 F.2d 1533, 1536 (11th Cir. 1987) ("for the purposes of Rule 54, the unserved defendants were not yet 'parties' and no certification was necessary for the judgment to become final").

[1] *See also Mitchell v. Tom Green Cnty. Jail*, 2025 WL 2591853, at *1 (5th Cir. Sept. 8, 2025) (the presence of "unadjudicated claims against unserved defendants" doesn't render a final judgment interlocutory or unappealable); *Adams v. C3 Pipeline Constr. Inc.*, 30 F.4th 943, 957 (10th Cir. 2021); *Cambridge Holdings Grp., Inc. v. Fed. Ins. Co.*, 489 F.3d 1356, 1361–62 (D.C. Cir. 2007) ("a district court order disposing of all claims against all properly served defendants satisfies the requirements of Rule 54(b), even if claims against those not properly served remain unresolved"); *Gomez v. Gov't of V.I.*, 882 F.2d 733, 736 (3d Cir. 1989) ("a named defendant who has not been served is not a 'party' within the meaning of Rule 54(b)").

The limited exception recognized by some courts—which applies "when the district court affirmatively contemplates further proceedings on the claims against the unserved defendants," *Kaplan v. Cent. Bank of the Islamic Republic of Iran*, 896 F.3d 501, 506 (D.C. Cir. 2018)—has no application here. As Greenpeace acknowledges (at ¶ 6), Energy Transfer hasn't "pursued any claims against" the unserved, non-appearing defendants—and it's "clear" that Energy Transfer doesn't plan to do so.

CONCLUSION

[¶9] For these reasons, the Court should deny Greenpeace's motion. The Court has already entered a final judgment. Dkt. 5404. No further action is necessary.

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