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**ATTORNEYS FOR DEFENDANTS/
UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

**AMERICAN CIVIL LIBERTIES
UNION, AMERICAN CIVIL
LIBERTIES UNION FOUNDATION,
and AMERICAN CIVIL LIBERTIES
UNION OF MONTANA
FOUNDATION, INC.,**

Plaintiffs,

vs.

**DEPARTMENT OF DEFENSE,
DEPARTMENT OF HOMELAND
SECURITY, DEPARTMENT OF
THE INTERIOR, and
DEPARTMENT OF JUSTICE,**

Defendants.

CV 18-154-M-DWM

**DECLARATION OF SALLY
SHEEKS**

I, Sally Sheeks, declare as follows:

1. I am a Government Information Specialist in the Freedom of Information Act (FOIA) Office in the Bureau of Land Management Montana-Dakotas State Office (BLM MT) at the United States Department of the Interior (Department). I have held this position since August 18, 2018. In my capacity as a Government Information Specialist, I am familiar with BLM's and the Department's obligations under FOIA, including application of the various exemptions thereunder. All information herein is based upon my personal knowledge, and/or experience and/or my personal review of Plaintiff's FOIA request and documents, and/or upon information furnished to me in my official capacity. I report to Tracy Thoricht, who is the Branch Chief for Records and Information Services for BLM MT. I process FOIA requests that are submitted to the BLM MT, and I participated in processing the FOIA request that is the subject of this lawsuit, labeled as BLM 2018-00388.

2. I am aware that BLM headquarters received a FOIA request from the plaintiff on January 23, 2018, for records created since January 27, 2017 concerning:

(1) Legal and policy analyses and recommendations related to law enforcement funding for and staffing around oil pipeline protests. Such recommendations may include, but are not limited to, declarations of a state of emergency by state and local entities in order to marshal additional funds, and requests by state or local entities for federal agencies to provide funding or personnel for counter-protest operations;

and

(2) Travel of federal employees to speaking engagements, private and public meetings, panels, and conferences on the subject of preparation for oil pipeline protests and/or cooperation with private corporations in furtherance thereof; and

(3) Meeting agendas, pamphlets, and other distributed matter at speaking engagements, private and public meetings, panels, and conferences where federal employees are present to discuss preparation for oil pipeline protests and/or cooperation with private corporations in furtherance thereof; and

(4) Communications between federal employees and state or local law enforcement entities or employees thereof, and between federal employees and private security companies or employees thereof, discussing cooperation in preparation for oil pipeline protests.

3. Under the Department of the Interior FOIA regulations, BLM has a decentralized FOIA program. The Bureau of Land Management headquarters in Washington, DC (BLM WO) assesses incoming FOIA requests and routes requests to the appropriate bureau component(s) that has, or is likely to have, responsive records. 43 CFR § 2.4(b). The bureau component contacts the appropriate program lead(s) in order to identify potential custodians

4. BLM WO acknowledged Plaintiff's FOIA request on January 29, 2018 and assigned it control number BLM 2018-00388. Based on the content of the request and location of potentially responsive records, BLM WO routed the request to BLM MT.

5. Following receipt of Plaintiff's FOIA request, on August 8, 2018, Tracy

Thoricht, Branch Chief for Records and Information Services for BLM MT, sent search requests to the custodians, which were identified based on their roles with BLM MT at the time of the search.

6. Custodians were instructed to search all known locations for potentially responsive records, and to consider both electronic and paper files, as well as personal devices. Each custodian identified key search terms which would reasonably locate potentially responsive records within their own files. Custodians selected key search terms based on the contents of the FOIA request at issue, the custodians' knowledge of and experience with the underlying subject matter, and the custodians' familiarity with their personal recordkeeping mechanisms. The custodians searched their records for the date range of January 17, 2017 to June 12, 2018¹, using the key search terms they identified.

7. The custodians, their role, and the key search terms used to conduct searches for potentially responsive records are as follows:

a. Donato J. Judice, Branch Chief of Fluid Mineral Branch:

“Keystone”

b. Alan Nash, Supervisory Public Affairs Specialist: “Keystone XL,”

¹ The search for potentially responsive records began on June 12, 2018, which is the cut-off for the search date range.

“KXL,” “Security,” “Protests”

- c. Lori Harbaugh, Law Enforcement Field Staff Ranger: “Keystone,”
“Pipeline”
- d. Kim Prill, Branch Chief of Realty, Lands, and Renewable Energy
(Acting): “KXL law enforcement,” “KXL situational awareness,”
“law enforcement oil and gas pipeline”
- e. Jon Raby, State Director (Acting): “Keystone,” “pipeline,”
“protest,” “law enforcement”
- f. Todd Yeager, Miles City Field Manager: “Oil pipeline protest,”
“oil pipeline protests,” “Pipeline,” “protests,” “law enforcement,”
“Keystone protest”
- g. Cecil Werven, Realty Specialist: “Agenda,” “meeting notes,”
“security,” “Stobaugh”
- h. Loren Wickstrom, Field Manager of Dickenson Field Office:
“DAPL”

8. I concluded that there were no other locations reasonably likely to have responsive records.

9. The completed search located 167 pages of material responsive to BLM 2018-00388.

10. A *Vaughn* Index is attached hereto which provides justifications for the

withholdings.

11. Withholdings appear on 16 of the released records.

12. Through the assertion Exemption 4, BLM withheld confidential commercial information obtained by an entity outside the United States Government, consisting of a secure file sharing link and login information.

13. Through the assertion of the attorney-client privilege of Exemption 5, the BLM protected communications between BLM employees that incorporate legal advice provided by the United States Attorney's Office. Through the assertion of the deliberative process privilege of Exemption 5, the BLM withheld internal communications which reflect speculation and concerns of law enforcement officers. The release of these communications would hinder candid discussion in the course of conducting law enforcement duties. Through the assertion of the commercial information privilege BLM withheld government conference call numbers and passcodes used for candid internal discussion and deliberation. Reasonably segregable factual material has been released from all of the documents included in the *Vaughn* Index wherever possible, unless such factual information is inextricably intertwined with deliberative communications, or where the document's drafter's selection of what factual material to include in the document would reveal the nature of the deliberative communication.

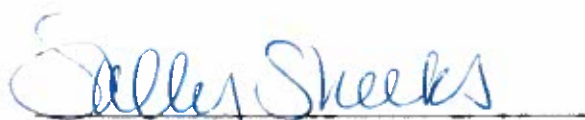
14. Through the assertion of Exemption 6, BLM protected material

containing personal and private information, or information for which BLM was unable to determine whether the information was personal and private in nature. On balance, I determined that disclosure would constitute an unwarranted invasion of personal privacy.

15. Through the assertion of Exemption 7(C), BLM withheld material consisting of law enforcement information. I determined that release of this information could reasonably lead to harassment and annoyance of law enforcement personnel in their official duties and private lives, and that the exemption was consistent with responses by other agencies where relevant.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 5, 2019



Sally Sheeks
Government Information Specialist
Bureau of Land Management
Montana-Dakotas State Office