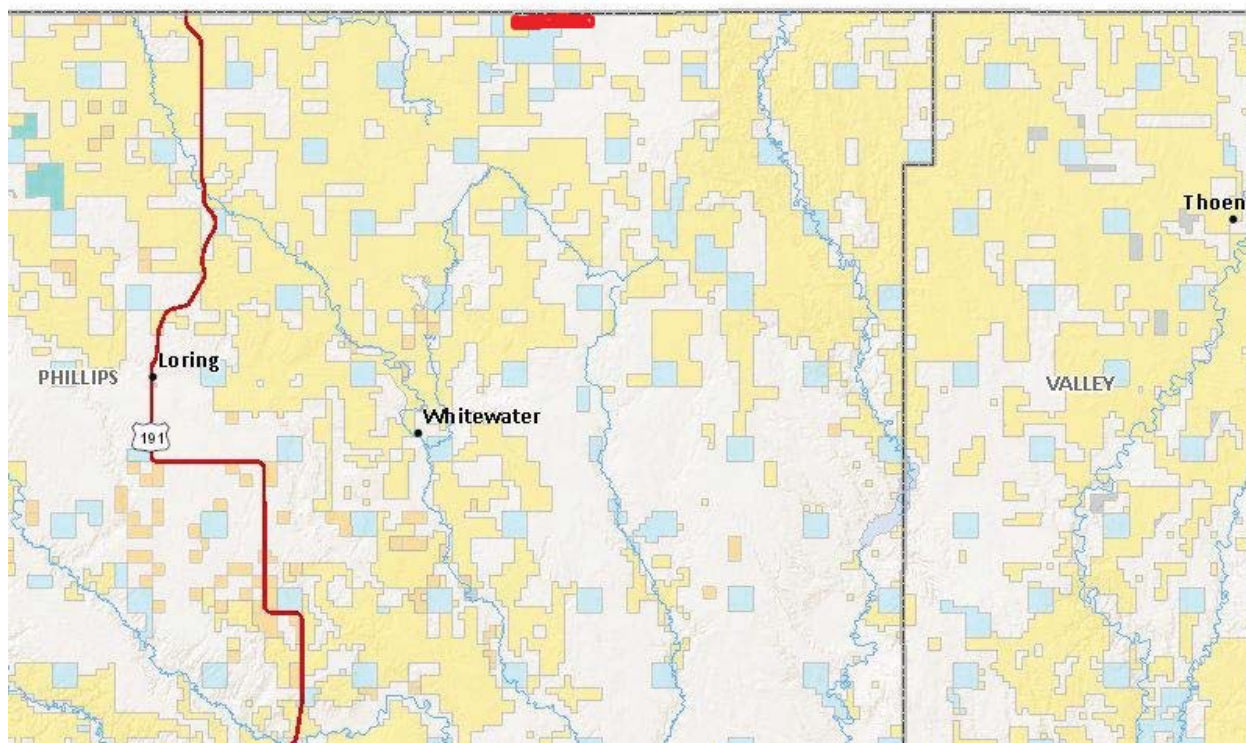
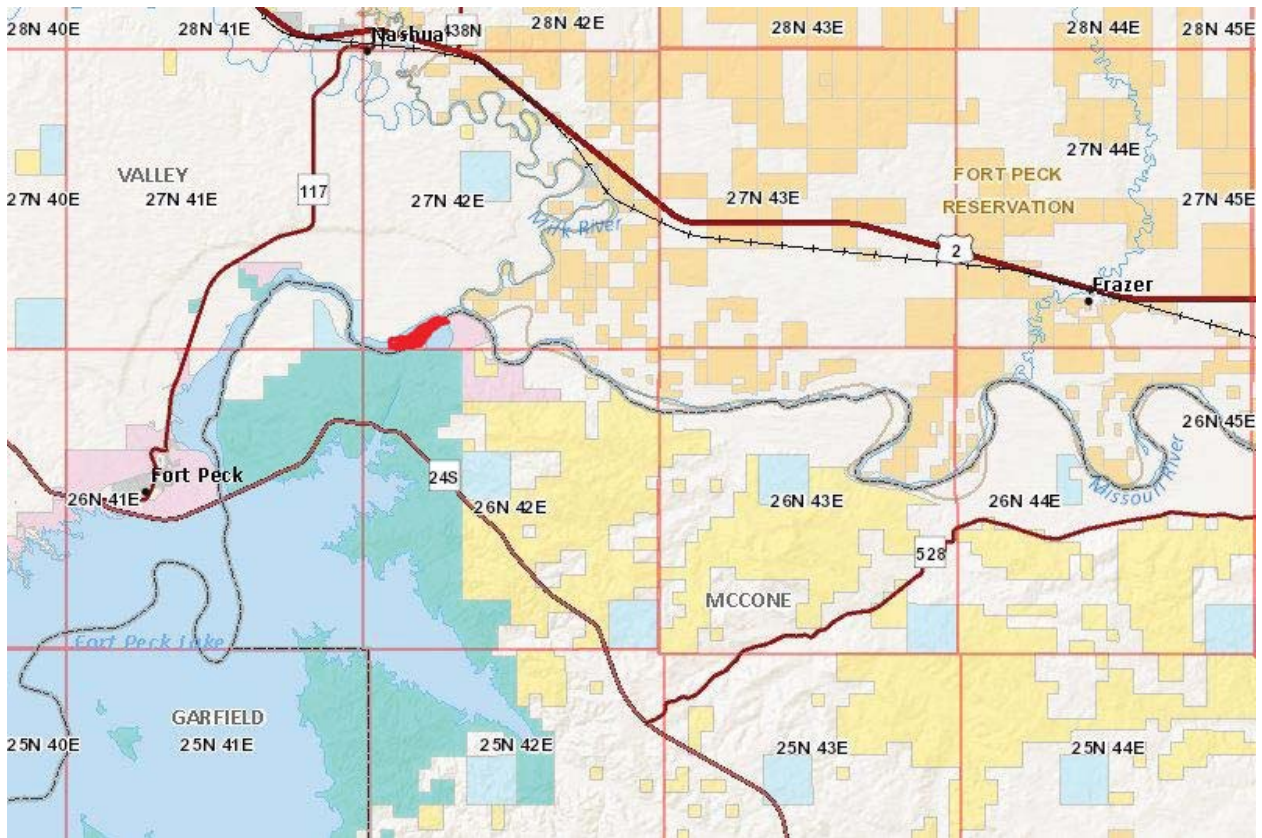


CRITICAL SITE ANALYSIS

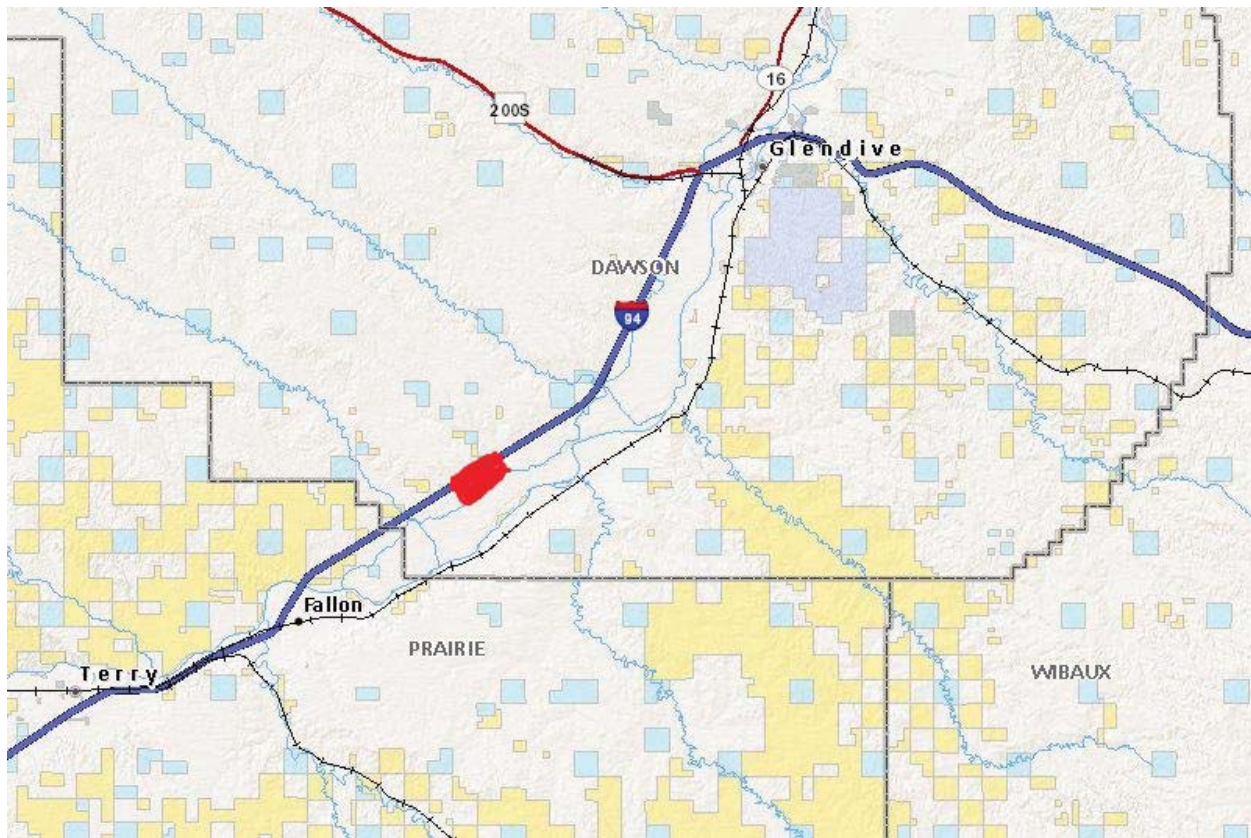
U.S.-Canadian border—Phillips County: The pipeline route crosses the international border in a remote portion of Phillips County that is not served by any major highways or towns (approximate location in red). In that area, however, the pipeline route is surrounded by large amounts of federal land held by the BLM.



Missouri River crossing—Valley and McCone Counties: The pipeline is to be directionally drilled beneath the Missouri River within a mile of the Fort Peck Reservoir spillway, a portion of the critical infrastructure related to the largest reservoir in the state. The river crossing from Valley to McCone Counties is within a mile of the Fort Peck Reservation in the east, approximately five miles south of U.S. Highway 2 (approximate location in red). The Fort Peck Tribe’s water intake system lies about 35 miles downstream and to the east. The south side of the river crossing at that location is an amalgam of federal public land held by the Corps of Engineers, the BLM, BOR and USFWS. Per 36 C.F.R. § 327.26, the Corps land is subject to the criminal jurisdiction of the State for petty offenses with the federal government retaining concurrent jurisdiction.



Yellowstone River crossing—Dawson County: the pipeline is to be directionally drilled beneath the Yellowstone River approximately 20 miles west of Glendive (approximate location in red). The crossing is on private land, although there are large amounts of BLM public land as close as five miles from the crossing, particularly in Prairie County. The crossing is within three miles of Interstate 90 near the Bad Route Road exit.



FEDERAL AGENCY RESOURCES

FBI

2929 3rd Ave. North
Billings, Montana 59101

Contact: **SSRA**
(406)
406, SA
406
@fbi.gov
406, Analyst
Cell: **310**
@fbi.gov

In addition to its general Title 18 jurisdiction, the FBI, Billings Resident Agency, will have primary authority for investigating major crimes occurring within the Fort Peck Reservation and for the protection of critical infrastructure along the pipeline corridor, including the Fort Peck dam and spillway. The FBI will have primary investigative authority for all national security investigations, including but not limited to international terrorism, domestic terrorism, and weapons of mass destruction, regardless of the statutes charged.

Available resources include:

- six agents to respond to pipeline-related incidents;
- critical incident response team for domestic terrorism or threats to critical infrastructure; and
- command center resources including a Virtual Command Center for centralized management and analysis of incidents occurring in multiple locations.

BLM

5001 Southgate Drive
Billings, MT 59101

Contact: **@blm.gov**
Chief Ranger
Desk: 406
Cell: 406

BLM has jurisdiction and patrol responsibility for BLM land. BLM jurisdiction includes general misdemeanor authority on BLM lands (See regulatory offenses below).

Barring a significant incident on BLM land, BLM anticipates that its response role will be to assist with the local law enforcement response. Additional MOUs with the state and counties may be necessary for this to occur. BLM is not currently anticipating any land closures or land use prohibitions beyond the regulations in place. Large gatherings on BLM land require a permit. BLM may also impose fire restrictions during summer months.

Available resources:

- a Chief Ranger and three agents available for investigations;
- portable radio repeater technology available to provide consistent secure communications to remote sections of the pipeline corridor;
- portable medical unit; and
- management may activate a response from BLM rangers throughout the region as a force multiplier on an incident basis.

U.S. Attorney's Office
2601 2nd Ave. Billings, MT 59101

Contacts: [@usdoj.gov](mailto:usdoj.gov)

First Assistant U.S. Attorney
406
Cell 406

[@usdoj.gov](mailto:usdoj.gov)

Intelligence Specialist
Desk: 406
Cell: 406

The USAO will coordinate the federal planning and media response, provide legal advice for federal criminal issues, prosecute federal cases derived from the pipeline response, and communicate incident developments to the Department of Justice Office of the Deputy Attorney General, Environment and Natural Resources Division, and the National Security Division's Counterterrorism Section. The

Counterterrorism Section will provide litigation support in the event of a significant terrorist incident.

Available resources:

- AUSA prosecutors for individual case assignments;
- Joint Terrorism Task Force expertise including AUSA and
- intelligence analyst support.

**Border Patrol
Havre Sector
2605 5th Ave. S.E.
Havre, MT 59501
Contact:**

PAIC, Havre Sector

Desk: 406-

Cell: 406-

[@cbp.dhs.gov](mailto:cbp@dhs.gov)

Border Patrol has jurisdiction to enforce laws protecting the integrity of the border and will be the primary federal responder for incidents at or near the international border. Border Patrol anticipates that it will patrol north of Highway 2, with efforts concentrated nearest the border. Border Patrol will not be enforcing trespass violations involving either federal or private lands, but will otherwise enforce crimes falling within its general criminal jurisdiction near the border. It can assist with communications and provide training to local law enforcement and tactical support for border-related incidents through the national Border Patrol Tactical Team (BORTAC). Border Patrol will also provide intelligence agents, currently assigned to the JTTF, to work in the Tactical Operations Center (TOC) to provide de-confliction and intelligence assistance.

Available resources:

- Approximately 10 agents in the station; with the possibility of more temporarily detailed into the area from throughout the sector;
- SWAT (BORTAC), EMT/Search and Rescue (BORSTAR) and Mobile Response Team (MRT) Units with concurrence from Special Operations Group; and Air Unit (Great Falls) and drone assets (N.D.).

**Department of Transportation
Pipeline and Hazardous Materials Safety Administration (PHMSA)
Office of Pipeline Safety (OPS)
Oil Spill Preparedness and Emergency Support Division
Contacts:**

202

Cell: 202

[@dot.gov](#)

202-

Cell: 202

[@dot.gov](#)

OPS Central Region Office – Kansas City, MO

816-

Cell: 816

[@dot.gov](#)

PHMSA's Office of Pipeline Safety administers the Pipeline Safety regulatory program (49 CFR 190-199). PHMSA's federal inspection and enforcement staff, as well as state inspectors, are responsible for regulating hazardous liquid and natural gas pipelines and associated infrastructure.

PHMSA's OPS will provide regulatory oversight for the construction of the Keystone XL pipeline for compliance with 49 CFR Part 195. PHMSA OPS personnel will provide oversight through offsite communication with TransCanada as well as routine onsite inspections. In the event of a security incident that damages the pipeline, PHMSA's OPS may deploy inspectors to monitor the repairs. Furthermore, in the event of a security incident that causes an oil spill, PHMSA can deploy investigators to monitor the response as well as liaisons to the unified command. Security incidents will be promptly referred to Department of Transportation's Office of Inspector General as well as federal interagency pipeline resilience stakeholders.

Available resources include:

- Federal pipeline safety inspectors;
- Eight pipeline accident investigators;
- Five oil spill specialists/unified command liaisons; and
- Two liaisons with federal pipeline security community.

**U.S. Department of Transportation, Office of Inspector General (DOT-OIG)
50 UN Plaza, Suite 5300
San Francisco, CA 94102**

Contacts: ASAC
(415) @oig.dot.gov

SA (Seattle, WA)
(206) @oig.dot.gov

DOT-OIG employs criminal and general investigators that are responsible for conducting criminal, civil, and administrative investigations of fraud and a variety of other allegations affecting DOT, its operating administrations (i.e. Pipeline and Hazardous Materials Safety Administration), programs, and grantees. Crimes that have an impact on public safety are one of the OIG's top priorities. The OIG investigates suspected and alleged violations of the Pipeline Safety Act, which includes damage to, or destruction of, pipelines and pipeline facilities. Jurisdiction to investigate these matters is granted to the OIG under Title 49 of the United States Code.

Available resources include:

- 3 agents to respond to pipeline-related incidents.

**ATF
2929 3rd Ave. North
Billings, MT 59101**

Contact: RAC
406- , SA
406
Cell: 406-
@atf.gov

ATF has the primary investigative authority over firearms and explosives violations. Will coordinate with DCI on arson investigations. Has capacity to deal with potentially violent targets through the use of the federal firearms laws.

Available resources:

- certified fire investigators;
- undercover personnel;
- improvised explosive device and Molotov cocktail investigations;
- radio technicians can assist with communications coordination; and
- emergency bullet analysis and firearms tracing.

U.S. Army Corps of Engineers

Fort Peck Dam

Contact:

406

@usace.army.mil

The Army Corps of Engineers has a primary role in protecting the critical infrastructure at the Fort Peck Dam. Patrol and security responsibilities on that site may need to be arranged by the Corps with the Federal Protective Services.

Federal Protective Service

U.S. Department of Homeland Security

2900 4th Ave. North Suite 300

Billings, MT 59101

Contact:

Area Commander Montana

406-

Cell: 406

@hq.dhs.gov

BIA

2021 4th Ave. North

Billings, MT 59101

Contact:

406

SAC

ASAC

Cell: 406

@bia.gov

BIA shares jurisdiction with the Fort Peck Tribe over crimes committed within the Fort Peck Reservation. It has exclusive jurisdiction over crimes committed by non-Indian persons within the Reservation. It provides law enforcement support and conducts investigations on the Reservation. It will provide technical assistance for violations on the Fort Peck Reservation.

Available resources:

- patrol officers for incidents on the Fort Peck Reservation; and
- mobile command post and portable communications trailer.

U.S. Marshals Service
2601 2nd Ave. North
Billings, MT 59101

Contact: **Acting Marshal**
406
406
[@usdoj.gov](mailto:usdoj.gov)

U.S. Marshals Service has jurisdiction to enforce federal court orders. It also has a fugitive task force, and may assist with fugitive warrants and prisoner transport.

Available resources:

- 20-24 operation personnel available, more if necessary;
- Violent Offender Task Force.

NPS

Contact: **L.E. Ranger**
307-
[@nps.gov](mailto:nps.gov)

NPS has no general jurisdiction along the pipeline corridor, but it can provide law enforcement support to other Interior Department agencies.

**U.S. Forest Service
Custer N.F.
3710 Fallon St.
Bozeman, MT 59718**

**Contact: SA
406
@fs.fed.us**

The USFS role is the same as the NPS role. It can offer law enforcement support.

**Transportation Security Administration
Intelligence Specialist**

**Contact: 406-
Cell: 571
@tsa.dhs.gov**

INCIDENT RESPONSE

The federal agencies anticipate a tiered response to pipeline incidents.

- Incidents along the pipeline corridor occurring on state or private property will ordinarily involve local law enforcement as the primary responder with assistance from other state and federal law enforcement agencies. In these instances, Montana DCI and the MATIC will relay any request for federal assistance to the relevant federal agency contact listed above. All requests should be copied to the FBI.
- For routine or minor incidents on federal land, local law enforcement should act as the primary responder with notice to the affected federal agency and the FBI. Requests for federal assistance should be made from local law enforcement directly to the affected federal agency and the FBI with a copy to Montana DCI and the MATIC.
- For major incidents on federal land, the affected federal agency will act as the primary responder and the party responsible for requesting assistance.

Major incidents on federal land include, but are not limited to, threats to persons, equipment, the pipeline or other federal property exclusively on

federal land, within 50 miles of the international border, or on the south side of the Missouri River crossing.

- For major incidents on state or private land, state and local law enforcement will act as the primary responder and party responsible for requesting assistance.

Major incidents on state or private land include all threats to public roads and highways and other significant threats to life and property occurring outside of federal land.

For any incident requiring a law enforcement response, FBI will activate a Virtual Command Center for collecting information and coordinating a response. To the extent training is necessary prior to the use of the FBI VCC, that training should occur prior to construction activity.

PUBLIC STATEMENTS, PRESS RELEASES, AND MEDIA

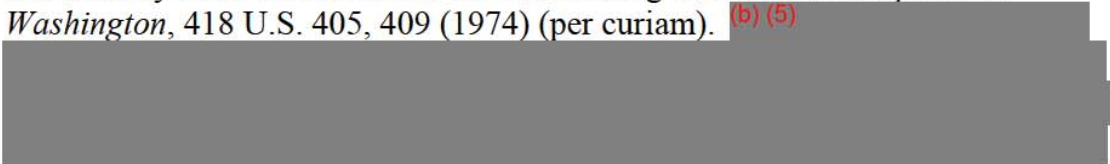
All federal agency press releases that relate to potential federal litigation must be approved in advance by the United States Attorney or his designee. Social media releases will be treated as press releases and subject to the same approval process. The USAO will coordinate with state and local media contacts.

At times, it may be necessary to counteract misinformation on social media with press and social media releases by state and local law enforcement. State and local law enforcement should coordinate all public statements, press, and social media releases with the U.S. Attorney's Office. Failure to follow that consultation process may jeopardize federal.

LEGAL RESOURCES

The Office of the United States Attorney will provide ongoing legal advice to federal agencies during any incident response. That advice should address three priorities: ensuring the exercise of First Amendment rights, avoiding liabilities and preparing cases for litigation. All federal law enforcement responders to pipeline protest activity should be aware of federal criminal statutes pertinent to pipeline protest activities and other federal crimes that could arise incidental to pipeline construction, as well as the First Amendment rights of non-violent protesters.

First Amendment Standards: All federal law enforcement officers should be cognizant of and protect protesters' First Amendment rights. A failure to do so may subject individual law enforcement officers to personal liability. The First Amendment protects more than just the spoken and written word. It protects expressive conduct so long as that conduct “convey [s] a particularized message” and is likely to be understood in the surrounding circumstances. *Spence v. Washington*, 418 U.S. 405, 409 (1974) (per curiam). (b) (5)



Restrictions on speech and assembly may be viewed differently depending on the nature of the forum being regulated. The Supreme Court has divided public forums into three categories: “traditional public forums,” “designated public forums,” and “limited public forums.” *Christian Legal Soc’y v. Martinez*, — U.S. —, 130 S.Ct. 2971, 2984 n. 11 (2010). Traditional public forums are places like sidewalks and parks. By contrast, other government properties are either nonpublic forums, or simply not considered forums at all. *Kaahumanu v. Hawaii*, 682 F.3d 789, 799 (9th Cir. 2012).

Restrictions on speech and assembly in traditional public forums is subject to strict scrutiny. *Harrington v. Schribner*, 785 F.3d 1299, 1306 (9th Cir. 2015). That requires the government to prove that the measures are narrowly tailored to further a compelling government interest. *Id.* In a nonpublic forum, regulations must be “(1) reasonable in light of the purpose served by the forum and (2) viewpoint neutral.” *Ctr. for Bio-Ethical Reform, Inc. v. City & Cnty. of Honolulu*, 455 F.3d 910, 920 (9th Cir.2006) (quoting *Brown v. Cal. Dep't of Transp.*, 321 F.3d 1217, 1222 (9th Cir.2003)).

(b) (5)



(b) (5)



Additional resources concerning First Amendment implications of protest activity can be found at:

- <https://player.vimeo.com/video/117224998>
- https://www.ncirc.gov/Training_First_Amendment.aspx
- <https://www.dhs.gov/protective-security-advisors>
- <https://www.justice.gov/sites/default/files/crs/legacy/2012/12/17/safe-marches-dem.pdf>

Applicable federal criminal statutes:

- **Pipeline Safety Act**, 49 U.S.C. § 60123(b):

A person knowingly and willfully damaging or destroying an interstate gas pipeline facility, an interstate hazardous liquid pipeline facility, or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce, or attempting or conspiring to do such an act, shall be fined under title 18, imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

Petroleum is a hazardous liquid. 49 USC § 60101(a)(4).

A “hazardous liquid pipeline facility” includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid. 49 USC § 60101(a)(5).

From the plain language of the statute, damage to, or meddling with, construction equipment used to build the pipeline would not fall under the Act.

- **Threats and Hoaxes** (18 U.S.C. § 1038):

Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 2 (destruction of aircraft or motor vehicles), 10 (biological weapons), 11B (chemical weapons), 39(nuclear), 40(explosives), 44(firearms), 111(shipping), or 113B(terrorism) of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505(b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or **section 60123(b) of title 49**, shall [be imprisoned for 5 years (or more)].

Note that this provision includes a threat to destroy a hazardous liquid pipeline facility.

- **Destruction of an energy facility**, 18 U.S.C. § 1366

(a) A person knowingly and willfully damages or attempts or conspires to damage the property of an energy facility in an amount that in fact exceeds or would if the attempted offense had been completed, or if the object of the conspiracy had been achieved, have exceeded \$100,000, or damages or attempts or conspires to damage the property of an energy facility in any amount and causes or attempts or conspires to cause a significant interruption or impairment of a function of an energy facility, shall be punishable by a fine under this title or imprisonment for not more than 20 years, or both.

(b) Whoever knowingly and willfully damages or attempts to damage the property of an energy facility in an amount that in fact exceeds or would if the attempted offense had been completed have exceeded \$5,000 shall be punishable by a fine under this title, or imprisonment for not more than five years, or both.

The term “energy facility” means a facility that is involved in the production, storage, transmission, or distribution of electricity, fuel, or another form or source of energy, or research, development, or demonstration facilities relating thereto, regardless of whether such facility is still under construction or is otherwise not functioning, except a facility subject to the jurisdiction, administration, or in the

custody of the Nuclear Regulatory Commission or an interstate gas pipeline facility as defined in section 60101 of title 49.

Whoever is convicted of a violation of subsection (a) or (b) that has resulted in the death of any person shall be subject to imprisonment for any term of years or life.

- **Civil disorders**, 18 U.S.C. § 231(a):

(1) Whoever teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which may in any way or degree obstruct, delay, or adversely affect commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function; or

(2) Whoever transports or manufactures for transportation in commerce any firearm, or explosive or incendiary device, knowing or having reason to know or intending that the same will be used unlawfully in furtherance of a civil disorder; or

(3) Whoever commits or attempts to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function [commits a felony].

- **Felon in possession of a firearm**, 18 U.S.C. § 922(g):

It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year . . . [or other persons including fugitives, addicts, mentally handicapped, illegal aliens; and persons convicted of misdemeanor domestic violence]

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

The mere possession of a firearm is the crime. Interstate nexus is proven through ATF experts who can testify that the gun at issue traveled in interstate commerce.

Section 922 has further prohibitions of the possession of stolen and unlawfully modified firearms, like machine guns and sawed-off shotguns. A separate provision, 922(g)(9), prohibits the possession of a firearm by a person who has been convicted of misdemeanor domestic abuse.

- **Construction or possession of prohibited firearms or destructive devices, 26 U.S.C. § 5861:**

Further restrictions on firearm possession are found in Section 5861, which also applies to any “destructive device.” In pertinent part, the provision prohibits any action—

- (f) to make a firearm in violation of the provisions of this chapter; or
- (i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or
- (j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter . . .

a)The term “firearm” means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in, United States Code); and (8) a destructive device.

- **Explosive devices, 18 U.S.C. §§ 841, 842:**

There are numerous prohibitions on the possession and transfer of explosives. They include—

- (b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—
- (1) a licensee;
 - (2) a holder of a user permit; or
 - (3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.

- (d) It shall be unlawful for any person knowingly to distribute explosive materials to any individual who:
- (1) is under twenty-one years of age;
 - (2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; . . .

- (e) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

It is also unlawful for any felon “to ship or transport any explosive in or affecting interstate or foreign commerce or to receive or possess any explosive which has been shipped or transported in or affecting interstate or foreign commerce.”

Finally it is unlawful to “to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence;” or “ knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.

- **Assault on a federal officer**, 18 U.S.C. § 111:

Whoever—

(1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or

(2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person's term of service,

shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and where such acts involve physical contact with the victim of that assault or the intent to commit another felony, be fined under this title or imprisoned not more than 8 years, or both.

(b) Enhanced Penalty.—

Whoever, in the commission of any acts described in subsection (a), uses a deadly or dangerous weapon (including a weapon intended to cause death or danger but that fails to do so by reason of a defective component) or inflicts bodily injury, shall be fined under this title or imprisoned not more than 20 years, or both.

The “person designated in section 1114” is “any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance.”

- **Simple possession of drugs, 21 U.S.C. § 844:**

Possession of controlled substances is prohibited by a federal misdemeanor that states, in part, that—

It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or

pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice.

The felony drug provisions in Title 21 are found in section 841, which prohibits , among other things, any action “to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance”

- **Undocumented persons**, 8 U.S.C. §§ 1325 and 1326:

Any alien who (1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under title 18 or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, or imprisoned not more than 2 years, or both.

This is the most common offense related to undocumented persons. The more serious offense of reentry after removal is found in section 1326.

- **Border offenses**, 19 U.S.C. § 1433:

Offenses related to unlawful border crossings are found in Title 19. They include a prohibition on vehicles entering the U.S. except through border stations. Thus,

(1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.

(2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

(A) report the arrival; and

(B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

- **Potential BLM Violations:**

* In the presence of aggravating circumstances, i.e., where the result of a person’s actions exceeds the bond or when a serious threat exists to Bureau property, resources or personnel, an enhanced bond forfeiture of up to \$500 may be established at the discretion of the issuing officer, the Special Agent-in-Charge, or the U.S. Attorney’s office.

*** Where the federal regulation prohibits the same act as a state law, the fine set under state law may be assessed for violations.

Statute	Violation	Bond
18 USC 1361	Vandalism of Government Property	\$250 *
18 USC 1864 (b)(5)	Hazardous Devise on Federal Lands	MA
18 USC 1061	Obstruction of Transit over Public Lands	\$200 *

Special Use Permits for Competitive Events, Commercial Use, Recreation Areas

43 CFR 2932.57(a)(1)	Fail to Obtain a Special Recreation Permit/Pay Fees	\$250*
2932.57(a)(2)	Violate the Stipulations or Conditions of a Permit	\$250*
2932.57(a)(3)	Knowingly Participate in Un-permitted Event or Activity	\$100
2932.57(a)(4)	Fail to Post a Copy of the Permit for Participants to Read	\$100
2932.57(a)(5)	Fail to Show a Copy of Permit upon Request	\$100
2932.57(a)(6)	Obstruct or Harass Public or Impede w/Physical Contact	\$250

Grazing Administration

4140.1(b)(2)	Use, Maintain, Disturb Range Improvements w/o Auth.	\$200*
4140.1(b)(3)	Cut, Burn, Spray, Destroy or Remove Vegetation	\$150*
4140.1(b)(4)	Damaging or Removing US Property	\$200*
4140.1(b)(6)	Littering	\$100*
4140.1(b)(7)	Interfering with Lawful Use or Users/Obstructing Transit	\$200*
4140.1(b)(8)	Making a Knowing & Willful False Statement	\$250*

Closures

8364.1(d)	Violate Closure or Restriction Order	\$200*
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Rules of Conduct

8365.1-1(b)(1)	Littering, Non-Flammable Material	\$100*
8365.1-1(b)(2)	Littering, Flammable Material	\$100*
8365.1-1(b)(3)	Dumping of Sewage/Petroleum Product	\$200*
8365.1-1(b)(4)	Household, Industrial, Commercial Waste Disposal	\$250*
8365.1-1(b)(5)	Pollute or Contaminate Water Supplies	\$250*
8365.1-1(b)(6)	Improper Use Refuse Container/Disposal Facility	\$100*
8365.1-2(a)	Camping Longer than Permitted	\$100*
8365.1-2(b)	Unattended Personal Property – > 10 Days	\$100*
8365.1-3(a)	Reckless, Careless, Negligent Motor Vehicle Operation	\$250*
8365.1-3(a)	Exceed Posted Speed Limit (10)	\$25
	(11-20)	\$50
	(21 mph and over)	\$100
8365.1-3(b)(1)	Mandatory Safety Belt	\$25
8365.1-4	Creating a Risk or Public Disturbance	\$500*
8365.1-4(a)(1)	Making Unreasonable Noise	\$100
8365.1-4(a)(2)	Creating a Hazard or Nuisance	\$200*
8365.1-4(a)(3)	Refusing to Disperse	\$100*
8365.1-4(a)(4)	Resisting Arrest	\$250*
8365.1-4(a)(5)	Assault or Battery on BLM Employee	\$250*
8365.1-4(a)(6)	False Emergency or Crime Report	\$100*
8365.1-4(b)(1)	Cont. Substance	MA**
8365.1-4(b)(2)	Possession of a Controlled Substance	MA**
8365.1-4(b)(2)	Possession of < 1 ounce of Marijuana	\$250
8365.1-5(a)(1)	Deface, Remove, Destroy Natural Resources	\$250*
8365.1-5(a)(2)	Deface, Remove, Destroy, Plants, Rocks, Minerals	\$100*
8365.1-5(a)(3)	Motorized or Explosive Devices for Collecting	\$250*
8365.1-5(c)	Collection of Resources for Sale or Barter w/o Permit	\$250*
8365.1-6	Supplementary Rules	\$100*

Disclosure of Communications: All federal, state, and local officers should be aware that all communications, emails, tweets, social media commentary, video, reports, photographs and other evidence are subject to disclosure either through the

Freedom of Information Act or litigation discovery. Officers should expect that these communications could be published in the social media and by the press.

In all federal litigation, the United States has an obligation to disclose all relevant and exculpatory evidence gathered in the investigation of a federal crime. That disclosure obligation extends to state and local officers working in conjunction with federal law enforcement officers. Efforts should be made to place all evidentiary materials necessary for a later federal or state prosecution into a centralized depository, including videos, photos, reports, emails, and physical evidence. Failure to make the necessary disclosure of relevant or exculpatory evidentiary material of any kind in the course of a federal criminal prosecution may result in individual sanctions and possible dismissal of the charges.

Conversation Contents

[EXTERNAL] draft xl pipeline response plan.

Attachments:

/10. [EXTERNAL] draft xl pipeline response plan./1.1 pipeline federal operations plan.docx

/10. [EXTERNAL] draft xl pipeline response plan./2.1 pipeline federal operations plan (1).docx

/10. [EXTERNAL] draft xl pipeline response plan./3.1 pipeline federal operations plan (1).docx

" (USAMT)" @usdoj.gov>

From: (USAMT)" @usdoj.gov>
Sent: Thu Apr 05 2018 15:02:36 GMT-0600 (MDT)
@blm.gov>,
(SU) (FBI)" @fbi.gov>," (SU) (FBI)"
< @fbi.gov>,"
@cbp.dhs.gov>,"
@atf.gov" @usdoj.gov>,"
" @usace.army.mil"
To: < @usace.army.mil>," @bia.gov"
< @bia.gov>," (USMS)"
< @usdoj.gov>," @nps.gov"
< @nps.gov>," @dot.gov"
@dot.gov>," @tsa.dhs.gov"
@tsa.dhs.gov>,"
@fs.fed.us>," @mt.gov>
@blm.gov>," (USAMT)"
CC: < @usdoj.gov>," (USAMT)"
@usdoj.gov>," (USAMT)"
@usdoj.gov>," (USAMT)"
< @usdoj.gov>
Subject: [EXTERNAL] draft xl pipeline response plan.
Attachments: pipeline federal operations plan.docx

Everyone,

Enclosed please find a preliminary draft federal operations plan for the federal law enforcement response on the Keystone XL Pipeline. Please review and make any edits, suggestions or comments necessary to ensure that this plan accurately captures the contributions that state and local law enforcement can expect from federal law enforcement during any protest-related incidents along the pipeline corridor. I am also copying [redacted] at Montana DCI to get input from the State if there are any issues of concern that need to be revisited. Once we have a plan in place, it is our hope that we can convene a second meeting with federal law enforcement to further coordinate with DCI and local law enforcement. Do not hesitate to contact me with any questions or concerns.

First Assistant United States Attorney

USA_BLM_00804

District of Montana
(406

@blm.gov>

From: @blm.gov>
Sent: Tue Apr 10 2018 15:14:26 GMT-0600 (MDT)
To: @blm.gov>
Subject: Fwd: [EXTERNAL] draft xl pipeline response plan.
Attachments: pipeline federal operations plan (1).docx

Fellas,

Look at page 13 this is the verbiage I am proposing.

----- Forwarded message -----

From: (USAMT) @usdoj.gov>
Date: Thu, Apr 5, 2018 at 3:02 PM
Subject: [EXTERNAL] draft xl pipeline response plan.
To: @blm.gov>, (SU) (FBI)" @fbi.gov>,
(SU) (FBI)" @fbi.gov>,
@cbp.dhs.gov>, @atf.gov"
@usdoj.gov>, @usace.army.mil"
@usace.army.mil>, @bia.gov" @bia.gov>,
(USMS)" @usdoj.gov>, @nps.gov"
@nps.gov>, @dot.gov" @dot.gov>,
@tsa.dhs.gov" @tsa.dhs.gov>,
@fs.fed.us>, @mt.gov>
Cc: @blm.gov>, (USAMT)" @usdoj.gov>,
(USAMT)" @usdoj.gov>, (USAMT)"
@usdoj.gov>, (USAMT)" < @usdoj.gov>

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First Assistant United States Attorney
District of Montana
(406

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Special Agent -in- Charge
Region 4 (CO / ES, MT / DAKs, WY)
Bureau of Land Management
Office of Law Enforcement and Security
Office - 303
Cell - 503

"

@blm.gov>

From: @blm.gov>
Sent: Wed Apr 11 2018 13:58:15 GMT-0600 (MDT)
To: " (USAMT)" @usdoj.gov>
CC: @blm.gov>, @blm.gov>
Subject: Re: [EXTERNAL] draft xl pipeline response plan.
Attachments: pipeline federal operations plan (1).docx

Please see attached response plan with some changes to the BLM section on page 13.

Please let me know if you have any questions.

Thanks,

On Thu, Apr 5, 2018 at 3:02 PM, (USAMT) < @usdoj.gov> wrote:

Everyone,

Enclosed please find a preliminary draft federal operations plan for the federal law enforcement response on the Keystone XL Pipeline. Please review and make any edits, suggestions or comments necessary to ensure that this plan accurately captures the contributions that state and local law enforcement can expect from federal law enforcement during any protest-related incidents along the pipeline corridor. I am also copying at Montana DCI to get input from the State if there are any issues of concern that need to be revisited. Once we have a plan in place, it is our hope that we can convene a second meeting with federal law enforcement to further coordinate with DCI and local law enforcement. Do not hesitate to contact me with any questions or concerns.

First Assistant United States Attorney
District of Montana
(406

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Special Agent -in- Charge
Region 4 (CO / ES, MT / DAKs, WY)

USA_BLM_00806

Bureau of Land Management
Office of Law Enforcement and Security
Office - 303
Cell - 503

**FEDERAL OPERATIONS PLAN
KEYSTONE XL PIPELINE
PUBLIC SAFETY ISSUES**

Draft: 4/5/18



Prepared by the United States Attorney's Office with input from .
Contains law enforcement sensitive and attorney work product information.

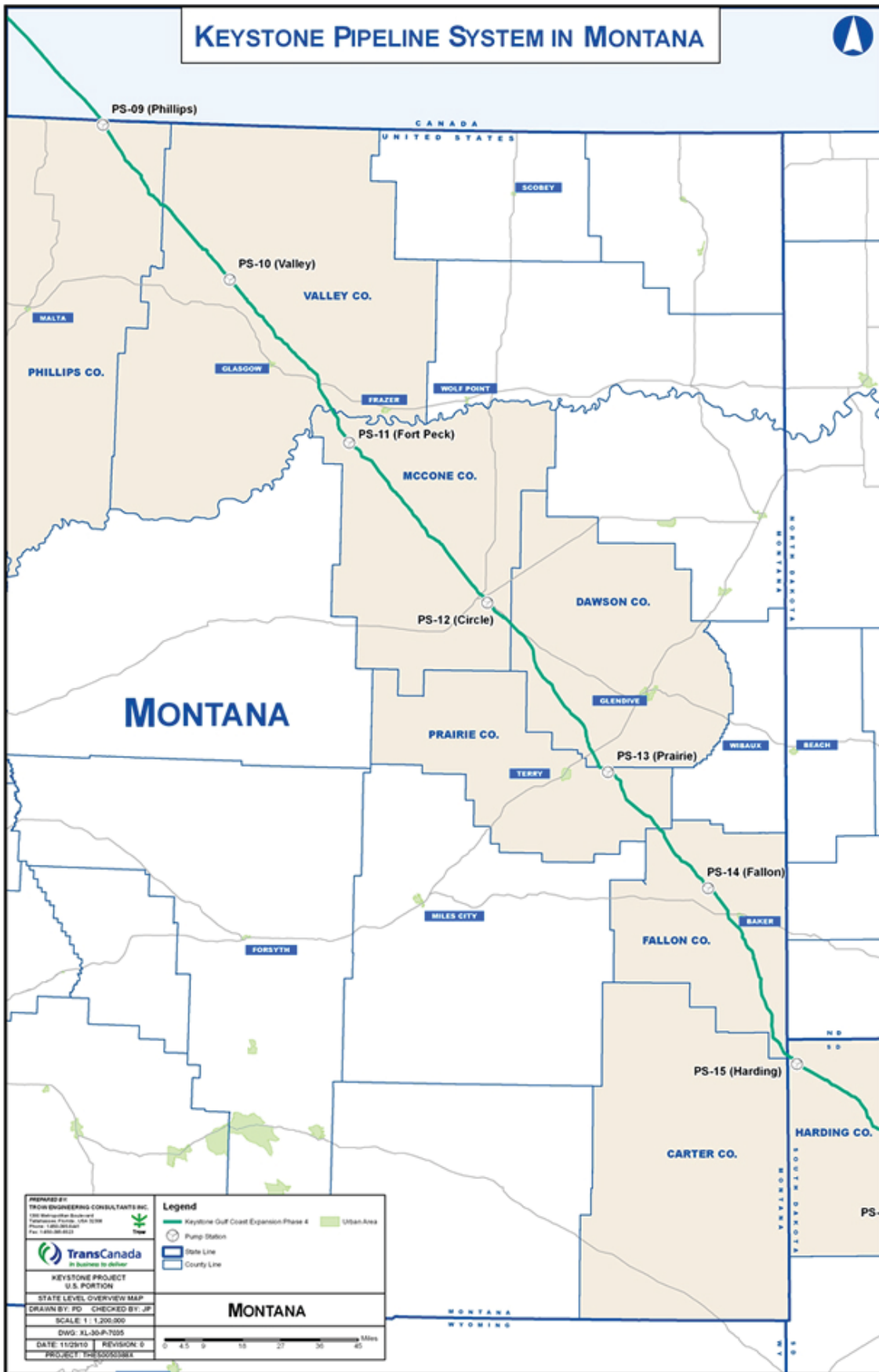
PURPOSE

Anticipating the commencement of construction activities on the TransCanada Keystone XL Pipeline (pipeline) beginning in the spring or fall of 2018, the United States Attorney's Office and affected federal agencies collectively adopt this plan of operations to facilitate the deployment of federal law enforcement resources to assist with the law enforcement response to pipeline construction and protest activities along the pipeline route. This plan of operations supplements the Threat Assessment from the Montana Analysis and Technical Information Center dated 11/27/2017 with a summary of available federal resources; it is not intended to preempt future decision-making by any federal agency with regard to any request for a federal response, or violations of federal law within the jurisdiction of the United States.

BACKGROUND

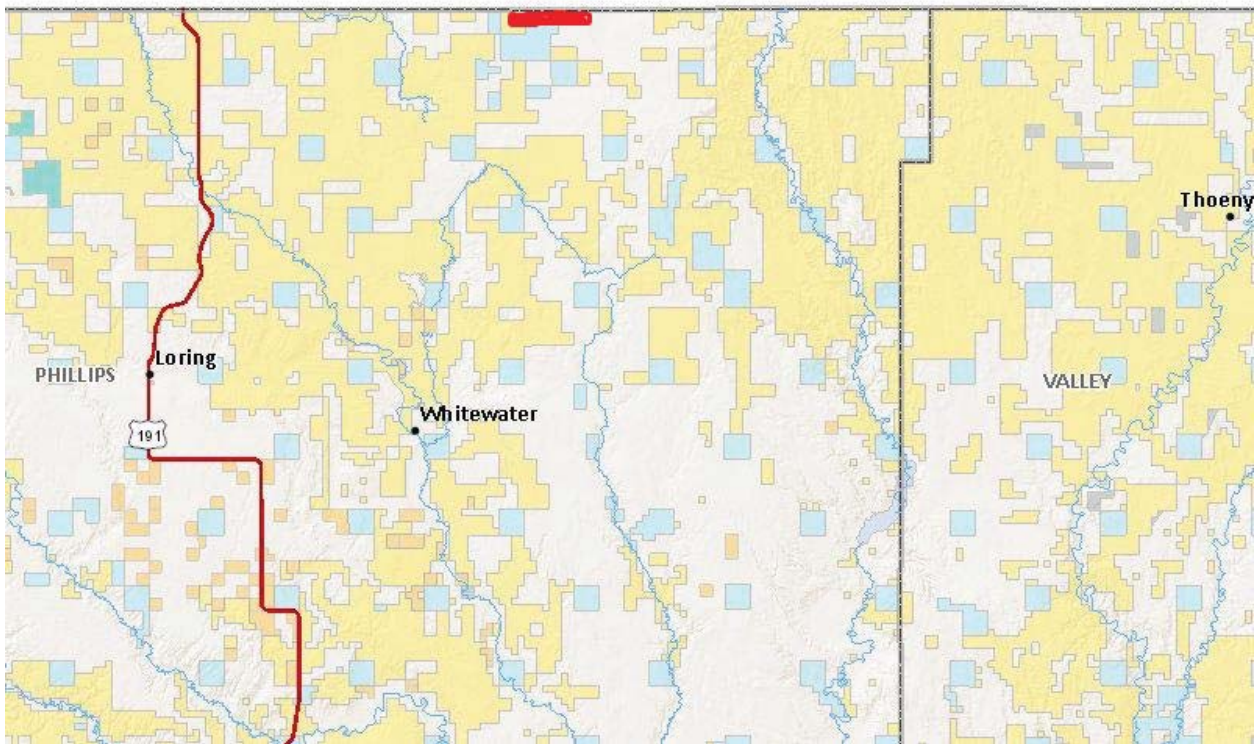
The proposed pipeline route passes through six counties in Montana from north to southeast: Phillips, Valley, McCone, Dawson, Prairie, and Fallon (see attached map). It will pass through mostly remote farming and ranching communities. Approximately 45-55 miles of pipeline will pass through federal land held by the Bureau of Land Management, the Bureau of Reclamation, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service. The pipeline will cross three major rivers in Montana: the Milk, Missouri and Yellowstone.

For reasons outlined in the MATIC Threat Assessment, construction of the pipeline is highly controversial and will likely generate significant opposition from protest groups during construction. Since pipeline construction will generally occur from north to south, Montana can expect to host a significant portion of the protest activity during the early construction phase. We expect the protest activity to be concentrated at significant river, border, and highway crossings, including the U.S.-Canadian border crossing, the Missouri crossing near the Fort Peck Dam, and the Yellowstone/Interstate crossing west of Glendive, Montana. Federal lands exist near each of these sites. The pipeline construction firm, TransCanada, expects to build temporary construction worker camps along the pipeline route. It tentatively proposes four camps in Montana near the towns of Hinsdale, Nashua, Circle, and Baker.

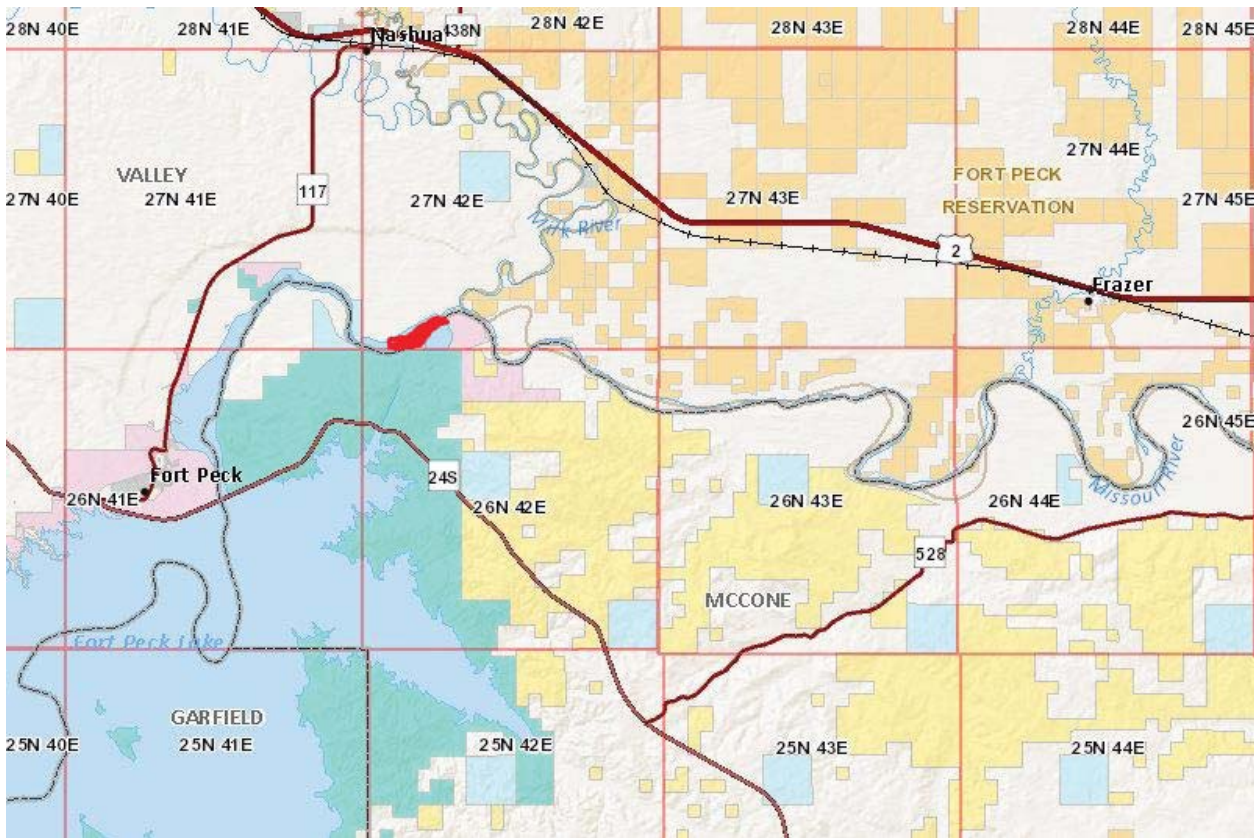


CRITICAL SITE ANALYSIS

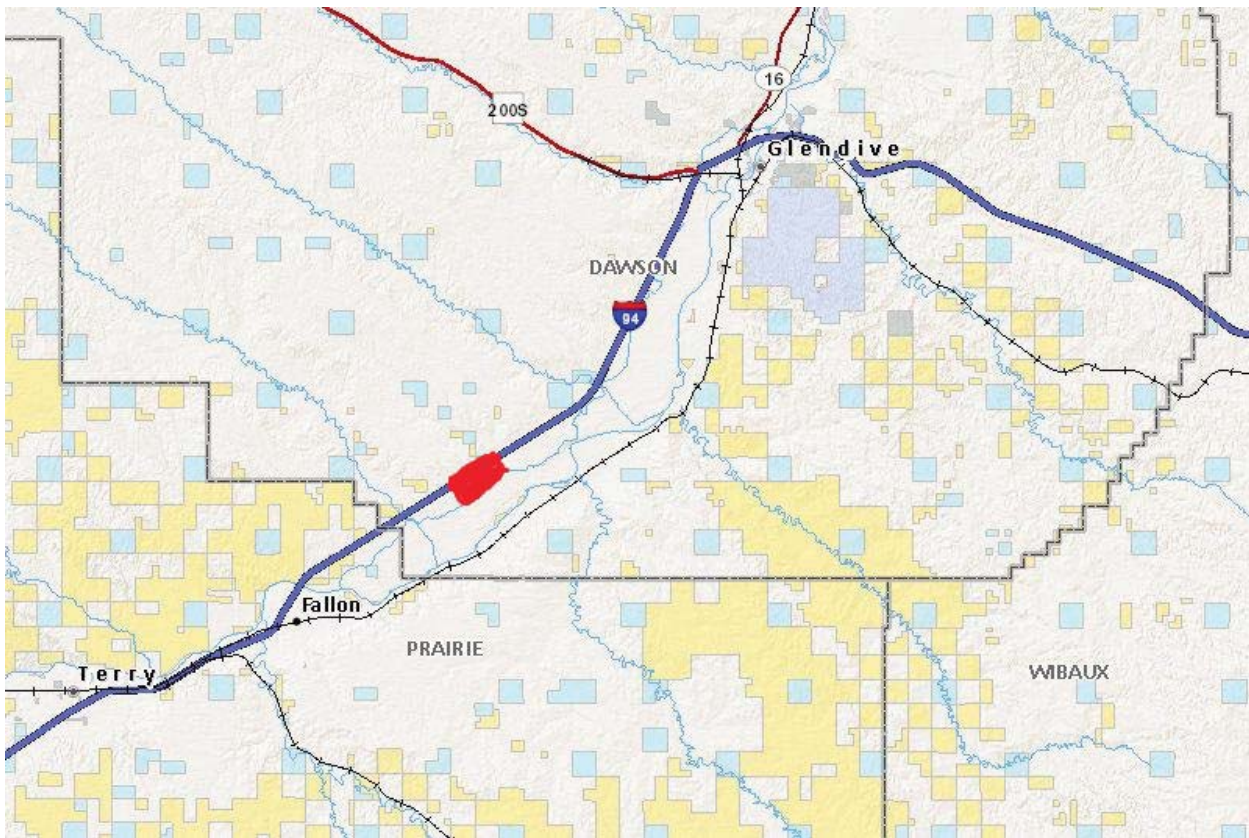
U.S.-Canadian border—Phillips County: The pipeline route crosses the international border in a remote portion of Phillips County that is not served by any major highways or towns (approximate location in red). In that area, however, the pipeline route is surrounded by large amounts of federal public land held by the BLM.



Missouri River crossing—Valley and McCone Counties: The pipeline is to be directionally drilled beneath the Missouri River within a mile of the Fort Peck Reservoir spillway, a portion of the critical infrastructure related to the largest reservoir in the state. The river crossing from Valley to McCone Counties is within a mile of the Fort Peck Reservation in the east, approximately five miles south of U.S. Highway 2 (approximate location in red). The Fort Peck Tribe’s water intake system lies about 35 miles east. The south side of the river crossing at that location is an amalgam of federal public land held by the Corps of Engineers, the BLM, BOR and USFWS. Per 36 C.F.R. § 327.26, the Corps land is subject to the criminal jurisdiction of the State for petty offenses with the federal government retaining concurrent jurisdiction.



Yellowstone River crossing—Dawson County: the pipeline is to be directionally drilled beneath the Yellowstone River approximately 20 miles west of Glendive (approximate location in red). The crossing is on private land, although there are large amounts of BLM public land as close as five miles from the crossing, particularly in Prairie County. The crossing is within three miles of Interstate 90 near the Bad Route Road exit.



FEDERAL AGENCY RESOURCES

FBI

2929 3rd Ave. North
Billings, Montana 59101

Contact: SSRA
(406) SA
406 @fbi.gov
Analyst
406-
Cell: 310-
@fbi.gov

In addition to its general Title 18 jurisdiction, the FBI, Billings Resident Agency, will have primary authority for investigating major crimes occurring within the Fort Peck Reservation and for the protection of critical infrastructure along the pipeline corridor, including the pipeline itself and the Fort Peck dam and spillway. The FBI will have primary investigative authority for all national security investigations, including but not limited to international terrorism, domestic terrorism, and weapons of mass destruction, regardless of the statutes charged.

Available resources include:

- six agents to respond to pipeline-related incidents;
- critical incident response team for domestic terrorism or threats to critical infrastructure;
- analyst support; and
- command center resources including the Virtual Command Center for centralized management of incidents occurring in multiple locations.

BLM

5001 Southgate Drive
Billings, MT 59101

Contact: @blm.gov
Chief Ranger
Desk: 406
Cell: 406-

BLM has jurisdiction and patrol responsibility for BLM land. Barring a significant incident on BLM land, BLM anticipates that its response role will be to assist with the local law enforcement response. Additional MOUs with the state and counties may be necessary for this to occur. BLM is not currently anticipating any land closures or land use prohibitions beyond the regulations in place. Large gatherings on BLM land require a permit. BLM may also impose fire restrictions during summer months.

Available resources:

- a Chief Ranger and three agents available for investigations;
- portable radio repeater technology available to provide consistent coverage for secure communications to remote sections of the pipeline corridor;
- portable medical unit;
- management may activate a response from BLM rangers throughout the region as a force multiplier on an incident basis.

U.S. Attorney's Office
2601 2nd Ave. Billings, MT 59101

Contact: [@usdoj.gov](mailto:usdoj@usdoj.gov)

First Assistant U.S. Attorney
406
Cell 406

[@usdoj.gov](mailto:usdoj@usdoj.gov)

Intelligence Specialist
Desk: 406
Cell: 406

The USAO will coordinate the federal response, provide legal advice, prosecute federal cases derived from the pipeline response, and communicate incident developments to the Department of Justice Office of the Deputy Attorney General and to the National Security Division's Counterterrorism Section. The Counterterrorism Section will provide litigation support in the event of a significant terrorist incident.

Available resources:

- AUSA prosecutors for individual case assignments;
- Joint Terrorism Task Force expertise including AUSA
- intelligence analyst support.

**Border Patrol
Havre Sector
2605 5th Ave. S.E.
Havre, MT 59501
Contact:**

**PAIC, Havre Sector
Desk: 406
Cell: 406**

[@cbp.dhs.gov](mailto:cbp.dhs.gov)

Border Patrol will be the primary federal responder for incidents at or near the international border. Border Patrol anticipates that it will patrol north of Highway 2, with efforts concentrated nearest the border. It will be able to process Central Violations Bureau tickets for assaults and other violations near the border, such as failure to report at a border crossing. Border patrol will not be enforcing trespass violations involving either federal or private lands. It can assist with communications and provide training to local law enforcement and tactical support for border-related incidents.

Available resources:

- approximately 10 agents in the sector;
- SWAT (BORTAC) and EMT/Search and Rescue (Border STAR) Units
- air unit (Great Falls) and drone assets (N.D.).

ATF
2929 3rd Ave. North
Billings, MT 59101

Contact: **RAC**
 406
 , SA
 406
Cell: 406
 @atf.gov

ATF has the primary investigative authority over firearms violations and explosives. Will coordinate with DCI on arson investigations. Has capacity to deal with potentially violent targets through the use of the federal firearms laws.

Available resources:

- certified fire investigators
- undercover personnel
- ied and Molotov cocktail investigations
- radio technicians can assist with communications coordination
- emergency bullet analysis and firearms tracing.

U.S. Army Corps of Engineers
Fort Peck Dam

Contact: **406**
 @usace.army.mil

The Army Corps of Engineers has a primary role in protecting the critical infrastructure at the Fort Peck Dam. Patrol and security responsibilities on that site may need to be arranged by the Corps with the Federal Protective Services.

BIA
2021 4th Ave. North
Billings, MT 59101

Contact: _____, SAC
406 _____
_____, ASAC
Cell: _____
[@bia.gov](mailto:_____@bia.gov)

Provides law enforcement support and investigations in Indian Country. Will provide technical assistance on the Fort Peck Reservation.

Available resources:

- patrol officers for incidents affecting Fort Peck Reservation;
- mobile command post and portable communications trailer.

U.S. Marshals Service
2601 2nd Ave. North
Billings, MT 59101

Contact: _____, Acting Marshal
406 _____
406 _____
[@usdoj.gov](mailto:_____@usdoj.gov)

U.S. Marshals Service role as yet undefined. May assist with fugitive warrants and prisoner transport.

Available resources:

- 20-24 operation personnel available, more if necessary;
- Violent Crime Task Force.

NPS

Contact: _____ **L.E. Ranger**
307 _____
[@nps.gov](mailto:_____@nps.gov)

Can provide law enforcement support to other Interior Department agencies.

Department of Transportation

Pipeline Safety

Contact:

720

Cell: 303

[@dot.gov](mailto:)

Transportation Security Administration

, Intelligence Specialist

Contact: 406-

Cell: 571-

[@tsa.dhs.gov](mailto:)

U.S. Forest Service

Custer N.F.

3710 Fallon St.

Bozeman, MT 59718

Contact: , SA

406-

[@fs.fed.us](mailto:)

INCIDENT RESPONSE

The federal agencies anticipate a tiered response to pipeline incidents.

- Incidents along the pipeline corridor occurring on state or private property will ordinarily involve local law enforcement as the primary responder with assistance from other state and federal law enforcement assets. In these instances, Montana DCI and the MATIC will relay any request for federal assistance to the relevant federal agency contact listed above. All requests should be copied to the FBI.
- For routine or minor incidents on federal land, local law enforcement should act as the primary responder with notice to the affected agency and the FBI. Requests for federal assistance should be made from local law enforcement directly to the affected federal agency and the FBI with a copy to Montana DCI and the MATIC.

- For major incidents on federal land the affected federal agency to act as the primary responder and the party responsible for requesting assistance.

Major incidents on federal land include, but are not limited to, threats to persons, equipment, the pipeline or other federal property exclusively on federal land, near the international border, or at the Missouri River crossing.

- For major incidents on state or private land, Montana DCI and local law enforcement will act as the primary responder and party responsible for requesting assistance.

Major incidents on state or private land include all threats to public roads and highways and other significant threats to life and property occurring outside of federal land.

For any incident requiring a law enforcement response, FBI will activate the Virtual Command Center for collecting information and coordinating a response. To the extent training is necessary prior to the use of the FBI VCC, that training should occur prior to construction activity.

LAW ENFORCEMENT ON BLM LANDS

The Bureau of Land Management's (BLM) Region Four Law Enforcement program is currently planning its strategy for preserving the security and safety of both the general public and public lands administered by the BLM affected by the construction of the pipeline, which the Secretary of the Interior has deemed a priority.

BLM law enforcement will respond to all calls for service on BLM administered lands pertaining to violations within Title 43 of the Federal Code of Regulations (see statutory crimes listed below). In addition, the BLM has the authority to enforce several violations found under 18 U.S.C. as well as Title 21. The BLM also has the ability to enforce state law on BLM administered lands, but only if there is 1) a current Memorandum of Understanding (MOU) in place with that county, and 2) the Sheriff has deputized BLM law enforcement officers. BLM Law enforcement will be available to assist local and state law enforcement on other non-BLM lands only if a county and the BLM have entered an allowing the BLM officers to assist.

PRESS RELEASES AND MEDIA

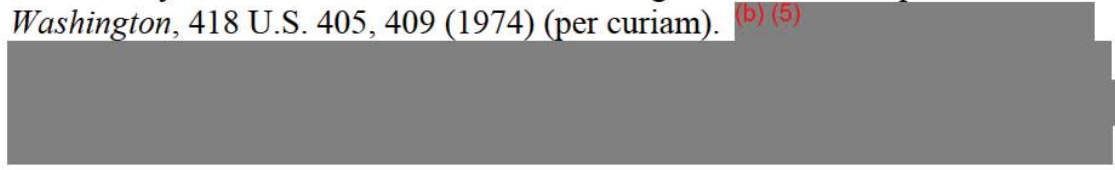
Pursuant to current DOJ media policy, all federal agency press releases that relate to potential federal litigation must be approved in advance by the United States Attorney or his designee. Social media releases will be treated as press releases and subject to the same approval process.

At times, it will be necessary to counteract misinformation on social media with press and social media releases by state and local law enforcement. State and local law enforcement should coordinate all press and social media releases with the U.S. Attorney's Office. Failure to follow that consultation process may jeopardize federal litigation and could subject federal officers and attorneys to court sanctions.

LEGAL RESOURCES

The Office of the United States Attorney will provide ongoing legal advice to federal agencies during any incident response. That advice should address two priorities: avoiding liabilities and preparing cases for litigation. All federal law enforcement responders to pipeline protest activity should be aware of federal criminal statutes pertinent to pipeline protest activities as well as the First Amendment rights of non-violent protesters.

First Amendment Standards: All federal law enforcement officers should be cognizant of and protect protesters' First Amendment rights. A failure to do so may subject individual law enforcement officers to personal liability. The First Amendment protects more than just the spoken and written word. It protects expressive conduct so long as that conduct "convey [s] a particularized message" and is likely to be understood in the surrounding circumstances. *Spence v. Washington*, 418 U.S. 405, 409 (1974) (per curiam). (b) (5)



Restrictions on speech and assembly may be viewed differently depending on the nature of the forum being regulated. The Supreme Court has divided public forums into three categories: "traditional public forums," "designated public forums," and "limited public forums." *Christian Legal Soc'y v. Martinez*, — U.S. —, 130 S.Ct. 2971, 2984 n. 11 (2010). Traditional public forums are places like sidewalks and parks. By contrast, other government properties are either nonpublic forums, or simply not considered forums at all.

Kaahumanu v. Hawaii, 682 F.3d 789, 799 (9th Cir. 2012).

Restrictions on speech and assembly in traditional public forums is subject to strict scrutiny. *Harrington v. Schribner*, 785 F.3d 1299, 1306 (9th Cir. 2015). That requires the government to prove that the measures are narrowly tailored to further a compelling government interest. *Id.* In a nonpublic forum, regulations must be “(1) reasonable in light of the purpose served by the forum and (2) viewpoint neutral.” *Ctr. for Bio-Ethical Reform, Inc. v. City & Cnty. of Honolulu*, 455 F.3d 910, 920 (9th Cir.2006) (quoting *Brown v. Cal. Dep't of Transp.*, 321 F.3d 1217, 1222 (9th Cir.2003)).

(b) (5) [Redacted text block]

[Redacted text block]

[Redacted text block]

Additional resources concerning First Amendment implications of protest activity can be found at:

- <https://player.vimeo.com/video/117224998>
- https://www.ncirc.gov/Training_First_Amendment.aspx
- <https://www.dhs.gov/protective-security-advisors>
- <https://www.justice.gov/sites/default/files/crs/legacy/2012/12/17/safe-marches-dem.pdf>

Applicable federal criminal statutes:

- **Pipeline Safety Act, 49 U.S.C. § 60123(b):**

A person knowingly and willfully damaging or destroying an interstate gas pipeline facility, an interstate hazardous liquid pipeline facility, or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce, or attempting or conspiring to do such an act, shall be fined under title 18, imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

Petroleum is a hazardous liquid. 49 USC § 60101(a)(4).

A “hazardous liquid pipeline facility” includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid. 49 USC § 60101(a)(5).

From the plain language of the statute, damage to, or meddling with, construction equipment used to build the pipeline would not fall under the Act.

- **Civil disorders, 18 U.S.C. § 231(a):**

(1) Whoever teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which may in any way or degree obstruct, delay, or adversely affect commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function; or

(2) Whoever transports or manufactures for transportation in commerce any firearm, or explosive or incendiary device, knowing or having reason to know or intending that the same will be used unlawfully in furtherance of a civil disorder; or

(3) Whoever commits or attempts to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function [commits a felony].

This statute was used in the prosecution of _____ in the DAPL protest response.

- **Felon in possession of a firearm**, 18 U.S.C. § 922(g):

It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year . . . [or other persons including fugitives, addicts, mentally handicapped, illegal aliens; and persons convicted of misdemeanor domestic violence]

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

The mere possession of a firearm is the crime. Interstate nexus is proven through ATF experts who can testify that the gun at issue traveled in interstate commerce.

Section 922 has further prohibitions of the possession of stolen and unlawfully modified firearms, like machine guns and sawed-off shotguns. A separate provision, 922(g)(9), prohibits the possession of a firearm by a person who has been convicted of misdemeanor domestic abuse.

- **Construction or possession of prohibited firearms or destructive devices, 26 U.S.C. § 5861:**

Further restrictions on firearm possession are found in Section 5861, which also applies to any “destructive device.” In pertinent part, the provision prohibits any action—

- (f) to make a firearm in violation of the provisions of this chapter; or
- (i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or
- (j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter . . .

a)The term “firearm” means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in, United States Code); and (8) a destructive device.

- **Explosive devices, 18 U.S.C. §§ 841, 842:**

There are numerous prohibitions on the possession and transfer of explosives. They include—

- (b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—
 - (1) a licensee;
 - (2) a holder of a user permit; or
 - (3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.

- (d) It shall be unlawful for any person knowingly to distribute explosive materials to any individual who:

- (1) is under twenty-one years of age;
- (2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; . . .

(e) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

It is also unlawful for any felon “to ship or transport any explosive in or affecting interstate or foreign commerce or to receive or possess any explosive which has been shipped or transported in or affecting interstate or foreign commerce.”

Finally it is unlawful to “to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence;” or “ knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.

- **Assault on a federal officer**, 18 U.S.C. § 111:

Whoever—

- (1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or
- (2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person’s term of service,

shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and where such acts involve physical contact with the victim of that

assault or the intent to commit another felony, be fined under this title or imprisoned not more than 8 years, or both.

(b) Enhanced Penalty.—

Whoever, in the commission of any acts described in subsection (a), uses a deadly or dangerous weapon (including a weapon intended to cause death or danger but that fails to do so by reason of a defective component) or inflicts bodily injury, shall be fined under this title or imprisoned not more than 20 years, or both.

The “person designated in section 1114” is “any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance.”

- **Simple possession of drugs**, 21 U.S.C. § 844:

Possession of controlled substances is prohibited by a federal misdemeanor that states, in part, that—

It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice.

The felony drug provisions in Title 21 are found in section 841, which prohibits , among other things, any action “to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance”

- **Undocumented persons**, 8 U.S.C. § 1325, 1326:

Any alien who (1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under title 18 or imprisoned

not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, or imprisoned not more than 2 years, or both.

This is the most common offense related to undocumented persons. The more serious offense of reentry after removal is found in section 1326.

- **Border offenses, 19 U.S.C. § 1433:**

Offenses related to unlawful border crossings are found in Title 19. They include a prohibition on vehicles entering the U.S. except through border stations. Thus,

(1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.

(2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

(A) report the arrival; and

(B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

- **BLM Violations pertaining to the Keystone Pipeline**

* In the presence of aggravating circumstances, i.e., where the result of a person's actions exceeds the bond or when a serious threat exists to Bureau property, resources or personnel, an enhanced bond forfeiture of up to \$500 may be established at the discretion of the issuing officer, the Special Agent-in-Charge, or the U.S. Attorney's office.

*** Where the federal regulation prohibits the same act as a state law, the fine set under state law may be assessed for violations.

Statute	Violation	Bond
18 USC 1361	Vandalism of Government Property	\$250 *
18 USC 1864 (b)(5)	Hazardous Devise on Federal Lands	MA
18 USC 1061	Obstruction of Transit over Public Lands	\$200 *

Special Use Permits for Competitive Events, Commercial Use, Recreation Areas

43 CFR 2932.57(a)(1)	Fail to Obtain a Special Recreation Permit/Pay Fees	\$250*
2932.57(a)(2)	Violate the Stipulations or Conditions of a Permit	\$250*
2932.57(a)(3)	Knowingly Participate in Un-permitted Event or Activity	\$100
2932.57(a)(4)	Fail to Post a Copy of the Permit for Participants to Read	\$100
2932.57(a)(5)	Fail to Show a Copy of Permit upon Request	\$100
2932.57(a)(6)	Obstruct or Harass Public or Impede w/Physical Contact	\$250

Grazing Administration

4140.1(b)(2)	Use, Maintain, Disturb Range Improvements w/o Auth.	\$200*
4140.1(b)(3)	Cut, Burn, Spray, Destroy or Remove Vegetation	\$150*
4140.1(b)(4)	Damaging or Removing US Property	\$200*
4140.1(b)(6)	Littering	\$100*
4140.1(b)(7)	Interfering with Lawful Use or Users/Obstructing Transit	\$200*
4140.1(b)(8)	Making a Knowing & Willful False Statement	\$250*

Closures

8364.1(d)	Violate Closure or Restriction Order	\$200*
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Rules of Conduct

8365.1-1(b)(1)	Littering, Non-Flammable Material	\$100*
8365.1-1(b)(2)	Littering, Flammable Material	\$100*
8365.1-1(b)(3)	Dumping of Sewage/Petroleum Product	\$200*
8365.1-1(b)(4)	Household, Industrial, Commercial Waste Disposal	\$250*
8365.1-1(b)(5)	Pollute or Contaminate Water Supplies	\$250*
8365.1-1(b)(6)	Improper Use Refuse Container/Disposal Facility	\$100*
8365.1-2(a)	Camping Longer than Permitted	\$100*
8365.1-2(b)	Unattended Personal Property – > 10 Days	\$100*
8365.1-3(a)	Reckless, Careless, Negligent Motor Vehicle Operation	\$250*
8365.1-3(a)	Exceed Posted Speed Limit (10)	\$25

	(11-20)	\$50
	(21 mph and over)	\$100
8365.1-3(b)(1)	Mandatory Safety Belt	\$25
8365.1-4	Creating a Risk or Public Disturbance	\$500*
8365.1-4(a)(1)	Making Unreasonable Noise	\$100
8365.1-4(a)(2)	Creating a Hazard or Nuisance	\$200*
8365.1-4(a)(3)	Refusing to Disperse	\$100*
8365.1-4(a)(4)	Resisting Arrest	\$250*
8365.1-4(a)(5)	Assault or Battery on BLM Employee	\$250*
8365.1-4(a)(6)	False Emergency or Crime Report	\$100*
8365.1-4(b)(1)	Cont. Substance	MA**
8365.1-4(b)(2)	Possession of a Controlled Substance	MA**
8365.1-4(b)(2)	Possession of < 1 ounce of Marijuana	\$250
8365.1-5(a)(1)	Deface, Remove, Destroy Natural Resources	\$250*
8365.1-5(a)(2)	Deface, Remove, Destroy, Plants, Rocks, Minerals	\$100*
8365.1-5(a)(3)	Motorized or Explosive Devices for Collecting	\$250*
8365.1-5(c)	Collection of Resources for Sale or Barter w/o Permit	\$250*
8365.1-6	Supplementary Rules	\$100*

Disclosure of Communications: All federal, state, and local officers should be aware that all communications, emails, tweets, social media commentary, video, reports, photographs and other evidence are subject to disclosure either through the Freedom of Information Act or litigation discovery. Officers should expect that these communications could be published in the social media and by the press.

In all federal litigation, the United States has an obligation to disclose all relevant and exculpatory evidence gathered in the investigation of a federal crime. That disclosure obligation extends to state and local officers working in conjunction with federal law enforcement officers. Efforts should be made to place all evidentiary materials necessary for a later federal or state prosecution into a centralized depository, including videos, photos, reports, emails, and physical evidence. Failure to make the necessary disclosure of relevant or exculpatory evidentiary material of any kind in the course of a federal criminal prosecution may result in individual sanctions and possible dismissal of the charges.

**FEDERAL OPERATIONS PLAN
KEYSTONE XL PIPELINE
PUBLIC SAFETY ISSUES**

Draft: 4/5/18



Prepared by the United States Attorney's Office with input from .
Contains law enforcement sensitive and attorney work product information.

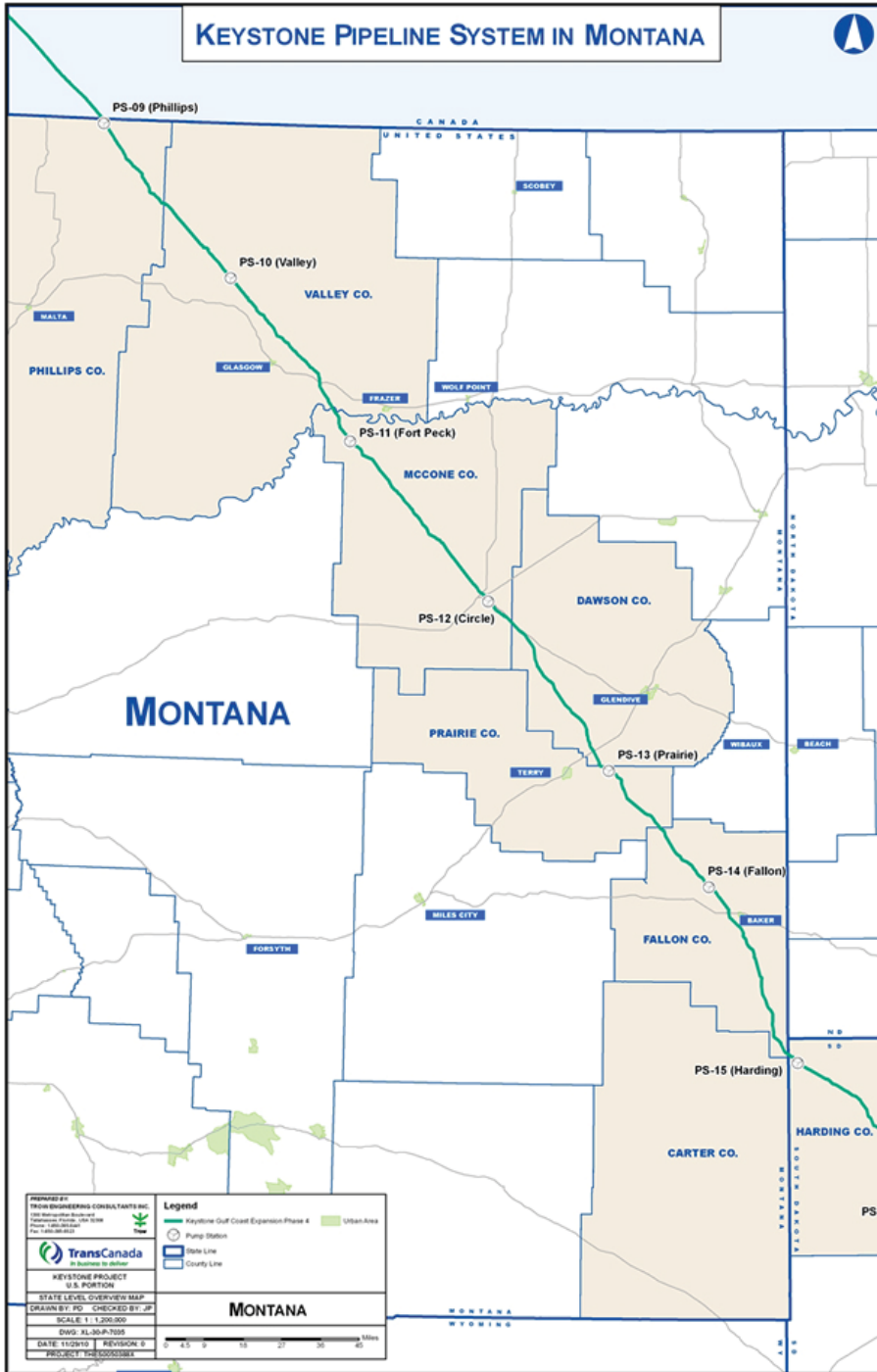
PURPOSE

Anticipating the commencement of construction activities on the TransCanada Keystone XL Pipeline (pipeline) beginning in the spring or fall of 2018, the United States Attorney's Office and affected federal agencies collectively adopt this plan of operations to facilitate the deployment of federal law enforcement resources to assist with the law enforcement response to pipeline construction and protest activities along the pipeline route. This plan of operations supplements the Threat Assessment from the Montana Analysis and Technical Information Center dated 11/27/2017 with a summary of available federal resources; it is not intended to preempt future decision-making by any federal agency with regard to any request for a federal response, or violations of federal law within the jurisdiction of the United States.

BACKGROUND

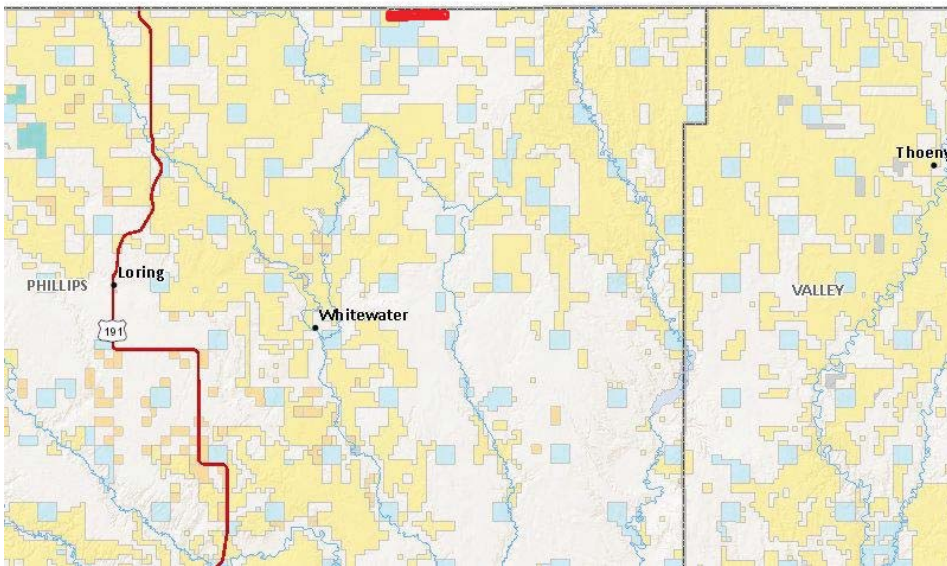
The proposed pipeline route passes through six counties in Montana from north to southeast: Phillips, Valley, McCone, Dawson, Prairie, and Fallon (see attached map). It will pass through mostly remote farming and ranching communities. Approximately 45-55 miles of pipeline will pass through federal land held by the Bureau of Land Management, the Bureau of Reclamation, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service. The pipeline will cross three major rivers in Montana: the Milk, Missouri and Yellowstone.

For reasons outlined in the MATIC Threat Assessment, construction of the pipeline is highly controversial and will likely generate significant opposition from protest groups during construction. Since pipeline construction will generally occur from north to south, Montana can expect to host a significant portion of the protest activity during the early construction phase. We expect the protest activity to be concentrated at significant river, border, and highway crossings, including the U.S.-Canadian border crossing, the Missouri crossing near the Fort Peck Dam, and the Yellowstone/Interstate crossing west of Glendive, Montana. Federal lands exist near each of these sites. The pipeline construction firm, TransCanada, expects to build temporary construction worker camps along the pipeline route. It tentatively proposes four camps in Montana near the towns of Hinsdale, Nashua, Circle, and Baker.

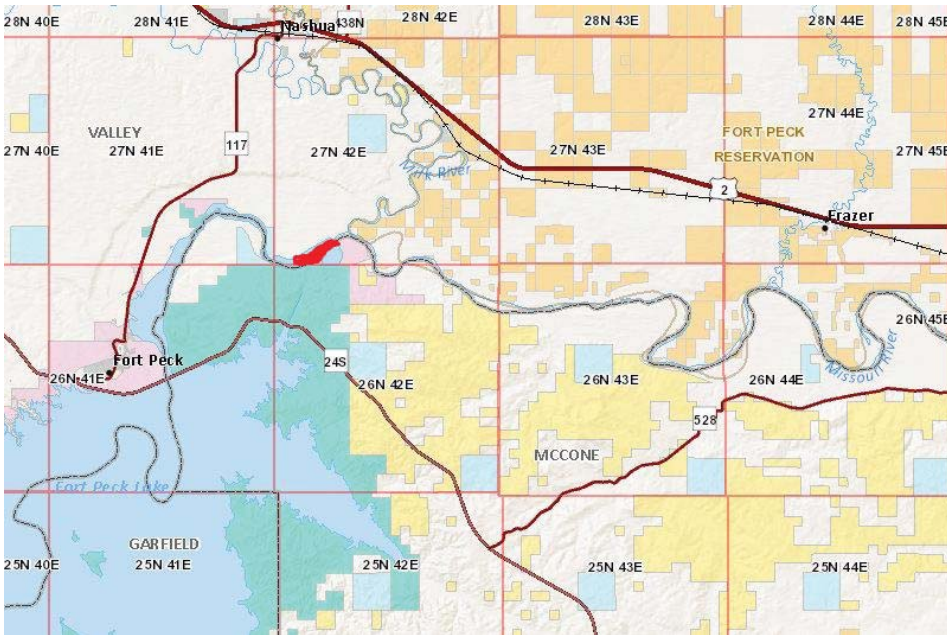


CRITICAL SITE ANALYSIS

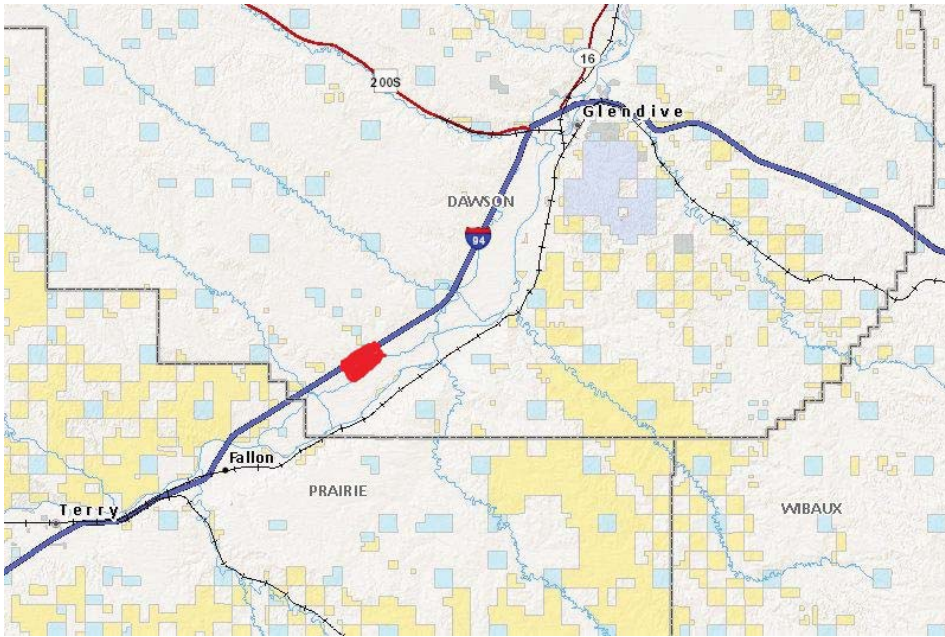
U.S.-Canadian border—Phillips County: The pipeline route crosses the international border in a remote portion of Phillips County that is not served by any major highways or towns (approximate location in red). In that area, however, the pipeline route is surrounded by large amounts of federal public land held by the BLM.



Missouri River crossing—Valley and McCone Counties: The pipeline is to be directionally drilled beneath the Missouri River within a mile of the Fort Peck Reservoir spillway, a portion of the critical infrastructure related to the largest reservoir in the state. The river crossing from Valley to McCone Counties is within a mile of the Fort Peck Reservation in the east, approximately five miles south of U.S. Highway 2 (approximate location in red). The Fort Peck Tribe’s water intake system lies about 35 miles east. The south side of the river crossing at that location is an amalgam of federal public land held by the Corps of Engineers, the BLM, BOR and USFWS. Per 36 C.F.R. § 327.26, the Corps land is subject to the criminal jurisdiction of the State for petty offenses with the federal government retaining concurrent jurisdiction.



Yellowstone River crossing—Dawson County: the pipeline is to be directionally drilled beneath the Yellowstone River approximately 20 miles west of Glendive (approximate location in red). The crossing is on private land, although there are large amounts of BLM public land as close as five miles from the crossing, particularly in Prairie County. The crossing is within three miles of Interstate 90 near the Bad Route Road exit.



FEDERAL AGENCY RESOURCES

FBI
2929 3rd Ave. North
Billings, Montana 59101
Contact: _____, SSRA
(406) _____ SA
406 _____
@fbi.gov
Analyst
406
Cell: 310
@fbi.gov

In addition to its general Title 18 jurisdiction, the FBI, Billings Resident Agency, will have primary authority for investigating major crimes occurring within the Fort Peck Reservation and for the protection of critical infrastructure along the pipeline corridor, including the pipeline itself and the Fort Peck dam and spillway. The FBI will have primary investigative authority for all national security investigations, including but not limited to international terrorism, domestic terrorism, and weapons of mass destruction, regardless of the statutes charged.

Available resources include:

- six agents to respond to pipeline-related incidents;
- critical incident response team for domestic terrorism or threats to critical infrastructure;
- analyst support; and
- command center resources including the Virtual Command Center for centralized management of incidents occurring in multiple locations.

BLM
5001 Southgate Drive
Billings, MT 59101
Contact: _____ @blm.gov
Chief Ranger
Desk: 406
Cell: 406

BLM has jurisdiction and patrol responsibility for BLM land. Barring a significant incident on BLM land, BLM anticipates that its response role will be to assist with the local law enforcement response. Additional MOUs with the state and counties may be necessary for this to occur. BLM is not currently anticipating any land closures or land use prohibitions beyond the regulations in place. Large gatherings on BLM land require a permit. BLM may also impose fire restrictions during summer months.

Available resources:

- a Chief Ranger and three agents available for investigations;
- portable radio repeater technology available to provide consistent coverage for secure communications to remote sections of the pipeline corridor;
- portable medical unit;
- management may activate a response from BLM rangers throughout the region as a force multiplier on an incident basis.

U.S. Attorney's Office
2601 2nd Ave. Billings, MT 59101

Contact: [@usdoj.gov](mailto:)

First Assistant U.S. Attorney
406-
Cell 406

[@usdoj.gov](mailto:)

Intelligence Specialist
Desk: 406
Cell: 406

The USAO will coordinate the federal response, provide legal advice, prosecute federal cases derived from the pipeline response, and communicate incident developments to the Department of Justice Office of the Deputy Attorney General and to the National Security Division's Counterterrorism Section. The Counterterrorism Section will provide litigation support in the event of a significant terrorist incident.

Available resources:

- AUSA prosecutors for individual case assignments;
- Joint Terrorism Task Force expertise including AUSA
- intelligence analyst support.

**Border Patrol
Havre Sector
2605 5th Ave. S.E.
Havre, MT 59501
Contact:**

**PAIC, Havre Sector
Desk: 406
Cell: 406**

[@cbp.dhs.gov](mailto:cbp.dhs.gov)

Border Patrol will be the primary federal responder for incidents at or near the international border. Border Patrol anticipates that it will patrol north of Highway 2, with efforts concentrated nearest the border. It will be able to process Central Violations Bureau tickets for assaults and other violations near the border, such as failure to report at a border crossing. Border patrol will not be enforcing trespass violations involving either federal or private lands. It can assist with communications and provide training to local law enforcement and tactical support for border-related incidents.

Available resources:

- approximately 10 agents in the sector;
- SWAT (BORTAC) and EMT/Search and Rescue (Border STAR) Units
- air unit (Great Falls) and drone assets (N.D.).

ATF
2929 3rd Ave. North
Billings, MT 59101

Contact: **RAC**
 406 **,** **SA**
406
Cell: 406 **@atf.gov**

ATF has the primary investigative authority over firearms violations and explosives. Will coordinate with DCI on arson investigations. Has capacity to deal with potentially violent targets through the use of the federal firearms laws.

Available resources:

- certified fire investigators
- undercover personnel
- IED and Molotov cocktail investigations
- radio technicians can assist with communications coordination
- emergency bullet analysis and firearms tracing.

U.S. Army Corps of Engineers
Fort Peck Dam

Contact: **406** **@usace.army.mil**

The Army Corps of Engineers has a primary role in protecting the critical infrastructure at the Fort Peck Dam. Patrol and security responsibilities on that site may need to be arranged by the Corps with the Federal Protective Services.

BIA
2021 4th Ave. North
Billings, MT 59101

Contact: SAC
406

ASAC

Cell: 406

[@bia.gov](mailto:)

Provides law enforcement support and investigations in Indian Country. Will provide technical assistance on the Fort Peck Reservation.

Available resources:

- patrol officers for incidents affecting Fort Peck Reservation;
- mobile command post and portable communications trailer.

U.S. Marshals Service
2601 2nd Ave. North
Billings, MT 59101

Contact: , Acting Marshal

406

406

[@usdoj.gov](mailto:)

U.S. Marshals Service role as yet undefined. May assist with fugitive warrants and prisoner transport.

Available resources:

- 20-24 operation personnel available, more if necessary;
- Violent Crime Task Force.

NPS

Contact: L.E. Ranger

307-

[@nps.gov](mailto:)

Can provide law enforcement support to other Interior Department agencies.

**Department of Transportation
Pipeline Safety**

Contact:

720-

Cell: 303

[@dot.gov](mailto:)

**Transportation Security Administration
, Intelligence Specialist**

Contact: 406

Cell: 571

[@tsa.dhs.gov](mailto:)

**U.S. Forest Service
Custer N.F.
3710 Fallon St.
Bozeman, MT 59718**

Contact:

SA

406

[@fs.fed.us](mailto:)

INCIDENT RESPONSE

The federal agencies anticipate a tiered response to pipeline incidents.

- Incidents along the pipeline corridor occurring on state or private property will ordinarily involve local law enforcement as the primary responder with assistance from other state and federal law enforcement assets. In these instances, Montana DCI and the MATIC will relay any request for federal assistance to the relevant federal agency contact listed above. All requests should be copied to the FBI.
- For routine or minor incidents on federal land, local law enforcement should act as the primary responder with notice to the affected agency and the FBI. Requests for federal assistance should be made from local law enforcement directly to the affected federal agency and the FBI with a copy to Montana DCI and the MATIC.

- For major incidents on federal land the affected federal agency to act as the primary responder and the party responsible for requesting assistance.

Major incidents on federal land include, but are not limited to, threats to persons, equipment, the pipeline or other federal property exclusively on federal land, near the international border, or at the Missouri River crossing.

- For major incidents on state or private land, Montana DCI and local law enforcement will act as the primary responder and party responsible for requesting assistance.

Major incidents on state or private land include all threats to public roads and highways and other significant threats to life and property occurring outside of federal land.

For any incident requiring a law enforcement response, FBI will activate the Virtual Command Center for collecting information and coordinating a response. To the extent training is necessary prior to the use of the FBI VCC, that training should occur prior to construction activity.

LAW ENFORCEMENT ON BLM LANDS

(b) (5)

BLM law enforcement will respond to all calls for service on BLM administered lands pertaining to violations within Title 43 of the Federal Code of Regulations (see statutory crimes listed below). BLM Law Enforcement will assist local, County and State Law Enforcement on BLM lands in regards to other violations as they pertain to civil disobedience but will maintain a support role in regards to violations outside of Title 43.

(b) (5)

PRESS RELEASES AND MEDIA

Pursuant to current DOJ media policy, all federal agency press releases that relate to potential federal litigation must be approved in advance by the United States Attorney or his designee. Social media releases will be treated as press releases and subject to the same approval process.

At times, it will be necessary to counteract misinformation on social media with press and social media releases by state and local law enforcement. State and local law enforcement should coordinate all press and social media releases with the U.S. Attorney's Office. Failure to follow that consultation process may jeopardize federal litigation and could subject federal officers and attorneys to court sanctions.

LEGAL RESOURCES

The Office of the United States Attorney will provide ongoing legal advice to federal agencies during any incident response. That advice should address two priorities: avoiding liabilities and preparing cases for litigation. All federal law enforcement responders to pipeline protest activity should be aware of federal criminal statutes pertinent to pipeline protest activities as well as the First Amendment rights of non-violent protesters.

First Amendment Standards: All federal law enforcement officers should be cognizant of and protect protesters' First Amendment rights. A failure to do so may subject individual law enforcement officers to personal liability. The First Amendment protects more than just the spoken and written word. It protects expressive conduct so long as that conduct "convey [s] a particularized message" and is likely to be understood in the surrounding circumstances. *Spence v. Washington*, 418 U.S. 405, 409 (1974) (per curiam). (b) (5)

Restrictions on speech and assembly may be viewed differently depending on the nature of the forum being regulated. The Supreme Court has divided public forums into three categories: "traditional public forums," "designated public forums," and "limited public forums." *Christian Legal Soc'y v. Martinez*, — U.S. —, 130 S.Ct. 2971, 2984 n. 11 (2010). Traditional public forums are places like

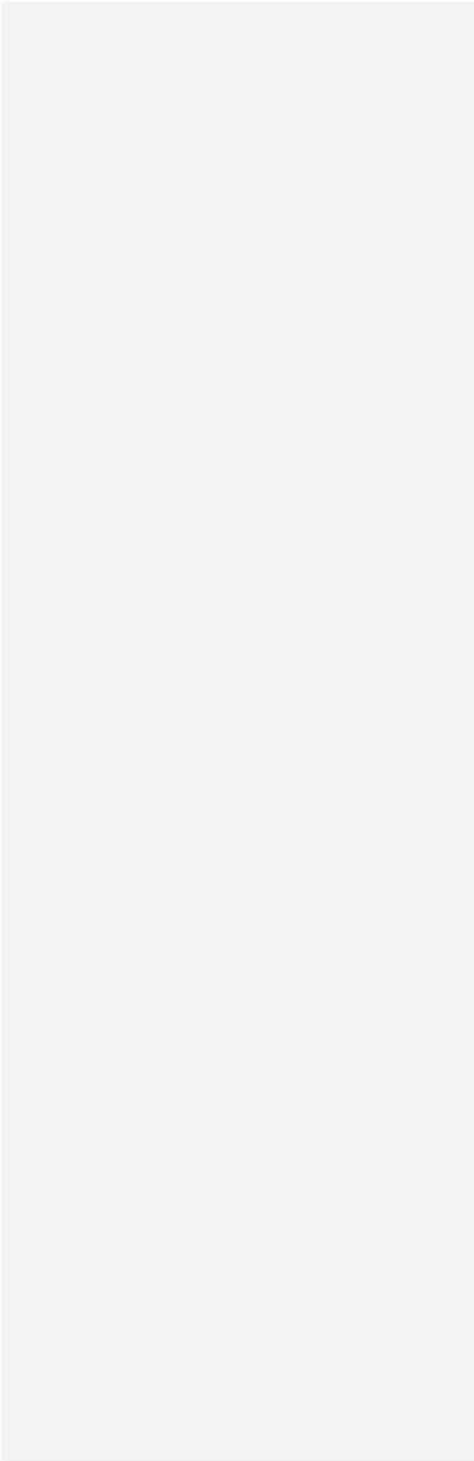
sidewalks and parks. By contrast, other government properties are either nonpublic forums, or simply not considered forums at all. *Kaahumanu v. Hawaii*, 682 F.3d 789, 799 (9th Cir. 2012).

Restrictions on speech and assembly in traditional public forums is subject to strict scrutiny. *Harrington v. Schribner*, 785 F.3d 1299, 1306 (9th Cir. 2015). That requires the government to prove that the measures are narrowly tailored to further a compelling government interest. *Id.* In a nonpublic forum, regulations must be “(1) reasonable in light of the purpose served by the forum and (2) viewpoint neutral.” *Ctr. for Bio-Ethical Reform, Inc. v. City & Cnty. of Honolulu*, 455 F.3d 910, 920 (9th Cir.2006) (quoting *Brown v. Cal. Dep’t of Transp.*, 321 F.3d 1217, 1222 (9th Cir.2003)).

(b) (5) [Redacted text block]

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Additional resources concerning First Amendment implications of protest activity can be found at:

- <https://player.vimeo.com/video/117224998>
- https://www.ncirc.gov/Training_First_Amendment.aspx
- <https://www.dhs.gov/protective-security-advisors>
- <https://www.justice.gov/sites/default/files/crs/legacy/2012/12/17/safe-marches-dem.pdf>

Applicable federal criminal statutes:

- **Pipeline Safety Act**, 49 U.S.C. § 60123(b):

A person knowingly and willfully damaging or destroying an interstate gas pipeline facility, an interstate hazardous liquid pipeline facility, or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce, or attempting or conspiring to do such an act, shall be fined under title 18, imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

Petroleum is a hazardous liquid. 49 USC § 60101(a)(4).

A “hazardous liquid pipeline facility” includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid. 49 USC § 60101(a)(5).

From the plain language of the statute, damage to, or meddling with, construction equipment used to build the pipeline would not fall under the Act.

- **Civil disorders**, 18 U.S.C. § 231(a):

(1) Whoever teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which may in any way or degree obstruct, delay, or adversely affect commerce or the movement of any article

or commodity in commerce or the conduct or performance of any federally protected function; or

(2) Whoever transports or manufactures for transportation in commerce any firearm, or explosive or incendiary device, knowing or having reason to know or intending that the same will be used unlawfully in furtherance of a civil disorder; or

(3) Whoever commits or attempts to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function [commits a felony].

This statute was used in the prosecution of _____ in the DAPL protest response.

- **Felon in possession of a firearm**, 18 U.S.C. § 922(g):

It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year . . . [or other persons including fugitives, addicts, mentally handicapped, illegal aliens; and persons convicted of misdemeanor domestic violence]

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

The mere possession of a firearm is the crime. Interstate nexus is proven through ATF experts who can testify that the gun at issue traveled in interstate commerce.

Section 922 has further prohibitions of the possession of stolen and unlawfully modified firearms, like machine guns and sawed-off shotguns. A separate

provision, 922(g)(9), prohibits the possession of a firearm by a person who has been convicted of misdemeanor domestic abuse.

- **Construction or possession of prohibited firearms or destructive devices, 26 U.S.C. § 5861:**

Further restrictions on firearm possession are found in Section 5861, which also applies to any “destructive device.” In pertinent part, the provision prohibits any action—

- (f) to make a firearm in violation of the provisions of this chapter; or
- (i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or
- (j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter . . .

a)The term “firearm” means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in, United States Code); and (8) a destructive device.

- **Explosive devices, 18 U.S.C. §§ 841, 842:**

There are numerous prohibitions on the possession and transfer of explosives. They include—

- (b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—
 - (1) a licensee;
 - (2) a holder of a user permit; or
 - (3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.

(d) It shall be unlawful for any person knowingly to distribute explosive materials to any individual who:

- (1) is under twenty-one years of age;
- (2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; . . .

(e) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

It is also unlawful for any felon “to ship or transport any explosive in or affecting interstate or foreign commerce or to receive or possess any explosive which has been shipped or transported in or affecting interstate or foreign commerce.”

Finally it is unlawful to “to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence;” or “knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.

- **Assault on a federal officer**, 18 U.S.C. § 111:

Whoever—

- (1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or
- (2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person’s term of service,

shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and where such acts involve physical contact with the victim of that assault or the intent to commit another felony, be fined under this title or imprisoned not more than 8 years, or both.

(b) Enhanced Penalty.—

Whoever, in the commission of any acts described in subsection (a), uses a deadly or dangerous weapon (including a weapon intended to cause death or danger but that fails to do so by reason of a defective component) or inflicts bodily injury, shall be fined under this title or imprisoned not more than 20 years, or both.

The “person designated in section 1114” is “any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance.”

- **Simple possession of drugs**, 21 U.S.C. § 844:

Possession of controlled substances is prohibited by a federal misdemeanor that states, in part, that—

It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice.

The felony drug provisions in Title 21 are found in section 841, which prohibits , among other things, any action “to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance”

- **Undocumented persons**, 8 U.S.C. § 1325, 1326:

Any alien who (1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) attempts to enter

or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under title 18 or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, or imprisoned not more than 2 years, or both.

This is the most common offense related to undocumented persons. The more serious offense of reentry after removal is found in section 1326.

- **Border offenses, 19 U.S.C. § 1433:**

Offenses related to unlawful border crossings are found in Title 19. They include a prohibition on vehicles entering the U.S. except through border stations. Thus,

- (1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.
- (2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

- (A) report the arrival; and

- (B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

- **BLM Violations pertaining to the Keystone Pipeline**

* In the presence of aggravating circumstances, i.e., where the result of a person's actions exceeds the bond or when a serious threat exists to Bureau property, resources or personnel, an enhanced bond forfeiture of up to \$500 may be established at the discretion of the issuing officer, the Special Agent-in-Charge, or the U.S. Attorney's office.

*** Where the federal regulation prohibits the same act as a state law, the fine set under state law may be assessed for violations.

Statute	Violation	Bond
18 USC 1361	Vandalism of Government Property	\$250 *
18 USC 1864 (b)(5)	Hazardous Devise on Federal Lands	MA
18 USC 1061	Obstruction of Transit over Public Lands	\$200 *
Special Use Permits for Competitive Events, Commercial Use, Recreation Areas		
43 CFR 2932.57(a)(1)	Fail to Obtain a Special Recreation Permit/Pay Fees	\$250*
2932.57(a)(2)	Violate the Stipulations or Conditions of a Permit	\$250*
2932.57(a)(3)	Knowingly Participate in Un-permitted Event or Activity	\$100
2932.57(a)(4)	Fail to Post a Copy of the Permit for Participants to Read	\$100
2932.57(a)(5)	Fail to Show a Copy of Permit upon Request	\$100
2932.57(a)(6)	Obstruct or Harass Public or Impede w/Physical Contact	\$250
Grazing Administration		
4140.1(b)(2)	Use, Maintain, Disturb Range Improvements w/o Auth.	\$200*
4140.1(b)(3)	Cut, Burn, Spray, Destroy or Remove Vegetation	\$150*
4140.1(b)(4)	Damaging or Removing US Property	\$200*
4140.1(b)(6)	Littering	\$100*
4140.1(b)(7)	Interfering with Lawful Use or Users/Obstructing Transit	\$200*
4140.1(b)(8)	Making a Knowing & Willful False Statement	\$250*
Closures		
8364.1(d)	Violate Closure or Restriction Order	\$200*
Rules of Conduct		
8365.1-1(b)(1)	Littering, Non-Flammable Material	\$100*
8365.1-1(b)(2)	Littering, Flammable Material	\$100*
8365.1-1(b)(3)	Dumping of Sewage/Petroleum Product	\$200*
8365.1-1(b)(4)	Household, Industrial, Commercial Waste Disposal	\$250*
8365.1-1(b)(5)	Pollute or Contaminate Water Supplies	\$250*
8365.1-1(b)(6)	Improper Use Refuse Container/Disposal Facility	\$100*
8365.1-2(a)	Camping Longer than Permitted	\$100*

8365.1-2(b)	Unattended Personal Property – > 10 Days	\$100*
8365.1-3(a)	Reckless, Careless, Negligent Motor Vehicle Operation	\$250*
8365.1-3(a)	Exceed Posted Speed Limit (10)	\$25
	(11-20)	\$50
	(21 mph and over)	\$100
8365.1-3(b)(1)	Mandatory Safety Belt	\$25
8365.1-4	Creating a Risk or Public Disturbance	\$500*
8365.1-4(a)(1)	Making Unreasonable Noise	\$100
8365.1-4(a)(2)	Creating a Hazard or Nuisance	\$200*
8365.1-4(a)(3)	Refusing to Disperse	\$100*
8365.1-4(a)(4)	Resisting Arrest	\$250*
8365.1-4(a)(5)	Assault or Battery on BLM Employee	\$250*
8365.1-4(a)(6)	False Emergency or Crime Report	\$100*
8365.1-4(b)(1)	Cont. Substance	MA **
8365.1-4(b)(2)	Possession of a Controlled Substance	MA **
8365.1-4(b)(2)	Possession of < 1 ounce of Marijuana	\$250
8365.1-5(a)(1)	Deface, Remove, Destroy Natural Resources	\$250*
8365.1-5(a)(2)	Deface, Remove, Destroy, Plants, Rocks, Minerals	\$100*
8365.1-5(a)(3)	Motorized or Explosive Devices for Collecting	\$250*
8365.1-5(c)	Collection of Resources for Sale or Barter w/o Permit	\$250*
8365.1-6	Supplementary Rules	\$100*

Disclosure of Communications: All federal, state, and local officers should be aware that all communications, emails, tweets, social media commentary, video, reports, photographs and other evidence are subject to disclosure either through the Freedom of Information Act or litigation discovery. Officers should expect that these communications could be published in the social media and by the press.

In all federal litigation, the United States has an obligation to disclose all relevant and exculpatory evidence gathered in the investigation of a federal crime. That disclosure obligation extends to state and local officers working in conjunction with federal law enforcement officers. Efforts should be made to place all evidentiary materials necessary for a later federal or state prosecution into a centralized depository, including videos, photos, reports, emails, and physical evidence. Failure to make the necessary disclosure of relevant or exculpatory evidentiary material of any kind in the course of a federal criminal prosecution may result in individual sanctions and possible dismissal of the charges.

**FEDERAL OPERATIONS PLAN
KEYSTONE XL PIPELINE
PUBLIC SAFETY ISSUES**

Draft: 4/5/18



Prepared by the United States Attorney's Office with input from .
Contains law enforcement sensitive and attorney work product information.

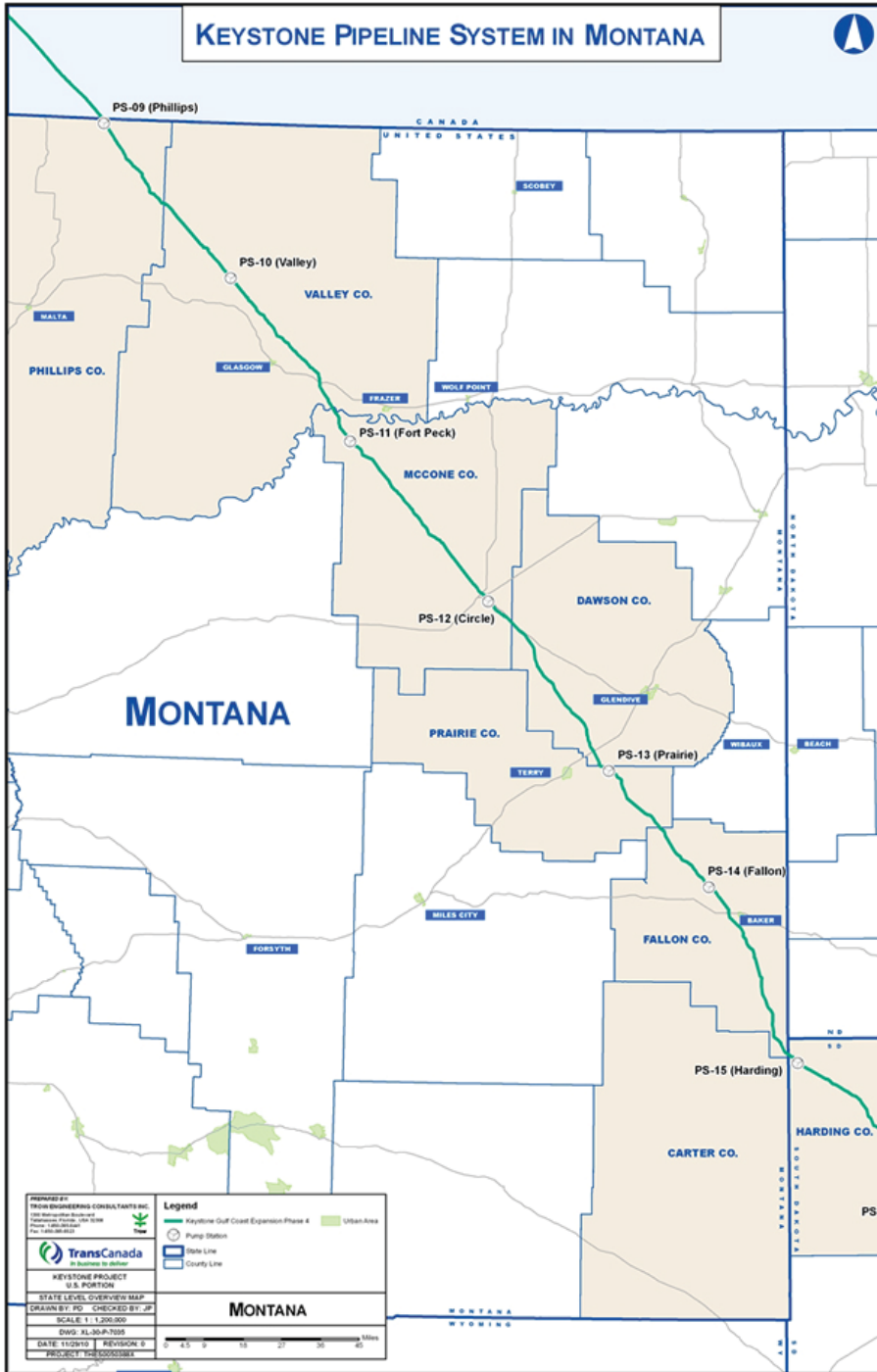
PURPOSE

Anticipating the commencement of construction activities on the TransCanada Keystone XL Pipeline (pipeline) beginning in the spring or fall of 2018, the United States Attorney's Office and affected federal agencies collectively adopt this plan of operations to facilitate the deployment of federal law enforcement resources to assist with the law enforcement response to pipeline construction and protest activities along the pipeline route. This plan of operations supplements the Threat Assessment from the Montana Analysis and Technical Information Center dated 11/27/2017 with a summary of available federal resources; it is not intended to preempt future decision-making by any federal agency with regard to any request for a federal response, or violations of federal law within the jurisdiction of the United States.

BACKGROUND

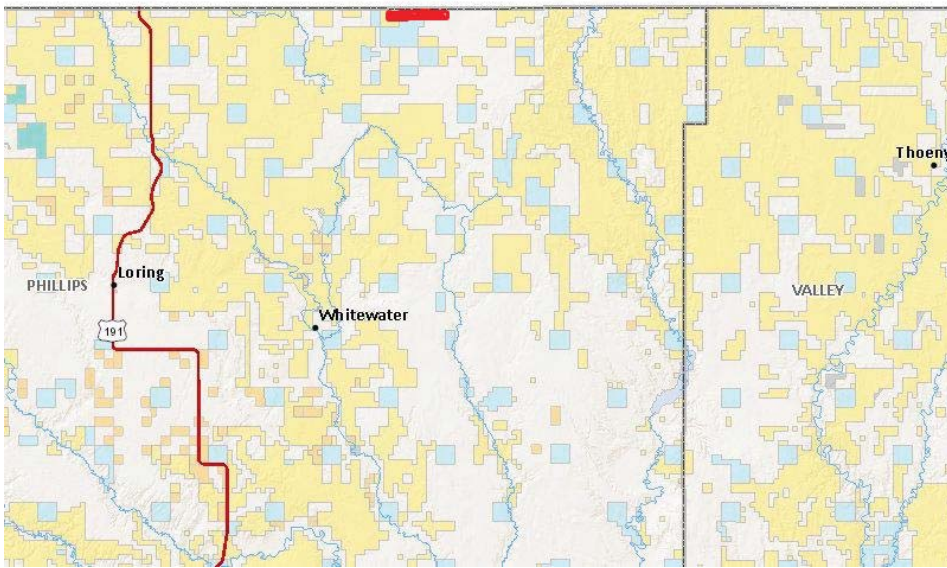
The proposed pipeline route passes through six counties in Montana from north to southeast: Phillips, Valley, McCone, Dawson, Prairie, and Fallon (see attached map). It will pass through mostly remote farming and ranching communities. Approximately 45-55 miles of pipeline will pass through federal land held by the Bureau of Land Management, the Bureau of Reclamation, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service. The pipeline will cross three major rivers in Montana: the Milk, Missouri and Yellowstone.

For reasons outlined in the MATIC Threat Assessment, construction of the pipeline is highly controversial and will likely generate significant opposition from protest groups during construction. Since pipeline construction will generally occur from north to south, Montana can expect to host a significant portion of the protest activity during the early construction phase. We expect the protest activity to be concentrated at significant river, border, and highway crossings, including the U.S.-Canadian border crossing, the Missouri crossing near the Fort Peck Dam, and the Yellowstone/Interstate crossing west of Glendive, Montana. Federal lands exist near each of these sites. The pipeline construction firm, TransCanada, expects to build temporary construction worker camps along the pipeline route. It tentatively proposes four camps in Montana near the towns of Hinsdale, Nashua, Circle, and Baker.

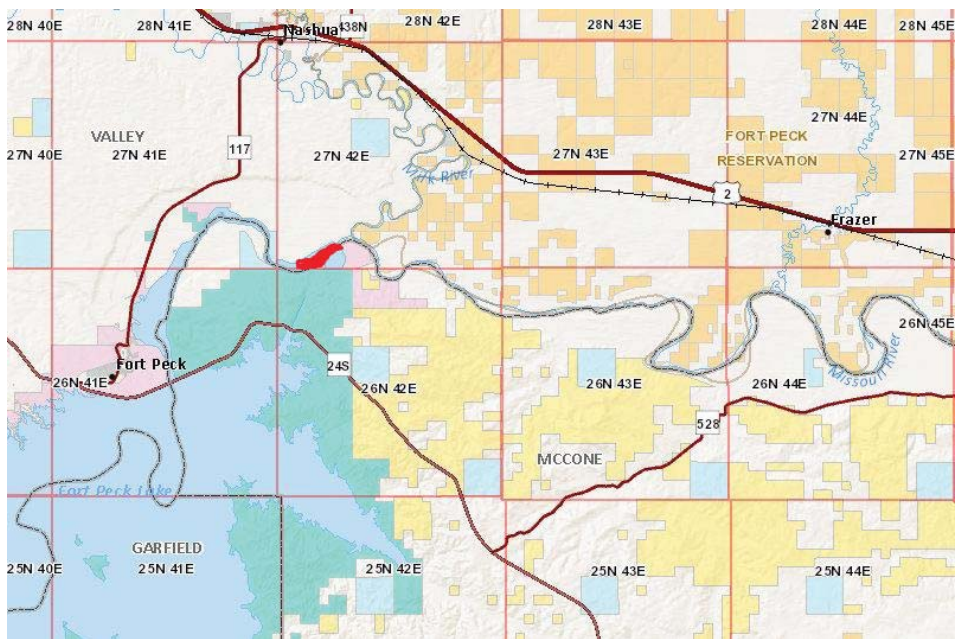


CRITICAL SITE ANALYSIS

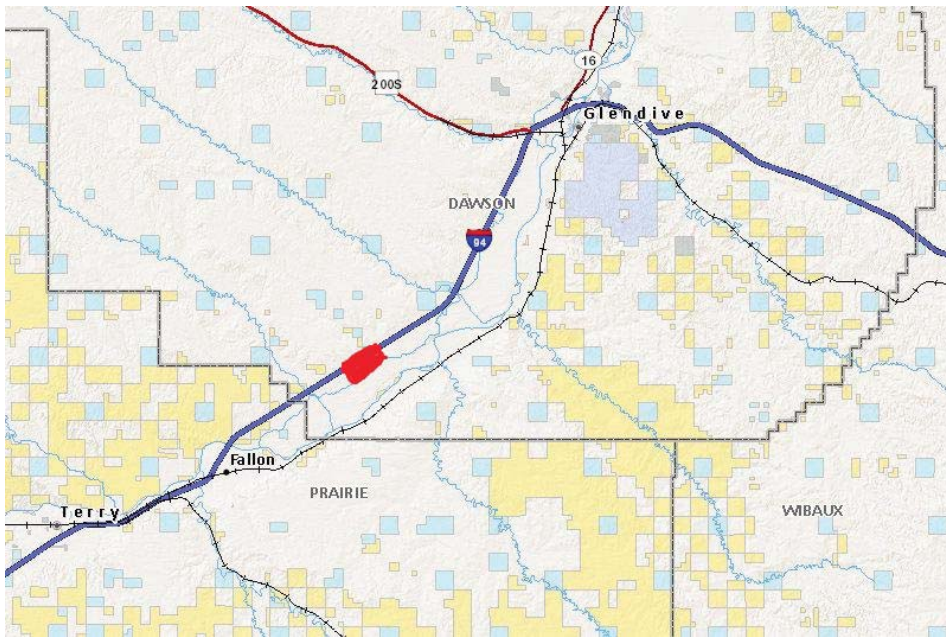
U.S.-Canadian border—Phillips County: The pipeline route crosses the international border in a remote portion of Phillips County that is not served by any major highways or towns (approximate location in red). In that area, however, the pipeline route is surrounded by large amounts of federal public land held by the BLM.



Missouri River crossing—Valley and McCone Counties: The pipeline is to be directionally drilled beneath the Missouri River within a mile of the Fort Peck Reservoir spillway, a portion of the critical infrastructure related to the largest reservoir in the state. The river crossing from Valley to McCone Counties is within a mile of the Fort Peck Reservation in the east, approximately five miles south of U.S. Highway 2 (approximate location in red). The Fort Peck Tribe’s water intake system lies about 35 miles east. The south side of the river crossing at that location is an amalgam of federal public land held by the Corps of Engineers, the BLM, BOR and USFWS. Per 36 C.F.R. § 327.26, the Corps land is subject to the criminal jurisdiction of the State for petty offenses with the federal government retaining concurrent jurisdiction.



Yellowstone River crossing—Dawson County: the pipeline is to be directionally drilled beneath the Yellowstone River approximately 20 miles west of Glendive (approximate location in red). The crossing is on private land, although there are large amounts of BLM public land as close as five miles from the crossing, particularly in Prairie County. The crossing is within three miles of Interstate 90 near the Bad Route Road exit.



FEDERAL AGENCY RESOURCES

FBI

2929 3rd Ave. North
Billings, Montana 59101

Contact: _____, SSRA

(406)

SA

406-

[@fbi.gov](mailto:_____@fbi.gov)

Analyst

406

Cell: 310-

[@fbi.gov](mailto:_____@fbi.gov)

In addition to its general Title 18 jurisdiction, the FBI, Billings Resident Agency, will have primary authority for investigating major crimes occurring within the Fort Peck Reservation and for the protection of critical infrastructure along the pipeline corridor, including the pipeline itself and the Fort Peck dam and spillway. The FBI will have primary investigative authority for all national security investigations, including but not limited to international terrorism, domestic terrorism, and weapons of mass destruction, regardless of the statutes charged.

Available resources include:

- six agents to respond to pipeline-related incidents;
- critical incident response team for domestic terrorism or threats to critical infrastructure;
- analyst support; and
- command center resources including the Virtual Command Center for centralized management of incidents occurring in multiple locations.

BLM

5001 Southgate Drive
Billings, MT 59101

Contact: _____ [@blm.gov](mailto:_____@blm.gov)

Chief Ranger

Desk: 406

Cell: 406

BLM has jurisdiction and patrol responsibility for BLM land. Barring a significant incident on BLM land, BLM anticipates that its response role will be to assist with the local law enforcement response. Additional MOUs with the state and counties may be necessary for this to occur. BLM is not currently anticipating any land closures or land use prohibitions beyond the regulations in place. Large gatherings on BLM land require a permit. BLM may also impose fire restrictions during summer months.

Available resources:

- a Chief Ranger and three agents available for investigations;
- portable radio repeater technology available to provide consistent coverage for secure communications to remote sections of the pipeline corridor;
- portable medical unit;
- management may activate a response from BLM rangers throughout the region as a force multiplier on an incident basis.

U.S. Attorney's Office
2601 2nd Ave. Billings, MT 59101

Contact: [@usdoj.gov](mailto:)

First Assistant U.S. Attorney
406
Cell 406

[@usdoj.gov](mailto:)

Intelligence Specialist
Desk: 406
Cell: 406

The USAO will coordinate the federal response, provide legal advice, prosecute federal cases derived from the pipeline response, and communicate incident developments to the Department of Justice Office of the Deputy Attorney General and to the National Security Division's Counterterrorism Section. The Counterterrorism Section will provide litigation support in the event of a significant terrorist incident.

Available resources:

- AUSA prosecutors for individual case assignments;
- Joint Terrorism Task Force expertise including AUSA
- intelligence analyst support.

**Border Patrol
Havre Sector
2605 5th Ave. S.E.
Havre, MT 59501
Contact:**

**PAIC, Havre Sector
Desk: 406
Cell: 406**

[@cbp.dhs.gov](mailto:cbp.dhs.gov)

Border Patrol will be the primary federal responder for incidents at or near the international border. Border Patrol anticipates that it will patrol north of Highway 2, with efforts concentrated nearest the border. It will be able to process Central Violations Bureau tickets for assaults and other violations near the border, such as failure to report at a border crossing. Border patrol will not be enforcing trespass violations involving either federal or private lands. It can assist with communications and provide training to local law enforcement and tactical support for border-related incidents.

Available resources:

- approximately 10 agents in the sector;
- SWAT (BORTAC) and EMT/Search and Rescue (Border STAR) Units
- air unit (Great Falls) and drone assets (N.D.).

ATF
2929 3rd Ave. North
Billings, MT 59101

Contact: , RAC

406

SA

406

Cell: 406-

[@atf.gov](mailto:)

ATF has the primary investigative authority over firearms violations and explosives. Will coordinate with DCI on arson investigations. Has capacity to deal with potentially violent targets through the use of the federal firearms laws.

Available resources:

- certified fire investigators
- undercover personnel
- ied and Molotov cocktail investigations
- radio technicians can assist with communications coordination
- emergency bullet analysis and firearms tracing.

U.S. Army Corps of Engineers
Fort Peck Dam

Contact: 406

[@usace.army.mil](mailto:)

The Army Corps of Engineers has a primary role in protecting the critical infrastructure at the Fort Peck Dam. Patrol and security responsibilities on that site may need to be arranged by the Corps with the Federal Protective Services.

BIA
2021 4th Ave. North
Billings, MT 59101

Contact: SAC
406-

ASAC

Cell: 406

[@bia.gov](mailto:)

Provides law enforcement support and investigations in Indian Country. Will provide technical assistance on the Fort Peck Reservation.

Available resources:

- patrol officers for incidents affecting Fort Peck Reservation;
- mobile command post and portable communications trailer.

U.S. Marshals Service
2601 2nd Ave. North
Billings, MT 59101

Contact: Acting Marshal
406

406

[@usdoj.gov](mailto:)

U.S. Marshals Service role as yet undefined. May assist with fugitive warrants and prisoner transport.

Available resources:

- 20-24 operation personnel available, more if necessary;
- Violent Crime Task Force.

NPS

Contact: L.E. Ranger

307-

[@nps.gov](mailto:)

Can provide law enforcement support to other Interior Department agencies.

**Department of Transportation
Pipeline Safety**

Contact:

720

Cell: 303

[@dot.gov](mailto:)

**Transportation Security Administration
Intelligence Specialist**

Contact: 406

Cell: 571

[@tsa.dhs.gov](mailto:)

**U.S. Forest Service
Custer N.F.
3710 Fallon St.
Bozeman, MT 59718**

Contact:

SA

406

[@fs.fed.us](mailto:)

INCIDENT RESPONSE

The federal agencies anticipate a tiered response to pipeline incidents.

- Incidents along the pipeline corridor occurring on state or private property will ordinarily involve local law enforcement as the primary responder with assistance from other state and federal law enforcement assets. In these instances, Montana DCI and the MATIC will relay any request for federal assistance to the relevant federal agency contact listed above. All requests should be copied to the FBI.
- For routine or minor incidents on federal land, local law enforcement should act as the primary responder with notice to the affected agency and the FBI. Requests for federal assistance should be made from local law enforcement directly to the affected federal agency and the FBI with a copy to Montana DCI and the MATIC.

- For major incidents on federal land the affected federal agency to act as the primary responder and the party responsible for requesting assistance.

Major incidents on federal land include, but are not limited to, threats to persons, equipment, the pipeline or other federal property exclusively on federal land, near the international border, or at the Missouri River crossing.

- For major incidents on state or private land, Montana DCI and local law enforcement will act as the primary responder and party responsible for requesting assistance.

Major incidents on state or private land include all threats to public roads and highways and other significant threats to life and property occurring outside of federal land.

For any incident requiring a law enforcement response, FBI will activate the Virtual Command Center for collecting information and coordinating a response. To the extent training is necessary prior to the use of the FBI VCC, that training should occur prior to construction activity.

LAW ENFORCEMENT ON BLM LANDS

(b) (5) [Redacted]

(b) (5) [Redacted]

BLM law enforcement will respond to all calls for service on BLM administered lands pertaining to violations within Title 43 of the Federal Code of Regulations (see statutory crimes listed below). BLM Law Enforcement will assist local, County and State Law Enforcement on BLM lands in regards to other violations as they pertain to crimes against persons or personal property i.e pipeline and pipeline personnel operating on BLM lands. (b) (5)

[Redacted]

[Redacted]

(b) (5)

PRESS RELEASES AND MEDIA

Pursuant to current DOJ media policy, all federal agency press releases that relate to potential federal litigation must be approved in advance by the United States Attorney or his designee. Social media releases will be treated as press releases and subject to the same approval process.

At times, it will be necessary to counteract misinformation on social media with press and social media releases by state and local law enforcement. State and local law enforcement should coordinate all press and social media releases with the U.S. Attorney's Office. Failure to follow that consultation process may jeopardize federal litigation and could subject federal officers and attorneys to court sanctions.

LEGAL RESOURCES

The Office of the United States Attorney will provide ongoing legal advice to federal agencies during any incident response. That advice should address two priorities: avoiding liabilities and preparing cases for litigation. All federal law enforcement responders to pipeline protest activity should be aware of federal criminal statutes pertinent to pipeline protest activities as well as the First Amendment rights of non-violent protesters.

First Amendment Standards: All federal law enforcement officers should be cognizant of and protect protesters' First Amendment rights. A failure to do so may subject individual law enforcement officers to personal liability. The First Amendment protects more than just the spoken and written word. It protects expressive conduct so long as that conduct "convey [s] a particularized message" and is likely to be understood in the surrounding circumstances. *Spence v. Washington*, 418 U.S. 405, 409 (1974) (per curiam). (b) (5)

Restrictions on speech and assembly may be viewed differently depending on the nature of the forum being regulated. The Supreme Court has divided public forums into three categories: "traditional public forums," "designated public

forums,” and “limited public forums.” *Christian Legal Soc’y v. Martinez*, — U.S. —, 130 S.Ct. 2971, 2984 n. 11 (2010). Traditional public forums are places like sidewalks and parks. By contrast, other government properties are either nonpublic forums, or simply not considered forums at all. *Kaahumanu v. Hawaii*, 682 F.3d 789, 799 (9th Cir. 2012).

Restrictions on speech and assembly in traditional public forums is subject to strict scrutiny. *Harrington v. Schribner*, 785 F.3d 1299, 1306 (9th Cir. 2015). That requires the government to prove that the measures are narrowly tailored to further a compelling government interest. *Id.* In a nonpublic forum, regulations must be “(1) reasonable in light of the purpose served by the forum and (2) viewpoint neutral.” *Ctr. for Bio-Ethical Reform, Inc. v. City & Cnty. of Honolulu*, 455 F.3d 910, 920 (9th Cir.2006) (quoting *Brown v. Cal. Dep’t of Transp.*, 321 F.3d 1217, 1222 (9th Cir.2003)).

(b) (5) [Redacted]

[Redacted]

[Redacted]

Additional resources concerning First Amendment implications of protest activity can be found at:

- <https://player.vimeo.com/video/117224998>
- https://www.ncirc.gov/Training_First_Amendment.aspx
- <https://www.dhs.gov/protective-security-advisors>
- <https://www.justice.gov/sites/default/files/crs/legacy/2012/12/17/safe-marches-dem.pdf>

Applicable federal criminal statutes:

- **Pipeline Safety Act**, 49 U.S.C. § 60123(b):

A person knowingly and willfully damaging or destroying an interstate gas pipeline facility, an interstate hazardous liquid pipeline facility, or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce, or attempting or conspiring to do such an act, shall be fined under title 18, imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

Petroleum is a hazardous liquid. 49 USC § 60101(a)(4).

A “hazardous liquid pipeline facility” includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid. 49 USC § 60101(a)(5).

From the plain language of the statute, damage to, or meddling with, construction equipment used to build the pipeline would not fall under the Act.

- **Civil disorders**, 18 U.S.C. § 231(a):

(1) Whoever teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which may in any way or degree obstruct, delay, or adversely affect commerce or the movement of any article

or commodity in commerce or the conduct or performance of any federally protected function; or

(2) Whoever transports or manufactures for transportation in commerce any firearm, or explosive or incendiary device, knowing or having reason to know or intending that the same will be used unlawfully in furtherance of a civil disorder; or

(3) Whoever commits or attempts to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function [commits a felony].

This statute was used in the prosecution of _____ in the DAPL protest response.

- **Felon in possession of a firearm**, 18 U.S.C. § 922(g):

It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year . . . [or other persons including fugitives, addicts, mentally handicapped, illegal aliens; and persons convicted of misdemeanor domestic violence]

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

The mere possession of a firearm is the crime. Interstate nexus is proven through ATF experts who can testify that the gun at issue traveled in interstate commerce.

Section 922 has further prohibitions of the possession of stolen and unlawfully modified firearms, like machine guns and sawed-off shotguns. A separate

provision, 922(g)(9), prohibits the possession of a firearm by a person who has been convicted of misdemeanor domestic abuse.

- **Construction or possession of prohibited firearms or destructive devices, 26 U.S.C. § 5861:**

Further restrictions on firearm possession are found in Section 5861, which also applies to any “destructive device.” In pertinent part, the provision prohibits any action—

- (f) to make a firearm in violation of the provisions of this chapter; or
- (i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or
- (j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter . . .

a)The term “firearm” means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in, United States Code); and (8) a destructive device.

- **Explosive devices, 18 U.S.C. §§ 841, 842:**

There are numerous prohibitions on the possession and transfer of explosives. They include—

- (b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—
 - (1) a licensee;
 - (2) a holder of a user permit; or
 - (3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.

(d) It shall be unlawful for any person knowingly to distribute explosive materials to any individual who:

- (1) is under twenty-one years of age;
- (2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; . . .

(e) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

It is also unlawful for any felon “to ship or transport any explosive in or affecting interstate or foreign commerce or to receive or possess any explosive which has been shipped or transported in or affecting interstate or foreign commerce.”

Finally it is unlawful to “to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence;” or “knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.

- **Assault on a federal officer**, 18 U.S.C. § 111:

Whoever—

- (1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or
- (2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person’s term of service,

shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and where such acts involve physical contact with the victim of that assault or the intent to commit another felony, be fined under this title or imprisoned not more than 8 years, or both.

(b) Enhanced Penalty.—

Whoever, in the commission of any acts described in subsection (a), uses a deadly or dangerous weapon (including a weapon intended to cause death or danger but that fails to do so by reason of a defective component) or inflicts bodily injury, shall be fined under this title or imprisoned not more than 20 years, or both.

The “person designated in section 1114” is “any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance.”

- **Simple possession of drugs**, 21 U.S.C. § 844:

Possession of controlled substances is prohibited by a federal misdemeanor that states, in part, that—

It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice.

The felony drug provisions in Title 21 are found in section 841, which prohibits , among other things, any action “to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance”

- **Undocumented persons**, 8 U.S.C. § 1325, 1326:

Any alien who (1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) attempts to enter

or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under title 18 or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, or imprisoned not more than 2 years, or both.

This is the most common offense related to undocumented persons. The more serious offense of reentry after removal is found in section 1326.

- **Border offenses, 19 U.S.C. § 1433:**

Offenses related to unlawful border crossings are found in Title 19. They include a prohibition on vehicles entering the U.S. except through border stations. Thus,

- (1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.
- (2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

- (A) report the arrival; and

- (B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

- **BLM Violations pertaining to the Keystone Pipeline**

* In the presence of aggravating circumstances, i.e., where the result of a person's actions exceeds the bond or when a serious threat exists to Bureau property, resources or personnel, an enhanced bond forfeiture of up to \$500 may be established at the discretion of the issuing officer, the Special Agent-in-Charge, or the U.S. Attorney's office.

*** Where the federal regulation prohibits the same act as a state law, the fine set under state law may be assessed for violations.

Statute	Violation	Bond
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18 USC 1864 (b)(5)	Hazardous Devise on Federal Lands	MA
18 USC 1061	Obstruction of Transit over Public Lands	\$200 *

Special Use Permits for Competitive Events, Commercial Use, Recreation Areas

43 CFR 2932.57(a)(1)	Fail to Obtain a Special Recreation Permit/Pay Fees	\$250*
2932.57(a)(2)	Violate the Stipulations or Conditions of a Permit	\$250*
2932.57(a)(3)	Knowingly Participate in Un-permitted Event or Activity	\$100
2932.57(a)(4)	Fail to Post a Copy of the Permit for Participants to Read	\$100
2932.57(a)(5)	Fail to Show a Copy of Permit upon Request	\$100
2932.57(a)(6)	Obstruct or Harass Public or Impede w/Physical Contact	\$250

Grazing Administration

4140.1(b)(2)	Use, Maintain, Disturb Range Improvements w/o Auth.	\$200*
4140.1(b)(3)	Cut, Burn, Spray, Destroy or Remove Vegetation	\$150*
4140.1(b)(4)	Damaging or Removing US Property	\$200*
4140.1(b)(6)	Littering	\$100*
4140.1(b)(7)	Interfering with Lawful Use or Users/Obstructing Transit	\$200*
4140.1(b)(8)	Making a Knowing & Willful False Statement	\$250*

Closures

8364.1(d)	Violate Closure or Restriction Order	\$200*
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Rules of Conduct

8365.1-1(b)(1)	Littering, Non-Flammable Material	\$100*
8365.1-1(b)(2)	Littering, Flammable Material	\$100*
8365.1-1(b)(3)	Dumping of Sewage/Petroleum Product	\$200*
8365.1-1(b)(4)	Household, Industrial, Commercial Waste Disposal	\$250*
8365.1-1(b)(5)	Pollute or Contaminate Water Supplies	\$250*
8365.1-1(b)(6)	Improper Use Refuse Container/Disposal Facility	\$100*
8365.1-2(a)	Camping Longer than Permitted	\$100*

8365.1-2(b)	Unattended Personal Property – > 10 Days	\$100*
8365.1-3(a)	Reckless, Careless, Negligent Motor Vehicle Operation	\$250*
8365.1-3(a)	Exceed Posted Speed Limit (10)	\$25
	(11-20)	\$50
	(21 mph and over)	\$100
8365.1-3(b)(1)	Mandatory Safety Belt	\$25
8365.1-4	Creating a Risk or Public Disturbance	\$500*
8365.1-4(a)(1)	Making Unreasonable Noise	\$100
8365.1-4(a)(2)	Creating a Hazard or Nuisance	\$200*
8365.1-4(a)(3)	Refusing to Disperse	\$100*
8365.1-4(a)(4)	Resisting Arrest	\$250*
8365.1-4(a)(5)	Assault or Battery on BLM Employee	\$250*
8365.1-4(a)(6)	False Emergency or Crime Report	\$100*
8365.1-4(b)(1)	Cont. Substance	MA **
8365.1-4(b)(2)	Possession of a Controlled Substance	MA **
8365.1-4(b)(2)	Possession of < 1 ounce of Marijuana	\$250
8365.1-5(a)(1)	Deface, Remove, Destroy Natural Resources	\$250*
8365.1-5(a)(2)	Deface, Remove, Destroy, Plants, Rocks, Minerals	\$100*
8365.1-5(a)(3)	Motorized or Explosive Devices for Collecting	\$250*
8365.1-5(c)	Collection of Resources for Sale or Barter w/o Permit	\$250*
8365.1-6	Supplementary Rules	\$100*

Disclosure of Communications: All federal, state, and local officers should be aware that all communications, emails, tweets, social media commentary, video, reports, photographs and other evidence are subject to disclosure either through the Freedom of Information Act or litigation discovery. Officers should expect that these communications could be published in the social media and by the press.

In all federal litigation, the United States has an obligation to disclose all relevant and exculpatory evidence gathered in the investigation of a federal crime. That disclosure obligation extends to state and local officers working in conjunction with federal law enforcement officers. Efforts should be made to place all evidentiary materials necessary for a later federal or state prosecution into a centralized depository, including videos, photos, reports, emails, and physical evidence. Failure to make the necessary disclosure of relevant or exculpatory evidentiary material of any kind in the course of a federal criminal prosecution may result in individual sanctions and possible dismissal of the charges.

Conversation Contents

[EXTERNAL] draft XL pipeline report

Attachments:

/12. [EXTERNAL] draft XL pipeline report/1.1 pipeline federal operations plan.docx
/12. [EXTERNAL] draft XL pipeline report/2.1 pipeline federal operations plan.docx
/12. [EXTERNAL] draft XL pipeline report/2.2 BLM paragraph for AUSA.docx

(USAMT)"

@usdoj.gov>

From: " (USAMT)" < @usdoj.gov>
Sent: Mon Apr 02 2018 10:11:45 GMT-0600 (MDT)
To: @blm.gov)" < @blm.gov>
Subject: [EXTERNAL] draft XL pipeline report
Attachments: pipeline federal operations plan.docx

please look over the enclosed plan. This is something I hope to share with the Matic and DCI to help coordinate the response on the ground. I think it needs one final section explaining the response on BLM public lands. Could you propose a paragraph on that? Once I have that together, I will share with the rest of the federal partners for comment and then DCI. Thanks

First Assistant United States Attorney
District of Montana
(406

@blm.gov>

From: " @blm.gov>
Sent: Thu Apr 05 2018 13:40:47 GMT-0600 (MDT)
To: (USAMT)" @usdoj.gov>
CC: @blm.gov>
Subject: Re: [EXTERNAL] draft XL pipeline report
Attachments: pipeline federal operations plan.docx BLM paragraph for AUSA.docx

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On Mon, Apr 2, 2018 at 10:11 AM, (USAMT) @usdoj.gov> wrote:
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USA_BLM_00877

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First Assistant United States Attorney
District of Montana
(406

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**State Chief Ranger, Montana/Dakotas
Department of the Interior
Bureau Of Land Management
Office of Law Enforcement & Security
5001 Southgate Dr.
Billings, Mt. 59101**

**Office (406
Cell (406)**

" (USAMT)" < @usdoj.gov>

From: " (USAMT)" < @usdoj.gov>
Sent: Thu Apr 05 2018 13:46:44 GMT-0600 (MDT)
To: @blm.gov>
CC: @blm.gov>
Subject: RE: [EXTERNAL] draft XL pipeline report

Thanks I am trying to shoot it out to everyone this afternoon. I appreciate your help. Just got back from ND where I had a rather sobering visit with the ND DAPL folks.

From: @blm.gov>
Sent: Thursday, April 5, 2018 1:41 PM
To: (USAMT) < @usa.doj.gov>
Cc: @blm.gov>
Subject: Re: [EXTERNAL] draft XL pipeline report

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On Mon, Apr 2, 2018 at 10:11 AM, (USAMT) < @usdoj.gov> wrote:

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USA_BLM_00878

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First Assistant United States Attorney
District of Montana
(406

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State Chief Ranger, Montana/Dakotas
Department of the Interior
Bureau Of Land Management
Office of Law Enforcement & Security
5001 Southgate Dr.
Billings, Mt. 59101

Office (406
Cell (406)

"

@blm.gov>

From: " @blm.gov>
Sent: Thu Apr 05 2018 13:49:51 GMT-0600 (MDT)
To: (USAMT)" < @usdoj.gov>
CC: @blm.gov>
Subject: Re: [EXTERNAL] draft XL pipeline report

Let's meet for coffee next week if you can, I'd like to hear about your trip.

On Thu, Apr 5, 2018 at 1:46 PM, (USAMT) @usdoj.gov> wrote:
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Sent: Thursday, April 5, 2018 1:41 PM
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State Chief Ranger, Montana/Dakotas
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Bureau Of Land Management
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[5001 Southgate Dr.](#)
[Billings, Mt. 59101](#)

Office
Cell

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State Chief Ranger, Montana/Dakotas
Department of the Interior
Bureau Of Land Management
Office of Law Enforcement & Security
5001 Southgate Dr.
Billings, Mt. 59101

Office (406
Cell (406)

(USAMT)" <

@usdoj.gov>

From: " (USAMT)" < @usdoj.gov>
Sent: Thu Apr 05 2018 13:54:14 GMT-0600 (MDT)
To: " < @blm.gov>
Subject: RE: [EXTERNAL] draft XL pipeline report

Cool. I am in all week except late Thurs and Friday. Just let me know when you can get away.

USA_BLM_00880

From: @blm.gov>
Sent: Thursday, April 5, 2018 1:50 PM
To: USAMT) < @usa.doj.gov>
Cc: @blm.gov>
Subject: Re: [EXTERNAL] draft XL pipeline report

Let's meet for coffee next week if you can, I'd like to hear about your trip.

On Thu, Apr 5, 2018 at 1:46 PM (USAMT) < @usdoj.gov> wrote:

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Billings, Mt. 59101

Office (406
Cell (406

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Department of the Interior
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Office (406
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"

@blm.gov>

From: " " @blm.gov>
Sent: Thu Apr 05 2018 13:55:37 GMT-0600 (MDT)
To: " (USAMT)" < @usdoj.gov>
Subject: Re: [EXTERNAL] draft XL pipeline report

Sounds good, I'll get in contact with you on Monday.

On Thu, Apr 5, 2018 at 1:54 PM, (USAMT) < @usdoj.gov> wrote:
Cool. I am in all week except late Thurs and Friday. Just let me know when you can get away.

From: @blm.gov>
Sent: Thursday, April 5, 2018 1:50 PM
To: (USAMT) < @usa.doj.gov>
Cc: @blm.gov>
Subject: Re: [EXTERNAL] draft XL pipeline report

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From @blm.gov>
Sent: Thursday, April 5, 2018 1:41 PM
To: USAMT) < @usa.doj.gov>
Cc @blm.gov>
Subject: Re: [EXTERNAL] draft XL pipeline report

USA_BLM_00882

this looks great, I have made a couple of changes in regard to my contact information. Here is the paragraph you requested pertaining to BLM.

On Mon, Apr 2, 2018 at 10:11 AM

(USAMT)

@usdoj.gov> wrote:

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First Assistant United States Attorney
District of Montana
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Billings, Mt. 59101

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State Chief Ranger, Montana/Dakotas
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Office (406)
Cell (406)

**FEDERAL OPERATIONS PLAN
KEYSTONE XL PIPELINE
PUBLIC SAFETY ISSUES**

Draft: 3/30/18



Prepared by the United States Attorney's Office with input from .
Contains law enforcement sensitive and attorney work product information.

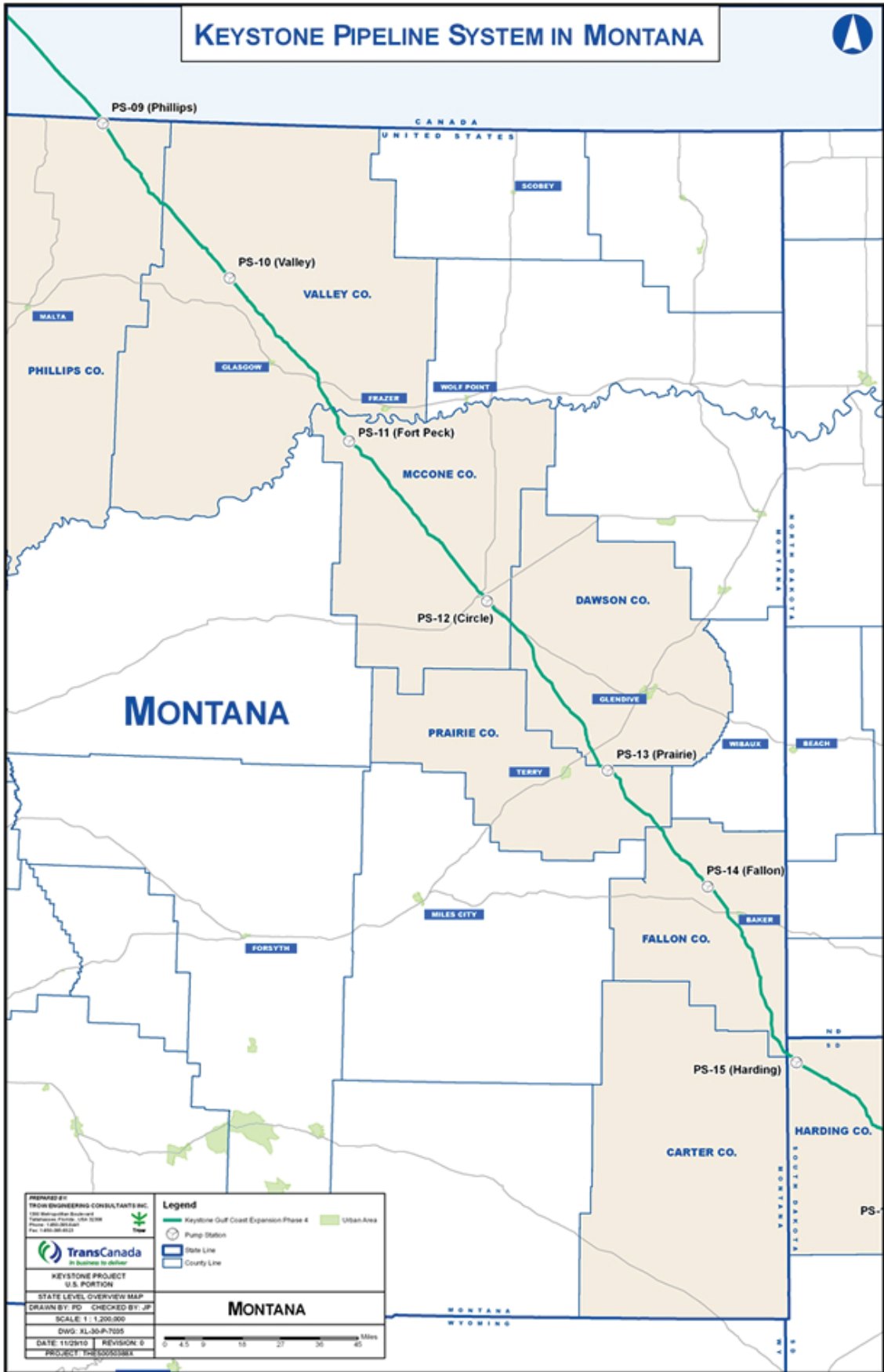
PURPOSE

Anticipating the commencement of construction activities on the TransCanada Keystone XL Pipeline (pipeline) beginning the spring of 2018, the United States Attorney's Office and affected federal agencies collectively adopt this plan of operations to facilitate the deployment of federal law enforcement resources to assist with the law enforcement response to pipeline construction and protest activities along the pipeline route. This plan of operations supplements the Threat Assessment from the Montana Analysis and Technical Information Center dated 11/27/2017 with a summary of available federal resources; it is not intended to preempt future decision-making by any federal agency with regard to any request for a federal response, or violations of federal law within the jurisdiction of the United States.

BACKGROUND

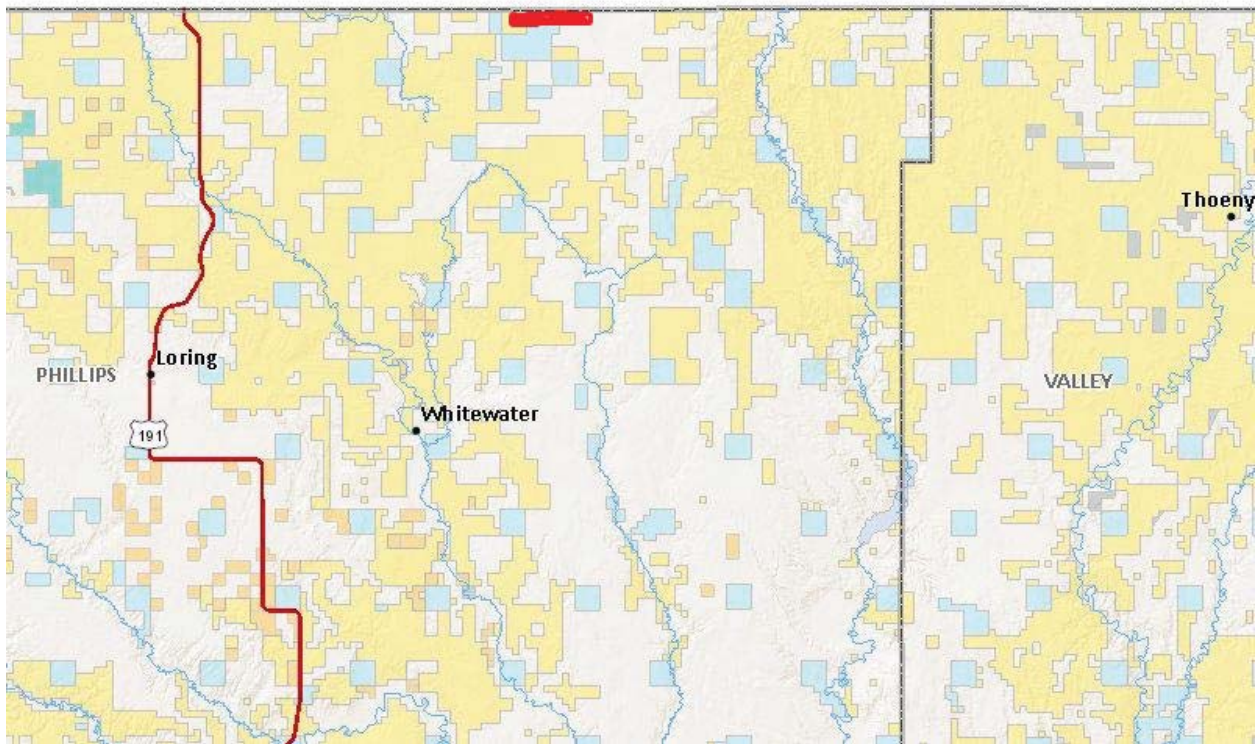
The proposed pipeline route passes through six counties in Montana from north to southeast: Phillips, Valley, McCone, Dawson, Prairie, and Fallon (see attached map). It will pass through mostly remote farming and ranching communities. Approximately 45-55 miles of pipeline will pass through federal land held by the Bureau of Land Management, the Bureau of Reclamation, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service. The pipeline will cross three major rivers in Montana: the Milk, Missouri and Yellowstone.

For reasons outlined in the MATIC Threat Assessment, construction of the pipeline is highly controversial and will likely generate significant opposition from protest groups during construction. Since pipeline construction will generally occur from north to south, Montana can expect to host a significant portion of the protest activity during the early construction phase. We expect the protest activity to be concentrated at significant river, border and highway crossings, including the U.S.-Canadian border crossing, the Missouri crossing near the Fort Peck Dam, and the Yellowstone/Interstate crossing west of Glendive, Montana. Federal lands exist near each of these sites. The pipeline construction firm, TransCanada, expects to build temporary construction worker camps along the pipeline route. It tentatively proposes four camps in Montana near the towns of Hinsdale, Nashua, Circle, and Baker.

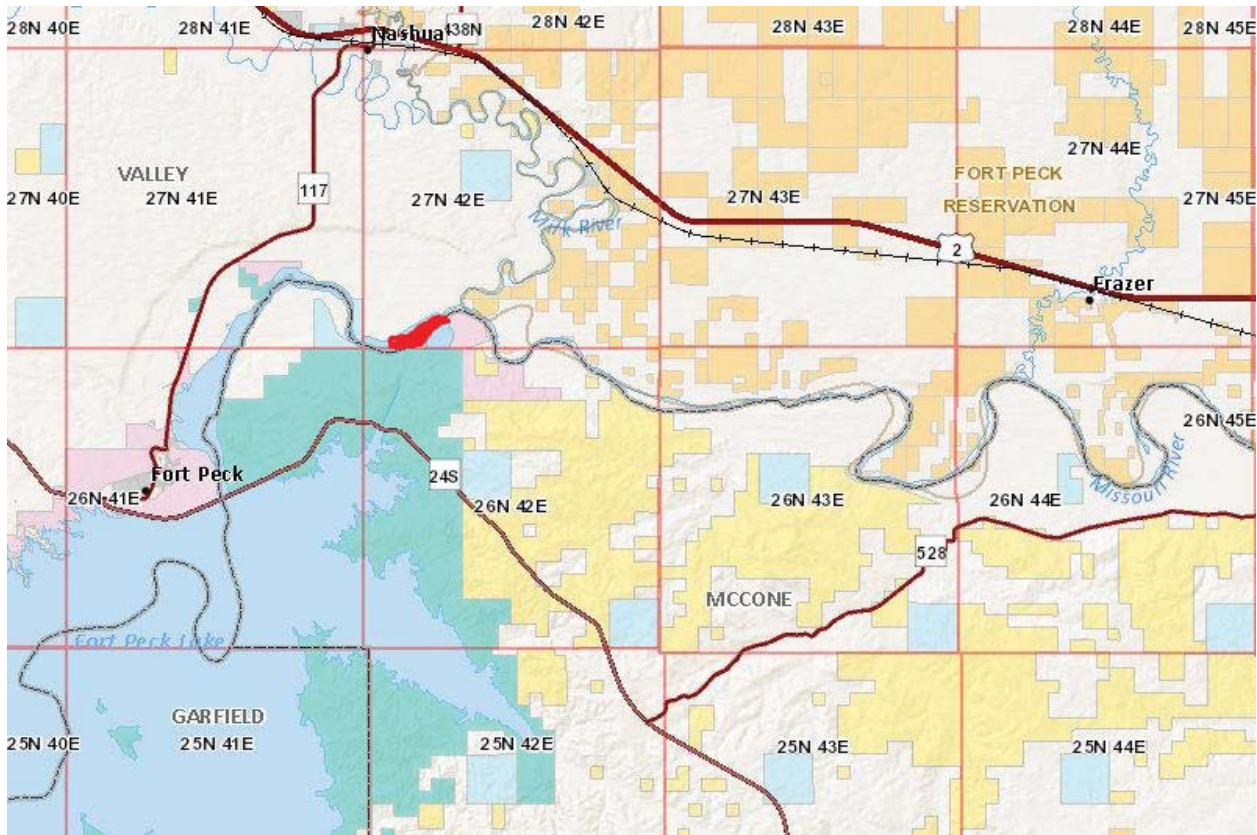


CRITICAL SITE ANALYSIS

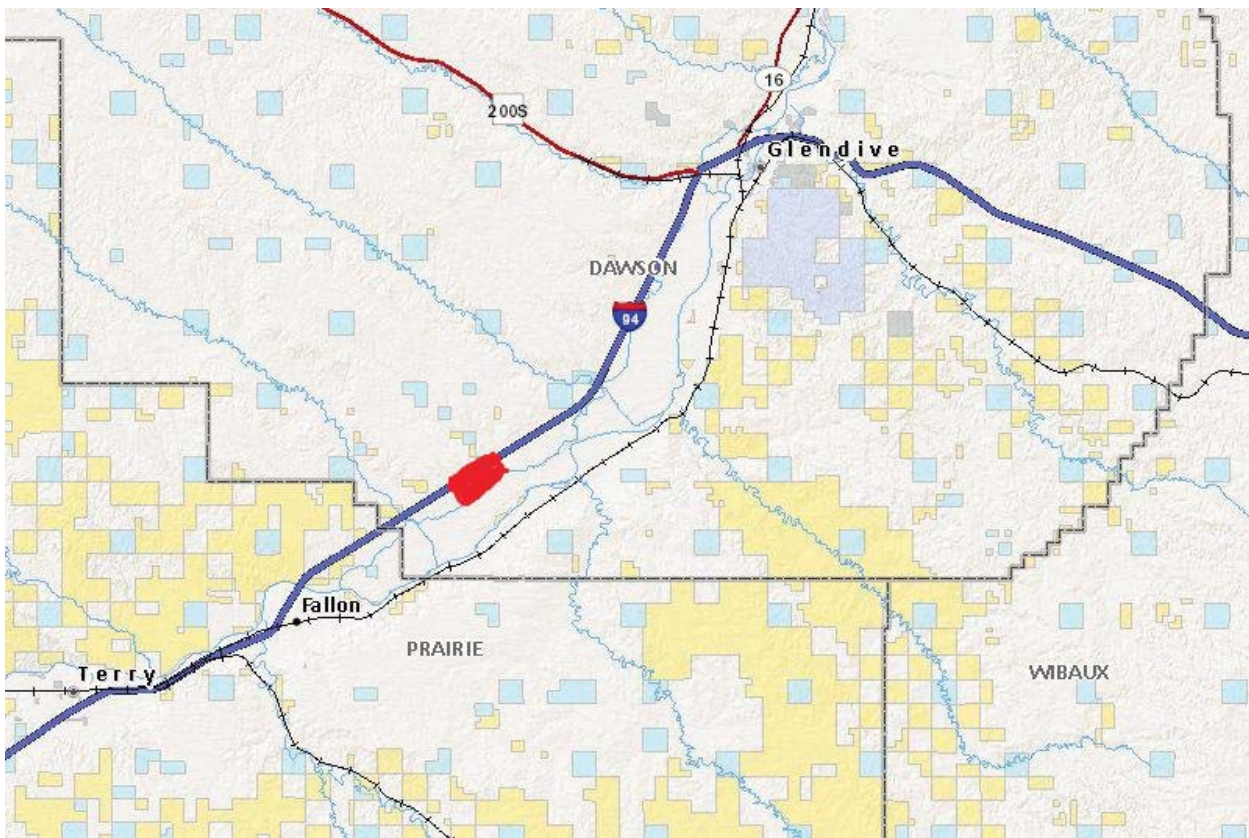
U.S.-Canadian border—Phillips County: The pipeline route crosses the international border in a remote portion of Phillips County that is not served by any major highways or towns (approximate location in red). In that area, however, the pipeline route is surrounded by large amounts of federal public land held by the BLM.



Missouri River crossing—Valley and McCone Counties: The pipeline is to be directionally drilled beneath the Missouri River within a mile of the Fort Peck Reservoir spillway, a portion of the critical infrastructure related to the largest reservoir in the state. The river crossing from Valley to McCone Counties is within a mile of the Fort Peck Reservation in the east, approximately 5 miles south of U.S. Highway 2 (approximate location in red). The Fort Peck Tribe’s water intake system lies about 35 miles east. The south side of the river crossing at that location is an amalgam of federal public land held by the Corps of Engineers, the BLM, BOR and USFWS.



Yellowstone River crossing—Dawson County: the pipeline is to be directionally drilled beneath the Yellowstone River approximately 20 miles west of Glendive (approximate location in red). The crossing is on private land, although there are large amounts of BLM public land as close as 5 miles from the crossing, particularly in Prairie County. The crossing is within three miles of Interstate 90 near the Bad Route Road exit.



FEDERAL AGENCY RESOURCES

FBI

2929 3rd Ave. North
Billings, Montana 59101

Contact: _____, SSRA

(406)

_____, SA

406-

1

[@fbi.gov](mailto:____@fbi.gov)

Analyst,

[@fbi.gov](mailto:____@fbi.gov)

406-

Cell: 310-

The Billings Resident Agency for the FBI will have primary investigative authority for all federal crimes under Title 18 of the United States Code that occur along the pipeline corridor. The FBI also has primary authority for investigating major crimes occurring within the Fort Peck Reservation and for the protection of critical infrastructure along the pipeline corridor, including the pipeline itself and the Fort Peck dam and spillway. The FBI will have primary investigative authority for all national security investigations, including but not limited to international terrorism, domestic terrorism, and weapons of mass destruction, regardless of the statutes charged.

Available resources include:

- six agents to respond to pipeline-related incidents;
- critical incident response team for domestic terrorism or threats to critical infrastructure;
- analyst support; and
- command center resources including the Virtual Command Center for centralized management of incidents occurring in multiple locations.

BLM
5001 Southgate Drive
Billings, MT 59101

Contact: [@blm.gov](mailto:blm@blm.gov)

Chief Ranger
Desk: 406-
Cell: 406

BLM has jurisdiction and patrol responsibility for BLM land. Barring a significant incident on BLM land, BLM anticipates that its response role will be to assist with the local law enforcement response. Additional MOUs with the state and counties may be necessary for this to occur. BLM is not currently anticipating any land closures or land use prohibitions beyond the regulations in place. Large gatherings on BLM land require a permit. BLM may also impose fire restrictions during summer months.

Available resources:

- a Chief Ranger and three agents available for investigations;
- portable radio repeater technology available to provide consistent coverage for secure communications to remote sections of the pipeline corridor;
- portable medical unit;
- management may activate a response from BLM rangers throughout the region as a force multiplier on an incident basis.

U.S. Attorney's Office
2601 2nd Ave. Billings, MT 59101

Contact: [@usdoj.gov](mailto:usdoj@usdoj.gov)

First Assistant U.S. Attorney
406
Cell 406-

Intelligence Specialist, [@usdoj.gov](mailto:usdoj@usdoj.gov)
Desk: 406
Cell: 406.

The USAO will coordinate the federal response, provide legal advice, prosecute federal cases derived from the pipeline response, and communicate incident developments to the Department of Justice Office of the Deputy Attorney General and to the National Security Division's Counterterrorism Section. The Counterterrorism Section will provide litigation support in the event of a significant terrorist incident.

Available resources:

- AUSA prosecutors for individual case assignments;
- Joint Terrorism Task Force expertise including AUSA ;
- intelligence analyst support.

Border Patrol

Havre Sector

2605 5th Ave. S.E.

Havre, MT 59501

Contact:

PAIC, Havre Sector

Desk: 406-

Cell: 406

[@cbp.dhs.gov](mailto:cbp@dhs.gov)

Border Patrol will be the primary federal responder for incidents at or near the international border. Border Patrol anticipates that it will patrol north of Highway 2, with efforts concentrated nearest the border. It will be able to process Central Violations Bureau tickets for federal misdemeanor drug, assault, and other violations near the border, such as failure to report at a border crossing. Border patrol will not be enforcing trespass violations involving either federal or private lands. It can assist with communications and provide training to local law enforcement and tactical support for border-related incidents.

Available resources:

- approximately 10 agents in the sector;
- SWAT (BORTAC) and EMT/Search and Rescue (Border STAR) Units
- air unit (Great Falls) and drone assets (N.D.).

**ATF
2929 3rd Ave. North
Billings, MT 59101**

Contact:

406-

406-

Cell: 406-

RAC

SA

[@atf.gov](mailto:atf@atf.gov)

ATF has the primary investigative authority over firearms violations and explosives. Will coordinate with DCI on arson investigations. Has capacity to deal with potentially violent targets through the use of the federal firearms laws.

Available resources:

- certified fire investigators
- undercover personnel
- ied and Molotov cocktail investigations
- radio technicians can assist with communications coordination
- emergency bullet analysis and firearms tracing.

**U.S. Army Corps of Engineers
Fort Peck Dam**

Contact: 406-

[@usace.army.mil](mailto:usace@usace.army.mil)

The Army Corps of Engineers has a primary role in protecting the critical infrastructure at the Fort Peck Dam. Patrol and security responsibilities on that site may need to be arranged by the Corps with the Federal Protective Services.

BIA
2021 4th Ave. North
Billings, MT 59101

Contact: SAC
406-
ASAC
Cell: 406-
[@bia.gov](mailto:bia.gov)

Provides law enforcement support and investigations in Indian Country. Will provide technical assistance on the Fort Peck Reservation.

Available resources:

- patrol officers for incidents affecting Fort Peck Reservation;
- mobile command post and portable communications trailer.

U.S. Marshals Service
2601 2nd Ave. North
Billings, MT 59101

Contact: Acting Marshal
406-
406-
[@usdoj.gov](mailto:usdoj.gov)

U.S. Marshals Service role as yet undefined. May assist with fugitive warrants and prisoner transport.

Available resources:

- 20-24 operation personnel available, more if necessary;
- Violent Crime Task Force.

NPS
Contact: , L.E. Ranger

307-
[@nps.gov](mailto:nps.gov)

Can provide law enforcement support to other Interior Department agencies.

Department of Transportation

Pipeline Safety

Contact:

720

Cell: 303

[@dot.gov](mailto:dot.gov)

Transportation Security Administration

Intelligence Specialist

Contact: 406

Cell: 571-

[@tsa.dhs.gov](mailto:tsa.dhs.gov)

U.S. Forest Service

Custer N.F.

3710 Fallon St.

Bozeman, MT 59718

Contact:

SA

406-

[@fs.fed.us](mailto:fs.fed.us)

INCIDENT RESPONSE

The federal agencies anticipate a tiered response to pipeline incidents.

- Incidents along the pipeline corridor occurring on state or private property will ordinarily involve local law enforcement as the primary responder with assistance from other state and federal law enforcement assets. In these instances, Montana DCI and the MATIC will relay any request for federal assistance to the relevant federal agency contact listed above. All requests should be copied to the FBI.
- For routine or minor incidents on federal land, local law enforcement should act as the primary responder with notice to the affected agency and the FBI. Requests for federal assistance should be made from local law enforcement directly to the affected federal agency and the FBI with a copy to Montana DCI and the MATIC.

- For major incidents on federal land the affected federal agency to act as the primary responder and the party responsible for requesting assistance.

Major incidents on federal land include, but are not limited to, threats to persons, equipment, the pipeline or other federal property exclusively on federal land, near the international border, or at the Missouri River crossing.

- For major incidents on state or private land, Montana DCI and local law enforcement will act as the primary responder and party responsible for requesting assistance.

Major incidents on state or private land include all threats to public roads and highways and other significant threats to life and property occurring outside of federal land.

For any incident requiring a law enforcement response, FBI will activate the Virtual Command Center for collecting information and coordinating a response. To the extent training is necessary prior to the use of the FBI VCC, that training should occur prior to construction activity.

PRESS RELEASES AND MEDIA

Pursuant to current DOJ media policy, all federal agency press releases that relate to potential federal litigation must be approved in advance by the United States Attorney or his designee. Social media releases will be treated as press releases and subject to the same approval process.


At times, it will be necessary to counteract misinformation on social media with press and social media releases by state and local law enforcement. State and local law enforcement should coordinate all press and social media releases with the U.S. Attorney's Office. Failure to follow that consultation process may jeopardize federal litigation and could subject federal officers and attorneys to court sanctions.

LEGAL RESOURCES

The Office of the United States Attorney will provide ongoing legal advice to federal agencies during any incident response. That advice should address two priorities: avoiding liabilities and preparing cases for litigation. All federal law enforcement responders to pipeline protest activity should be aware of federal

criminal statutes pertinent to pipeline protest activities as well as the First Amendment rights of non-violent protesters.

First Amendment Standards: All federal law enforcement officers should be cognizant of and protect protesters' First Amendment rights. A failure to do so may subject individual law enforcement officers to personal liability. The First Amendment protects more than just the spoken and written word. It protects expressive conduct so long as that conduct “convey [s] a particularized message” and is likely to be understood in the surrounding circumstances. *Spence v. Washington*, 418 U.S. 405, 409–11, 94 S.Ct. 2727, 41 L.Ed.2d 842 (1974) (per curiam). (b) (5)



Restrictions on speech and assembly may be viewed differently depending on the nature of the forum being regulated. The Supreme Court has divided public forums into three categories: “traditional public forums,” “designated public forums,” and “limited public forums.” *Christian Legal Soc’y v. Martinez*, — U.S. —, 130 S.Ct. 2971, 2984 n. 11, 177 L.Ed.2d 838 (2010). Traditional public forums are places like sidewalks and parks. By contrast, other government properties are either nonpublic forums, or simply not considered forums at all. *Kaahumanu v. Hawaii*, 682 F.3d 789, 799 (9th Cir. 2012).

Restrictions on speech and assembly in traditional public forums is subject to strict scrutiny. *Harrington v. Schribner*, 785 F.3d 1299, 1306 (9th Cir. 2015). That requires the government to prove that the measures are narrowly tailored to further a compelling government interest. *Id.* In a nonpublic forum, regulations must be “(1) reasonable in light of the purpose served by the forum and (2) viewpoint neutral.” *Ctr. for Bio-Ethical Reform, Inc. v. City & Cnty. of Honolulu*, 455 F.3d 910, 920 (9th Cir.2006) (quoting *Brown v. Cal. Dep't of Transp.*, 321 F.3d 1217, 1222 (9th Cir.2003)).

(b) (5)



(b) (5)



Additional resources concerning First Amendment implications of protest activity can be found at:

- <https://player.vimeo.com/video/117224998>
- https://www.ncirc.gov/Training_First_Amendment.aspx
- <https://www.dhs.gov/protective-security-advisors>
- <https://www.justice.gov/sites/default/files/crs/legacy/2012/12/17/safe-marches-dem.pdf>

Applicable federal criminal statutes:

- **Pipeline Safety Act**, 49 U.S.C. § 60123(b):

A person knowingly and willfully damaging or destroying an interstate gas pipeline facility, an interstate hazardous liquid pipeline facility, or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce, or attempting or conspiring to do such an act, shall be fined under title 18, imprisoned for not more than 20 years, or

both, and, if death results to any person, shall be imprisoned for any term of years or for life.

Petroleum is a hazardous liquid. 49 USC § 60101(a)(4).

A “hazardous liquid pipeline facility” includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid. 49 USC § 60101(a)(5).

From the plain language of the statute, damage to, or meddling with, construction equipment used to build the pipeline would not fall under the Act.

- **Civil disorders**, 18 U.S.C. § 231(a):

(1) Whoever teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which may in any way or degree obstruct, delay, or adversely affect commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function; or

(2) Whoever transports or manufactures for transportation in commerce any firearm, or explosive or incendiary device, knowing or having reason to know or intending that the same will be used unlawfully in furtherance of a civil disorder; or

(3) Whoever commits or attempts to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function [commits a felony].

This statute was used in the prosecution of _____ in the DAPL protest response.

- **Felon in possession of a firearm**, 18 U.S.C. § 922(g):

It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year . . . [or other persons including fugitives, addicts, mentally handicapped, illegal aliens; and persons convicted of misdemeanor domestic violence]

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

The mere possession of a firearm is the crime. Interstate nexus is proven through ATF experts who can testify that the gun at issue traveled in interstate commerce.

Section 922 has further prohibitions of the possession of stolen and unlawfully modified firearms, like machine guns and sawed-off shotguns. A separate provision, 922(g)(9), prohibits the possession of a firearm by a person who has been convicted of misdemeanor domestic abuse.

- **Construction or possession of prohibited firearms or destructive devices**, 26 U.S.C. § 5861:

Further restrictions on firearm possession are found in Section 5861, which also applies to any “destructive device.” In pertinent part, the provision prohibits any action—

(f) to make a firearm in violation of the provisions of this chapter; or

(i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or

(j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter . . .

a)The term “firearm” means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18

inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in, United States Code); and (8) a destructive device.

- **Explosive devices**, 18 U.S.C. §§ 841, 842:

There are numerous prohibitions on the possession and transfer of explosives. They include—

- (b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—
- (1) a licensee;
 - (2) a holder of a user permit; or
 - (3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.

- (d) It shall be unlawful for any person knowingly to distribute explosive materials to any individual who:
- (1) is under twenty-one years of age;
 - (2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; . . .

- (e) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

It is also unlawful for any felon “to ship or transport any explosive in or affecting interstate or foreign commerce or to receive or possess any explosive which has been shipped or transported in or affecting interstate or foreign commerce.”

Finally it is unlawful to “to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of

an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence;” or “ knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.

- **Assault on a federal officer**, 18 U.S.C. § 111:

Whoever—

(1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or

(2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person’s term of service,

shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and where such acts involve physical contact with the victim of that assault or the intent to commit another felony, be fined under this title or imprisoned not more than 8 years, or both.

(b) Enhanced Penalty.—

Whoever, in the commission of any acts described in subsection (a), uses a deadly or dangerous weapon (including a weapon intended to cause death or danger but that fails to do so by reason of a defective component) or inflicts bodily injury, shall be fined under this title or imprisoned not more than 20 years, or both.

The “person designated in section 1114” is “any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance.”

- **Simple possession of drugs**, 21 U.S.C. § 844:

Possession of controlled substances is prohibited by a federal misdemeanor that states, in part, that—

It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice.

The felony drug provisions in Title 21 are found in section 841, which prohibits , among other things, any action “to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance”

- **Undocumented persons**, 8 U.S.C. § 1325, 1326:

Any alien who (1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under title 18 or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, or imprisoned not more than 2 years, or both.

This is the most common offense related to undocumented persons. The more serious offense of reentry after removal is found in section 1326.

- **Border offenses**, 19 U.S.C. § 1433:

Offenses related to unlawful border crossings are found in Title 19. They include a prohibition on vehicles entering the U.S. except through border stations. Thus,

(1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.

(2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

(A) report the arrival; and

(B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

- **BLM Violations pertaining to the Keystone Pipeline**

* In the presence of aggravating circumstances, i.e., where the result of a person’s actions exceeds the bond or when a serious threat exists to Bureau property, resources or personnel, an enhanced bond forfeiture of up to \$500 may be established at the discretion of the issuing officer, the Special Agent-in-Charge, or the U.S. Attorney’s office.

*** Where the federal regulation prohibits the same act as a state law, the fine set under state law may be assessed for violations.

Statute	Violation	Bond
18 USC 1361	Vandalism of Government Property	\$250 *
18 USC 1864 (b)(5)	Hazardous Devise on Federal Lands	MA
18 USC 1061	Obstruction of Transit over Public Lands	\$200 *

Special Use Permits for Competitive Events, Commercial Use, Recreation Areas

43 CFR 2932.57(a)(1)	Fail to Obtain a Special Recreation Permit/Pay Fees	\$250*
2932.57(a)(2)	Violate the Stipulations or Conditions of a Permit	\$250*
2932.57(a)(3)	Knowingly Participate in Un-permitted Event or Activity	\$100
2932.57(a)(4)	Fail to Post a Copy of the Permit for Participants to Read	\$100
2932.57(a)(5)	Fail to Show a Copy of Permit upon Request	\$100
2932.57(a)(6)	Obstruct or Harass Public or Impede w/Physical Contact	\$250

Grazing Administration

4140.1(b)(2)	Use, Maintain, Disturb Range Improvements w/o Auth.	\$200*
4140.1(b)(3)	Cut, Burn, Spray, Destroy or Remove Vegetation	\$150*
4140.1(b)(4)	Damaging or Removing US Property	\$200*

4140.1(b)(6)	Littering	\$100*
4140.1(b)(7)	Interfering with Lawful Use or Users/Obstructing Transit	\$200*
4140.1(b)(8)	Making a Knowing & Willful False Statement	\$250*

Closures

8364.1(d)	Violate Closure or Restriction Order	\$200*
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Rules of Conduct

8365.1-1(b)(1)	Littering, Non-Flammable Material	\$100*
8365.1-1(b)(2)	Littering, Flammable Material	\$100*
8365.1-1(b)(3)	Dumping of Sewage/Petroleum Product	\$200*
8365.1-1(b)(4)	Household, Industrial, Commercial Waste Disposal	\$250*
8365.1-1(b)(5)	Pollute or Contaminate Water Supplies	\$250*
8365.1-1(b)(6)	Improper Use Refuse Container/Disposal Facility	\$100*
8365.1-2(a)	Camping Longer than Permitted	\$100*
8365.1-2(b)	Unattended Personal Property – > 10 Days	\$100*
8365.1-3(a)	Reckless, Careless, Negligent Motor Vehicle Operation	\$250*
8365.1-3(a)	Exceed Posted Speed Limit (10)	\$25
	(11-20)	\$50
	(21 mph and over)	\$100
8365.1-3(b)(1)	Mandatory Safety Belt	\$25
8365.1-4	Creating a Risk or Public Disturbance	\$500*
8365.1-4(a)(1)	Making Unreasonable Noise	\$100
8365.1-4(a)(2)	Creating a Hazard or Nuisance	\$200*
8365.1-4(a)(3)	Refusing to Disperse	\$100*
8365.1-4(a)(4)	Resisting Arrest	\$250*
8365.1-4(a)(5)	Assault or Battery on BLM Employee	\$250*
8365.1-4(a)(6)	False Emergency or Crime Report	\$100*
8365.1-4(b)(1)	Cont. Substance	MA**
8365.1-4(b)(2)	Possession of a Controlled Substance	MA**
8365.1-4(b)(2)	Possession of < 1 ounce of Marijuana	\$250
8365.1-5(a)(1)	Deface, Remove, Destroy Natural Resources	\$250*
8365.1-5(a)(2)	Deface, Remove, Destroy, Plants, Rocks, Minerals	\$100*
8365.1-5(a)(3)	Motorized or Explosive Devices for Collecting	\$250*
8365.1-5(c)	Collection of Resources for Sale or Barter w/o Permit	\$250*
8365.1-6	Supplementary Rules	\$100*

**FEDERAL OPERATIONS PLAN
KEYSTONE XL PIPELINE
PUBLIC SAFETY ISSUES**

Draft: 3/30/18



Prepared by the United States Attorney's Office with input from .
Contains law enforcement sensitive and attorney work product information.

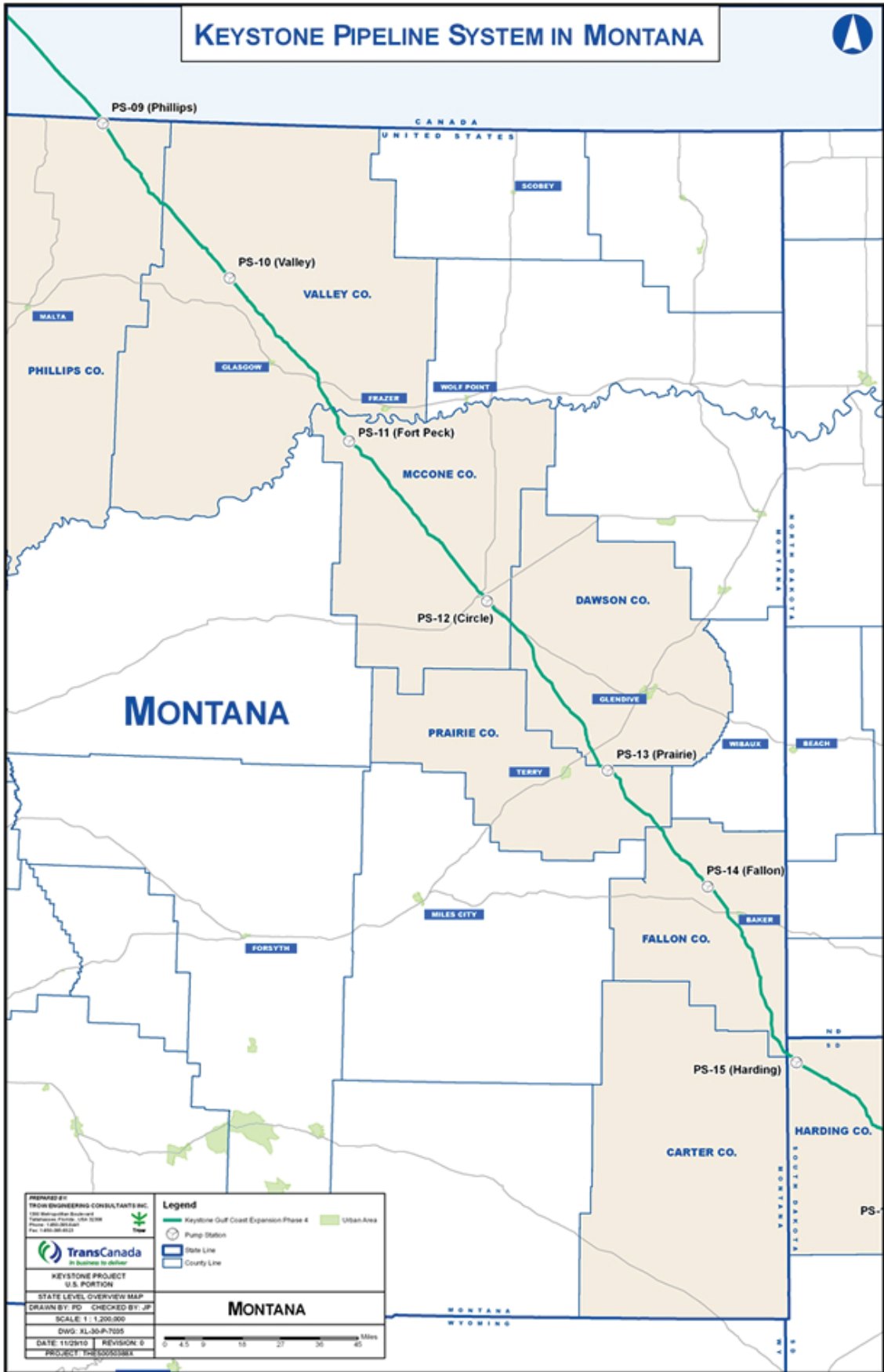
PURPOSE

Anticipating the commencement of construction activities on the TransCanada Keystone XL Pipeline (pipeline) beginning the spring of 2018, the United States Attorney's Office and affected federal agencies collectively adopt this plan of operations to facilitate the deployment of federal law enforcement resources to assist with the law enforcement response to pipeline construction and protest activities along the pipeline route. This plan of operations supplements the Threat Assessment from the Montana Analysis and Technical Information Center dated 11/27/2017 with a summary of available federal resources; it is not intended to preempt future decision-making by any federal agency with regard to any request for a federal response, or violations of federal law within the jurisdiction of the United States.

BACKGROUND

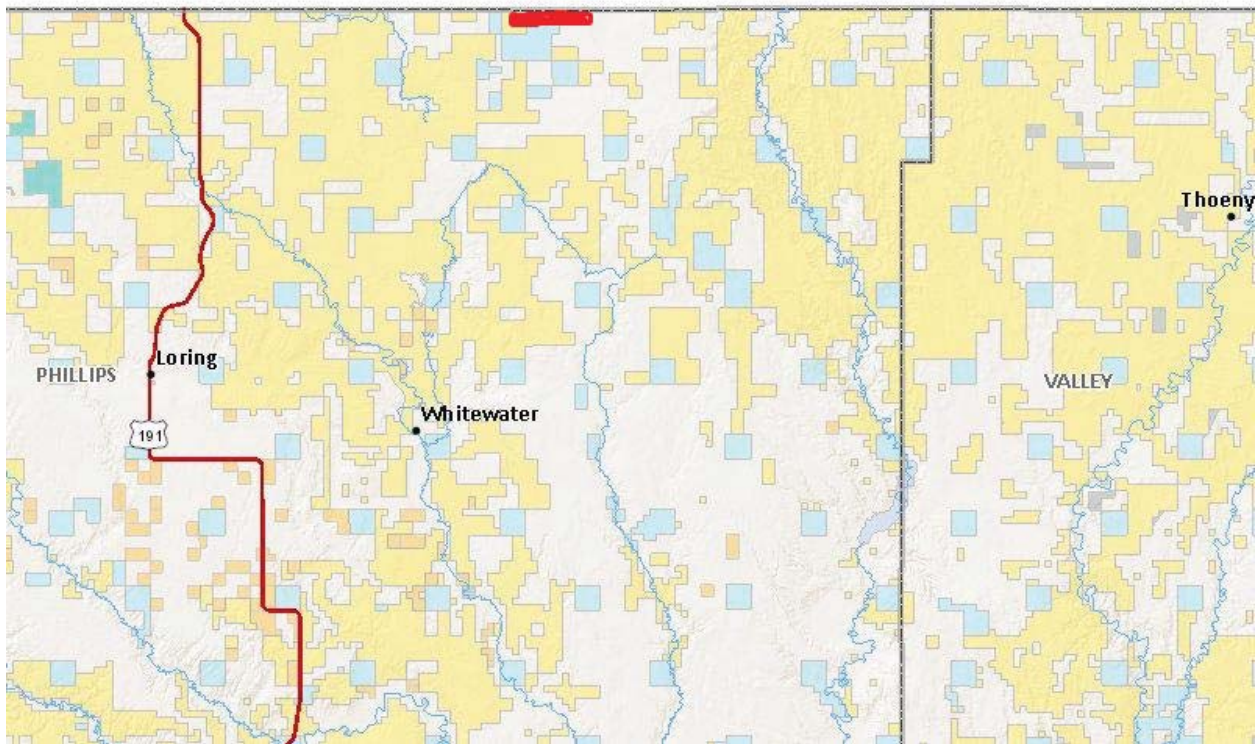
The proposed pipeline route passes through six counties in Montana from north to southeast: Phillips, Valley, McCone, Dawson, Prairie, and Fallon (see attached map). It will pass through mostly remote farming and ranching communities. Approximately 45-55 miles of pipeline will pass through federal land held by the Bureau of Land Management, the Bureau of Reclamation, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service. The pipeline will cross three major rivers in Montana: the Milk, Missouri and Yellowstone.

For reasons outlined in the MATIC Threat Assessment, construction of the pipeline is highly controversial and will likely generate significant opposition from protest groups during construction. Since pipeline construction will generally occur from north to south, Montana can expect to host a significant portion of the protest activity during the early construction phase. We expect the protest activity to be concentrated at significant river, border and highway crossings, including the U.S.-Canadian border crossing, the Missouri crossing near the Fort Peck Dam, and the Yellowstone/Interstate crossing west of Glendive, Montana. Federal lands exist near each of these sites. The pipeline construction firm, TransCanada, expects to build temporary construction worker camps along the pipeline route. It tentatively proposes four camps in Montana near the towns of Hinsdale, Nashua, Circle, and Baker.

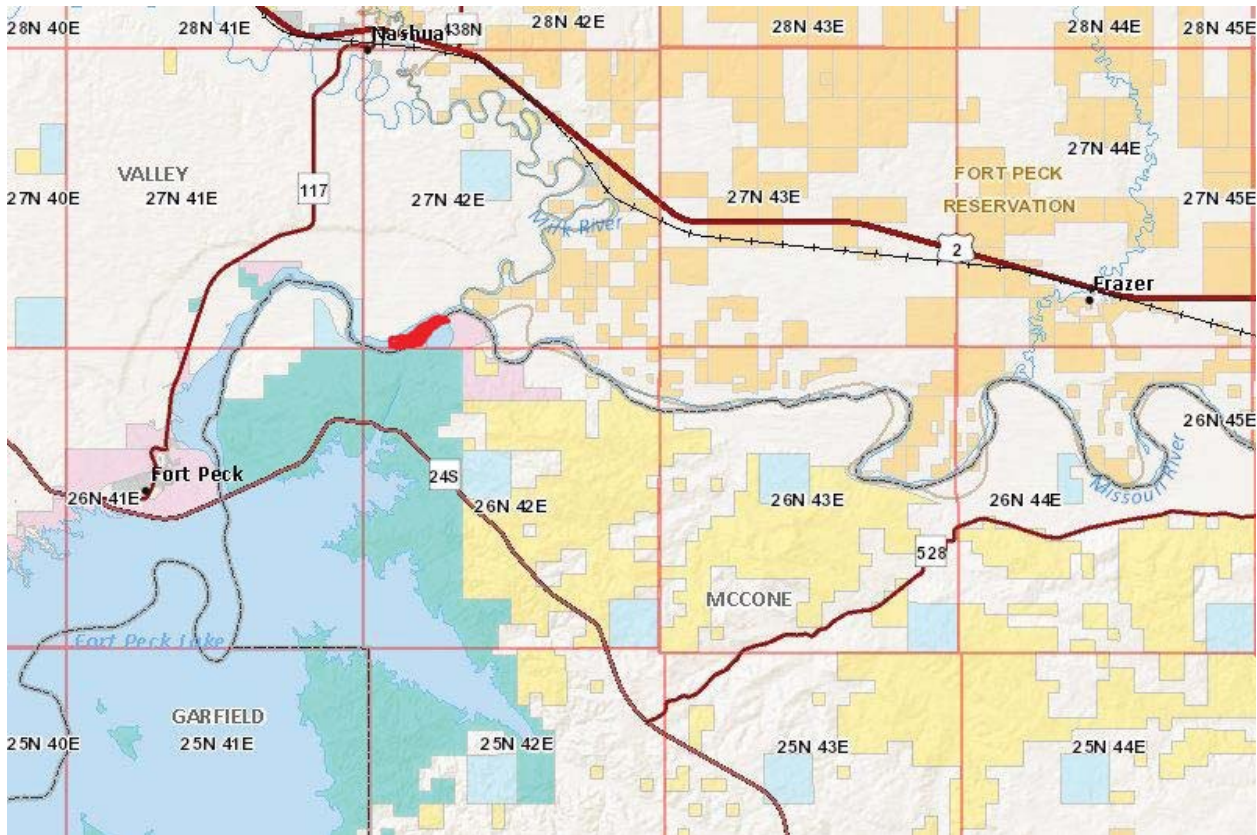


CRITICAL SITE ANALYSIS

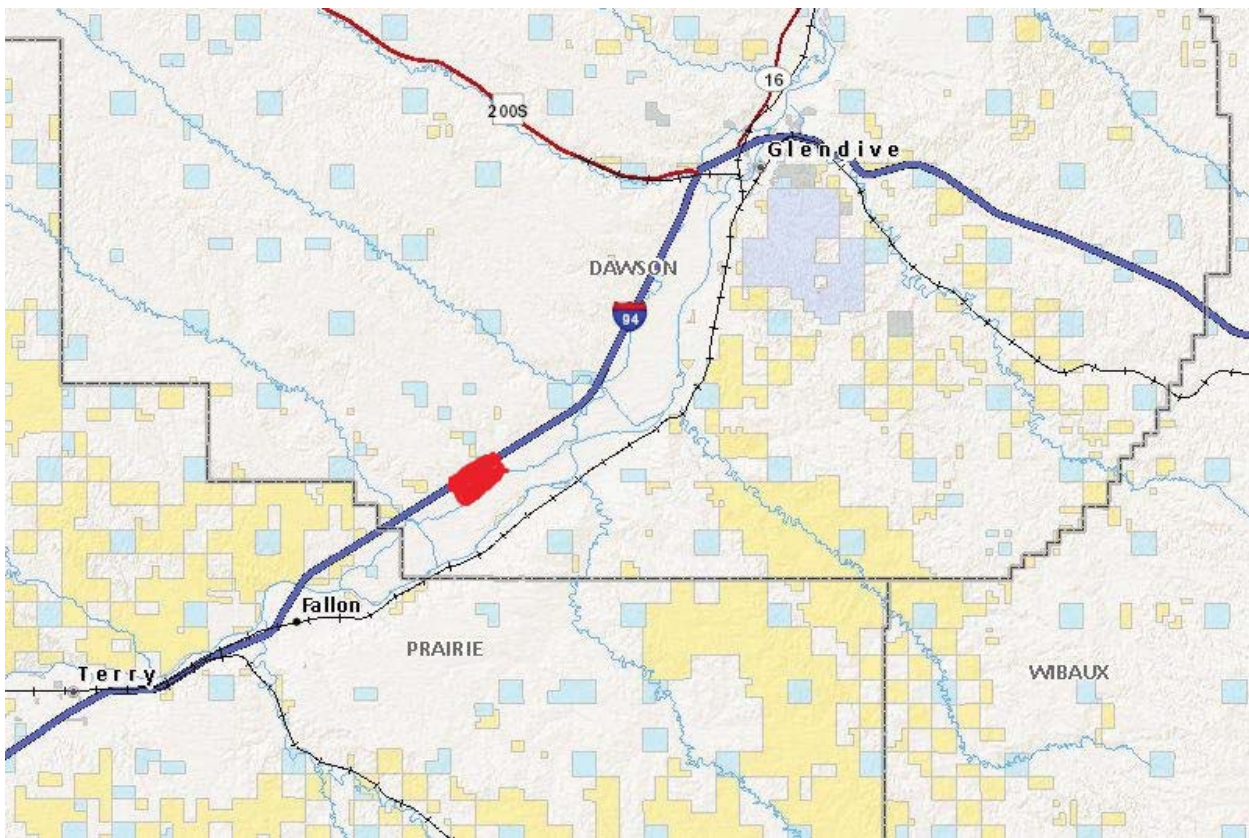
U.S.-Canadian border—Phillips County: The pipeline route crosses the international border in a remote portion of Phillips County that is not served by any major highways or towns (approximate location in red). In that area, however, the pipeline route is surrounded by large amounts of federal public land held by the BLM.



Missouri River crossing—Valley and McCone Counties: The pipeline is to be directionally drilled beneath the Missouri River within a mile of the Fort Peck Reservoir spillway, a portion of the critical infrastructure related to the largest reservoir in the state. The river crossing from Valley to McCone Counties is within a mile of the Fort Peck Reservation in the east, approximately 5 miles south of U.S. Highway 2 (approximate location in red). The Fort Peck Tribe’s water intake system lies about 35 miles east. The south side of the river crossing at that location is an amalgam of federal public land held by the Corps of Engineers, the BLM, BOR and USFWS.



Yellowstone River crossing—Dawson County: the pipeline is to be directionally drilled beneath the Yellowstone River approximately 20 miles west of Glendive (approximate location in red). The crossing is on private land, although there are large amounts of BLM public land as close as 5 miles from the crossing, particularly in Prairie County. The crossing is within three miles of Interstate 90 near the Bad Route Road exit.



FEDERAL AGENCY RESOURCES

FBI

2929 3rd Ave. North
Billings, Montana 59101

Contact: SSRA
(406) SA
406- [@fbi.gov](mailto:SSRA@fbi.gov)
Analyst, [@fbi.gov](mailto:SSRA@fbi.gov)
406-
Cell: 310- -

The Billings Resident Agency for the FBI will have primary investigative authority for all federal crimes under Title 18 of the United States Code that occur along the pipeline corridor. The FBI also has primary authority for investigating major crimes occurring within the Fort Peck Reservation and for the protection of critical infrastructure along the pipeline corridor, including the pipeline itself and the Fort Peck dam and spillway. The FBI will have primary investigative authority for all national security investigations, including but not limited to international terrorism, domestic terrorism, and weapons of mass destruction, regardless of the statutes charged.

Available resources include:

- six agents to respond to pipeline-related incidents;
- critical incident response team for domestic terrorism or threats to critical infrastructure;
- analyst support; and
- command center resources including the Virtual Command Center for centralized management of incidents occurring in multiple locations.

BLM

5001 Southgate Drive

Billings, MT 59101

Contact: , [@blm.gov](mailto: @blm.gov)

Chief Ranger

Desk: 406-

Cell: 406

BLM has jurisdiction and patrol responsibility for BLM land. Barring a significant incident on BLM land, BLM anticipates that its response role will be to assist with the local law enforcement response. Additional MOUs with the state and counties may be necessary for this to occur. BLM is not currently anticipating any land closures or land use prohibitions beyond the regulations in place. Large gatherings on BLM land require a permit. BLM may also impose fire restrictions during summer months.

Available resources:

- a Chief Ranger and three agents available for investigations;
- portable radio repeater technology available to provide consistent co for secure communications to remote sections of the pipeline corridor;
- portable medical unit;
- management may activate a response from BLM rangers throughout the region as a force multiplier on an incident basis.

U.S. Attorney's Office

2601 2nd Ave. Billings, MT 59101

Contact: , [@usdoj.gov](mailto: @usdoj.gov)

First Assistant U.S. Attorney

406

Cell 406

, [@usdoj.gov](mailto: @usdoj.gov)

Intelligence Specialist

Desk: 406-

Cell: 406.

The USAO will coordinate the federal response, provide legal advice, prosecute federal cases derived from the pipeline response, and communicate incident developments to the Department of Justice Office of the Deputy Attorney General and to the National Security Division's Counterterrorism Section. The Counterterrorism Section will provide litigation support in the event of a significant terrorist incident.

Available resources:

- AUSA prosecutors for individual case assignments;
- Joint Terrorism Task Force expertise including AUSA
- intelligence analyst support.

Border Patrol

Havre Sector

2605 5th Ave. S.E.

Havre, MT 59501

Contact:

PAIC, Havre Sector

Desk: 406-

Cell: 406-

[@cbp.dhs.gov](mailto:cbp@dhs.gov)

Border Patrol will be the primary federal responder for incidents at or near the international border. Border Patrol anticipates that it will patrol north of Highway 2, with efforts concentrated nearest the border. It will be able to process Central Violations Bureau tickets for federal misdemeanor drug, assault, and other violations near the border, such as failure to report at a border crossing. Border patrol will not be enforcing trespass violations involving either federal or private lands. It can assist with communications and provide training to local law enforcement and tactical support for border-related incidents.

Available resources:

- approximately 10 agents in the sector;
- SWAT (BORTAC) and EMT/Search and Rescue (Border STAR) Units
- air unit (Great Falls) and drone assets (N.D.).

ATF
2929 3rd Ave. North
Billings, MT 59101
Contact: _____, RAC
406 _____
SA
406 _____
Cell: 406 _____
[@atf.gov](mailto:____@atf.gov)

ATF has the primary investigative authority over firearms violations and explosives. Will coordinate with DCI on arson investigations. Has capacity to deal with potentially violent targets through the use of the federal firearms laws.

Available resources:

- certified fire investigators
- undercover personnel
- ied and Molotov cocktail investigations
- radio technicians can assist with communications coordination
- emergency bullet analysis and firearms tracing.

U.S. Army Corps of Engineers
Fort Peck Dam
Darin McMurry
Contact: 406-

[@usace.army.mil](mailto:____@usace.army.mil)

The Army Corps of Engineers has a primary role in protecting the critical infrastructure at the Fort Peck Dam. Patrol and security responsibilities on that site may need to be arranged by the Corps with the Federal Protective Services.

BIA
2021 4th Ave. North
Billings, MT 59101

Contact: SAC
406-
ASAC
Cell: 406-
[@bia.gov](mailto:bia.gov)

Provides law enforcement support and investigations in Indian Country. Will provide technical assistance on the Fort Peck Reservation.

Available resources:

- patrol officers for incidents affecting Fort Peck Reservation;
- mobile command post and portable communications trailer.

U.S. Marshals Service
2601 2nd Ave. North
Billings, MT 59101

Contact: Acting Marshal
406-
406
[@usdoj.gov](mailto:usdoj.gov)

U.S. Marshals Service role as yet undefined. May assist with fugitive warrants and prisoner transport.

Available resources:

- 20-24 operation personnel available, more if necessary;
- Violent Crime Task Force.

NPS

Contact: L.E. Ranger
[@nps.gov](mailto:nps.gov)

Can provide law enforcement support to other Interior Department agencies.

Department of Transportation

Pipeline Safety

Contact:

720-

Cell: 303-

[@dot.gov](mailto: @dot.gov)

Transportation Security Administration

Intelligence Specialist

Contact: 406-

Cell: 571-

[@tsa.dhs.gov](mailto: @tsa.dhs.gov)

U.S. Forest Service

Custer N.F.

3710 Fallon St.

Bozeman, MT 59718

Contact:

SA

406-

[@fs.fed.us](mailto: @fs.fed.us)

INCIDENT RESPONSE

The federal agencies anticipate a tiered response to pipeline incidents.

- Incidents along the pipeline corridor occurring on state or private property will ordinarily involve local law enforcement as the primary responder with assistance from other state and federal law enforcement assets. In these instances, Montana DCI and the MATIC will relay any request for federal assistance to the relevant federal agency contact listed above. All requests should be copied to the FBI.
- For routine or minor incidents on federal land, local law enforcement should act as the primary responder with notice to the affected agency and the FBI. Requests for federal assistance should be made from local law enforcement directly to the affected federal agency and the FBI with a copy to Montana DCI and the MATIC.

- For major incidents on federal land the affected federal agency to act as the primary responder and the party responsible for requesting assistance.

Major incidents on federal land include, but are not limited to, threats to persons, equipment, the pipeline or other federal property exclusively on federal land, near the international border, or at the Missouri River crossing.

- For major incidents on state or private land, Montana DCI and local law enforcement will act as the primary responder and party responsible for requesting assistance.

Major incidents on state or private land include all threats to public roads and highways and other significant threats to life and property occurring outside of federal land.

For any incident requiring a law enforcement response, FBI will activate the Virtual Command Center for collecting information and coordinating a response. To the extent training is necessary prior to the use of the FBI VCC, that training should occur prior to construction activity.

PRESS RELEASES AND MEDIA

Pursuant to current DOJ media policy, all federal agency press releases that relate to potential federal litigation must be approved in advance by the United States Attorney or his designee. Social media releases will be treated as press releases and subject to the same approval process.


At times, it will be necessary to counteract misinformation on social media with press and social media releases by state and local law enforcement. State and local law enforcement should coordinate all press and social media releases with the U.S. Attorney's Office. Failure to follow that consultation process may jeopardize federal litigation and could subject federal officers and attorneys to court sanctions.

LEGAL RESOURCES

The Office of the United States Attorney will provide ongoing legal advice to federal agencies during any incident response. That advice should address two priorities: avoiding liabilities and preparing cases for litigation. All federal law enforcement responders to pipeline protest activity should be aware of federal

criminal statutes pertinent to pipeline protest activities as well as the First Amendment rights of non-violent protesters.

First Amendment Standards: All federal law enforcement officers should be cognizant of and protect protesters' First Amendment rights. A failure to do so may subject individual law enforcement officers to personal liability. The First Amendment protects more than just the spoken and written word. It protects expressive conduct so long as that conduct “convey [s] a particularized message” and is likely to be understood in the surrounding circumstances. *Spence v. Washington*, 418 U.S. 405, 409–11, 94 S.Ct. 2727, 41 L.Ed.2d 842 (1974) (per curiam). (b) (5)



Restrictions on speech and assembly may be viewed differently depending on the nature of the forum being regulated. The Supreme Court has divided public forums into three categories: “traditional public forums,” “designated public forums,” and “limited public forums.” *Christian Legal Soc’y v. Martinez*, — U.S. —, 130 S.Ct. 2971, 2984 n. 11, 177 L.Ed.2d 838 (2010). Traditional public forums are places like sidewalks and parks. By contrast, other government properties are either nonpublic forums, or simply not considered forums at all. *Kaahumanu v. Hawaii*, 682 F.3d 789, 799 (9th Cir. 2012).

Restrictions on speech and assembly in traditional public forums is subject to strict scrutiny. *Harrington v. Schribner*, 785 F.3d 1299, 1306 (9th Cir. 2015). That requires the government to prove that the measures are narrowly tailored to further a compelling government interest. *Id.* In a nonpublic forum, regulations must be “(1) reasonable in light of the purpose served by the forum and (2) viewpoint neutral.” *Ctr. for Bio-Ethical Reform, Inc. v. City & Cnty. of Honolulu*, 455 F.3d 910, 920 (9th Cir.2006) (quoting *Brown v. Cal. Dep’t of Transp.*, 321 F.3d 1217, 1222 (9th Cir.2003)).

(b) (5)



(b) (5)



Additional resources concerning First Amendment implications of protest activity can be found at:

- <https://player.vimeo.com/video/117224998>
- https://www.ncirc.gov/Training_First_Amendment.aspx
- <https://www.dhs.gov/protective-security-advisors>
- <https://www.justice.gov/sites/default/files/crs/legacy/2012/12/17/safe-marches-dem.pdf>

Applicable federal criminal statutes:

- **Pipeline Safety Act**, 49 U.S.C. § 60123(b):

A person knowingly and willfully damaging or destroying an interstate gas pipeline facility, an interstate hazardous liquid pipeline facility, or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce, or attempting or conspiring to do such an act, shall be fined under title 18, imprisoned for not more than 20 years, or

both, and, if death results to any person, shall be imprisoned for any term of years or for life.

Petroleum is a hazardous liquid. 49 USC § 60101(a)(4).

A “hazardous liquid pipeline facility” includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid. 49 USC § 60101(a)(5).

From the plain language of the statute, damage to, or meddling with, construction equipment used to build the pipeline would not fall under the Act.

- **Civil disorders**, 18 U.S.C. § 231(a):

(1) Whoever teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which may in any way or degree obstruct, delay, or adversely affect commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function; or

(2) Whoever transports or manufactures for transportation in commerce any firearm, or explosive or incendiary device, knowing or having reason to know or intending that the same will be used unlawfully in furtherance of a civil disorder; or

(3) Whoever commits or attempts to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function [commits a felony].

This statute was used in the prosecution of _____ in the DAPL protest response.

- **Felon in possession of a firearm**, 18 U.S.C. § 922(g):

It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year . . . [or other persons including fugitives, addicts, mentally handicapped, illegal aliens; and persons convicted of misdemeanor domestic violence]

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

The mere possession of a firearm is the crime. Interstate nexus is proven through ATF experts who can testify that the gun at issue traveled in interstate commerce.

Section 922 has further prohibitions of the possession of stolen and unlawfully modified firearms, like machine guns and sawed-off shotguns. A separate provision, 922(g)(9), prohibits the possession of a firearm by a person who has been convicted of misdemeanor domestic abuse.

- **Construction or possession of prohibited firearms or destructive devices**, 26 U.S.C. § 5861:

Further restrictions on firearm possession are found in Section 5861, which also applies to any “destructive device.” In pertinent part, the provision prohibits any action—

(f) to make a firearm in violation of the provisions of this chapter; or

(i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or

(j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter . . .

a)The term “firearm” means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18

inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in, United States Code); and (8) a destructive device.

- **Explosive devices**, 18 U.S.C. §§ 841, 842:

There are numerous prohibitions on the possession and transfer of explosives. They include—

- (b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—
- (1) a licensee;
 - (2) a holder of a user permit; or
 - (3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.

- (d) It shall be unlawful for any person knowingly to distribute explosive materials to any individual who:
- (1) is under twenty-one years of age;
 - (2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; . . .

- (e) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

It is also unlawful for any felon “to ship or transport any explosive in or affecting interstate or foreign commerce or to receive or possess any explosive which has been shipped or transported in or affecting interstate or foreign commerce.”

Finally it is unlawful to “to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of

an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence;” or “ knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.

- **Assault on a federal officer**, 18 U.S.C. § 111:

Whoever—

(1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or

(2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person’s term of service,

shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and where such acts involve physical contact with the victim of that assault or the intent to commit another felony, be fined under this title or imprisoned not more than 8 years, or both.

(b) Enhanced Penalty.—

Whoever, in the commission of any acts described in subsection (a), uses a deadly or dangerous weapon (including a weapon intended to cause death or danger but that fails to do so by reason of a defective component) or inflicts bodily injury, shall be fined under this title or imprisoned not more than 20 years, or both.

The “person designated in section 1114” is “any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance.”

- **Simple possession of drugs**, 21 U.S.C. § 844:

Possession of controlled substances is prohibited by a federal misdemeanor that states, in part, that—

It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice.

The felony drug provisions in Title 21 are found in section 841, which prohibits , among other things, any action “to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance”

- **Undocumented persons**, 8 U.S.C. § 1325, 1326:

Any alien who (1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under title 18 or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, or imprisoned not more than 2 years, or both.

This is the most common offense related to undocumented persons. The more serious offense of reentry after removal is found in section 1326.

- **Border offenses**, 19 U.S.C. § 1433:

Offenses related to unlawful border crossings are found in Title 19. They include a prohibition on vehicles entering the U.S. except through border stations. Thus,

(1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.

(2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

(A) report the arrival; and

(B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

- **BLM Violations pertaining to the Keystone Pipeline**

* In the presence of aggravating circumstances, i.e., where the result of a person’s actions exceeds the bond or when a serious threat exists to Bureau property, resources or personnel, an enhanced bond forfeiture of up to \$500 may be established at the discretion of the issuing officer, the Special Agent-in-Charge, or the U.S. Attorney’s office.

*** Where the federal regulation prohibits the same act as a state law, the fine set under state law may be assessed for violations.

Statute	Violation	Bond
18 USC 1361	Vandalism of Government Property	\$250 *
18 USC 1864 (b)(5)	Hazardous Devise on Federal Lands	MA
18 USC 1061	Obstruction of Transit over Public Lands	\$200 *

Special Use Permits for Competitive Events, Commercial Use, Recreation Areas

43 CFR 2932.57(a)(1)	Fail to Obtain a Special Recreation Permit/Pay Fees	\$250*
2932.57(a)(2)	Violate the Stipulations or Conditions of a Permit	\$250*
2932.57(a)(3)	Knowingly Participate in Un-permitted Event or Activity	\$100
2932.57(a)(4)	Fail to Post a Copy of the Permit for Participants to Read	\$100
2932.57(a)(5)	Fail to Show a Copy of Permit upon Request	\$100
2932.57(a)(6)	Obstruct or Harass Public or Impede w/Physical Contact	\$250

Grazing Administration

4140.1(b)(2)	Use, Maintain, Disturb Range Improvements w/o Auth.	\$200*
4140.1(b)(3)	Cut, Burn, Spray, Destroy or Remove Vegetation	\$150*
4140.1(b)(4)	Damaging or Removing US Property	\$200*

4140.1(b)(6)	Littering	\$100*
4140.1(b)(7)	Interfering with Lawful Use or Users/Obstructing Transit	\$200*
4140.1(b)(8)	Making a Knowing & Willful False Statement	\$250*

Closures

8364.1(d)	Violate Closure or Restriction Order	\$200*
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Rules of Conduct

8365.1-1(b)(1)	Littering, Non-Flammable Material	\$100*
8365.1-1(b)(2)	Littering, Flammable Material	\$100*
8365.1-1(b)(3)	Dumping of Sewage/Petroleum Product	\$200*
8365.1-1(b)(4)	Household, Industrial, Commercial Waste Disposal	\$250*
8365.1-1(b)(5)	Pollute or Contaminate Water Supplies	\$250*
8365.1-1(b)(6)	Improper Use Refuse Container/Disposal Facility	\$100*
8365.1-2(a)	Camping Longer than Permitted	\$100*
8365.1-2(b)	Unattended Personal Property – > 10 Days	\$100*
8365.1-3(a)	Reckless, Careless, Negligent Motor Vehicle Operation	\$250*
8365.1-3(a)	Exceed Posted Speed Limit (10)	\$25
	(11-20)	\$50
	(21 mph and over)	\$100
8365.1-3(b)(1)	Mandatory Safety Belt	\$25
8365.1-4	Creating a Risk or Public Disturbance	\$500*
8365.1-4(a)(1)	Making Unreasonable Noise	\$100
8365.1-4(a)(2)	Creating a Hazard or Nuisance	\$200*
8365.1-4(a)(3)	Refusing to Disperse	\$100*
8365.1-4(a)(4)	Resisting Arrest	\$250*
8365.1-4(a)(5)	Assault or Battery on BLM Employee	\$250*
8365.1-4(a)(6)	False Emergency or Crime Report	\$100*
8365.1-4(b)(1)	Cont. Substance	MA**
8365.1-4(b)(2)	Possession of a Controlled Substance	MA**
8365.1-4(b)(2)	Possession of < 1 ounce of Marijuana	\$250
8365.1-5(a)(1)	Deface, Remove, Destroy Natural Resources	\$250*
8365.1-5(a)(2)	Deface, Remove, Destroy, Plants, Rocks, Minerals	\$100*
8365.1-5(a)(3)	Motorized or Explosive Devices for Collecting	\$250*
8365.1-5(c)	Collection of Resources for Sale or Barter w/o Permit	\$250*
8365.1-6	Supplementary Rules	\$100*

The Bureau of Land Management's (BLM) Region Four Law Enforcement program is currently involved with the planning stages of the security and safety of both the general public and public lands administered by the Bureau of Land Management revolving around the construction of the Keystone Pipeline. This pipeline will run through approximately 50 miles of BLM lands through eastern Montana and has been deemed a priority by the Secretary of the Interior.

BLM's priorities will revolve around the BLM's mission in managing our public lands with an emphasis on public safety and resource protection. BLM Law Enforcement will respond to all calls of service on BLM administered lands pertaining to violations within Title 43 of the Federal Code of Regulations. In addition the BLM has the authority to enforce several violations found under 18 USC as well as Title 21. **“Please see the bottom of this document for BLM enforceable violations pertaining to the Keystone Pipeline”**. The BLM does have the ability to enforce state law on BLM administered lands only if there is a current Memorandum of Understanding (MOU) in place with that current county and the BLM LE personnel have been deputized by the sheriff of said county. BLM Law enforcement will be available to assist local and state law enforcement off of BLM administered lands only if a MOU has been established within that county and the BLM LE has been requested for assistance.

Conversation Contents

Funding request for the Secretaries Priorities

Attachments:

/13. Funding request for the Secretaries Priorities/1.1 871674.pdf
/13. Funding request for the Secretaries Priorities/1.2 Secretary Priority Memo.doc

@blm.gov>

From: @blm.gov>
Sent: Tue Mar 27 2018 13:25:05 GMT-0600 (MDT)
To: @blm.gov>
CC: @blm.gov>
Subject: Funding request for the Secretaries Priorities
Attachments: 871674.pdf Secretary Priority Memo.doc

[Here you go.](#)

--

State Chief Ranger, Montana/Dakotas
Department of the Interior
Bureau Of Land Management
Office of Law Enforcement & Security
5001 Southgate Dr.
Billings, Mt. 59101

Office (406)
Cell (406)

@blm.gov>

From: @blm.gov>
Sent: Tue Mar 27 2018 13:30:19 GMT-0600 (MDT)
To: @blm.gov>
CC: @blm.gov>
Subject: Re: Funding request for the Secretaries Priorities

[this also covers topic #3 as well](#) (Restore trust and be a good neighbor.) Our local sheriff's are very uneasy with this pipeline due to limited resources they have. They have reached out to us for assistance in the event their counties get overran, We have assured them we will be there to assist if requested.

On Tue, Mar 27, 2018 at 1:25 PM,

[@blm.gov>](#) wrote:

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[Here you go.](#)

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**State Chief Ranger, Montana/Dakotas
Department of the Interior
Bureau Of Land Management
Office of Law Enforcement & Security
5001 Southgate Dr.
Billings, Mt. 59101**

**Office (406)
Cell (406)**

--

**State Chief Ranger, Montana/Dakotas
Department of the Interior
Bureau Of Land Management
Office of Law Enforcement & Security
5001 Southgate Dr.
Billings, Mt. 59101**

**Office (406)
Cell (406)**

[@blm.gov](#)

From: @blm.gov>
Sent: Tue Mar 27 2018 16:34:29 GMT-0600 (MDT)
To: @blm.gov>
Subject: Re: Funding request for the Secretaries Priorities

thank you for putting this together. I appreciate your getting on topic and submission!
Take care.

On Mar 27, 2018, at 13:25, [@blm.gov](#)> wrote:

[Here you go.](#)

--

**State Chief Ranger, Montana/Dakotas
Department of the Interior
Bureau Of Land Management
Office of Law Enforcement & Security
5001 Southgate Dr.
Billings, Mt. 59101**

**Office (406)
Cell (406)**

<871674.pdf>

<Secretary Priority Memo.doc>



100 Hunter Place
 Youngsville, NC 27596
 Phone: (919) 554-2244, (800) 356-7311
 Fax: (919) 554-2266, (800) 899-8181
 www.sirchie.com

Quote Number: 0871674
 Quote Date: 3/16/2018
 Prepared by:
 Modified by:
 RE: RFQ RFQ
 FOB

Extended Sales Hours Monday - Friday, 8AM-7PM EST

QUOTE

Cust No: T59101
 Attention:
 Fax No.:
 Phone No.: (406)

Bill to Address:
 MT Bureau of Land Mgmt
 5001 Southgate Drive
 Office for Law Enforcement
 Billings, MT 59101

Ship to Address:
 MT Bureau of Land Mgmt
 5001 Southgate Drive
 Office for Law Enforcement
 Billings, MT 59101

E-mail: @blm.gov

Qty	Description	Unit Price	Total
25	9061FS6 Riot helmet w/ gas face shield	\$118.20	\$2,955.00
25	AVPC50M Avon PC50 non-CBRN APR, Twin P	\$272.65	\$6,816.25
25	AVCTCF50 Avon Riot agent filter	\$52.34	\$1,308.50

Payment Details

Terms: CREDIT CARDS
 Expected Delivery: 4-6 Weeks ARO
 Expiration: 30 Days
 Federal ID No.: 26-1186682

Net Order: 11,079.75
 Less Discount: 0.00
 Shipping & Handling: 325.00
 Sales Tax: 0.00
Order Total: 11,404.75

Thank you for your continued interest in SIRCHIE products. When placing your order, please reference your quote number provided above. If you have any questions or concerns, please do not hesitate to call.

Signature: _____

By placing this order, you are acknowledging you are a United States purchaser and agree not to ship products internationally and /or engage in a subsequent resale leading to the export of these items. Certain commodities cannot be exported from the United States without specific approval from the Department of Commerce (Part 730 et seq., U.S. Export Administration Regulations) and/or the Department of State (22 C.F.R. 120-130, ITAR). Diversion contrary to U.S. law is prohibited.

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United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Montana State Office, Law Enforcement Staff
5001 Southgate Drive
Billings, Montana 59101-4669
<http://www.blm.gov/mt>

In Reply Refer To:

March 27, 2018

Memorandum

To: SAC, (A)SAC Region 4

From: , State Chief Ranger MT/DKS

Subject: Secretary's Priorities (Energy Development)

The Region Four Law Enforcement program is currently involved with the planning stages of the security and safety of both the general public and public lands administered by the Bureau of Land Management revolving around the construction of the Keystone Pipeline. This pipeline will run through approximately 50 miles of BLM lands through eastern Montana and has been deemed a priority by the Secretary of the Interior.

Though the BLM jurisdiction and priorities will revolve around the BLM's mission in managing our public lands, it is possible that the BLM's law enforcement personnel may be requested to assist local and state law enforcement agencies in the event of a civil disobedience. This type of activity was ongoing during the highly volatile Dakota Access Pipeline project (DAPL) which occurred in 2016.

Region Four is taking proactive measures to ensure the safety of their officers and others in the event such an incident should take place. During this year's annual in-service the LE programs in Montana and Wyoming will be bringing in a Civil Disobedience Instructor from the Montana Highway Patrol. This instructor will cover the basic strategies and tactics used to combat such behavior. The instructor has made a recommendation for basic safety equipment needed to properly react to a civil disobedience.

1. 36 inch riot baton
2. Riot Helmet
3. Gas mask to include filters

A quote has been obtained using GSA pricing to obtain such equipment for 25 LE personnel. See Attached:

USA_BLM_00934

Conversation Contents

Civil Disobedience Training

Attachments:

/15. Civil Disobedience Training/2.1 image001.png
/15. Civil Disobedience Training/3.1 image001.png
/15. Civil Disobedience Training/4.1 image001.png
/15. Civil Disobedience Training/5.1 image001.png
/15. Civil Disobedience Training/6.1 image001.png
/15. Civil Disobedience Training/7.1 image001.png
/15. Civil Disobedience Training/8.1 image001.png
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/15. Civil Disobedience Training/13.2 MHPcrowdcontrol.docx
/15. Civil Disobedience Training/14.1 image001.png
/15. Civil Disobedience Training/15.1 image001.png
/15. Civil Disobedience Training/16.1 image001.png
/15. Civil Disobedience Training/17.1 image001.png
/15. Civil Disobedience Training/18.1 image001.png
/15. Civil Disobedience Training/19.1 image001.png
/15. Civil Disobedience Training/20.1 image001.png
/15. Civil Disobedience Training/21.1 image001.png
/15. Civil Disobedience Training/22.1 image001.png
/15. Civil Disobedience Training/23.1 image001.png
/15. Civil Disobedience Training/24.1 image001.png

@blm.gov

From: @blm.gov
Sent: Fri Jan 12 2018 10:06:26 GMT-0700 (MST)
To: @mt.gov
Subject: Civil Disobedience Training

, I hope you are doing well. At a Keystone Pipeline meeting several months ago you stated that you put on a Civil Disobedience course for law enforcement. I'm looking to get some of our rangers through this type of training as we gear up for the pipeline construction. We will have all of our rangers from Montana and Wyoming together for some annual training in Cody, Wyoming in April. I was wondering if you or someone else who is competent in this field would be available to give us a hand? We are looking at April 17th or 18th.

Regrads,

--

State Chief Ranger, Montana/Dakotas
Department of the Interior
Bureau Of Land Management
Office of Law Enforcement & Security
5001 Southgate Dr.
Billings, Mt. 59101

Office (406)
Cell (406)

@mt.gov>

From: @mt.gov>
Sent: Tue Jan 16 2018 09:20:25 GMT-0700 (MST)
To: @blm.gov>
Subject: RE: Civil Disobedience Training
Attachments: image001.png

Good morning. I would be more than happy to help you out with your training on April 17 and 18 in Cody, Wyoming. Do you know approximately how many rangers will be at the training.

Thank you,

Sgt.
Detachment 321 Commander
Montana Highway Patrol
2550 Prospect Ave.
Helena, MT 59620
Cell: (406)
Fax: (406)



"Service Integrity Respect"

From: @blm.gov]
Sent: Friday, January 12, 2018 10:06 AM
To: @mt.gov>
Subject: Civil Disobedience Training

I hope you are doing well. At a Keystone Pipeline meeting several months ago you stated that you put on a Civil Disobedience course for law enforcement. I'm looking to get

USA_BLM_00936

some of our rangers through this type of training as we gear up for the pipeline construction. We will have all of our rangers from Montana and Wyoming together for some annual training in Cody, Wyoming in April. I was wondering if you or someone else who is competent in this field would be available to give us a hand? We are looking at April 17th or 18th.

Regrads,

--

State Chief Ranger, Montana/Dakotas
Department of the Interior
Bureau Of Land Management
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5001 Southgate Dr.
Billings, Mt. 59101

Office (406)
Cell (406)

[@blm.gov](#)

From: @blm.gov>
Sent: Tue Jan 16 2018 09:33:32 GMT-0700 (MST)
To: @mt.gov>
Subject: Re: Civil Disobedience Training
Attachments: image001.png

Approximately 25-30. I would be either on the 17th or 18th. Which works best for you?

On Tue, Jan 16, 2018 at 9:20 AM, [@mt.gov](#)> wrote:

Good morning. I would be more than happy to help you out with your training on April 17 and 18 in Cody, Wyoming. Do you know approximately how many rangers will be at the training.

Thank you,

Sgt.
Detachment 321 Commander
Montana Highway Patrol
2550 Prospect Ave.
Helena, MT 59620
Cell: (406)
Fax: (406)

[cid:in](#)

"Service Integrity Respect"

From: [@blm.gov](#)
Sent: Friday, January 12, 2018 10:06 AM
To: [@mt.gov](#)>
Subject: Civil Disobedience Training

I hope you are doing well. At a Keystone Pipeline meeting several months ago you stated that you put on a Civil Disobedience course for law enforcement. I'm looking to get some of our rangers through this type of training as we gear up for the pipeline construction. We will have all of our rangers from Montana and Wyoming together for some annual training in Cody, Wyoming in April. I was wondering if you or someone else who is competent in this field would be available to give us a hand? We are looking at April 17th or 18th.

Regrads,

--

State Chief Ranger, Montana/Dakotas
Department of the Interior
Bureau Of Land Management
Office of Law Enforcement & Security
[5001 Southgate Dr.](#)
[Billings, Mt. 59101](#)

[Office \(406\)](#)
Cell (406)

--

State Chief Ranger, Montana/Dakotas
Department of the Interior
Bureau Of Land Management
Office of Law Enforcement & Security
5001 Southgate Dr.
Billings, Mt. 59101