

Testimony of  
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Before the  
Senate Environment and Public Works Committee  
Hearing on  
"Oversight Hearing on the U.S. Army Corps of Engineers' Civil Works Program"

May 8, 2019

Exhibit A

Chairman Barrasso, Ranking Member Carper and Members of the Committee, thank you for the opportunity to testify today on the U.S. Army Corps of Engineers' Civil Works Program. My name is Chip Kline and I have the honor of serving as Executive Assistant to Louisiana Governor John Bel Edwards for Coastal Activities and as Chairman of the Board for the State's Coastal Protection and Restoration Authority (CPRA).

CPRA is a first-in-the-nation state agency tasked with the development and implementation of a comprehensive plan to address coastal wetland loss, ecosystem restoration and hurricane protection. I have been asked to address the issues raised by the fluctuating funding levels made available by Congress to the Corps through the appropriations process, the effects of those variations in funding on the missions of the Corps, and to provide a state perspective. On behalf of the state of Louisiana, which serves as the frontline of protection for our nation's greatest energy resources, fisheries, ports, and trade activities, we urge Congress to meet the needs of the nation through full funding of the Corps. My message today is simple and it is one you heard last week from Rhode Island Senator Sheldon Whitehouse, "it is time for the federal government to wake up to what is going on in South Louisiana."

In 2018, Congress provided \$1.4 billion to the United States Army Corps of Engineers for disaster-related funding for projects and studies in Louisiana to address flooding. Unfortunately, as is often the case, the need for these projects was identified years ago but only matched with the funding to construct them *after* our communities suffered the financial and life-disrupting challenges of a flood. I am sure many of you have similar stories in your states as I do in mine. We are grateful that Congress provided the funding, but this approach is

painful, costly, and unsustainable, and as a result, the federal Government needs to fundamentally change how it funds hurricane protection, flood control, and coastal restoration projects in this country.

Two of the projects funded through the Bi-Partisan Budget Act of 2018 are big ticket items with the ability to reduce flooding for tens of thousands of Louisianans: they are the Comite River Diversion and the West Shore Lake Pontchartrain Hurricane Storm Damage Risk Reduction Projects. The Comite Diversion had a signed Chief's Report in August of 1991. Unfortunately, the flood of record for the area occurred in 1983. This flood covered 357,000 acres across six parishes and inundated 5,300 homes and 200 businesses. Despite this hard lesson learned, the project only received the necessary funding for completion after historic flooding hit in August of 2016, flooding which caused at least \$3.8 billion in residential property damage.<sup>i</sup>

The West Shore Lake Pontchartrain project was also provided with construction funding in 2018. It received a Chief's Report in 2016, but Congress first authorized the study for the project in 1971. Over 60,000 residents in the project area have had little to no hurricane protection all this time and in 2012, Hurricane Isaac flooded 7,000 homes and submerged Interstate 10 for several days slowing emergency response and disrupting commerce.<sup>ii</sup>

Louisiana is a flood-prone state. We recognize this. Louisiana is also home to vitally important assets and resources that provide value not just to the Gulf Coast, but to the entire nation. The Mississippi River is the country's artery for trade and commerce of all kinds. From agricultural products in America's farm belt to the petrochemical products manufactured and

shipped across the globe, the Mississippi ties the country together economically and connects our harvests and products to international markets. The Gulf of Mexico is also our front porch. The Gulf is home to around 20% of our domestic oil supply and over 90% of the deepwater oil and gas activities are serviced out of Port Fourchon at the southern-most tip of Lafourche parish.<sup>iii</sup> On top of the resources themselves we also house and protect 125,000 miles of pipelines which carry tens of billions of crude oil to the rest of the nation.<sup>iv</sup> We are also the number 1 producer of shrimp, oysters, blue crabs, crawfish, and alligators.<sup>v</sup> The country needs Louisiana and needs to care about Louisiana.

With homes, lives, and assets like these at risk, the federal government must join with us in taking a smarter, more-proactive approach to flood risk. Louisiana has been proud to offer just such a tactic through our *Comprehensive Master Plan for a Sustainable Coast*, or Coastal Master Plan. Our Coastal Master Plan is a science-based framework for decision-making and project selection. It evaluates current and future risk and then selects the best investments to build community resilience by lowering coastal flood risk and building or maintaining the ecosystem of our coast. Our plan is resource constrained both by sediment availability (a necessary building block for coastal restoration) and by an ambitious but realistic level of funding of \$50 billion dollars. The 124 projects identified in the 2017 edition of the Coastal Master Plan, if fully implemented, can build or maintain 802 square miles of land and reduce expected annual damages from coastal flooding by \$150 billion by year fifty. Put another way, even if only considering the direct cost of damages caused by a disaster event, the projects identified in the Coastal Master Plan will pay for themselves three times over. Importantly, these estimates are extremely conservative because they do not consider the full costs of

# Appendices to Economic Evaluation of Coastal Land Loss in Louisiana

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## Appendix C: Oil and Gas Industry Detail

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Louisiana is an important source of oil and natural gas production and processing for the United States. In addition to the production within Louisiana borders and Louisiana waters, much of the oil and gas extracted from the Gulf of Mexico travels through Louisiana. We anticipate that coastal land loss will create some changes to the oil and gas industry. We include oil and gas-related industries in the results from Chapter 3, but in this appendix, we provide more detail and additional information about strategic oil and gas infrastructure in Louisiana, which may become increasingly vulnerable due to land loss.

### **Brief History of Oil and Natural Gas Production in Louisiana**

The first oil well to produce commercial quantities of oil in Louisiana was drilled in 1901 near Jennings, Louisiana. Thousands of wells for both oil and natural gas have been drilled since then, as well as a multitude of other infrastructure. The first natural gas pipeline was laid in 1908. The first refinery (now the Exxon refinery in Baton Rouge) went on stream and the first long-distance oil pipeline began construction in 1909. By 1910, the first over-water drilling in America occurred in Caddo Lake near Shreveport (History of the Industry 2010).

The oil and gas and refining industries have continued to grow in leaps and bounds since

these first steps, moving further offshore and dredging open saltwater canals through the marsh to lay pipelines. This infrastructure is a vital part of oil and gas in Louisiana, with approximately 125,000 miles of pipelines onshore and in Louisiana waters (Pipelines 2010). In 2014, Louisiana pipelines were estimated to have a fair market value of over \$3.7 billion by the Louisiana Tax Commission (Louisiana Tax Commission 2014). When many of these pipelines were laid, the coast was seen as much more stable than it is perceived today. In addition, Louisiana is home to two major oil and gas distribution centers, the Louisiana Offshore Oil Port (LOOP), and Henry Hub. These are discussed in further detail under the Supplemental Oil and Gas Infrastructure At Risk later in this section.

Louisiana is now the second largest producer of crude oil and natural gas in the nation, and second in petroleum refining capacity after Texas. The energy sector accounted for \$73.8 billion in sales in Louisiana firms, generated over \$20.5 billion in household earnings for Louisianans, or 11.6 percent of total earnings in Louisiana, and supported 287,008 jobs in 2011 (Loren Scott 2014). These industries contributed \$4.2 billion to state and local treasuries directly through state taxes and fees and indirectly through taxes derived from household earnings (Loren Scott 2014).

Louisiana Oil Spill Research and Development Program  
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# **Field Investigation and Digital Mapping of the Pipeline Crossings of the Ouachita/Black River System in Louisiana**



**Louisiana Geological Survey  
Louisiana State University  
Baton Rouge  
2004**

**Exhibit C**

Louisiana Oil Spill Coordinator's Office  
Oil Spill Research and Development Program  
Technical Report Series

# Field Investigation and Digital Mapping of the Pipeline Crossings of the Ouachita/Black River System in Louisiana

by

John Snead,  
Robert Paulsell, and  
Weiwen Feng

**Louisiana Geological Survey**  
Louisiana State University  
Baton Rouge  
2004

## **Disclaimer**

This report was prepared under a contract between the Louisiana Geological Survey (LGS) of Louisiana State University (LSU) and the Louisiana Applied Oil Spill Research and Development Program (OSRADP). The contents of this document do not necessarily reflect the views and policies of the Louisiana Oil Spill Coordinator's Office—Office of the Governor or that of the Louisiana Applied Oil Spill Research and Development Program, nor does mention of trade names or commercial products constitute endorsement or recommendation for use by the state of Louisiana.

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Portions of this study contain sensitive security information regarding components of the critical national infrastructure. Authorization from the OSRADP Administrator is required to obtain deliverables from this project. No authority is granted to reproduce these documents or data in any fashion.

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John Snead

Robert Paulsell

Weiwen Feng

# Field Investigation and Digital Mapping of the Pipeline Crossings of the Ouachita/Black River System in Louisiana

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## **Abstract**

The limitations of currently available pipeline data prevent their dependable usage for oil spill planning and response at river crossings. The Louisiana Geological Survey conducted a research and mapping project in 2003-2004 to document the pipeline crossings of the Ouachita/Black River System in Louisiana. This work complimented similar studies this team conducted on the Atchafalaya and Red Rivers, and on Bayou Lafourche. Global positioning system (GPS), remote sensing, and geographic information system (GIS) technologies were used to create a geo-spatial database of this information. The data gathered is vital for proper contingency planning and emergency response to river disasters involving natural gas, crude oil, and hazardous chemical pipeline crossings.

Initial research was conducted on the existing pipeline documentation whether in paper map, text data, digital database, or GIS form. Field investigations were then undertaken using GPS-equipped vehicles and watercraft. Accurate site locations and digital photography was collected of all crossings and witness posts. A geographic information system was then compiled from the field and research data. Using remote sensing technology and spatial analysis of the field data, a series of verified and spatially accurate pipeline crossings was established. These were prepared in a GIS format with linked data tables, orthorectified vertical imagery, and digital field photography with HTML menus.

The investigation resulted in the development of a modern and spatially accurate pipeline crossings database for the Ouachita/Black River System in Louisiana. A fully functional GIS including metadata was prepared as was a comprehensive report and a set of color maps. Information dissemination is addressed with respect to public information in light of new domestic security concerns.

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## 1.0 Introduction

### 1.1 The need for pipeline river crossing data

#### 1.1.1 Rationale

With one of the largest pipeline networks in the nation as well as a widespread system of navigable streams and canals, Louisiana has many hazardous pipeline stream crossings. As the third largest navigable river system in the state, the Ouachita/Black River System is a logical candidate to join the Mississippi River and the Red/Atchafalaya in having a detailed and documented pipeline crossings GIS. Although anchoring is prohibited near pipeline crossings the occasional dragging anchor, misplaced dredge, or shipwreck pose a threat to nearby human and environmental resources since they may rupture pipelines. Such occurrences are all too frequent in Louisiana rivers.

The potential for floodwaters to rupture and destroy pipeline crossings has been demonstrated in the recent floods of the Red River in Minnesota and the Trinity River in east Texas. Several pipelines were destroyed in each of these instances causing fires, pollution, and creating other health hazards for emergency personnel and displaced citizens already burdened with flood problems. All of Louisiana's river systems experience flood events. Several streams are large enough to endanger pipeline crossings during major flood events.

Accurate and up-to-date digital pipeline river crossing data in Louisiana are of fundamental importance to the oil spill contingency community. A high-resolution pipeline crossing GIS of these streams offers previously unavailable information and will enable increased response efficiency by allowing responders to quickly assess the size, product carried, and operator of specific pipelines in the field.

Such a pipeline database will directly augment the capabilities of oil spill planners and emergency responders as well as being a basic tool for oil spill researchers studying risk management and environmental impact. High-quality pipeline crossing information also supports economic development concerns in a riverine, oil-and-gas state like Louisiana. Clearly a GIS coverage of pipeline river crossing data can enable a more thorough understanding of oil spill potential, lower planning costs, and enhance response to oil spill emergencies.

#### 1.1.2 Field investigation addresses inadequate pipeline maps

Reliance on the currently available pipeline maps and digital data results in an out-of-date picture of who the actual operators are due to the age of the source documents. The source maps and their digital counterparts are also possessive of several kinds of cartographic and spatial error, which lead to incorrectly located crossing points, and to "phantom" crossings that do not even exist. A field investigation is required to establish accurate spatial positions, determine current pipeline operator, characterize the nature of the crossing, and to solve and eliminate erroneous artifacts of earlier mapping.

OSRADP Report #

**Research and Development of a GIS of  
Oil and Gas Transmission Pipelines  
In the Lafayette, Louisiana Vicinity**

By

Louisiana State University

**Louisiana Geological Survey**

For

Louisiana Oil Spill Coordinator's Office/Office of the Governor  
**Oil Spill Research and Development Program**



Exhibit D

# **Research and Development of a GIS of Oil and Gas Transmission Pipelines In the Lafayette, Louisiana Vicinity**

Submitted to the

Louisiana Oil Spill Coordinator's Office/Office of the Governor  
**Oil Spill Research and Development Program**

By  
Louisiana State University  
**Louisiana Geological Survey**

**Robert Paulsell and Weiwen Feng**  
**Louisiana Geological Survey**

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## **Research and Development of a GIS of Oil and Gas Transmission Pipelines In the Lafayette Louisiana Vicinity**

---

### **Abstract**

This project is intended to supplement emergency response and planning for hazardous materials spills emanating from petrochemical transmission pipelines in and around Lafayette Parish, Louisiana. The 1,547 miles of pipelines mapped within the study area constitute a major source for potential oil spill emergencies. Assessment of digital petrochemical pipeline data is crucial for effective energy planning, environmental monitoring, disaster prevention, and emergency preparedness.

Any pipeline leak, large or small, can be dangerous to the public. Consequences of pipeline failures include explosions or inhalation hazards causing injury or even fatalities. Similarly, hazardous liquids leaks can migrate through the permeable geology that lies beneath the study area and into the aquifer system. Crude or refined product spills can cause extensive environmental and property damage. There are many causes of pipeline failure. “Combined data for 2002-2003 indicate that “outside force” damage contributes to a larger number of pipeline accidents and incidents than any other category of causes...The data show that for hazardous liquid pipelines and gas transmission pipelines, the largest portion of outside force damage results from excavation damage.” (Office of Pipeline Safety Communications: Pipeline Failure Causes, <http://primis.phmsa.dot.gov/comm/FailureCauses.htm>)

Accurate pipeline maps and a Geographic Information System (GIS) compiled in this project will enable increased response efficiency by allowing emergency response teams to quickly assess the product, diameter, and operator of specific pipelines. Emphasis was on transmission pipelines rather than those associated with gathering or distribution systems. Generally, the investigator considered transmission pipelines to be those with diameters of four inches or greater. However, some gathering pipeline features were developed where the investigator could determine the location of the pipeline through investigations of warning posts and map documentation.

A method to digitally verify and/or create pipeline features has been developed by the Louisiana Geological Survey (LGS). Utilizing Global Positioning System (GPS) technology, point data were collected at pipeline warning sign locations that were observed near pipeline crossings of public roads. These GPS records contain accurate positional data, pipeline operator, and commodity transported by the pipeline. These point data were compared to existing hard copy maps and digital pipeline data. Pipeline features were developed with heads up digitizing techniques utilizing aerial and satellite imagery, GPS point data, digital and hard copy maps or diagrams submitted by operators, and reliable third party maps.

Through detailed source data research, field investigation with GPS, remote sensing, and GIS analysis, a method to develop pipeline features or to adjust any spatially incorrect data has resulted in a comprehensive petrochemical pipeline GIS for the vicinity of Lafayette Parish, Louisiana. The data developed for this project is intended for emergency response as well as environmental and energy planning.

## 3.0 Analysis Results

### 3.1 In-House Data Analysis Results

The analysis of the LGS digital pipeline data revealed many problems with spatial data accuracy. The most notable problems are a result of inadequate data received from operators. Much of the data received prior to the implementation of the NPMS do not meet the standards for operator submissions set forth by the NPMS. Most of the problems encountered were with submitted maps of inadequate scale and detail level. Data digitized at less than 1:24,000 scale lead to excessive cartographic displacement. In some areas, this spatial displacement has been close to a mile. Also, line work representing pipeline features were often drawn with a very thick line introducing substantial spatial error.

Source data gathered by the LGS fell into three categories: large-scale or engineering diagrams with geographic control suitable for digitization, maps of small scale and poor geographic control that were not digitized (useful as reference material), and undocumented pipelines. Some 1,600 operator submitted maps are cataloged in the LGS inventory. One source of hard copy data, however, was found to be very helpful in route planning and pipeline feature development. The DTC Industrial Atlas clearly shows most of the pipeline infrastructure within the parish. The small scale of these maps, however, introduces errors of up to half a mile in some areas. These maps are copyright protected and were used solely as reference material. Other hard copy references were of limited use for they were out of date.

NPMS data has been helpful in identifying operators and commodities. However, as with previous projects, these data are not spatially accurate in many cases. Many pipeline operators have submitted data to the NPMS without verifying the data quality. Also, many operators have not submitted data to the mapping system at all. Ironically, much of the data submitted to the NPMS by operators are of intrastate designation. The NPMS was designed to map the interstate pipelines. This is a good example of the confusion in defining interstate and intrastate.

### 3.2 Lafayette Vicinity Pipelines

Compared to Calcasieu Parish, there are relatively few large industries within the Lafayette, Parish vicinity. Most of the transmission pipelines are part of distribution or gathering systems. Efforts were made to effectively map all pipelines with diameters greater than 4 inches (some 2 and 3 inch gathering system pipelines are included where the investigator could reasonably determine spatial location). The following section describes the pipeline operator and their respective pipelines mapped in the study.

#### 3.2.1 Atmos Energy of Louisiana

Atmos Energy of Louisiana is the largest natural gas distributor within the state and fifth largest in the country. Atmos has completed significant acquisitions since 1986 when they purchased Trans Louisiana Pipeline Company. Research shows Atmos Energy of Louisiana, a newly created business unit of Atmos Energy Corporation, will integrate existing Atmos Energy of Louisiana assets with those of Trans Louisiana Pipelines, Louisiana Gas Service, and Mississippi Valley Gas Company.

production. Although extensive, only a small portion on WFS natural gas gathering system is mapped in this project with 17.06 miles of pipeline. No warning signs were documented with WFS as the operator. The emergency telephone contact remained the same as that of Transco.

NPMS data, submitted by the operator, are spatially erroneous. Pipeline features fall 400 feet away from the collected GPS data. Recommendations to the operator should include field verification of pipeline locations.

## 4.0 Conclusions

The compilation and spatial analysis of digital pipeline data for the state of Louisiana is a complex process that will take years to accomplish. The quantity and quality of data sources and the unique geographic parameters of each inhibit the rapid development of a full scale pipeline GIS for the state. Assessment of digital data, field investigations and the development of undocumented data are important to the statewide implementation of a pipeline GIS. The most prominent problem with existing digital data is with spatial accuracy. The conflicts between operator supplied data and data observed on warning posts' in regards to transported commodities has also been a problem. Most of the digital data, digitized by the LGS or submitted by the operators, were incorporated into the GIS and displayed numerous problems associated with spatial accuracy. These issues were addressed by developing pipeline features utilizing GPS technology for spatial control. The GPS point data were also used to verify pipeline operator's names and commodities transported.

The GPS point counts generally reflect miles of pipelines. 1741 GPS data points were recorded with 1547 miles of pipeline features developed. The commodities with the most miles of pipeline developed for this project are natural gas, with over 1086.78 miles of pipelines and 1205 GPS data points. This is followed by petroleum products with 351.8 miles of pipeline features developed and 298 GPS data points. Crude oil or petroleum fell last with 108.42 pipeline feature miles and 241 GPS data points.

The data developed through this and future pipeline mapping projects will eventually provide a comprehensive pipeline GIS for the state of Louisiana. As more operators develop and submit pipeline data and as the LGS and cooperative partners develop pipeline GIS, we will eventually have a comprehensive pipeline GIS for the state. However, no plans exist for the maintenance and update of these critical data. With the constant corporate restructuring and economic growth, these data will need updating on a regular basis of at least once a year.

The use of GPS technology is very useful in pipeline mapping. Eventually, with this and other pipeline mapping efforts sponsored by OSRADP and other agencies/programs, the puzzle of pipelines in Louisiana will be put together.

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# NATIONAL PIPELINE MAPPING SYSTEM

A search bar with the placeholder text "Search".

[Home \(/default.aspx\)](#) / [About NPMS](#)

## About the NPMS

The National Pipeline Mapping System (NPMS) is a dataset containing locations of and information about gas transmission and hazardous liquid pipelines and Liquefied Natural Gas (LNG) plants which are under the jurisdiction of the Pipeline and Hazardous Materials Safety Administration (PHMSA). The NPMS also contain voluntarily submitted breakout tank data. The data is used by PHMSA for emergency response, pipeline inspections, regulatory management and compliance, and analysis purposes. It is used by government officials, pipeline operators, and the general public for a variety of tasks including emergency response, smart growth planning, critical infrastructure protection, and environmental protection.

## This website contains:

- The NPMS Public Map Viewer (<https://pvnpms.phmsa.dot.gov/PublicViewer/>), which allows the public to view pipeline maps in a user-selected county;
- PIMMA (<https://www.npms.phmsa.dot.gov/PIMMA/>), which allows government officials and pipeline operators to view pipeline maps with additional scope and detail; and
- Find Who's Operating Pipelines in Your Area ([FindWhosOperating.aspx](#)), which searches for pipeline operator contact information in a user-selected county, state, or ZIP code.

Please note that the spatial accuracy of pipeline data in the NPMS is +/-500 feet. Therefore, the NPMS should never be used as a substitute for calling 811 (<http://www.call811.com/>) before digging or excavating. Distribution and gathering pipelines are not included in the NPMS. For an overview of the NPMS website functionality, please refer to the NPMS brochure

Exhibit E

(/Documents/Brochure\_GeneralNPMSInfo.pdf). Please visit the FAQ (/FAQ.aspx) page if you have further questions, or you may Contact Us (/Contact.aspx).



[\(http://www.phmsa.dot.gov/\)](http://www.phmsa.dot.gov/)

The National Pipeline Mapping System contains information about hazardous liquid and gas transmission pipelines under the jurisdiction of **US DOT PHMSA** (<http://www.phmsa.dot.gov/>).

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U.S. Department of Transportation 

[\(http://www.dot.gov/\)](http://www.dot.gov/)

# Pipeline Basics

**What are pipelines? Where are they? And why do we need them in the first place? Those are good, basic questions.**

The energy transportation network of the United States consists of over 2.5 million miles of pipelines. That's enough to circle the earth about 100 times. These pipelines are operated by approximately 3,000 companies, large and small. For more detailed information on pipeline mileage in the U.S. see PHMSA's [Pipeline Mileage and Facilities page](#).

Although pipelines exist in all fifty states, most of us are unaware that this vast network even exists. This is due to the strong safety record of pipelines and the fact that most of them are located underground. Installing pipelines underground protects them from damage and helps protect our communities as well.

## Where Are They?

Most hazardous liquid and gas pipelines are buried underground. To ensure your safety and avoid damaging underground lines, [you must call your state one-call center before digging](#). [Call Before you Dig!](#)



Most hazardous liquid and gas *transmission* pipelines are located underground in rights-of-way (ROW). A ROW consists of consecutive property easements acquired by, or granted to, the pipeline company. The ROW provides sufficient space to perform pipeline maintenance and inspections, as well as a clear zone where encroachments can be monitored and prevented. [ROW Briefing](#).

To find out if a transmission pipeline is located near you, you can visit the [National Pipeline Mapping System \(NPMS\)](#) and search by your county or zip code.

Pipeline operators are required to post brightly-colored markers along their ROW to indicate the presence of – but not necessarily the *exact* location of – their underground pipelines. Markers come



in a variety of shapes and sizes. They contain information about the nearby pipeline as well as emergency contact information for the company that operates it. [Pipeline Markers Briefing](#)

Gas distribution systems consist of distribution main lines and service lines. Distribution main lines are generally installed in underground utility easements alongside streets and highways. Distribution service lines run from the distribution main line into homes or businesses. Distribution main and service lines are not generally indicated by above-ground markers. To ensure safety and avoid damaging underground lines, anyone planning to dig or excavate is required by law to contact their state One-Call center 48 to 72 hours before digging. [Call Before You Dig!](#)

### **Why Do We Need Them?**

Pipelines play a vital role in our daily lives. They transport [fuels and petrochemical feedstocks](#) that we use in cooking and cleaning, in our daily commutes and travel, in heating our homes and businesses, and in manufacturing hundreds of products we use daily.

Natural gas provides for nearly 25% of our country's *total energy consumption*, and petroleum provides for nearly 40%. This requires the transportation of huge volumes of hazardous liquids and gas, and the most feasible, most reliable and safest way to do so is through pipelines.

### **Here is more information about pipelines that you may find interesting:**

[Natural Gas Pipeline Systems: From the wellhead to the consumer](#)

[Petroleum Pipeline Systems: From the wellhead to the consumer](#)

[Basics of gas and oil exploration](#)

[Technologies of gas and oil exploration](#)

[Early days of the oil industry](#)

[Pipeline construction](#)



## Root Cause for Pipeline Incidents Caused by Excavation Damage 2010 - Present

Time run: 4/4/2022 8:43:05 PM

Data Source: US DOT Pipeline and Hazardous Materials Safety Administration

Portal Data as of 4/3/2022 9:28:16 PM

STATE: LOUISIANA INCIDENT TYPE: All

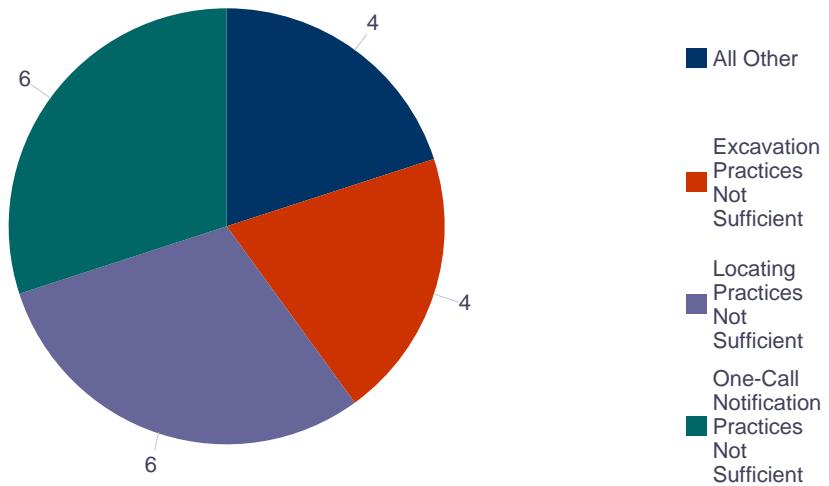


Exhibit G

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# With Bayou Bridge Pipeline, Louisiana again weighs oil, environment

JR Ball, NOLA.com | The Times-Picayune

**PUBLISHED FEB 10, 2017 AT 7:26 PM | UPDATED JUL 7, 2021 AT 10:50 AM**



Map shows major oil and gas pipelines in Louisiana. (Image via state Department of Natural Resources)

Exhibit H-1

BAYOU SORREL -- Down Louisiana 3066 and the Lower Grand  
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River, past the middle of swampy nowhere, rests a cypress marsh hamlet of oyster shell roads, elevated houses, above-ground swimming pools and all manner of flat-bottom boats.

This is where the geography maze that is the Atchafalaya Basin unfolds in a breathtaking flat canvas of forest, wetlands and pockets of semi-navigable water.

To the novice -- and even some old-timers -- it's impossible to tell where one bayou begins and another ends. Mound Bayou, Salt Mine Bayou and Cannon Bayou all nestle around Sorrel, a name given to a bayou and the river that runs through it, as well as to this unincorporated village of fewer than 250 people.

There's another maze here, too. It's one of pipeline canals

etched in every crisscrossing direction through the basin by oil and gas companies that directly employ more than 64,000 people in Louisiana. They carry the state's most lucrative natural resources from the ground to refineries and petrochemical plants across the coast.

Since oil was discovered in Louisiana in 1902, there's been a steady tension between those who make their livelihood fishing, trapping and hunting the creatures living in the basin, and those who make money by extricating the crude oil and gas created millions of years ago from the fossilized remains of marine organisms that once lived here. The problem, in a nutshell, is there's no feasible way to get this fuel out of the ground and transported to a location where it can be refined or processed without some damage to the natural landscape.

And that, complain fishers and environmentalist activists, is altering drainage and water flow, eroding the land and increasing flood risks. It's one of several reasons that south Louisiana is disappearing into the Gulf of Mexico.

"We need to get out of the fossil fuel business," said Anne Rolfes, founding director of the Louisiana Bucket Brigade, a New Orleans-based environmental health and justice organization.

"We need to stop building pipelines. It's causing catastrophic problems to our environment."

Against this backdrop comes a company that wants to build the Bayou Bridge Pipeline, a \$670 million project that would run 162 miles through the Atchafalaya Basin and across 11 parishes, beginning in Calcasieu and ending at an oil terminal in St. James. Supporters say the pipeline, which would link a major oil-and-gas hub in Texas with refineries in Louisiana and along the Gulf Coast, would be far superior to trains, trucks and barges for moving oil.

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"It's the safest and most economical way to transport crude," said Gifford Briggs, vice president of the Louisiana Oil and Gas Association. "People should be celebrating this project."

### **Competing economic interests**

Those who live in Bayou Sorrel do so for pretty much one reason: to carve out a living off the land. This is where common folk, as well as larger-than-life reality television personalities Willie and Junior Edwards of "Swamp People", work backbreaking days year-round hunting alligator and catching fish, crab and crawfish to pay the bills. Some still hunt the Atchafalaya for pelts, but not so much since the fur industry fell into decline around the turn of the 21<sup>st</sup> century.

"This is how people here have lived for centuries," said Dean Wilson, a resident and executive director of Atchafalaya Basinkeeper, a nonprofit formed to protect and restore the largest wetland (931 square miles) in the United States.

Many of these people worry the Bayou Bridge Pipeline, despite **Offer ends this week. \$1 for 6 months. Subscribe today.** numerous safety and environmental repair assurances from company officials, will further damage their hunting and fishing grounds. They fear for their economic future.

What's undeniable is that this state, and its government, are economically powered by the oil and gas industry. According to a 2014 report by LSU economist Loren Scott, the Louisiana Mid-Continent Oil and Gas Association and Grow Louisiana Coalition, the industry was responsible for 64,669 direct jobs (287,000 including related work), \$20.5 billion in household earnings and almost \$74 billion in sales to Louisiana companies in 2011.

"It is the engine that makes the difference," Scott said. "The energy industry, and its accompanying multiplier effects, has been a powerful engine for economic growth in Louisiana."

Without the taxes generated by the petrochemical industry, he said, state government "would be out of business."

Bayou Bridge backers, in promotional material, estimate that the pipeline will create 2,500 construction jobs, \$17.6 million in sales taxes during construction and \$1.8 million in property taxes during the first year it is in service. Due to the nature of how a pipeline operates, as well as technology improvements, the number of permanent jobs directly linked to the project is just 12.

Critics, on the other hand, including more than 100 who showed up at a Jan. 12 permit hearing in Baton Rouge, argue:

- There are already too many basin-damaging pipelines in the Atchafalaya

Scott Eustis, a wetlands specialist with the Gulf Restoration Network, told protestors at a Baton Rouge rally that the Bayou Bridge Pipeline "is the biggest, baddest thing I've seen in my career."

"There is no pipeline in Louisiana that is safe," geographer Ezra Boyd of DisasterMap.net said during a Jan. 10 conference call discussing a report he co-authored with the Louisiana Bucket Brigade to show that the state recorded 144 pipeline accidents in 2016.

That point was driven home Thursday night (Feb. 10) when fire erupted as six workers were cleaning a 20-inch Phillips 66 gas line at Paradis. Two workers were burned, and one was missing. Sixty homes were evacuated, and parts of two highways were closed.

The Bucket Brigade also released a report showing Energy Transfer Partners, the company behind the proposed Bayou Bridge Pipeline, had reported accidents across the country in 2015 and 2016, including 35 pipeline incidents.

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One of the industry's lobbyists at the Jan. 12 hearing, former U.S. Sen. Mary Landrieu, D-La., acknowledged the global warming argument, saying the push to shift the world away from fossil fuel energy is laudable. "But that day is not today," she said, adding that pipelines are the safest and best option for transporting crude oil through the state.

State officials have not raised any objections to the project. Indeed, state Reps. Nancy Landry, R-Lafayette, and Stephen Dwight, R-Lake Charles, have both written letters supporting the proposal.

Two government permits are needed for the pipeline from the U.S. Army Corps of Engineers for the overall project and from the Louisiana Department of Natural Resources because the pipeline would traverse part of the state's coastal zone in two parishes, Assumption and St. James. Officials say there is no timetable for deciding whether to issue them.

The Bucket Brigade, along with the Louisiana chapter of the Sierra Club, the Gulf Restoration Network, the Atchafalaya Basinkeeper and other environmental and conservation groups, have asked the Corps of Engineers to deny the federal permit.

### A rare political fight

That there is protest at all is a bit surprising. Typically a pipeline project, even one as large as this, would garner little public attention in Louisiana and sail through the regulatory and permitting processes.

But the Louisiana protestors were emboldened in 2015 when President Barack Obama rejected the proposed 1,179-mile Keystone XL pipeline that would carry oil from Canada to the

Gulf Coast. More encouragement came in 2016 when protesters  
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and a Native American tribe persuaded the Corps of Engineers  
to consider an alternate route for the 1,172-mile Dakota Access  
Pipeline, a \$3.9 billion project to move oil from North Dakota to  
an oil hub in Texas.

"This victories have given us hope," Rolfes said. "Often (hearings)  
are held merely to satisfy critics before projects are given the  
rubber stamp. This time will be different. This time our voices  
will be heard."

The victories might have been short-lived, however. On Jan. 24, **Offer ends this week: \$1 for 6 months. Subscribe today.** President Donald Trump, in his first week in office, reversed Obama's decision on Keystone and signed a document clearing the way for government approval of the Dakota Access pipeline.

The company building the Dakota Access Pipeline, Energy Transfer Partners, is also involved with the Bayou Bridge project, according to permit applications on file with the state. It's in a joint venture with subsidiaries of Phillips 66 and Sunoco Logistics.

In fact, the two projects are linked: The Dakota pipeline would carry crude from North Dakota's Bakken Formation to a site near Nederland, Texas, then a recently completed pipeline built by the same group will transport it to Lake Charles to connect with the Bayou Bridge Pipeline for delivery to refineries and ports across south Louisiana.

Currently, much of that oil is moved by rail and barge, initially to Port Manchac in south Tangipahoa Parish then across Lake Ponchartrain to a Phillips 66 refinery at Alliance, on the West Bank in Plaquemines Parish.

"The pipeline is merely a delivery system, similar to FedEx, to help fill an already existing need," said Alexis Daniel of Granado Communications Group, a Dallas public relations firm representing Energy Transfer Partners.

The 24-inch diameter pipeline would cross eight Louisiana watersheds, according to materials filed with the permit application. In the Atchafalaya Basin, 77 acres of wetlands will be permanently altered and 171 acres of wetlands temporarily affected by construction.

That concerns Jody Meche, a commercial crawfisherman from Henderson. He said he's not necessarily opposed to the pipeline but worries it will aggravate water flow issues caused by existing pipelines.

"My business has been hurt over the past decade," he said. "I don't want it to get any worse."

### **Restoring the damage**

A fact sheet, published in January by those backing the project, states: "Bayou Bridge is committed to restoring 100% of any affected area -- at the company's own expense -- if there are any impacts from construction or during long-term operations."

Such promises ring hollow for Rolfes, of the Louisiana Bucket Brigade. "The evidence is clear these companies say whatever they need to in order to get a permit and then refuse to take responsibility for the damage they cause after the fact," she said. "How much more has to be destroyed before we say it's time to stop?"

Russel Honore, a retired U.S. Army general from Louisiana and leader of the Green Army coalition of environmental groups, argues the underlying problem is that Louisiana lacks the regulations or the enforcement capabilities to hold oil and gas companies responsible for inspecting and maintaining pipelines. "And don't expect the state Legislature, which is too friendly with industry, to do anything to force these companies to address past problems," he said.

The Bayou Bridge Pipeline, said Wilson of Atchafalaya Basinkeeper, would run alongside an existing pipeline, widening a right of way that he said is already out of compliance with permits. He said he's not necessarily opposed to the project or

oil and gas exploration, but he does want the Corps of Engineers to ensure all existing right of ways in the basin are in compliance and that all existing pipelines operated by those behind the Bayou Bridge project are reviewed for compliance before permits are approved.

"We'll see what happens," he said. "At the moment the corps doesn't have a single person in the basin enforcing these permits."

Basin crawfishers and environmentalist activists have complained for decades about work done by oil and gas companies. Despite bans on the practice, they say, dirt is left to pile up on canal banks, which interferes with the natural water flow and destroys crawfish habitat.

Bayou Bridge representatives, in meetings with local groups, have said the pipeline's sponsors plan "to restore all project areas to pre-construction contours and elevations and to restore work areas in the Atchafalaya Basin back to the natural

grade as compared to the adjacent undisturbed land or  
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wetlands." Their permit application makes the same pledge to  
"minimize impacts on the environment."

Eustis, of the Gulf Restoration Network, said the concern goes behind the environment. He worries that areas in the basin hit hard by the Louisiana Flood of 2016 in August might not be able to recover due to the pipeline's potential to interfere with stormwater draining into existing bodies of water.

There's no dispute that significant damage has been done to the Atchafalaya Basin over the past century, not only by the oil and gas industry but also by the mass cutting of cypress trees and

the clearing of wetlands for agriculture. The effect has been significant not only in the basin downstream, because the erosion of marshes has led to the loss of coastal lands to the Gulf of Mexico.

Louisiana has a \$50 billion, 50-year plan to fight the loss of coastal land. But it doesn't have all the money, and some of the projects in the plan are unproven.

Gov. John Bel Edwards is pushing to sue oil, gas and pipeline companies to pay for the historical damage that he and others allege the industry has done to the coast. Briggs, of the Louisiana Oil and Gas Association, however, says lawsuits aren't necessary, and that the state should do its job of enforcing its own coastal-use permit requirements.

"The way pipelines are built today is far safer and involves much more technology and testing than in the past," Briggs said. "Is anything 100 percent certain? No, but the pipeline will be built and operated in the safest way possible."

If it does come to pass, everybody in the Atchafalaya Basin  
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hopes he's right.

"I've seen the damage caused by doing it wrong," said Rusty Comeaux, a Lafayette native who works in the oil fields and regularly hunts and fishes the Atchafalaya. "The state, or whoever, needs to stay on top of these people and make sure everything they're supposed to do actually gets done."

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**CORRECTION:** *An earlier version of this story gave an incorrect size for the diameter of the Bayou Bridge Pipeline, based on a corporate document.*

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*JR Ball is a state correspondent with NOLA.com / The Times-Picayune in Baton Rouge. Email him at jrball@nola.com. You can also keep up with his local updates on Twitter (@jrball35), Facebook (jrball) and Google+ (+JRBall).*



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# Dallas firm's 162-mile pipeline through nation's largest river swamp gets its day in court

The Bayou Bridge pipeline is the last link in a pipeline network connecting the Bakken oil fields in North Dakota with Louisiana refineries and export terminals.





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A sign and barrier for an existing pipeline is displayed on Bayou Sorrel in the Atchafalaya River Basin in Louisiana. (Gerald Herbert / The Associated Press)



By Wire Services

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One of the federal judges considering whether to allow construction of a crude oil pipeline to continue in an environmentally fragile Louisiana swamp seemed to downplay concerns Monday about the project's impact on forested wetlands.

The pipeline is a joint venture of Dallas-based Energy Transfer Partners and Houston-based Phillips 66. Energy Transfer Partners built the controversial Dakota Access pipeline, a project that sparked a string of violent clashes between protesters and police in North Dakota in 2016 and 2017.



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permanently throw out a lower court's preliminary injunction that initially stopped construction in the Atchafayala Basin.

A different panel of the appeals court last month suspended the injunction by Baton Rouge-based U.S. District Judge Shelly Dick, who is presiding over the lawsuit filed by Sierra Club and other environmental groups against the U.S. Army Corps of Engineers and Bayou Bridge Pipeline LLC.





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A bald eagle takes flight from its perch on Bayou Sorrel in the Atchafalaya River Basin in Louisiana. Environmental groups fear the pipeline will harm the forested wetlands. (Gerald Herbert / The Associated Press)

The lawsuit alleges the Corps violated the Clean Water Act and other environmental laws when it approved a permit for the project. In issuing the February injunction, Dick concluded the project's irreversible environmental damage outweighed the economic harm that a delay brought to the company.

Earthjustice attorney Jan Hasselman said "the record is replete with evidence of significant impact" that the pipeline will have on the environment, including the destruction of some trees that are thousands of years old and a reduction in the crawfish population.

But Judge Edith Jones appeared skeptical of some of Hasselman's claims on the environmental dangers from the pipeline.

"They are not destroying wetlands. That's a little inaccurate," Jones said, suggesting Dick might have overstepped her authority by ordering the injunction.

The Corps had ordered Bayou Bridge to fund the re-establishment of forested wetlands located about 55 miles away from the area of construction as compensatory mitigation, but Hasselman said the efforts should take place much closer to the construction area.

Miguel Estrada, an attorney for Bayou Bridge, called it "appropriate compensation."



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An old logging canal cuts through Bayou Sorrel in the Atchafalaya River Basin in Louisiana. (Gerald Herbert / The Associated Press)



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In an April 19 court filing, Bayou Bridge said construction work resumed after the injunction was suspended and the company anticipated that approximately 95 of the 262 total acres in the pipeline's path through the basin will be cleared by the end of April.

The Atchafayala Basin accounts for approximately 25 miles of the pipeline's 162-mile-long path from Lake Charles to St. James Parish. Dick's order only applied to the basin and didn't prevent the company from working elsewhere along the pipeline's route.

The basin is the nation's largest river swamp and includes roughly 880,000 acres of forested wetlands, according to the groups' lawsuit.

*Juan A. Lozano, The Associated Press, with contributions from Associated Press writer Michael Kunzelman in Baton Rouge.*



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# U.S. judge: Energy Transfer's Louisiana pipeline threatens 'already diminishing wetlands'

The 162-mile-long pipeline from Lake Charles to St. James Parish is a joint venture of Energy Transfer Partners and Phillips 66.





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Scott Eustis, a community science director for the Gulf Restoration Network, speaks before a hearing in federal court in New Orleans, LA., Thursday, Feb. 8, 2018. A consortium of environmental groups sued the U.S. Army Corps of Engineers to halt construction of a pipeline through a river swamp in South Louisiana. The Bayou Bridge pipeline is designed to be the final segment of a pipeline network connecting the Bakken oil fields in North Dakota with Louisiana refineries and export terminals. (AP Photo/Michael Kunzelman) (Michael Kunzelman / AP)



By [Jeff Mosier](#) and Associated Press

5:00 PM on Feb 28, 2018 CST

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BATON ROUGE, La. -- A federal judge who halted a Dallas company's construction of a crude oil pipeline through a Louisiana swamp concluded that the project's irreversible environmental damage outweighs the economic harm that a delay brings to the company building it.

U.S. District Judge Shelly Dick issued a 61-page ruling Tuesday to explain her decision last week to stop construction of the Bayou Bridge pipeline in environmentally fragile Atchafalaya Basin.



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Bayou Bridge Pipeline LLC is a joint venture of Energy Transfer Partners and Phillips 66. Energy Transfer Partners built the Dakota Access pipeline, a project that sparked a string of violent clashes between protesters and police in North Dakota in 2016 and 2017.

In recent months, state and federal regulators have temporarily shut down construction of other Energy Transfer Partners pipelines in Ohio and Pennsylvania after multiple drilling fluid spills and other violations.

Bayou Bridge Pipeline LLC asked Dick on Monday to suspend her order while it appeals, but the judge refused. The company is asking the 5th U.S. Circuit Court of Appeals to review Dick's decision.

Dick clarified that the preliminary injunction she issued last Friday only applies to the basin. The order doesn't prevent the company from working elsewhere along the pipeline's 162-mile-long path from Lake Charles to St. James Parish.

Sierra Club and other environmental groups sued the U.S. Army Corps of Engineers last month, saying it violated the Clean Water Act and other environmental laws when it approved a permit for the project. If Dick's order stands, all construction work in the basin must stop until the lawsuit is resolved.

The company said the construction halt could cost it close to \$1 million a day or \$25 million a month, forcing contractors to lay off or furlough workers and hurting the local economy. But the judge said the company's estimated losses aren't supported by the "underlying data."



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disagrees" with the judge's ruling that the Corps did not properly consider the "limited impacts" of construction in the basin.

"In fact, the Corps issued two comprehensive environmental assessments, both of which had a 'Finding of No Significant Impact' to the Basin," she added.

Construction in the basin began last month. The basin is the nation's largest river swamp and includes roughly 880,000 acres of forested wetlands, according to the groups' lawsuit.

The Bayou Bridge pipeline is the last link in a pipeline network connecting the Bakken oil fields in North Dakota with Louisiana refineries and export terminals. The 24-inch-wide pipeline in south Louisiana is designed to have a maximum capacity of 480,000 barrels, or roughly 20 million gallons), of crude a day.

The Corps completed two environmental assessments for the project before issuing the permit. Company attorneys noted that the Corps' permit requires Bayou Bridge Pipeline to restore the basin's "pre-existing wetland contours and conditions" once the project is done.

However, the judge said the Corps didn't show it took a "hard look" at past, present and future "cumulative" environmental impacts.

"The Corps' and (company's) myopic view that they are only required to consider the impacts of this singular project is not consistent with the regulations or applicable jurisprudence," she wrote.



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Earthjustice attorneys filed the suit on behalf of Sierra Club, Waterkeeper Alliance, Gulf Restoration Network, Atchafalaya Basinkeeper and the Louisiana Crawfish Producers Association-West.



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# State Bayou Bridge Pipeline permit illegal, state judge rules

Mark Schleifstein, NOLA.com | The Times-Picayune

**PUBLISHED MAY 7, 2018 AT 11:12 PM | UPDATED JUL 12, 2019 AT 1:39 PM**



Exhibit H-12

In this Friday, April 27, 2018 photo, trees in a cutback sit between an existing pipeline channel, left, and a new pipeline channel, on Bayou Sorrel in the Atchafalaya River Basin in Louisiana. (AP Photo/Gerald Herbert)

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The state Department of Natural Resources violated provisions of a state law designed to protect the public and environment in issuing a coastal use permit for construction of the controversial Bayou Bridge Pipeline, and the permit must be reconsidered, according to a state district court judge in St. James Parish.

The state agency overseeing the pipeline permit eliminated state-required environmental and safety protections for neighborhoods in St. James Parish and coastal areas that the pipeline will pass through by improperly applying provisions of the state's Coastal Zone Management Act, 23rd Judicial District Court Judge Alvin Turner Jr. ruled in his April 26 decision, made public Monday (May 7).

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Turner also ordered DNR to require Bayou Bridge to develop emergency evacuation and response plans for areas the pipeline runs through before any permit is issued.

Elizabeth Livingston de Calderon, a supervising attorney with the Tulane Environmental Law Clinic representing environmental and community groups that filed suit challenging the permit, said the ruling will require construction to stop on the 162-mile pipeline until DNR reconsiders the permit, once a formal judgment is issued in the case, which could take another week or so.

Patrick Courreges, a spokesman for DNR, said the agency's staff believed it was following the rules correctly under state law.

"The court has ruled otherwise," he said, adding that no decision has been made on whether to accept the judge's ruling remanding the permit for rehearing, or whether to appeal the decision to the state 5th Circuit Court of Appeal.

Bayou Bridge Pipeline is jointly owned by Energy Transfer Partners and Phillips 66. Its route runs from Lake Charles to St. James Parish, including a long segment that crosses the Atchafalaya River Basin.

"We do not typically comment on pending or current litigation," said Energy Transfer Partners spokeswoman Vicki Granado. "We would like to reiterate, however, that we will continue to follow all of the stipulations of our permits, as we have always done."

Two St. James residents among those filing the suit praised the ruling in a press release announcing the decision.

"It seems like the state agency didn't think too much about the people who live here when it was giving Bayou Bridge this permit, and neither did Bayou Bridge," said Harry Joseph Sr.,

pastor of Mount Triumph Baptist Church in St. James. "So we went to court, to somebody who we felt would listen to us, and he did."

"Here in St. James, we are in desperate need for an evacuation plan that will allow us to get out fast when something spills or explodes," said Genevieve Butler, a St. James resident. "More facilities keep coming, and each one puts us at more risk, but none of them want to do anything about our situation. Well, now Bayou Bridge has to step up. I hope all the others see this ruling as a sign that they have to give our community the protection we deserve."

A separate federal lawsuit by environmental groups seeking to overturn an Army Corps of Engineers permit and halt construction in the basin resulted in a temporary restraining order blocking construction. But that order was itself blocked by a 3-judge panel of the U.S. 5th Circuit Court of Appeals until an appeal of the federal judge's ruling could be appealed. A hearing on that appeal by a separate 3-judge panel occurred last week, and no ruling has been issued by that panel.

At issue in Turner's ruling are three guidelines governing permitting under the state's Administrative Procedures Act, which governs how agencies make decisions under other laws, like the coastal zone act: 711(A), which governs rules dealing with commercial and industrial surface alterations; 719(K), which governs "oil, gas and mineral activity;" and 705, a less-stringent guideline applicable to "linear facilities."

Turner said DNR decided against applying the surface alteration guideline because it felt the oil, gas and mineral activity guideline would apply. But then the agency decided that

guideline also didn't apply, which eliminated its justification for not using the surface alteration guideline, he said.

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Instead, it used the less stringent linear facilities guideline, "thereby eliminating the increased protections which should have been afforded prior to issuing a permit to transport crude oil through the neighborhoods of St. James Parish and coastal areas."

He said state law requires the use of one or more of the guidelines when it is appropriate to do so, and that failing to do so "without articulating any rational basis for doing so is arbitrary, capricious," and in violation of state law.

Turner said that once the pipeline was completed, it would not result in surface alteration. "However, it cannot be disputed that once constructed, use of the pipeline could conceivably change the usability of the land."

More troubling, he said, was the department's failure to apply the guideline dealing with oil, gas and mineral activities, which he said is defined as "those activities which are directly involved in the exploration, production and refining of oil, gas and other minerals."

"It cannot be reasonably disputed that the transportation of crude oil is directly involved in the refining of oil," Turner wrote. "Once crude oil is extracted it has to be transported via pipeline to a refinery, where it is thereafter converted to various refined oil products."

At a minimum, he said, that guideline should have been considered in determining whether to grant the permit.

Turner declined to rule on a state constitution argument raised by the groups opposing the permit: that DNR violated its public trust duty by not requiring an emergency response plan or considering potential adverse impacts.

But in ordering DNR to reconsider the permit, he ordered the agency to require Bayou Bridge Pipeline LLC "to develop effective environmental protection and emergency or contingency plans relative to evacuation in the event of a spill or other disaster "PRIOR to the continued issuance of said permit."

The ruling follows a Jan. 4 hearing by Turner on the suit, challenging the state permit filed in May 2017 by attorneys with the Tulane Environmental Law Clinic on behalf of Joseph; Butler, a resident of the community; the Humanitarian Enterprise of Loving People (HELP), an organization of pastors and residents on the west bank of St. James Parish; the Gulf Restoration Network; Atchafalaya Basinkeeper, an environmental organization focusing on the river basin; and Louisiana Rise, formerly Bold Louisiana, an environmental group opposing the pipeline.

*Correction: Tulane Environmental Law Clinic supervising attorney Elizabeth Livingston de Calderon said the ruling will require a halt to construction of the Bayou Bridge Pipeline, once a final judgement is filed. An earlier version said the ruling might require a halt to construction.*

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# Bayou Bridge Pipeline is now complete, after years of controversy

Tristan Baurick, NOLA.com | The Times-Picayune

MAR 27, 2019 - 3:57 PM



The Bayou Bridge Pipeline's route runs from Texas to St. James Parish. The Atchafalaya Basinkeeper environmental group says the pipeline began operating on April 1 without having an approved emergency response plan.

Exhibit H-13

The Bayou Bridge Pipeline is now complete and slated to begin transporting oil between Texas and St. James Parish next week, the companies that own the controversial project have announced.

The 163-mile-long Louisiana section of the pipeline, which sparked years of protest and legal challenges from environmentalists and property rights advocates, links to a nearly 50-mile section in Texas that was completed in 2016.

Houston-based Energy Transfer Partners owns a majority of the pipeline and will operate it. Phillips 66 Partners owns a 40 percent share of the pipeline.

In a statement released Tuesday (Mar. 26), the companies said the pipeline will provide Louisiana refiners better access to North American crude oil and reduce U.S. reliance on foreign oil.

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Environmental groups opposed to the pipeline say its route imperils the Atchafalaya Basin, considered one of the largest swamps in America, and poses human health and safety risks in dozens of communities.

Greenpeace USA and the Waterkeeper Alliance released a report last year indicating Energy Transfer is a poor manager of its pipelines. Citing data from federal and state regulators, the report documented nearly 530 hazardous incidents, including spills, from Energy Transfer pipelines between 2002 and 2017.

Energy Transfer defended its environmental record, pointing out that the spills represented a small percentage of the oil transported in its pipelines.

The pipeline's most recent legal challenge was over Energy Transfer's seizure of private land. Property owners sued the company after its work crews began cutting trees and digging pipeline trenches without permission.

In December, a Louisiana judge ruled that the company had the right to seize land but had failed to properly follow legal procedures. Louisiana is one of the few states that allow oil companies to take private land through expropriation, commonly known as eminent domain.

Energy Transfer was required to pay \$150 to each of the three property owners contesting the taking of their land, but construction was allowed to continue.

The property owners, aided by lawyers from the Center for Constitutional Rights and Atchafalaya Basinkeeper, have appealed the decision.

“We’re asking in the appeal to have the pipeline removed,”  
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said Bill Quigley, a Loyola University law professor and one of  
the lawyers representing the property owners. “We want a  
decision that says this process is illegal.”



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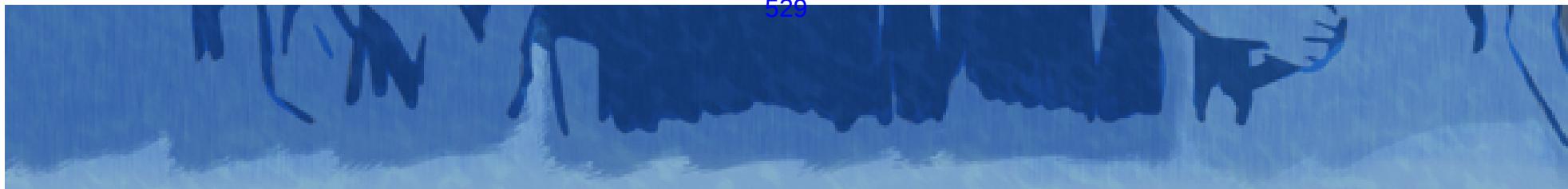
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## Fossil Fuels

# How Energy Companies and Allies Are Turning the Law Against Protesters

In at least 31 states, lawmakers and governors have introduced bills and orders since Standing Rock that target protests, particularly opposition to pipelines.

By Nicholas Kusnetz 

August 22, 2018

*A version of this ICN story was published in the [Washington Post](#).*

The activists were ready for a fight. An oil pipeline was slated to cross tribal lands

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Line groups announced their plans at a press conference in January 2017 at the State Capitol. Ashley McCray, a member of a local Shawnee tribe, stood in front of a blue “Water is Life” banner, her hair tied back with an ornate clip, and told reporters that organizers were forming a coalition to protect native lands.

They would establish a rural encampment, like the one that had drawn thousands of people to Standing Rock in North Dakota the previous year to resist the [Dakota Access Pipeline](#).

The following week, an Oklahoma state lawmaker [introduced a bill](#) to stiffen penalties for interfering with pipelines and other “critical infrastructure.” It would impose punishments of up to 10 years in prison and \$100,000 in fines—and up to \$1 million in penalties for any organization “found to be a conspirator” in violating

the new law. Republican Rep. Scott Biggs, the bill’s sponsor, [said he was responding](#) to those same Dakota Access Pipeline protests.

The activists established the camp in March, and within weeks the federal Department of Homeland Security and state law enforcement wrote a field analysis identifying “environmental rights extremists” as the [top domestic terrorist threat](#) to the Diamond Pipeline, planned to run from Oklahoma to

Tennessee. The analysis said protesters could spark “criminal trespassing events resulting in violence.” It told authorities to watch for people dressed in black.

An FBI team arrived to train local police on how to handle the protest camp.

though the local sheriff said people were only pulled over for violating traffic laws.

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In May the governor signed the bill to protect critical infrastructure. Merely stepping onto a pipeline easement suddenly risked as much as a year in prison.

“That was really pretty successful in thwarting a lot of our efforts to continue any activism after that,” McCray said.

Oka Lawa never drew the kind of participation and attention that made the Dakota Access Pipeline a national cause, and the Diamond Pipeline was completed quietly later that year.

McCray has since channeled her energy toward politics, running for a seat on the Oklahoma Corporation Commission, which regulates the energy industry. But even as a candidate, McCray says, she now watches her words and her Facebook posts, afraid of being implicated as a conspirator if someone were to violate the law, even if she doesn’t know the person. “I don’t feel safe, honestly,” she said.



Ashley McCray says Oklahoma's new law has made protesters think carefully about what they have the freedom to say. Credit: Johnson Grimm-Bridgwater/Oklahoma Sierra Club

Across the country, activists like McCray are feeling increasingly under assault as energy companies and their allies in government have tried to turn the law—and

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arrested under the new law since it went into effect on Aug. 1. In one incident, three people were pulled off a canoe and kayak after they maneuvered the boats on a bayou to protest construction of an oil pipeline. The arrests were conducted by off-duty officers with the state Department of Public Safety and Corrections who were armed and in uniform, but at the time were working for a private security firm hired by the pipeline developer.

Dozens of bills and executive orders have been introduced in at least 31 states since January 2017 that aim to restrict high-profile protests that have ramped up as environmentalists focus on blocking fossil fuel projects.

In addition to Oklahoma's infrastructure bill and similar legislation enacted in two other states, these bills would expand definitions of rioting and terrorism, and even increase penalties for blocking traffic. Twelve have been enacted, according to the International Center for Not-for-Profit Law. The bills have all come since the election of President Donald Trump, who openly suggested violence as a way to handle protesters on the campaign trail, and once in office called the nation's leading news organizations "the enemy of the American people."

At the same time, law enforcement and private companies have conducted surveillance on campaigners, while some federal and state officials have suggested pipeline protesters who break laws be charged as terrorists. Corporations have hit landowners and environmental groups with restraining orders and hundred-million-dollar lawsuits.

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part of a tradition of civil disobedience that stretches to the nation's colonial roots.

"All of the social progress we've made has depended, over the entire history of this nation, from the very beginning, on that ability to speak out against things that are wrong, things that are legal but should not be," said Carroll Muffett, president of the Center for International Environmental Law. "This country, for all its failing,

has long respected the importance of that. These bills put that fundamental element of our democracy in jeopardy."

### In an Age of Terrorism

The modern environmental movement sprung out of mass protest, when millions took to the streets for the first Earth Day in 1970. In the decade that followed, civil disobedience emerged as a core tactic as greens joined with anti-war protesters to launch anti-nuclear campaigns.

The movement returned to those roots with its fight to stop the **Keystone XL** oil pipeline. Beginning in 2011, activists staged sit-ins ending in arrests that galvanized the movement and drew national attention to what had been the mundane work of building pipelines.

Across the country, people began physically obstructing fossil fuel infrastructure. Protesters **blocked train tracks** carrying coal and oil in Washington state, halted trucks at the **gates of a gas storage facility** in upstate New York and **kayaked in**

How Energy Companies Are Turning the Law Against Protesters Inside Climate News  
in the absence of a clear federal energy plan, fossil fuel projects effectively became the policy, locking in oil, gas and coal infrastructure—and their greenhouse gas emissions—for generations. They became the focus of environmental groups, who found common cause with tribes and landowners fighting to protect their land and water. The groups launched campaigns that delayed or blocked several major coal export facilities, pipelines and other projects, costing energy companies millions or even billions of dollars.

To push back, the industry turned to its supporters in government.

Soon after Oklahoma's critical infrastructure bill passed last year, the conservative American Legislative Exchange Council (ALEC) used it **to write model legislation** for other states.

In at least six more states, lawmakers introduced similar bills that would impose steep penalties for trespassing on, or tampering with, pipeline property and other infrastructure. Two were enacted this year. Two others are pending.

In Wyoming, one bill **was openly proposed** on behalf of energy companies. In other states the ties are barely hidden.

Louisiana state Rep. Major Thibaut, a Democrat, introduced a bill that followed ALEC's model by adding pipelines to a list of critical infrastructure facilities. When he presented it to a Senate committee in April, he brought Tyler Gray, a lobbyist for the Louisiana Mid-Continent Oil and Gas Association. During the hearing, **Gray answered** most of the questions. At one point, he leaned over to Thibaut to recommend that he accept an amendment. Neither Thibaut nor Gray responded to requests for comment.

Gov. John Bel Edwards signed it into law in May, after an amendment removed the threat of conspiracy charges.



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in Ohio and Pennsylvania.

The bills may get their first test soon in Louisiana after the arrests of the three activists on the bayou. Activists had been conducting tree-sits and other actions for weeks and were careful to stay off the pipeline easements once the new law took effect, said Cherri Foytlin, an activist organizer in the state. The three who were taken from their boats, for example, claim to have been in navigable waters, which are supposed to be public. The definition of what's navigable has been the subject of **much debate and legal wrangling** in the state, however, and the off-duty officers **pulled the activists off their boats** to arrest them.

“It was really scary,” said Cindy Spoon, one of the activists, in a video **posted to Facebook**. “They grabbed my wrist, grabbed my waist and they started to pull one of my arms behind my back and put me in a stress position.”

The local district attorney has not yet formally filed charges. If the case proceeds, the activists will challenge the law itself, said William Quigley, a professor at Loyola University College of Law in New Orleans who is representing them pro bono. They could face up to five years in prison if convicted.

Two more incidents occurred over the weekend involving activists who had erected a stand high in the trees to block construction. Quigley said the group had permission from property owners to be on the land. But deputies with the St. Martin Parish Sheriff’s Office arrested six people, including a journalist. The property is co-owned by hundreds of parties, and some of them have not signed ~~consent agreements with Energy Transfer Partners, the primary owner of the~~

weekend arrests.

“I think this shows how ridiculous this law is if this is the way it’s going to be applied,” Quigley said.

The legislation is not without precedent. Since 1990, nearly a dozen states [have passed bills](#) known as “ag-gag” laws that prohibit surreptitiously recording inside feedlots and breeding facilities. Many came after exposés of horrific conditions and animal abuse. Three of those laws were subsequently overturned by courts.

But environmentalists and free speech advocates say the new bills are part of a broader effort to recast environmental activists as criminals, even terrorists.

For example:

- In May 2017, the American Fuel and Petrochemical Manufacturers [published a blog post](#) about activists who vandalized pipelines, under the headline: “Pipelines Are Critical Infrastructure—and Attacking Them Is Terrorism.”
- Last year, Energy Transfer Partners [filed a federal lawsuit against Greenpeace](#) and other groups seeking hundreds of millions of dollars. The complaint accuses some of the nation’s leading environmental organizations of operating an “eco-terrorist” conspiracy at Standing Rock. (A judge dismissed the case against one of the defendants last month, but has yet to rule on a motion to dismiss the case against Greenpeace.)

- In Congress, 84 members **wrote a letter** to Attorney General Jeff Sessions asking if protestors who tamper with pipelines could be prosecuted as domestic terrorists. Sponsors of the state pipeline bills **have also invoked terrorism.**

Supporters of the bills say they do not suppress lawful protests.

“There’s a legal process to stop something,” said Oklahoma state Rep. Mark McBride, who sponsored another bill that assigns civil liability to anyone who pays protesters to trespass. “But if you’re chaining yourself to a bulldozer or you’re standing in the way of a piece of equipment digging a ditch or whatever it might

be, yes, you’re causing harm to the project and to the person that’s contracted to do that job.”

Advocacy groups say the bills are unnecessary—trespassing and vandalism are already unlawful, and protesters who have disrupted operations have largely been charged under existing statutes. They fear the legislation uses a handful of dangerous incidents as a pretext to intimidate mainstream advocates and target more widespread acts of peaceful civil disobedience, like temporarily blocking access to a construction site. Several environmental and civil liberties organizations are now in talks about how to respond to the industry’s actions.

**“The clear attempt there is to bring environmental justice environmental**

activists in Louisiana. “They’re basically trying to silence and minimize the impact of environmental organizations.”

## Afraid to Speak Up at the Pipeline Crossroads of the World

Ever since the state’s first gusher began spurting crude in 1897, oil has dominated life in Oklahoma. Today, it is home to fracking pioneers, including Continental Resources. The town of Cushing, the self-dubbed “pipeline crossroads of the world,” is a critical oil trading hub. “Environmental activist” is not a badge many wear openly in Oklahoma.

Dakota Raynes spent the past few years at Oklahoma State University writing his dissertation about how people have responded to a fracking boom that’s literally shaken the state. As drillers began injecting more wastewater into wells from 2010-2015, the **number of earthquakes jumped** more than 20-fold to 888.

Raynes interviewed dozens of activists, lawmakers, regulators and ordinary citizens. He found that almost everyone is reluctant to speak publicly against the industry. They fear neighbors or colleagues or parents of their children’s friends will catch wind and shun them. Raynes said he’s attended events with activists who have returned to their cars afterward to find screws driven into tires.

“Many people read Oklahoma as a hostile context in which to engage in any kind of pro-environmental work,” he said. “And they all link that back to the phenomenal amount of power that the oil and gas industry has, both as a cultural force, as a legal force, as a political force.”

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in sub-freezing weather. Credit: Robyn Beck/AFP/Getty Images

Horinek grew up on tribal land near an oil refinery and a factory that produces carbon black, a sooty petroleum product. He blames the facilities for contributing to disease and deaths in his community. When the call came to join the resistance at Standing Rock, he became a leading organizer. (The Ponca's ancestral land in Nebraska lies in the path of the Keystone XL pipeline, another project he's fought.)

"I think the state of Oklahoma felt threatened and was worried that people would rise up," he said about the critical infrastructure bill. "And they should be."

Horinek says he remains undaunted, but he said the new law had an immediate effect on others.

People were suddenly threatened with long prison terms if they crossed onto pipeline property. "That definitely weighs heavy on a person's thoughts," he said.

Oklahoma has 39 American Indian tribes, most forced to move there during the Trail of Tears in the 19th Century, and indigenous activists led the fight against the Diamond Pipeline. "They can't risk a six-month sentence for trespassing. Who's going to take care of their kids, their parents, their grandparents?" he said.

Biggs, the state representative who sponsored the bill, now works for the federal Department of Agriculture. He declined to comment for this article. The Oklahoma Oil and Gas Association also declined to make anyone available for an interview.

~~Activists say the bill was a clear assault~~

The Sierra Club has a policy against engaging in civil disobedience. But the hill's

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Oklahoma director, Johnson Grimm-Bridgwater. He was among those who spoke at the 2017 press conference. While Grimm-Bridgwater says participating in a press conference should qualify as constitutionally protected speech, there's no telling how a prosecutor might apply the new statute.

"The law is punitive and is designed to create friction and divisions among groups who normally wouldn't have a second thought at working together," he said.

Brady Henderson, legal director for the Oklahoma chapter of the American Civil Liberties Union, said there's widespread concern in both liberal and libertarian circles about the law, and he's fielded questions from several nonprofits about the conspiracy clause.

The ACLU in Oklahoma is considering legal challenges, but may have to wait until a district attorney tries to use the new law. Still, Henderson said, the language is so broad that it can apply to almost anything.

"By equating those kinds of things together, essentially political speech on one end and on the other end outright terrorism," he said, "the bill is a pretty gross instrument."

## Protesters Under Surveillance

As activists were fighting the Diamond Pipeline in Oklahoma, Energy Transfer Partners was planning another oil pipeline at the southern end of its network.

**The Ravoux Bridge pipeline is slated to run from Texas to St. James Parish**

How Energy Companies Are Using Laws And Turned To Law Against Protesters - Inside Climate News

center of the state's crawfish industry.

Environmentalists were alarmed by the risks the project posed to residents of St. James Parish and the swamp's fragile ecosystem. And they quickly felt as if law enforcement agencies were working against them. For one thing, some officials openly supported the project. Joseph Lopinto, now Jefferson Parish sheriff, spoke

at a hearing last year on behalf of the National Sheriffs' Association and urged regulators to approve the pipeline.

Anne Rolfes, an organizer of the pipeline resistance and founder of the advocacy group Louisiana Bucket Brigade, said activists also suspected they were being watched.

During the protests at Standing Rock, a private security company hired by Energy Transfer Partners had compiled daily intelligence briefings and coordinated with local law enforcement, as detailed in reports by The Intercept.

Rolfes' group this year also obtained a handful of documents through a public records request that indicate state officials were tracking their efforts.

One state police report from November said the agency sent an investigator from its criminal intelligence unit to a hearing where activists had allegedly planned a protest, and that a local sheriff's office planned to send a plainclothes officer. Rolfes said no protest was planned; activists merely intended to speak at a public hearing.

article about the groups and adding a photograph of her.

Louisiana State Police declined to comment. Mike Steele, a spokesman for the state Homeland Security Department, rejected the notion that his agency spies on activists. He said this type of open-source tracking was similar to what they conduct ahead of football games or festivals. “We do that with any type of event, because safety is the number one concern,” he said.

Energy Transfer Partners spokeswoman Alexis Daniel issued a statement saying, “any claims that our company or our security contractors have inappropriately monitored protestors in false.” It’s unclear what surveillance, if any, the company or its contractors have deployed in Louisiana. Energy Transfer Partners has also been accused of spying by a family in Pennsylvania.

Anne Rolfes, founder of the advocacy group Louisiana Bucket Brigade, speaks at a protest in 2017. A similar photo of her was circulated by a law enforcement agency. Credit: Julie Dermansky

Rolfes said Louisiana officials are treating activists like criminals. “We’re going to be followed while we participate in the democratic process?” she said.

The arrests in August of the three protesters on boats who were detained by off-duty officers only deepened the activists’ feelings that the state and energy industry were working against them. While the arresting officers were working as contractors, they wore their state uniforms and badges and carried weapons.

Spees, with the Center for Constitutional Rights, said the incident represented a problematic melding of public and private authorities. After the industry-supported bill was enacted by the state, she said, state employees acted on behalf of an energy company to detain activists under the new law.

Activists in Virginia, where two gas pipelines are drawing protests, have also been tracked by that state's Fusion Center—which shares information across agencies to combat terrorism and crime—according to a report by the *Richmond Times-Dispatch*.

In Washington state, a local sheriff's office has monitored activists opposed to a major pipeline project that connects with Canada's tar sands, sharing information with that state's Fusion Center, documents obtained by The Intercept show. Protest groups there already tried to block tanker traffic associated with the project, and local authorities have conducted trainings to prepare for mass protests.

The nation's intelligence community has a dark history of tracking political movements, including the FBI's COINTELPRO, which snooped on Martin Luther King, Jr., and others. Earlier this decade, FBI agents monitored opponents of the Keystone XL pipeline, according to *The Guardian*, and the bureau had at least one informant at Standing Rock.

Even if local law enforcement agencies today are doing little more than collecting news articles and other open source information, covert surveillance risks equating political protest with criminal activity, said Keith Mako Woodhouse, a historian at Northwestern University who wrote a book about radical environmentalists.

“It gives a sense that law enforcement is, if not on the side of, at least more

Pipeline companies have cultivated that relationship. They have reimbursed state law enforcement millions of dollars for providing security for their projects in **North Dakota**, Iowa and **Massachusetts**, for example. Most major pipeline companies also run charitable campaigns that have contributed millions of dollars to local emergency responders and other agencies and groups along their routes.

The National Sheriff's Association, in turn, supported the Bayou Bridge and Dakota Access pipelines **while it called protesters** "terrorists."

### A Worrying Trend

Over the past decade, the sense of urgency around climate change has intensified. Scientists say there is little time before the planet is committed to potentially devastating warming. The only practical way to avoid that is to largely eliminate fossil fuel use over the next several decades.

The government's response has been minimal, "so the next step is civil disobedience," said Woodhouse, the historian. "And if anything, it's surprising that it hasn't happened sooner and at a greater scale."

Woodhouse said efforts to suppress environmental protest trace back to the rise of radical environmental groups in the 1980s and '90s, when public officials slapped names like "eco-terrorism" and "ecological terrorism" on activists who vandalized equipment or animal testing facilities.

Now, Woodhouse said, environmentalists are threatening one of the country's ~~most powerful industries. Some advocates say the new push against activists~~

political aisle to be perfectly frank and candid—a trend of trying to suppress political speech that you don't agree with," said David Snyder, executive director of the First Amendment Coalition.

"I think a lot of people feel a lot more threatened than they have in a long time," he said, "and I think that's true on all sides of the political spectrum. And when people feel threatened, they tend to lash out."

*ICN reporter Georgina Gustin contributed to this story.*

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**Nicholas Kusnetz****Reporter, New York City**

Nicholas Kusnetz is a reporter for Inside Climate News. Before joining ICN, he worked at the Center for Public Integrity and ProPublica. His work has won numerous awards,

including from the American Association for the Advancement of Science and the Society of American Business Editors and Writers, and has appeared in more than a dozen publications, including The Washington Post, Businessweek, The Nation, Fast Company and The New York Times. You can reach Nicholas at [nicholas.kusnetz@insideclimateneWS.org](mailto:nicholas.kusnetz@insideclimateneWS.org) and securely at [nicholas.kusnetz@protonmail.com](mailto:nicholas.kusnetz@protonmail.com).





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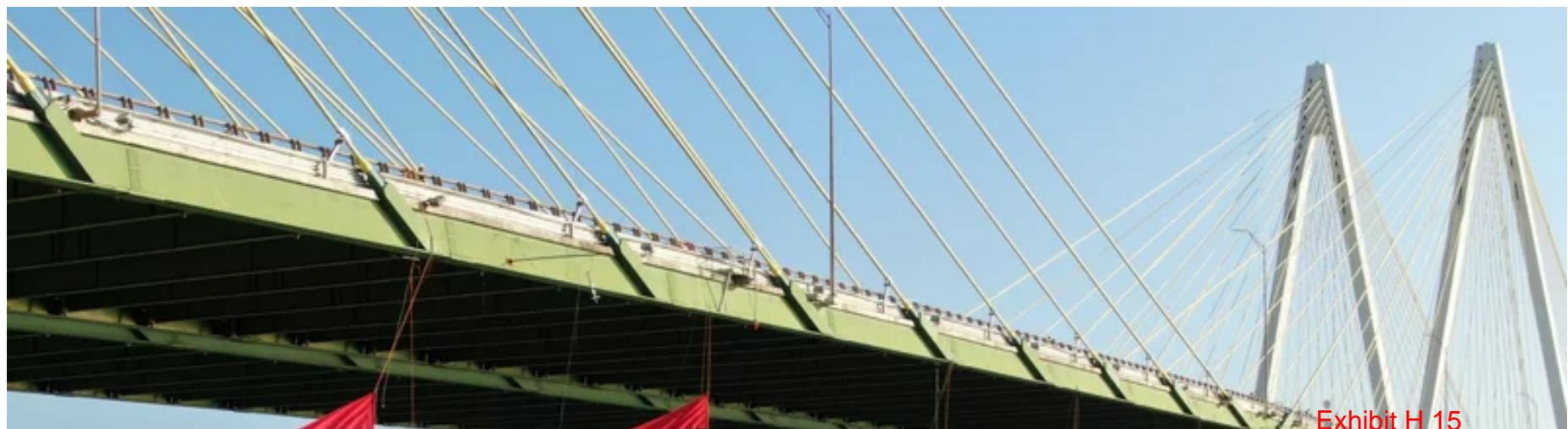
## NATIONAL

# Activists Say New Laws To Protect Critical Infrastructure Aim To Silence Them

September 25, 2019 · 5:00 AM ET

Heard on All Things Considered

MOSE BUCHELE

FROM **KUT 90.5****4-Minute Listen****PLAYLIST** Download  
**Transcript**



Greenpeace USA climbers rappelled off and formed a blockade on the Fred Hartman Bridge near Baytown, Texas, shutting down the Houston Ship Channel, the largest fossil fuel thoroughfare in the United States.

*Handout/via Reuters*

Greenpeace activists in Texas recently rappelled off a key bridge over the Houston Ship Channel, unfurling streamers and hanging in midair in a scene that looked kind of like high-rise window washers meets Cirque de Soleil. Their aim was to protest the oil and gas that funnels through the waterway every day by disrupting bridge and water traffic.

"The reason we're here is because the era of fossil fuels needs to end," said protester Rico Sisney in a Facebook Live video he recorded as he swung from a wire off Houston's Fred Hartman Bridge.

The Houston channel stretches from the city to the sea, and is home to refineries from global oil companies such as Exxon Mobile and Shell. More oil is exported through it than anywhere else in the country. The group had intended to stay for 24 hours to block that flow.

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#### ENVIRONMENT

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But before the day was over, sheriff's deputies rappelled down, tied themselves to the activists, and forcibly lowered them to waiting police boats where they were arrested. In all, 31 of the climate activists are now the first to be charged under a new law aimed at protecting the state's pipelines, ports, refineries and other facilities deemed "critical infrastructure."

At least nine states have recently enacted similar laws in the name of safety to protect oil, gas and other energy projects.

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#### Sponsor Message

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But critics say their real aim is to curb direct action protest in the era of climate change.

The protesters face federal charges, but the state law they're accused of breaking carries even steeper prison time — up to two years. Their case could test the law's constitutionality not only in Texas, but in other states that have adopted similar rules.

According to the National Conference of State Legislatures, nine states have adopted similar laws over the last few years. The laws that increases penalties for certain crimes, making trespassing on and disrupting critical infrastructure a felony.

Supporters say they are necessary to allow energy projects to move forward and protect sensitive places such as ports, freight yards, refineries, electric companies and pipelines.

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## ENVIRONMENT

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"A lot of that is about safety," says Allen Fore, a vice president at the oil and gas pipeline company Kinder Morgan. "You know, people laying themselves in front of bulldozers and strapping themselves down to things. That's dangerous. That's dangerous to everyone involved."

But critics see the law as part of an effort to silence climate activists and high-profile protests. Texas' law doesn't just single out individuals, but also leaves organizations that support them open to fines of up to \$500,000.

"I do have some nonprofit clients and I know that they are concerned about their own liability for any protest support at this stage," says Daphne Silverman, an Austin-based defense lawyer who has advised Greenpeace and activists. She points out that these protesters were on a state bridge, a structure not even explicitly covered under the new law.

Silverman says the Texas rule is ripe for a constitutional challenge.

"I think that there is a great risk that it infringes upon our First Amendment rights," she says. "Because of the broadness of it. It's going to capture conduct that should be protected."

## ENVIRONMENT AND ENERGY COLLABORATIVE

Tougher Laws On Pipeline Protests Face Test In Louisiana



States began passing critical infrastructure laws after 2016, when protests over the Dakota Access pipeline stalled construction in some places. Many of the bills share similarities with model legislation promoted by the conservative American Legislative Exchange Council.

In South Dakota, a U.S. district judge recently blocked a law that made it harder to protest pipeline projects, saying it violated free speech rights. Protesters arrested under Louisiana's critical infrastructure law in 2018 were never formally charged.

In Texas, Greenpeace agrees that the law is unconstitutional. But the group's lawyers say it is premature to imagine the arrests may be part of a test case to get the law struck down. "That remains to be seen," said Greenpeace lawyer Maggie Ellinger-Locke.

Ellinger-Locke points out that the organization itself, so far, has not been charged, just the individual protesters.

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Activists Say New Laws To Protect Critical Infrastructure Aim To Silence Them | NPR  
As for whether the law will dissuade others from acts of civil disobedience, Rico Sisney, one of the activists who participated in the bridge blockade, doesn't think so.

"The law will be challenged," he says. "I think that folks will also see through it, and see that if the fossil fuel industry and the organizations that put together these types of laws are feeling that level of desperation, that there must be something that we're doing that's working."

The protesters are scheduled to appear in Texas State court in early December.

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## Driven by Industry, More States Are Passing Tough Laws Aimed at Pipeline Protesters

Bills to increase penalties for “impeding” the operations of a pipeline or power plant—in many cases elevating the offense to a felony—are pending in at least five states and have been enacted in 15 others.



By Nicholas Kusnetz

April 12, 2021

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Indigenous groups and opponents of the Enbridge Energy Line 3 oil pipeline replacement project protest its construction across northern Minnesota. Credit: Michael Siluk/Education Images/Universal Images Group via Getty

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When Nancy Beaulieu's Ojibwe ancestors signed a series of treaties with the federal government in the 19th century, one of the goals was to protect the land, she said. So she sees it as not just her right but her duty to protest the building of a major oil pipeline underway in northern Minnesota.

As an organizer for the state chapter of 350.org, Beaulieu has helped lead a campaign against the replacement and expansion of Line 3, which carries oil from Canada's tar sands to the United States. Advocates say more than 200 protesters have been arrested as part of the campaign, and Beaulieu said she intends to be arrested herself as construction continues this spring.

But a bill currently pending in the state legislature threatens her right to do so, by increasing the penalties for trespassing on pipelines and other energy infrastructure.

"These are our own lands in some areas, ceded lands. We never gave up the right to hunt, fish and travel. So just because we don't hold title doesn't mean we cannot protect. That's what treaties are all about, is that responsibility," she said. The [Minnesota bill](#) would impose a felony offense carrying up to five years in prison for anyone who enters a pipeline construction site with "intent to disrupt" operations.

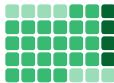
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“They’re violating our treaties again,” she said. “They’re denying us our voice.”

The legislation is just one of a growing number of such bills, backed by the oil and gas industry, that are pending in at least five states and have been enacted in 15 others over the last four years, [according to the International Center for Not-for-](#)

The bills emerged in 2017 after a pair of stinging losses for the pipeline industry. Activists had used civil disobedience and mass arrests to draw attention to the Keystone XL and Dakota Access projects, and the Obama administration eventually blocked both. States' critical infrastructure legislation raised the stakes for protesters by increasing penalties for acts like blocking access to a construction site, in many cases converting the offenses from misdemeanors to felonies.

Some of the laws include clauses allowing prosecutors to seek 10 times the original fines for any groups found to be "conspirators." Those bills have prompted concerns on the part of civil liberties advocates and leaders of groups like the Sierra Club, who fear they could be roped into trials and face steep fines for having joined with broader coalitions that include an element of civil disobedience.

Some advocates say they have been intimidated by the laws and have adjusted their tactics. But so far, there have been only a handful of arrests under the new laws—in Louisiana and Texas—and no one has yet been formally charged.

The nation's leading oil industry groups have been among the most vociferous advocates of the legislation, and in several states, including Kansas this year, lawmakers have openly introduced the bills on behalf of industry lobbyists. Enbridge, TC Energy and Energy Transfer—the companies behind Line 3, Keystone XL and Dakota Access pipelines—have been some of the most active corporations lobbying for the legislation along with Marathon Petroleum, according to Connor Gibson, an independent researcher who has tracked the bills

Driver by Industry, More than 100 Passing Tonight, A Pipeline Protests Inside Climate News  
express their views legally and peacefully and to engage in peaceful, nonviolent protests. We don't tolerate trespassing, vandalism, or mischief, and Enbridge will seek to prosecute those individuals to the fullest extent of the law."

The other companies did not immediately respond to requests for comment.

Kansas Gov. Laura Kelly, a Democrat, signed that state's bill into law on Friday.

After President Joe Biden revoked the permit for the Keystone XL pipeline on his first day in office, activists **have been pressing** him to block construction of Line 3 in Minnesota and to halt the operation of the Dakota Access Pipeline, where the bills got their start.

On Friday, his administration **said it would allow oil to continue to flow** through Dakota Access as a lawsuit challenging its permits proceeds.

## 'It Was Really Scary'

Months after protests against the Dakota Access Pipeline drew the nation's attention to the Standing Rock Indian Reservation in 2016, an indigenous-led coalition began gearing up for another pipeline fight in Oklahoma. But just as activists announced the campaign, a state lawmaker **introduced a bill that defined pipelines** and a long list of other facilities as "critical infrastructure," and increased

Case 6:20-cv-00983-RRG-CBW Document 93-4 Filed 04/18/22 Page 117 of 355 PageID #: 565  
Anyone who trespasses on a site will face up to a year in prison and \$10,000 in fines. The bill also included a provision that imposed 10 times the original fine on any organization found to be a “conspirator” with anyone violating the law.

The sponsor said he introduced the bill in response to Standing Rock.

“It was really scary,” said Ashley Nicole McCray, who led the pipeline fight in Oklahoma and is now an organizer with the Indigenous Environmental Network. McCray said she has given up using civil disobedience to fight oil and gas development, deterred in part by the critical infrastructure law.

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The bill was quickly signed into law in 2017, and began to spread to other states. The American Legislative Exchange Council, which brings together corporate

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The following year, lawmakers introduced a similar bill in Louisiana, where Energy Transfer, the company behind the Dakota Access Pipeline, was building another project. At a legislative hearing, the state's **top oil and gas lobbyist sat next to the bill's sponsor** and fielded many of the lawmakers' questions about its details.

Louisiana's governor signed the bill, and within days of when it entered into force, a group of activists were **pulled out of a canoe and kayak close to a construction site and arrested** by off-duty state law enforcement officers who were moonlighting for a private contractor hired by Energy Transfer.

## A Stifling Effect?

While critical infrastructure bills have faced resistance and drawn hundreds of opponents to hearings, supportive state lawmakers have shown they will continue to introduce them year after year. A bill failed to pass in Ohio in 2018, but was reintroduced the following year and **eventually passed in December**.

This was the first year such legislation was introduced in Kansas, a state that the existing Keystone pipeline crosses. Sen. Mike Thompson, a Republican, introduced the bill **on behalf of the American Fuel and Petrochemical Manufacturers**, a trade group that represents many of the country's largest oil companies.

the American Petroleum Institute also spoke in favor.

Among those who opposed it was Rabbi Moti Rieber, executive director of Kansas Interfaith Action, who said later in an interview that civil disobedience can be a powerful tool for people of faith who “want to witness against the damage to creation that’s implicit” in fossil fuel infrastructure.

“People understand that there’s always the possibility of prosecution, but there’s a difference between that” and a felony, he said. After being amended, the [final bill](#) imposes misdemeanor charges for trespassing, but the charge rises to a felony if prosecutors can prove intent to “impede” operations, probably not difficult if a protester tries to block construction equipment. “We believe that it cannot help but have a stifling effect on the ability to use direct action as a tactic in the fight against climate change,” Rieber said.

Thompson said that in introducing the bill, he did not intend for it to target peaceful protesters, even if they are blocking work on a pipeline, but to deter serious damage.

“You can protest, but you shouldn’t unreasonably do things that border on the criminal,” he said. “There’s always a gray area and it always comes down to the courts making the final decision.”

Scott Lauermann, a spokesman for the petroleum institute, pointed to a few instances where protesters have closed valves on pipelines or vandalized

The American Fuel and Petrochemical Manufacturers did not respond to requests for comment.

After hearing the concerns of opponents, Kansas lawmakers amended the bill and included language saying that it “protects the right to peacefully protest” for everyone in the state, including citizens of sovereign tribes. But Rep. Christina Haswood, who is of Diné descent and represents a district with many Native Americans, said the new language did little to change the legislation’s effect.

“When you look into the history of this bill and where it came from, and similar language that’s being proposed across the states, it’s very apparent to see that it’s coming from the Standing Rock protests and Keystone XL pipeline,” she said. “And I know a lot of indigenous people from my community and across the state have participated with or supported that protest.”

In Arkansas, both houses of the legislature have approved a similar bill, though the Arkansas House still needs to approve amendments from the state Senate.

A version has also passed the state House in Montana, and legislation is pending in Alabama and Illinois, where it has drawn support from some unions, as well as the oil industry.

Natalie Cook, a Sierra Club organizer in Minnesota, said the legislation in that state is unlikely to pass as a stand-alone bill, but that it could be included in an

## Few Arrests So Far

While felony critical infrastructure laws have now been in place for years, prosecutors have yet to use them. McCray, the Oklahoma indigenous activist, said she and others were prepared to get arrested under the new law in order to challenge its constitutionality in court. But the one time they tried to get arrested by blocking construction equipment, she said, law enforcement officers did not take them into custody.

In Texas, a group of Greenpeace activists were arrested under the new charges in 2019, after they climbed a railing and dangled off a bridge over the Houston Ship Channel. But **prosecutors later downgraded** those charges to misdemeanors.

In Louisiana, the local district attorney has yet to formally charge the protesters who were arrested in 2018; under Louisiana law, he has four years to do so, according to Pamela Spees, a senior staff attorney with the Center for Constitutional Rights.

Spees is representing several of those Louisiana activists and other advocacy groups in a federal lawsuit challenging the law as unconstitutional. One of the plaintiffs is RISE St. James, an advocacy group of mostly Black women living in the region known as “Cancer Alley,” where dense petrochemical development has contributed to high levels of pollution. The group has been trying to block a

been the women's ancestors. The activists began to visit the site, which it turned out was also crossed by a pipeline.

"That ups the ante because it's not just a trespass, it's a critical infrastructure trespass," Spees said. The women have avoided charges so far, but Spees said the case reveals how damaging the laws can be. "They think they're exercising their right to visit a cemetery of likely their ancestors, and you're faced with a possible felony, which is very scary to people. It's having an effect here, I mean that's clear."

*An earlier version of this article incorrectly described the status of a bill in Kansas. Gov. Laura Kelly, a Democrat, signed the bill into law on April 9.*

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**Nicholas Kusnetz****Reporter, New York City**

Nicholas Kusnetz is a reporter for Inside Climate News. Before joining ICN, he worked at the Center for Public Integrity and ProPublica. His work has won numerous awards, including from the American Association for the Advancement of Science and the Society of American Business Editors and Writers, and has appeared in more than a dozen publications, including The Washington Post, Businessweek, The Nation, Fast Company and The New York Times. You can reach Nicholas at [nicholas.kusnetz@insideclimateneWS.org](mailto:nicholas.kusnetz@insideclimateneWS.org) and securely at [nicholas.kusnetz@protonmail.com](mailto:nicholas.kusnetz@protonmail.com).



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# Protest a pipeline, become a felon? In Louisiana, that's possible. Groups challenging new law

BY STEVE HARDY | SHARDY@THEADVOCATE.COM

MAY 22, 2019 - 4:30 PM

Environmentalists and activists arrested for protesting around the Bayou Bridge pipeline have filed a federal civil rights lawsuit challenging the constitutionality of a state law passed last year that allows law enforcement to charge protesters as felons.

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#### RELATED

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Exhibit H 17

The new law, which changed the definition of "critical infrastructure," is intended to protect sensitive areas such as power plants, petrochemical facilities and water treatment sites. Pipelines and pipeline construction sites were added to the critical infrastructure list, making it a felony to trespass at the pipeline as of last August.

Supporters have said it's important to provide law enforcement with clear guidelines to protect pipelines from damage.

Detractors said the law infringes on first amendment rights of free speech.

**RELATED****Felony cases mount against protesters fighting Bayou Bridge from land, sea and air**

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During construction of the now-operational Bayou Bridge pipeline, 15 people were arrested in St. Martin Parish under the new law, said attorney Bill Quigley. Prosecutors have not yet indicated whether they will pursue felony cases, dismiss the charges or take some other action, Quigley said.

Some of the people arrested, joined by landowners and environmental organizations, are suing the state Attorney General's Office to strike the new law as unconstitutional.



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Attorney General Jeff Landry's office said in a statement that it will "vigorously defend the law as our State has an obvious and compelling reason to protect vital infrastructure from criminal trespass, damage, or possible attack." It said environmental groups are free to protest but not in a manner that obstructs and threatens infrastructure.

Environmentalists see the law differently.

“This law was designed, really, to intimidate us,” Anne White Hat said at a news conference Wednesday outside the federal courthouse in Baton Rouge.

White Hat said she’s facing up to 10 years in prison after being arrested near a Bayou Bridge construction site.

She called the new law unjust and dangerous and warned sportsmen that they could be swept up as well if they get too close to one of the many pipelines running through hunting and fishing spots.

Several speakers at the news conference pointed out that a judge has ruled that construction crews were the ones trespassing in St. Martin because they were performing work on property without going through the official eminent domain process, though the company was only ordered to pay \$450 in damages and the work was allowed to proceed.

The sheriff and district attorney in St. Martin are also named as defendants in the suit in an effort to drop the outstanding criminal cases involving the 15 people who have already been

arrested under the felony law.

Sheriff's Maj. Ginny Higgins pointed out that deputies just enforce the laws — they don't write them — but declined to comment on the suit Wednesday because her office had not yet been served the paperwork. The District Attorney's Office did not return calls seeking comment.

Industry lobbyists weighed in, though.

The Louisiana Mid-Continent Oil and Gas Association helped draft the legislation passed last year. The law is straightforward and crafted so as not to punish people who lawfully assemble, fish, hunt or exercise their property rights near pipelines and construction sites, association President Tyler Gray wrote in a statement.

"This important law protects Louisiana and its citizens from individuals who attempt to unlawfully interrupt construction of pipeline projects or damage existing facilities, which not only

puts the trespassers at risk, but also risks the lives of first responders, employees, and the surrounding communities and environment," Gray wrote.

He added, "Louisiana's natural gas and oil industry plays a critical role in fueling America with reliable and affordable energy and damage to our critical infrastructure risks interrupting critical services across the United States."

The suit has been assigned to Louisiana Middle District Judge John deGravelles. Quigley said that as of Wednesday, no future court dates had been set.

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# A POWERFUL PETROCHEMICAL LOBBYING GROUP ADVANCED ANTI-PROTEST LEGISLATION IN THE MIDST OF THE PANDEMIC

West Virginia is one of several states that have taken advantage of the pandemic to ease the construction of controversial oil and gas projects.

Alleen Brown

June 7 2020, 9:11 a.m.

Exhibit H 18



The Franklin County Sheriff's Office arrests a protester on trespassing charges on a Mountain Valley pipeline work site in Virginia on August 15, 2019. Photo: Heather Rousseau/The Roanoke Times/AP

One day after West Virginia Gov. Jim Justice's shelter-in-place orders went into effect, the governor quietly signed into law the Critical Infrastructure Protection Act. In the midst of the coronavirus pandemic, the law created new felony penalties for protest actions targeting oil and gas facilities, as the state continues to confront opposition to two massive natural gas pipelines designed to cut through delicate forests, streams, and farmland.

If construction is completed, the Mountain Valley and Atlantic Coast pipelines would transport gas extracted via fracking in West Virginia to markets in Virginia and North Carolina, passing through the crumbly limestone landscapes known as karst that underly much of the mountainous region. Such projects are key to keeping fracking companies operating at a time when gas prices are at historic lows and allowing a booming petrochemical industry to continue its expansion. Local landowners and residents concerned with environmental issues have attempted to stop construction by **locking themselves to equipment** and **camping out** in trees in the pipelines' paths. Along with more conventional actions such as lawsuits, the protest efforts have cost the projects' backers billions of dollars in delays.

Now, a person who trespasses on a West Virginia property containing "critical infrastructure" with the intention of defacing or inhibiting operations could face up to a year in jail and a \$1,000 fine. The **law** creates a new felony and fines of up to \$20,000 for any person who conspires to deface or vandalize such properties if the resulting damage is more than \$2,500. "Critical infrastructure" is defined as an array of oil and gas facilities including petroleum refineries, compressor stations, liquid natural gas terminals, and pipelines.

West Virginia's critical infrastructure law mimics a model policy promoted by the American Legislative Exchange Council, known as ALEC, a shadowy group that [encourages state lawmakers to pass industry-friendly legislation](#). Records provided to The Intercept by the Energy and Policy Institute reveal the natural gas industry's hand in advancing the bill. A network of local lobbyists for Dominion Energy, which owns the Atlantic Coast pipeline; the West Virginia Oil and Natural Gas Association; and the American Fuel and Petrochemical Manufacturers, an industry group representing the refineries and processing plants that are the final destinations for the natural gas pipelines, spent months working behind the scenes to ensure the bill's passage.

West Virginia isn't the only state to advance such anti-protest measures in the midst of the pandemic. Andy Beshear, Kentucky's Democratic governor, who has been widely [praised for his response](#) to Covid-19, [signed a similar critical infrastructure law](#) on March 16, and South Dakota's governor [signed another](#) on March 30. Alabama's bill passed the state Senate on March 12 and is currently being considered by the House; Mississippi's passed the House on March 4 and awaits action from the Senate. Particularly striking is a new amendment to Louisiana's existing critical infrastructure law, now awaiting the governor's signature, which would prescribe up to 15 years' imprisonment for entering a critical infrastructure property without authorization during a state of emergency.

Connor Gibson, a researcher for Greenpeace who has studied the industry influence behind critical infrastructure bills nationwide, said politicians have taken advantage of the pandemic to ease the construction of controversial projects. "The Covid-19 pandemic gave cover for particularly

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sleazy politicians to pass anti-protest bills while their constituents are squeezed by unemployment and the responsibility to protect public health,” he said. “These bills are meant to prevent protests just long enough for oil companies to finish dangerous and unpopular petrochemical projects.”

Justice, the West Virginia governor, is a coal billionaire who has also thrown his weight behind the [Appalachian Storage and Trading Hub](#), which could transform the Ohio River Valley into a center of the petrochemical industry. The governor and legislature remain unconvinced by scientists’ assertions that only a rapid shift away from fossil fuels will save the state from climatic shifts likely to cause increasingly frequent droughts that could [spell the end](#) of its towering red spruce trees and angler-beloved brook trout. The new law will protect fossil fuel industry dominance with the threat of felony charges for those who dissent.

“It’s a flexing of muscles,” said Becky Crabtree, whose sheep pasture, set on a ridge below the Appalachian Trail, is now bisected by the Mountain Valley pipeline. “It’s just another way that our lawmakers are in the pockets of the fossil fuel companies.”

## **Requested by Industry**

After the West Virginia Critical Infrastructure Protection Act was introduced at the end of January, the bill’s sponsor, Delegate John Kelly, received dozens of emails from constituents urging him to halt its passage.

In a rare and revealing reply to one of the emails, Kelly provided a previously unreported detail about the bill’s origins. “What is the purpose of HB4615 and are you in support or against this leg-

isolation?” a constituent asked Kelly in an email sent February 3.

“Simple explanation, this bill reinforces property rights. when a person goes on private property and does intentional damage,” Kelly [replied](#). “The bill was requested by the natural gas industry, because protesters entered a drilling site, and destroyed equipment.”

Kelly did not respond to questions from The Intercept about who exactly requested the bill or what damage he was referring to, but disclosure records from last summer provide some clues.

On June 12, Kelly and Republican House Majority Leader Amy Summers spent an afternoon with [Maribeth Anderson](#), government affairs director for Antero Resources, one of the largest natural gas producers in the state. They discussed gas issues over lunch and rode around in a rented van, visiting a drilling rig and a brine processing facility.

Two weeks later, Dominion lobbyist Bob Orndorff [emailed](#) Robert Akers, a lawyer for the West Virginia House Energy Committee. “Delegate Amy Summers reached out to me and asked if we ever considered a bill to address civil disobedience towards pipelines,” Orndorff wrote, copying Anderson, as well as lobbyists for EQM, the largest shareholder behind the Mountain Valley pipeline, and Southwestern Energy, a natural gas exploration and production company. “Maybe the Energy committee should consider such a law.”

Summers, a former member of ALEC, told The Intercept that she’d grown concerned after reading an article about civil disobedience on pipeline properties. “I asked the industry’s lobbyist if we had laws to prevent unsafe activity,” she said.

Dominion spokesperson Ann Nallo denied that Dominion had led the efforts to advance the bill. “It appears to have been led by an industry consulting group,” she said, without elaborating. Orndorff did not respond to a request for comment.

Nallo appears to have been referring to Orion Strategies, a public relations firm based in West Virginia, Ohio, and Pennsylvania that has long been an ally of the natural gas industry. In 2018, the firm was [behind](#) a series of pro-fracking reports put out by the Consumer Energy Alliance, a self-identified grassroots organization that was [started](#) by a lobbying company with ties to the tar sands industry.

An Orion Strategies lobbyist was one of only three out of 26 people who testified in favor of the critical infrastructure bill at a public hearing on February 10. The others included the head of the West Virginia Oil and Natural Gas Association and a representative of the local chamber of commerce.

After the bill passed, the firm quickly took credit. “Orion Strategies is proud to have taken point on organizing the wide base of support for legislation that will protect critical infrastructure,” Orion lobbyist Chris Hall wrote in a celebratory email on April 1.

Hall told The Intercept that Orion worked to advance the anti-protest bill on behalf of the American Fuel and Petrochemical Manufacturers. An AFPM spokesperson confirmed that the trade association was behind the original request. “Critics of this bill disregard the dangers inherent in this interference and seem to suggest that trespassing and destruction of property are required for protest,” she stated, but declined to provide examples of incidents in which protesters had destroyed critical infrastructure equipment.

The AFPM's efforts to pass critical infrastructure legislation go further back than the West Virginia bill. In fact, the association helped author the ALEC model legislation that has served as a template for anti-protest measures across the country.

## A Force Behind the Scenes

The first critical infrastructure law aimed at pipeline protesters passed in the immediate aftermath of the Indigenous-led uprising against the Dakota Access pipeline near the Standing Rock Sioux Reservation in North Dakota. The fossil fuel industry, in partnership with law enforcement, convinced legislators in numerous states that they were at risk of their own local Standing Rock – with accompanying security costs. Oklahoma [passed an anti-protest law](#) in May 2017, and by the end of the year, ALEC had developed the law into model legislation.

An AFPM lobbyist was part of the ALEC task force that created the model. “AFPM advocated for the model legislation because of its importance for refineries and for the pipeline infrastructure that delivers products to and from our facilities,” the association’s spokesperson told The Intercept.

Since then, AFPM has continued to deploy its representatives to evangelize in favor of anti-protest legislation. Direct lobbying by AFPM helped advance versions of the model bill in at least four states, according to an [analysis](#) of news reports and disclosure records by Gibson, the Greenpeace researcher. Twelve states including Oklahoma have now passed laws aimed at increasing penalties for pipeline protesters interfering with “critical infrastructure.”



Lauren Bowman sits in a tree along the Mountain Valley pipeline right of way in Montgomery County, near Elliston, Virginia, on September 5, 2018. Photo: Heather Rousseau/The Roanoke Times/AP

Companies processing natural gas and oil into fuel or chemicals for products like plastic have played a particularly significant role in pushing critical infrastructure legislation, according to the new data collected by Greenpeace. Marathon Petroleum, Exxon Mobil, and Koch Industries, all of which own both pipelines and refineries, ranked as the most influential corporations backing critical infrastructure laws nationally, according to the organization's analysis. "It's not just necessarily the big embattled pipeline companies that are pushing these anti-protest laws," Gibson said.

A Marathon spokesperson told The Intercept that the company supports critical infrastructure policies "with safety in mind," adding that "there have been many legislatures that agree that this type of legislation is necessary to counter threats of vandalism that can disrupt emergency services and people's lives." Exxon Mobil and Koch Industries did not respond to The Intercept's requests for comment.

"It's the companies that own both refineries and pipelines that are most aggressive in retaliating against protesters of fossil fuel infrastructure," said Gibson. "The ultimate goal is to prevent people from protesting with fines and penalties. They also want to make sure they enact revenge on people who protest anyway, using legislators to provide that service for them."

## Above All Rules and Regulations

Crabtree, who is in her 60s, is part of the wide-ranging resistance to pipeline projects in Appalachia and among those who have sought to impede operations of a pipeline property. She's concerned that the Mountain Valley pipeline will disrupt sensitive water systems that feed her family's drinking water wells. Construction has already altered the landscape on her property, she

says. A week after the company blasted open terrain near her home, a sinkhole opened 60 feet from Crabtree's door, disrupting a stream that used to pass over the land. Mountain Valley denied responsibility and the hole has since filled with water, becoming a pond more than 9 feet deep.

In 2018, Crabtree and her family suspended her 1971 Ford Pinto in the air above a pipeline construction site on her farmland. They sealed the doors shut with Crabtree inside and succeeded in stopping work for half a day before she was arrested. Prosecutors later dropped an obstruction charge.



Becky Crabtree in her 1971 Ford Pinto suspended above a pipeline construction site in 2018. Photo: Courtesy of Roger Crabtree

Amendments to the West Virginia protest law say that it should not apply to “the right to free speech or assembly, including, but not limited to, protesting and picketing.” The amendments were a win for the bill’s opponents, however it will be up to prosecutors to decide whether the language protects people like Crabtree.

Mountain Valley has since completed work on Crabtree’s property, and construction elsewhere is currently suspended while federal regulators review the project’s compliance with the Endangered Species Act. Yet pipeline workers have been allowed to continue working on erosion and sediment control throughout the pandemic. Justice’s [stay-at-home](#) order and the state’s “[safer at home](#)” order have [counted](#) work on the pipeline as “essential infrastructure.” Backers [still say](#) the project will be completed this year, which could mean an influx of out-of-state workers in communities with low Covid-19 rates. Residents of the county where Crabtree lives have [implored](#) the governor to halt pipeline work while the pandemic continues.

Mountain Valley did not respond to a request for comment, but in a [letter](#) to the Federal Energy Regulatory Commission, the company’s lawyer stated that it “has implemented enhanced health and safety measures, including instructing employees and contractors on social distancing and sanitation” as well as reducing crew sizes to fewer than 10 people.

Nevertheless, Crabtree says, workers she spotted on an adjoining property did not seem to be following the Centers for Disease Control and Prevention’s Covid-19 guidelines. “In the middle of the pandemic, we had workers standing far less than 6 feet from each other, with no masks. They don’t stay away from each other, and they don’t stay away from cars,” she said. “They are above all rules and regulations.”

**Correction: June 12, 2020**

A previous version of this article incorrectly described some of the penalties included in West Virginia's critical infrastructure law. The article has been updated to accurately reflect the new penalties.



## America's dirty divide

⌚ This article is more than **2 months old**

Exhibit H 19

# 'They criminalize us': how felony charges are weaponized against pipeline protesters

**Twenty states have passed laws that criminalize protesting, including on infrastructure including pipelines. In Minnesota, at least 66 felony theft charges against Line 3 protesters remain open**

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*Alexandria Herr for Floodlight*

Thu 10 Feb 2022 05.00 EST

Last summer Sabine von Mering, a professor of German at Brandeis University, drove more than 1,500 miles from Boston to Minneapolis to protest against the replacement of the Line 3 oil pipeline that stretches from Canada's tar sands down to [Minnesota](#).

Along with another protester, she locked herself to a semi-truck in the middle of a roadway, according to a filed court [brief](#), as a means of peaceful resistance. But when she was arrested, she was charged with a serious crime: felony theft, which carries up to five years in prison.

"It's very scary that they criminalize us like that, and to face jail time," said Von Mering, 54, of her June arrest. "But what can I do? I feel responsible to my kids and future generations."

The felony charges come as more than a dozen states have passed laws to criminalize fossil fuel protests, and as the federal government has ramped up its own tactics for surveilling and penalizing protesters.

Floodlight

Von Mering is one of [nearly 900 protesters](#) who were arrested in Minnesota for protesting against the pipeline's construction, with the vast majority of arrests taking place during the summer of 2021, and one of dozens facing felony charges. Construction on the Line 3 pipeline was finalized in October 2021 and carries 760,000 barrels of oil per day across northern Minnesota. But its construction for years has stoked fierce protests and legal challenges, led by Indigenous activists in northern Minnesota who worried about potential impacts of oil spills and the pipeline's threat to [treaty rights to gather wild rice](#). While most of the arrests have led to misdemeanor or gross misdemeanor charges for crimes including "disturbing the peace" and "trespassing", felony charges like Von Mering's mean protesters are facing years of jail time.

Legal advocates say that in Minnesota the elevated charges are a novel tactic to challenge protest actions against pipeline construction. They see them as furthering evidence of close ties between Minnesota's government and the fossil fuel industry. It follows reporting by the Guardian that the Canadian pipeline company Enbridge, which is building Line 3, reimbursed Minnesota's police department \$2.4m for time spent arresting protesters and on equipment including ballistic helmets. Experts say the reimbursement strategy for arrests is a new technique in both Minnesota and across the US, and there's concern it can be replicated.

"I do a lot of representation for people in political protests and I've never seen anything like that," said Jordan Kushner, a defense attorney representing clients charged in relation to Line 3 protests.

Two of Kushner's clients were charged with felony "aiding attempted suicide" charges for crawling inside a pipe. The charge is for someone who "intentionally advises, encourages, or assists another who attempts but fails to take the other's own life", according to [Minnesota law](#) and carries up to a seven-year sentence. Authorities alleged that the protesters were endangering their lives by remaining inside the pipeline.





Water protectors Gabe, left, and Rainbow, right, hold hands while facing off with police at Red Lake Treaty Camp, a ceremonial and indigenous-led protest camp against the Line 3 oil pipeline, on 23 July 2021. Photograph: Chris Trinh

“To put it charitably, it’s a very creative use of this law,” said Kushner.

Across the country pipeline protests have faced fierce backlash in various forms by both the oil and gas industry and various state legislators who oppose the often successful protest delay tactics. Since 2017, 20 states have passed laws that criminalize protesting, including on infrastructure - a broad category which can include pipelines and oil

refineries, depending on the state. Sixteen states have passed laws specifically targeting infrastructure protests, according to the [US Protest Law Tracker](#). Other strategies for discouraging protests have included [spying](#) by the Federal Bureau of Investigations (FBI) on Keystone XL opponents in North and South Dakota, and flyovers of protester's homes by [Custom and Border Protection drones](#).

Outside of the US, authorities in British Columbia have also used arrest and lawsuits as a means to dissuade protests challenging the Coastal GasLink [pipeline](#). At Line 3, protests came to a head last summer when hundreds of protesters were arrested for misdemeanor offenses. But the lawyers representing those arrested say charges began to get more severe, some bordering on the absurd.

At least 91 felony charges were made against 89 protester defendants in Minnesota, according to data compiled by the Pipeline Legal Action Network, a network of lawyers representing Line 3 defendants, and confirmed by the Guardian. It's likely the number of total felony arrests was higher, as the data does not include all of the arrests made of Indigenous protesters, many who had their cases transferred to tribal courts. At least 66 felony theft charges against Line 3 protesters remain open and ongoing in the Minnesota courts.

"I've never seen felony theft and I've never seen felony assisted suicide used in environmental protests," said Tara Houska, a tribal lawyer, activist and citizen of Couchiching First Nation, located along the border between Minnesota and Ontario.



Construction progress on Enbridge's Line 3 pipeline near one of its Mississippi River crossing points in northern Minnesota. Photograph: Chris Trinh

“Some of these charges are a pretty obvious overstep by prosecutors to try and punish people for engaging in demonstration.”

Jason Goward, 37, is another protester who was arrested for felony theft. A citizen of the Fond Du Lac Ojibwe Band located near the pipeline's terminus in Duluth, Minnesota, Goward first started as a construction worker on the Line 3 pipeline in 2020. Yet, he soon became disturbed by his work. The pipeline crosses through the treaty lands of the Ojibwe tribe and he watched as sandhill cranes - the animals of his grandmother's clan - fled the construction site. The guilt came to a breaking point and Goward walked off the job to protest. He was arrested last July for locking himself to a piece of pipeline equipment. While his charges were eventually dropped after his case was transferred to Red Lake tribal court, the impacts of the arrest still follow him.

"I still can't get a job to this day ... No one wants to hire someone [arrested for] felony theft," Goward said. (Background checks routinely flag arrest records, even when charges are dropped.)

Yet Goward says he doesn't regret his decision to protest against the Line 3 construction.

"What kept me going was knowing that someday my sons, when they come back to the reservation, [will know] that I tried to make sure that the water, the rice, and the nature is clean for them to live off the land," he said.



Jason Goward of Fond du Lac attends a Zoom court hearing on his mobile phone, inside a yurt at Camp Migizi, a resistance camp along the Line 3 pipeline's route. Goward is facing felony charges and potential prison time for locking down to construction machinery in order to delay work on the Line 3 oil pipeline. Photograph: Chris Trinh

Minnesota's police officers weren't the only group that sought reimbursement from the pipeline company for time spent processing Line 3 protesters. Minnesota prosecutors also requested payment from Enbridge for their time spent bringing cases against protesters. According to documents obtained by [the Center for Protest Law and Litigation](#), prosecutor Jonathan Frieden - who is overseeing the prosecution of nearly 500 Line 3 cases - invoiced an escrow account funded by Enbridge for \$12,207 in 2021. The request was ultimately rejected.

An Enbridge spokesperson, Michael Barnes, said the company does not "determine who broke the law or how they are prosecuted" and said Minnesota's Public Utility Commission determines what charges are reimbursable. Frieden did not respond to a request for comment.

Mara Verheyden-Hilliard, director of the Center for Protest Law and Litigation warns that the repayment of policing costs by Enbridge creates an "exceptional corruption and perversion of the justice system and of democracy" by "funding law enforcements to act against the political opponents of the corporation".

Minnesota's legislature has introduced 17 bills to expand penalties against protesting with six categorized as critical infrastructure bills. One [bill](#) introduced in the 2021 legislature but didn't pass, would have extended the penalty of gross misdemeanor to those who "intentionally" recruited, trained or "conspired" with any trespasser.

Activists are building [pressure](#) to drop charges against Line 3 protesters. Others have moved on from Line 3 in Minnesota to protesting against Enbridge's other oil pipeline, Line 5, in Michigan. But protesters like Von Mering still await their fate in the courts.

"It makes no sense that I have to defend myself against the charge of theft when I'm trying to protect the water," she said. "They think I'm a criminal. But I'm not."

This article was amended on 10 February 2022 to correct a line saying 36 states had passed laws criminalizing protesting. Thirty-six laws have been passed in 20 states. The article was amended on 14 February 2022 to clarify that these 20 states have passed laws targeting protesting in general, while 16 have targeted infrastructure-related protests specifically.

This article was amended on 11 February 2022 to say construction was finalized on the Line 3 pipeline in October

2021, not October 2020.

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COMMODITIES FEBRUARY 22, 2017 / 1:05 AM / UPDATED 5 YEARS AGO

# Pipeline fights move from Dakota prairie to Louisiana bayous

By Liz Hampton

8 MIN READ



(This story corrects paragraph 37 to say \$12,000 instead of \$1,200 in Feb 22 story.)

Exhibit H-2

A wide-angle photograph of the Atchafalaya Basin in southern Louisiana. The image shows a vast, flat landscape with numerous winding waterways and small islands. The water appears dark and reflects the sky. In the distance, there are some low-lying hills or forested areas. The overall scene is one of a large, natural wetland ecosystem.

Atchafalaya Basin, home to many pipelines, is seen in the western part of the of southern Louisiana, U.S. January 31, 2017. Picture taken January 31, 2017. REUTERS/Liz Hampton

Pipeline companies have been Dakota Access to Louisiana Bayous Protest  
HENDERSON, Louisiana (Reuters) - When Hope Rosinski's father gave her a six-acre plot in Louisiana more than a decade ago, she was surprised to find oil and gas pipelines crisscrossing the property.

Pipeline companies later secured her permission for two more lines, one of which has since caused flooding and consistently leaves her land saturated.

Now she's had enough. Rosinski is fighting the latest request for a right-of-way, this time from Energy Transfer Partners - the company behind the controversial Dakota Access Pipeline. She said ETP declined to make contract changes she wanted or to properly compensate her for lost property value.

Opposition to the company's planned extension of the Bayou Bridge pipeline has made Louisiana bayous the latest battleground in a nationwide war against new pipeline construction.

The pushback here is one example of the increasingly broad and diverse base of opposition nationally, which now extends beyond traditional environmental activists. In Louisiana, opponents include flood protection advocates, commercial fishermen and property owners such as Rosinski.

Their fight follows high-profile protests in North Dakota that were led by Native Americans and joined by military veterans, who together succeeded in convincing the Obama administration to delay construction.

Although the new administration of President Donald Trump has since cleared that project's completion, pipeline companies are nonetheless taking the rising political opposition seriously. Alan Armstrong, chief executive at pipeline firm Williams Companies, told a conference in Pittsburgh that Trump's action would not hamper the protest movement.

"It may even enhance it," he said the day after Trump cleared the Dakota pipeline in January.

Pipeline supporters argue that more infrastructure is essential for the oil and gas industry to provide affordable energy and reduce dependence on foreign imports and dirtier energy sources such as coal.

Opponents counter that pipeline companies cannot be trusted to prevent leaks. Technology designed to detect spills only accomplished that goal in 20 percent of known pipeline leaks between 2010 and 2016, according to a Reuters analysis of data from the U.S. Pipeline and Hazardous Materials Safety Administration.

Energy Transfer and its affiliates had among the most spills of any pipeline company, with nearly 260 leaks from lines carrying hazardous liquids since 2010, according to the Reuters analysis. An ETP spokesperson said most of those spills were small and occurred on company property.

The company said in a statement that it seeks to work with landowners and communities to "build the pipeline in the safest, most environmentally friendly manner possible."

Pipeline protest from North Dakota park to Louisiana by US Reuters  
606

ETP's relations with Rosinski, however, have apparently broken down. She told Reuters that the firm has threatened to take her to court for the right of way, citing legal rights of pipeline companies to build infrastructure for broader public benefit.

Rosinski wants to resist, but knows a court battle could be costly and lengthy.

"I'm a single mom," she said. "I don't have the finances."

ETP declined to comment specifically on Rosinski's case but said it typically gets voluntary agreements on easements from owners in about nine out of 10 cases, without legal action.

## NOT IN MY BACKYARD

Some pipeline protesters are driven by opposition to any expansion of fossil fuel development, but many have more local and specific concerns.

Many protests so far - including the encampment in North Dakota, led by the Standing Rock Sioux tribe - have focused largely on fear of water contamination.

Slideshow ( 5 images )

Pipeline from North Dakota to Louisiana Protests

Similar objections have cropped up in West Texas from protesters of Energy Transfer's Trans-Pecos gas line, and in Arkansas and Tennessee over the Diamond Pipeline operated by Plains All American Pipeline.

Activists in Pennsylvania have been fighting a Williams Companies pipeline plan for three years. The company is looking to add 185 miles of new pipeline to its Atlantic Sunrise line, connecting the northeastern Marcellus natural gas shale region with the southeast part of the state. Opponents have argued the expansion could cause an explosion or taint the local water that supplies farms.

They're borrowing tactics from Standing Rock tribe's standoff. Malinda Clatterbuck, 46, of Lancaster, Pennsylvania, who leads the group Lancaster Against Pipelines, said residents are setting up a camp in Conestoga, where a right-of-way has been granted, and plans to live on and off at the camp with her family.

"I'm exhausted and angry about this," she said. "Why do we have to upend our lives just to try to get justice for our community?"

Williams said it has operated 60 miles of pipeline safely in Lancaster County and that the company plans to exceed federal safety standards for the extension.

“We’ve also heard from thousands of people who support the project - individuals, chambers and business groups - who recognize the economic benefit,” the company said in a statement.

## DEAD CRAWFISH IN THE BAYOUS

In Louisiana - home to massive oil refineries and about 50,000 miles of pipelines - ETP’s planned Bayou Bridge extension would run across southern Louisiana for about 160 miles, between Lake Charles and St. James.

The state has a mutually beneficial but testy relationship with the oil industry, which is widely blamed for cutting through wetlands and contributing to coastal erosion that has left Louisiana more vulnerable to hurricanes and flooding.

Some opponents of the Bayou Bridge are concerned that its construction will pollute drinking water and constrict drainage systems during heavy rains. Others want to see pipeline companies take better care of the environment during and after construction.

Jody Meche, 47, of Henderson, fears economic damage. He has fished in the Atchafalaya Basin for a quarter century. For years, he has been pushing companies to remove spoil banks caused by pipeline construction and oil exploration because they hurt the commercial fishing industry.

The spoil banks act as dams inside the basin, damaging the local ecosystem by stopping water flow.

Meche can see the impact in the crawfish traps he pulls up from the bayou daily during the season, from February to early summer. The critters resemble tiny lobsters and are in high demand at bars and backyard boils from New Orleans to Houston.

“The stagnant water is not good for them at all,” Meche said. “They don’t grow as well, they don’t eat as much, they are very lethargic.”

Meche can sell large, healthy crawfish for about \$1.50 a pound. But the smaller ones he often catches these days fetch half that, and many in his traps these days are dead and worthless.

## CONTRACT DISPUTE

Rosinski, meanwhile, is still fighting with Enterprise Products Partners, the pipeline company she said damaged her property during construction of an ethane line a few years ago. She said she has spent the last year trying to get Enterprise to restore her land and stop the flooding.

The cost to fix it could be about \$12,000, she said.

Enterprise told Reuters it hopes to resolve the issue amicably, but that it has not gotten clear guidance from an attorney hired by Rosinski.

Pipeline from North Dakota to Louisiana gets Protest  
Rosinski received the right-of-way request from Energy Transfer Partners as she was squabbling with Enterprise. She suggested 30 changes to the contract and requested more compensation. ETP refused, she said, and told her it may take up the dispute in court.

“I’ve done my part,” she said of her previous agreements to allow pipelines through her property.  
“They’re consuming my land.”

Additional reporting by Valerie Volcovici; Editing by David Gaffen and Brian Thevenot

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# US Protest Law Tracker

<http://www.icnl.org/usprotestlawtracker/>

The US Protest Law Tracker, part of [ICNL's US Program](#) ([/our-work/us-program](#)), follows initiatives at the state and federal level since January 2017 that restrict the right to peaceful assembly. For more information and an analysis of this data, [click here](#) ([/post/news/analysis-of-anti-protest-bills](#)). For information about our methodology, [click here](#) ([methodology.php](#)).

**45** STATES HAVE  
CONSIDERED      **245** BILLS →  
**38** ENACTED      **42** PENDING

Legislation

38 entries matching in provided filters in 20 states. [Clear all filters](#)

## Alabama

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### **[SB 17 / HB 21 \(HTTP://ALISONDB.LEGISLATURE.STATE.AL.US/ALISON/SESSBILLSTATUSRESULT.ASPX?BILL=SB17&WIN\\_TYPE=BILLRESULT\)](http://alisondb.legislature.state.al.us/Alison/SESSBillStatusResult.aspx?BILL=SB17&WIN_TYPE=BILLRESULT): NEW PENALTIES FOR PROTESTS NEAR GAS AND OIL PIPELINES**

Expands the definition of "critical infrastructure" under Alabama law to include pipelines and mining operations. Individuals are prohibited from unauthorized entry onto critical infrastructure, defined as intentionally entering a posted area of critical infrastructure; the offense is a Class A misdemeanor punishable by up to one year in jail and a fine of up to \$6,000. The law also expands the definition of "person" to include nonprofits, creating the possibility that nonprofits who provide support or organizing for environmental protests near critical infrastructure where individuals then trespass could face organizational liability. Under the law, if a person interrupts or interferes with the operations of critical infrastructure, they would additionally be guilty of a Class C felony, punishable by at least one and up to ten years in prison. The draft law was pre-filed for the 2022 legislative session in September 2021. It is nearly identical to HB 516 introduced in 2021. ([See full text of bill here](http://alisondb.legislature.state.al.us/Alison/SESSBillStatusResult.aspx?BILL=SB17&WIN_TYPE=BILLRESULT) ([http://alisondb.legislature.state.al.us/Alison/SESSBillStatusResult.aspx?BILL=SB17&WIN\\_TYPE=BILLRESULT](http://alisondb.legislature.state.al.us/Alison/SESSBillStatusResult.aspx?BILL=SB17&WIN_TYPE=BILLRESULT)))

**Status: enacted**

Introduced 11 Jan 2022; Approved by Senate 1 February 2022; Approved by House 10 February 2022; Signed by Governor Ivey 15 February 2022

Issue(s): Conspiracy, Infrastructure, Trespass

## Alabama

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### **[SB 152 \(HTTPS://ALISONDB.LEGISLATURE.STATE.AL.US/ALISON/SESSBILLSTATUSRESULT.ASPX?BILL=SB152&WIN\\_TYPE=BILLRESULT\)](https://alisondb.legislature.state.al.us/Alison/SESSBillStatusResult.aspx?BILL=SB152&WIN_TYPE=BILLRESULT): NEW CONTROLS ON PROTEST LOCATIONS AND COSTS FOR PROTEST ORGANIZERS**

Allows municipalities in Lauderdale County to control where protesters may gather, and charge them expansive fees for a permit. Under the law, municipalities may prohibit spontaneous protests in public forums by requiring protesters to obtain permits in certain circumstances, including if the demonstration "will involve more than a certain number of individuals participating, as established by the municipality." The law also allows municipalities to charge protester organizers a permit fee that includes "the actual cost of cleanup," "the actual cost of the use of law enforcement officers," and "any other actual administrative cost incurred by the municipality." ([See full text of bill here](https://alisondb.legislature.state.al.us/Alison/SESSBillStatusResult.ASPX?BILL=SB152&WIN_TYPE=BillResult) ([https://alisondb.legislature.state.al.us/Alison/SESSBillStatusResult.ASPX?BILL=SB152&WIN\\_TYPE=BillResult](https://alisondb.legislature.state.al.us/Alison/SESSBillStatusResult.ASPX?BILL=SB152&WIN_TYPE=BillResult)))

**Status: enacted**

Issue(s): Damage Costs, Security Costs

## Arkansas

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**HB 1508 (HTTPS://WWW.ARKLEG.STATE.AR.US/BILLS/DETAIL?ID=HB1508&DDBIENNUIUMSESSION=2021%2F2021R&SEARCH=): NEW PENALTIES FOR PROTESTERS WHO BLOCK TRAFFIC, "RIOT", OR DAMAGE MONUMENTS**

As enacted, the law increases the penalty for obstructing a "public passage", from a Class C to a Class A misdemeanor. As such, an individual in a protest that makes a sidewalk "impassable to pedestrian... traffic" could face up to one year in jail. The law also creates a new mandatory minimum sentence of 30 days in jail for "rioting", and requires restitution for any injury or damage as a result of the offense. Rioting is defined in Arkansas to include engaging with two or more persons in "tumultuous" conduct that creates a "substantial risk" of "public alarm." The law requires that a person convicted of inciting a riot likewise pay restitution for any injury or damage as a result of the offense. The law provides that the state Attorney General may initiate an investigation into cases of riot, inciting riot, and obstructing a highway or other public passage. Finally, the law amends the definition of "act of terrorism" under Arkansas law, to include any act that causes "substantial damage" to a public "monument." It is not clear whether graffiti or other painting applied to a monument as part of a protest could comprise a terrorist act under the new law. (See full text of bill here ([\)](https://www.arkleg.state.ar.us/Bills/Detail?id=HB1508&ddBienniumSession=2021%2F2021R&Search=))

Status: enacted

Introduced 22 Feb 2021; Approved by House 19 April 2021; Approved by Senate 22 April 2021; Signed by Governor Hutchinson 29 April 2021

Issue(s): Damage Costs, Riot, Terrorism, Traffic Interference

## Arkansas

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**HB 1321 (HTTPS://WWW.ARKLEG.STATE.AR.US/BILLS/DETAIL?ID=HB1321&DDBIENNUIUMSESSION=2021%2F2021R&SEARCH=): NEW PENALTIES FOR PROTESTS NEAR GAS AND OIL PIPELINES**

Introduces harsh new penalties for protestors around gas and oil pipelines and other "critical infrastructure." The law broadly defines "critical infrastructure" to include a range of posted or fenced-off areas associated with natural gas and crude oil production, storage, and distribution, including above and below ground pipelines as well as pipeline construction sites and equipment. Under the law, purposely entering or remaining on any "critical infrastructure" is a Class D felony, punishable by up to 6 years in prison and a \$10,000 fine. Separately, the law provides that trespassing on property outside of a city or town, regardless of whether it is posted, is a Class D felony if the property is "critical infrastructure." In nearly all other cases, trespass is a misdemeanor or minor violation. The law also creates a felony offense for anyone who purposely and unlawfully "causes

damage" to critical infrastructure. Any amount of "damage," which the law does not define, is a Class B felony under the law, punishable by 20 years in prison and a \$15,000 fine. Under the law,<sup>614</sup> protesters who hold a peaceful sit-in at a pipeline construction site and paint protest slogans on construction material, for instance, could face lengthy prison sentences. ([### Status: enacted](https://www.arkleg.state.ar.us/Bills/Detail?id=hb1321&ddBienniumSession=2021%2F2021R&Search=</a></u>)</p></div><div data-bbox=)

Introduced 27 Jan 2021; Approved by House 9 March 2021; Approved by Senate 1 April 2021; Signed by Governor Hutchinson 14 April 2021

Issue(s): Infrastructure, Trespass

## Arkansas

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### [HB 1578 \(HTTPS://WWW.ARKLEG.STATE.AR.US/BILLS/DETAIL?ID=HB1578&DBBIENNiumSESSION=2017%2F2017R\)](https://WWW.ARKLEG.STATE.AR.US/BILLS/DETAIL?ID=HB1578&DBBIENNiumSESSION=2017%2F2017R): EXPANDED CIVIL LIABILITY FOR THOSE WHO INCITE A RIOT AND CRIMINAL PENALTIES FOR OBSTRUCTING FIRST RESPONDERS

Creates a civil cause of action for a person who is injured or has property damaged as a "direct or indirect" result of a riot against a rioter or a person or entity who incites a riot. Under Arkansas law, both the riot and incitement to riot statute are broad, creating potential liability for protesters or organizations who are interpreted to have urged others to have engaged in tumultuous or violent conduct. The bill also makes it a Class A misdemeanor, punishable by up to one year in jail, to knowingly obstruct or interfere with a first responder in providing medical services, or a Class D felony, punishable by up to six years, if the same is done purposefully. ([### Status: enacted](https://www.arkleg.state.ar.us/Bills/Detail?id=HB1578&ddBienniumSession=2017%2F2017R</a></u>)</p></div><div data-bbox=)

Introduced 17 Feb 2017; Passed by House 2 March 2017; Passed by Senate 27 March 2017; Signed by Governor 6 April 2017.

Issue(s): Damage Costs, Police Response, Riot, Traffic Interference

## Florida

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### [HB 1/SB 484 \(HTTPS://WWW.MYFLORIDAHOUSE.GOV/SECTIONS/BILLS/BILLSDETAIL.ASPX?BILLID=70193\)](https://WWW.MYFLORIDAHOUSE.GOV/SECTIONS/BILLS/BILLSDETAIL.ASPX?BILLID=70193): EXPANDED DEFINITION OF "RIOT" AND NEW PENALTIES FOR PROTESTERS

\*\*Note: Provisions of HB1 related to the law's new definition of "riot" were preliminarily enjoined by a federal district judge on September 9, 2021, temporarily blocking enforcement of those provisions.\*\*

Enlarges the legal definition of "riot," a 3rd degree felony, to include any group of three or more individuals whose shared intent to engage in disorderly and violent conduct results in "imminent danger" of property damage or personal injury, or actual damage or injury. Notably, the new definition does not require that the individuals' conduct be disorderly or violent, or that they commit any actual damage or injury. Under the new law, a "riot" consisting of 25 or more people, or one that "endangers the

safe movement of [Case 6:20-cv-00083-RBB Document 68-4 Filed 04/18/22 Page 107 of 355 PageID](#)#. As such, large groups of protesters or ones that block traffic, even temporarily,<sup>615</sup> could face up to 15 years in prison. Under the new law, "inciting" someone to participate in a riot is a 3rd degree felony, punishable by 5 years in prison. The law also creates a new criminal offense of "mob intimidation," defined as a group of three or more people who act with a "common intent" to compel "or attempt to compel" another person to "do or refrain from doing any act," or "assume, abandon, or maintain a particular viewpoint" against their will. The offense is a first degree misdemeanor, punishable by up to one year in jail. The law creates a new 3rd degree felony offense, punishable by up to 5 years in prison, for anyone who "willfully and maliciously defaces, injures, or otherwise damages by any means" statues, flags, paintings, displays, or other "memorials" and the value of the damage is more than \$200. As "deface" is not defined, protesters who apply paint or graffiti to a monument in the course of a peaceful protest could face up to 5 years in prison. The law may encourage violence against protesters by creating a new affirmative defense in civil lawsuits for personal injury, death, or property damage, such that a defendant can avoid liability by establishing that the injury, death, or damage they committed "arose from" conduct by someone "acting in furtherance of a riot." Finally, the law creates a new civil right of action against a municipal government that fails to "respond appropriately to protect persons and property during a riot or unlawful assembly," making them civilly liable for damages, including personal injury or property damage. These provisions may encourage municipal governments to adopt overly aggressive law enforcement responses to protests in order to avoid lawsuits. ([See full text of bill here](https://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=70193) (<https://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=70193>))

**Status: enacted**

Introduced 6 Jan 2021; Approved by House 26 March 2021; Approved by Senate 15 April 2021; Signed by Governor DeSantis 19 April 2021

Issue(s): Damage Costs, Driver Immunity, Police Response, Riot, Traffic Interference, State Liability, Stand Your Ground

## Indiana

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### **SB 471 (HTTPS://IGA.IN.GOV/LEGISLATIVE/2019/BILLS/SENATE/471): NEW PENALTIES FOR PROTESTS NEAR CRITICAL INFRASTRUCTURE**

Heightens the potential penalties for protests near oil and gas pipelines and other infrastructure by creating the offenses of "criminal infrastructure facility trespass" and "critical infrastructure facility mischief." The law provides that an individual who knowingly enters a critical infrastructure facility without permission commits critical infrastructure facility trespass, a Level 6 felony punishable by up to 30 months in prison. Under the law, recklessly or knowingly defacing such a facility constitutes critical infrastructure facility mischief, punishable by up to six years in prison as a Level 5 felony. In either case, the individual may additionally be liable to the property owner for damages, costs, and attorney's fees. An individual found to have conspired with someone who commits either offense may also be liable for a fine of \$100,000. The law newly defines "critical infrastructure facility" under Indiana law to include a range of oil, gas, electric, water, telecommunications, and railroad facilities, as well as any "facility that is substantially similar" to one of the listed facilities. ([See full text of bill here](https://iga.in.gov/legislative/2019/bills/senate/471) (<https://iga.in.gov/legislative/2019/bills/senate/471>))

**Status: enacted**

Issue(s): Conspiracy, Infrastructure

## Iowa

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**SF 342 (<https://www.legis.iowa.gov/legislation/BillBook?ga=89&ba=SF%20342>): HEIGHTENED PENALTIES FOR PROTESTERS CONVICTED OF "RIOT," "UNLAWFUL ASSEMBLY," OR BLOCKING TRAFFIC, AND IMMUNITY FOR DRIVERS WHO INJURE THEM**

Introduces felony penalties for the offense of "riot," previously an aggravated misdemeanor, such that the offense is punishable by up to 5 years in prison and \$7,500. Preexisting law defines "riot" as a group of three or more people assembled "in a violent manner," at least one of whom uses any unlawful force or violence against another person or causes property damage. The law also converts "unlawful assembly" from a simple to an aggravated misdemeanor. Preexisting law defines "unlawful assembly" as a group of three or more people, any of whom are acting "in a violent manner," and who intend that any of them will commit an offense. Under the law, it is a serious (rather than simple) misdemeanor, punishable by one year in jail and a \$1,875 fine, to "obstruct" a sidewalk, street, or "other public way" with the intent to hinder its use by others. If an individual obstructs a sidewalk or street while "present during an unlawful assembly," it is an aggravated misdemeanor, punishable by 2 years in jail and a \$6,250 fine. If an individual obstructs a sidewalk or street while "present during a riot," it is a Class D felony, punishable by up to 5 years in prison and a \$7,500 fine. Under the law, a driver who injures someone who is participating in a "protest, demonstration, riot, or unlawful assembly," engaging in "disorderly conduct," and blocking traffic, is immune from civil liability as long as the driver was exercising "due care" and the protester did not have a permit to be in the street. The law would also allow law enforcement who experience a physical or other injury while on duty to pursue civil damages from a person, group, or organization. Finally, the law creates a new felony offense for "defacing" public property, "including a monument or statue." The offense, a Class D felony, is punishable by up to 5 years in prison, a \$7,500, and mandatory restitution for any property damage. This law was introduced and passed by the Senate as SF 534, but passed by the House as an amendment to SF 342. ([See full text of bill here \(https://www.legis.iowa.gov/legislation/BillBook?ga=89&ba=SF%20342\)](https://www.legis.iowa.gov/legislation/BillBook?ga=89&ba=SF%20342))

Status: enacted

Introduced 1 Mar 2021; Approved by Senate 10 March 2021, Approved by House 14 April 2021, Signed by Governor 16 June 2021

Issue(s): Damage Costs, Driver Immunity, Riot, Traffic Interference

## Kansas

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**SB 172 ([https://www.kslegislature.org/li/B2021\\_22/measures/SB172/](https://www.kslegislature.org/li/B2021_22/measures/SB172/)): NEW PENALTIES FOR PROTESTS NEAR GAS AND OIL PIPELINES**

**Case 6:12-cr-00983-RBG Document 93-4 Filed 04/18/22 Page 169 of 355 PageID# 617**

Creates four new criminal offenses that could capture a protest of potential pipelines. Under the law, entering or remaining in a "critical infrastructure" facility, or on property containing such a facility if it is posted with signs or fenced off, is a Class A misdemeanor, punishable by up to one year in jail and a \$2,500 fine. Trespassing with intent to "tamper with" a critical infrastructure facility, or to "impede or inhibit" its operations, is a Level 7 felony, punishable by approximately 2 years in prison. Actually, knowingly "tampering with" the facility is a Level 6 felony, punishable by approximately 3 years in prison, and doing so with the intent to impede or inhibit the facility's operations is a Level 5 felony, punishable by approximately 4 years in prison. The law also creates a broad new definition of critical infrastructure," which includes among many other things "a portion of any belowground or aboveground oil, gas, hazardous liquid or chemical pipeline" or any storage, processing, or distribution facility for crude oil or natural gas. When it was introduced, the law included new penalties for "defacing" and "vandalizing" critical infrastructure; civil liability for any person or "entity" that provided compensation to someone to commit the offenses described above; and added the trespass and damage offenses above to the underlying crimes that could be prosecuted under the state's RICO law. These provisions were removed prior to the law's enactment. ([See full text of bill here](https://www.kslegislature.org/li/b2021_22/measures/sbi72/) ([https://www.kslegislature.org/li/b2021\\_22/measures/sbi72/](https://www.kslegislature.org/li/b2021_22/measures/sbi72/)))

**Status: enacted**

Introduced 8 Feb 2021; Approved by Senate 2 March 2021; Approved by House 30 March 2021; Signed by Governor Kelly 9 April 2021

Issue(s): Damage Costs, Conspiracy, Infrastructure, Trespass

## Kentucky

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### [HB 44 \(HTTPS://APPS.LEGISLATURE.KY.GOV/RECORD/20RS/HB44.HTML\): NEW PENALTIES FOR PROTESTS NEAR PIPELINES AND OTHER INFRASTRUCTURE](https://apps.legislature.ky.gov/record/20RS/HB44.html)

Creates new potential criminal and civil penalties for protests around oil or gas pipelines and other infrastructure facilities. Like HB 238, introduced in the 2019 session, HB 44 amends the definition of "key infrastructure assets" under Kentucky law to include "natural gas or petroleum pipelines." Encompassed facilities and properties designated "key infrastructure assets" are not limited to areas that are fenced off or posted by "no entry" signs. Trespass onto "key infrastructure assets" is a Class B misdemeanor for the first offense (up to three months in jail) and a Class A misdemeanor for subsequent offenses (up to one year in jail). As introduced, the bill created a new offense for a person who "intentionally or wantonly... tampers with, impedes, or inhibits operations of a key infrastructure asset." This conduct would comprise "criminal mischief in the first degree"--a Class D felony, which under Kentucky law can be punished by up to five years in prison. A protest that "impeded" access to a pipeline by blocking a road, or one that "inhibited" the operation of a pipeline by blocking pipeline construction, could presumably have fallen under this definition. Prior to the law's enactment, lawmakers removed the language penalizing activity that "impeded" or "inhibited" operations of infrastructure like a pipeline. The enacted version instead penalizes "tamper[ing] with the operations of a key infrastructure asset... in a manner that renders the operations harmful or dangerous." The introduced bill also provided that any "person" (which under Kentucky law could include an organization) may be civilly liable if they "knowingly compensate[] or remunerate[]" another person to commit criminal mischief on a key infrastructure asset. Prior to enactment, this was narrowed to anyone who "knowingly directs or causes a person" to commit the tampering offense. ([See full text of bill here](https://apps.legislature.ky.gov/record/20rs/hb44.html) (<https://apps.legislature.ky.gov/record/20rs/hb44.html>))

Introduced 29 Aug 2019; Prefiled as BR 204 on 29 August 2019; Approved by House 10 February 2020; Approved by Senate 5 March 2020; Signed by Governor Beshear on 16 March 2020

Issue(s): Conspiracy, Infrastructure, Trespass

## Louisiana

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### **HB 727 (<https://www.legis.la.gov/legis/BillInfo.aspx?s=18RS&b=HB727&sbi=y>): HEIGHTENED PENALTIES FOR PROTESTING NEAR A PIPELINE**

Targets protests around gas and oil pipelines by expanding the definition of "critical infrastructure" and providing for the offense of "unauthorized entry of a critical infrastructure." Under the law, "critical infrastructure" is amended to include "pipelines," "any site where the construction or improvement of [pipelines or any other listed infrastructure facility] is taking place," as well as "all structures, equipment, or other immovable or movable property located within or upon" such facilities. Unauthorized entry onto critical infrastructure property as defined above is punishable by imprisonment with or without hard labor for up to five years and a fine of \$1,000. As originally introduced, the law included a new crime of "conspiracy to engage in unauthorized entry" of a critical infrastructure facility, punishable by imprisonment with or without hard labor for up to five years and a fine of \$10,000, such that individuals who only planned to hold a peaceful protest on infrastructure property could be prosecuted. The amended and enacted version of the bill removed the provisions on conspiracy, however. In addition, prior to the law's enactment, provisions were added to mandate that the law would not apply to "[l]awful assembly and peaceful and orderly petition, picketing, or demonstration for the redress of grievances or to express ideas or views regarding legitimate matters of public interest." (See full text of bill here (<https://www.legis.la.gov/legis/BillInfo.aspx?s=18RS&b=HB727&sbi=y>))

Status: enacted

Introduced 26 Mar 2018; Approved by House 12 April 2018; Approved by the Senate 8 May 2018; Signed into law by Governor Edwards 30 May 2018

Issue(s): Infrastructure, Trespass

## Mississippi

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### **HB 1243 (<https://billstatus.ls.state.ms.us/2020/PDF/HISTORY/HB/HB1243.XML>): NEW PENALTIES FOR PROTESTS NEAR CRITICAL INFRASTRUCTURE**

Creates new potential penalties for protests near oil or gas pipelines and other infrastructure facilities, including those under construction. The law establishes two new offenses: "critical infrastructure trespass," and "impeding critical infrastructure." Critical infrastructure trespass is defined in the law as knowingly entering onto infrastructure property without authorization or not leaving once notified to depart; the offense is a misdemeanor punishable by up to one year in jail and a fine of \$1,000. "Impeding" critical infrastructure is defined to include "preventing legal access to" a critical infrastructure property or

construction site. Under the law, such impediment is punishable by 7 years in prison and a \$10,000 fine if the impediment results in \$1,000 worth of damage or economic loss. If the damage or loss is less than \$1,000, the offense is punishable by six months' imprisonment and a \$1,000 fine. The law also provides that an organization "that aids, abets, solicits, compensates, hires, conspires with, commands or procures" someone to impede critical infrastructure is subject to a \$100,000 fine and liable for a civil action by the infrastructure facility. "Critical infrastructure facility" is broadly defined and among many other things includes oil and gas pipelines, refineries, water treatment plants, cell phone towers, and railroad tracks-as well as "[a]ny site where the construction or improvement of any [referenced] facility... is ongoing." ([See full text of bill here](https://billstatus.ls.state.ms.us/2020/pdf/history/HB/HB1243.xml)) (<https://billstatus.ls.state.ms.us/2020/pdf/history/HB/HB1243.xml>)

### Status: enacted

Introduced 19 Feb 2020; Approved by House 4 March 2020; Approved by Senate 15 June 2020; Signed by Governor 25 June 2020.

Issue(s): Conspiracy, Infrastructure, Trespass

## Missouri

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### **HB 355 (HTTPS://HOUSE.MO.GOV/BILL.ASPX?BILL=HB355&YEAR=2019&CODE=R): NEW PENALTIES FOR PROTESTS NEAR GAS AND OIL PIPELINES**

Creates new potential penalties for protests near gas and oil pipelines and other "critical infrastructure." The law--which was substituted by a Missouri Senate committee for a House bill on sentencing guidelines--heightens the penalties for trespass occurring on critical infrastructure property. Trespass with intent "to damage, destroy, vandalize, deface, [or] tamper with" a facility or intent to "impede or inhibit the operations" of a facility is a Class A misdemeanor, punishable by one year in jail and a \$2,000 fine. Protesters seeking to peacefully demonstrate against construction of a new pipeline, for instance, with the intent to disrupt that construction, could be prosecuted under the law. The law also newly criminalizes "damage" to critical infrastructure, broadly defined to include vandalism, and makes it a Class C felony, punishable by 10 years in prison and a \$10,000 fine. The law also newly and broadly defines "critical infrastructure" to include oil and gas pipelines, refineries, cell phone towers, and railroad tracks whether operational or under construction. ([See full text of bill here](https://house.mo.gov/Bill.aspx?bill=HB355&year=2019&code=R)) (<https://house.mo.gov/Bill.aspx?bill=HB355&year=2019&code=R>)

### Status: enacted

Introduced 18 Apr 2019; Approved by Senate as amended 17 May 2019; Approved by House 17 May 2019; Signed by Governor Parson on 11 July 2019

Issue(s): Infrastructure, Trespass

## Missouri

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### **HB 1413 (HTTPS://HOUSE.MO.GOV/BILL.ASPX?BILL=HB1413&YEAR=2018&CODE=R): LIMITING PUBLIC EMPLOYEES' ABILITY TO PICKET**

Bars certain public employees from picketing. The law requires that all labor agreements negotiated between a "public body" and a labor organization "shall expressly prohibit all strikes and picketing of any kind." The law further mandates that such agreements provide for the "immediate termination" of "any public employee who...pickets over any personnel matter." "Public body" is broadly defined in the law to include "the state of Missouri, or any officer, agency, department, bureau, division, board or commission of the state, or any other political subdivision or special district of or within the state"; accordingly, the law may apply to many labor agreements. While "picketing" is not defined under the law, Missouri Code elsewhere refers to "picketing or other organized protests" as "constitutionally protected activity," indicating that picketing as used in HB 1413 includes protests and demonstrations unrelated to labor strikes. (See full text of bill here (<https://house.mo.gov/bill.aspx?bill=HB1413&year=2018&code=R>))

**Status: enacted**

Introduced 3 Jan 2018; Approved by House 12 February 2018; approved by Senate 16 May 2018; Signed by Governor Greitens 1 June 2018

Issue(s): Strikes

## Montana

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[HB 481 \(HTTPS://LAWS.LEG.MT.GOV/LEGP RD/LAW0203W\\$BSRV.ACTIONQUERY?P\\_SESS=2021I&P\\_BLTP\\_BILL\\_TYP\\_CD=HB&P\\_BILL\\_NO=481&P\\_BILL\\_DFT\\_NO=&P\\_CHPT\\_NO=&Z\\_ACTION=FIND&P\\_ENTRY\\_ID\\_SEQ2=&P\\_SB\\_JT\\_SBJ\\_CD=&P\\_ENTRY\\_ID\\_SEQ=\): NEW PENALTIES FOR PROTESTS NEAR GAS AND OIL PIPELINES](https://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ACTIONQUERY?P_SESS=2021I&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=481&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=FIND&P_ENTRY_ID_SEQ2=&P_SB_JT_SBJ_CD=&P_ENTRY_ID_SEQ=): NEW PENALTIES FOR PROTESTS NEAR GAS AND OIL PIPELINES)

Heightens penalties for protests near oil pipelines and other "critical infrastructure facilities," including those under construction. The law creates an offense of trespassing on critical infrastructure, defined as willfully and knowingly entering property containing a critical infrastructure facility that is posted or fenced. The offense is a misdemeanor, punishable by up to 6 months in jail or a \$1,500 fine. If a person trespasses with the intent to willfully impede the facility's operations, or damage, deface, or tamper with facility equipment, the offense is a felony punishable by up to eighteen months in prison or a \$4,500 fine. An organization that is found to be a conspirator in trespass on critical infrastructure is liable for fines that are ten times the amount authorized for the crime. A person who trespasses can be held liable for damages to property while trespassing, including damages to network performance or outage issues proximately caused by the trespass. An entity or person that compensates or provides consideration to someone for trespass may be held vicariously liable for damages committed by that person. "Critical infrastructure facility" is broadly defined and among many other things includes oil and gas pipelines, refineries, water treatment plants, railroad tracks, and telephone poles. (See full text of bill here ([\[https://laws.leg.mt.gov/legprd/LAW0203W\\\$BSRV.ActionQuery?P\\\_SESS=2021I&P\\\_BLTP\\\_BILL\\\_TYP\\\_CD=HB&P\\\_BILL\\\_NO=481&P\\\_BILL\\\_DFT\\\_NO=&P\\\_CHPT\\\_NO=&Z\\\_ACTION=Find&P\\\_ENTRY\\\_ID\\\_SEQ2=&P\\\_SB\\\_JT\\\_SBJ\\\_CD=&P\\\_ENTRY\\\_ID\\\_SEQ=\\)\\)\]\(https://laws.leg.mt.gov/legprd/LAW0203W\$BSRV.ActionQuery?P\_SESS=2021I&P\_BLTP\_BILL\_TYP\_CD=HB&P\_BILL\_NO=481&P\_BILL\_DFT\_NO=&P\_CHPT\_NO=&Z\_ACTION=Find&P\_ENTRY\_ID\_SEQ2=&P\_SB\_JT\_SBJ\_CD=&P\_ENTRY\_ID\_SEQ=\)\)\)](https://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=2021I&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=481&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTRY_ID_SEQ2=&P_SB_JT_SBJ_CD=&P_ENTRY_ID_SEQ=))</a></p></div><div data-bbox=)

Introduced 18 Feb 2021; Approved by House 2 March 2021; Approved by Senate 16 April 2021; Governor Signed 14 May 2021

Issue(s): Damage Costs, Conspiracy, Infrastructure, Trespass

## North Dakota

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### **SB 2044 (HTTPS://WWW.LEGIS.ND.GOV/ASSEMBLY/66-2019/BILL-INDEX/BI2044.HTML): HEIGHTENED PENALTIES FOR PROTESTS NEAR CRITICAL INFRASTRUCTURE**

Enhances potential penalties for individuals who protest near existing and planned gas and oil pipelines by criminalizing acts that interrupt or interfere with critical infrastructure facilities. In addition to prohibiting actual tampering with critical infrastructure property and equipment, the law prohibits "interfering, inhibiting, impeding, or preventing the construction or repair" of a critical infrastructure facility. Further, the law expands the definition of "critical infrastructure facility" to include a "site or location designated or approved for the construction of a facility" such as an oil or gas pipeline. Intentional interruption of a critical infrastructure facility, including by interfering with pipeline construction, is a Class C felony under the law, subject to a penalty of five years' imprisonment, a fine of \$10,000, or both. The law also creates organizational liability for such acts: An organization found to have "conspired" with an individual who committed the interference could be criminally liable for ten times the fee imposed on the individual, or up to \$100,000. (See full text of bill here (https://www.legis.nd.gov/assembly/66-2019/bill-index/bi2044.html))

**Status: enacted**

Introduced 3 Jan 2019; Approved by Senate 15 Feb 2019; Approved by House 25 March 2019; Signed by Governor Burgum 10 April 2019

Issue(s): Conspiracy, Infrastructure

## North Dakota

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### **HB 1426 (HTTPS://WWW.LEGIS.ND.GOV/ASSEMBLY/65-2017/DOCUMENTS/17-8158-02000.PDF): HEIGHTENED PENALTIES FOR RIOT OFFENCES**

Increases the penalties imposed for riot offenses. Under the law, participation in a riot is a Class A rather than Class B misdemeanor, punishable by up to one year in prison and a \$3,000 fine. Engaging in a riot involving more than 100 people is made a Class B felony, subject to 10 years in prison and a \$20,000 fine. (See full text of bill here (https://www.legis.nd.gov/assembly/65-2017/documents/17-8158-02000.pdf))

**Status: enacted**

Introduced 16 Jan 2017; Governor Burgum signed the law on 23 Feb 2017

Issue(s): Riot

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**HB 1293 ([HTTPS://WWW.LEGIS.ND.GOV/ASSEMBLY/65-2017/DOCUMENTS/17-0650-04000.PDF](https://www.legis.nd.gov/assembly/65-2017/documents/17-0650-04000.pdf)): EXPANDED SCOPE OF CRIMINAL TRESPASS**

Expands the scope of criminal trespass activity under state law such that it could encompass protests, demonstrations, or other gatherings on private property, if notice against trespass is "clear from the circumstances." The offense could be punishable by up to 30 days in jail and a \$1,500 fine. The law also creates an additional, noncriminal trespass offense and allows officers to issue a citation with a \$250 fine for trespassing. Governor Burgum signed the law on February 23, 2017. ([See full text of bill here](https://www.legis.nd.gov/assembly/65-2017/documents/17-0650-04000.pdf) (<https://www.legis.nd.gov/assembly/65-2017/documents/17-0650-04000.pdf>))

**Status: enacted**

Introduced 12 Jan 2017; Signed into law 23 Feb 2017

Issue(s): Trespass

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**North Dakota**

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**HB 1304 ([HTTPS://WWW.LEGIS.ND.GOV/ASSEMBLY/65-2017/DOCUMENTS/17-0311-04000.PDF](https://www.legis.nd.gov/assembly/65-2017/documents/17-0311-04000.pdf)): NEW PENALTIES FOR PROTESTERS WHO CONCEAL THEIR IDENTITY**

Prohibits the wearing of masks, hoods, or other device that "conceals any portion" of an individual's face while committing a criminal offense, in order to avoid recognition or identification. As drafted, the offense could encompass, e.g., individuals wearing hooded clothing while participating in a protest and also committing a minor offense such as jaywalking. Under the law, commission of the offense comprises a Class A misdemeanor, punishable by up to one year in jail and a \$3,000 fine. ([See full text of bill here](https://www.legis.nd.gov/assembly/65-2017/documents/17-0311-04000.pdf) (<https://www.legis.nd.gov/assembly/65-2017/documents/17-0311-04000.pdf>))

**Status: enacted**

Introduced 12 Jan 2017; Governor Burgum signed it 23 Feb 2017

Issue(s): Face Covering

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**Ohio**

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**SB 33 ([HTTPS://WWW.LEGISLATURE.OHIO.GOV/LEGISLATION/LEGISLATION-SUMMARY?ID=GA133-SB-33](https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-33)): NEW PENALTIES FOR PROTESTS NEAR CRITICAL INFRASTRUCTURE**

The law heightens penalties for protests near oil and gas pipelines and other infrastructure by expanding the definitions of "criminal trespass" and "criminal mischief." The law provides that entering and remaining on marked or fenced-off property that contains a "critical infrastructure facility" is criminal trespass and a first degree misdemeanor, punishable by up to six

months in jail and a \$10,000 fine. Using so without the purpose of tampering with the facility would still be aggravated trespass, a third degree felony--punishable by up to ten years in prison and a \$20,000 fine. Knowingly and "improperly tampering" with the facility would constitute "criminal mischief," likewise a third degree felony. "Critical infrastructure facility" is expansively defined to encompass oil, gas, electric, water, telecommunications, and railroad facilities among many others. The law also imposes fines on organizations found guilty of "complicity" in the trespass or mischief offenses, in the amount of ten times the maximum fine that can be imposed on an individual. Ohio law defines "complicity" to include soliciting, procuring, aiding, abetting, or conspiring with another to commit an offense. ([See full text of bill here](https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-33) (<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-33>))

**Status: enacted**

Introduced 12 Feb 2019; Approved by Senate 1 May 2019; Approved by House 17 December 2020; Signed by Governor DeWine 11 January 2021

Issue(s): Conspiracy, Infrastructure

## Oklahoma

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**HB 1674 (HTTPS://WWW.OKLEGISLATURE.GOV/BILLINFO.ASPX?BILL=HB1674&SESSION=2100): PENALTIES FOR PROTESTERS WHO BLOCK TRAFFIC, IMMUNITY FOR DRIVERS WHO HIT PROTESTERS, AND LIABILITY FOR ORGANIZATIONS THAT WORK WITH PROTESTERS**

\*\*Note: Portions of HB1674 were preliminarily enjoined by a federal district judge on October 27, 2021, temporarily blocking enforcement of the law's 1) penalties for protesters who obstruct traffic, and 2) penalties for organizations that "conspire" with someone who is convicted of certain protest-related offenses.\*\*

Creates new penalties for protesters who obstruct traffic while participating in a "riot," and protects drivers who "unintentionally" hit them. Under the law, a person who participated in a "riot" and "obstructed" the "normal use" of a public street or highway, is guilty of a misdemeanor punishable by up to one year in prison, a \$5,000 fine, and restitution for any property damage that occurs. The law defines "obstruct" to include rendering the street or highway "unreasonably inconvenient or hazardous" for cars' passage, including by "standing" on the street or highway. "Riot" is broadly defined under existing Oklahoma law, to include a group of three or more people who make "any threat to use force." The new law also shields from liability a driver who injures or kills someone while "fleeing from a riot," as long as they did so "unintentionally," were "exercising due care," and held a "reasonable belief" that they needed to flee to protect themselves. Under the law, such a driver cannot be held civilly or criminally liable for the injuries or death they caused. Finally, the law provides that an organization found to have "conspired" with individuals who are found guilty of certain offenses--including "unlawful assembly," "riot," "incitement to riot," refusing to aid in the arrest of a "rioter," and remaining at the scene of a "riot" after being ordered to disperse--will be fined ten times the maximum amount of fine authorized for the individual's offense. ([See full text of bill here](https://www.oklegislature.gov/BillInfo.aspx?Bill=hb1674&Session=2100) (<https://www.oklegislature.gov/BillInfo.aspx?Bill=hb1674&Session=2100>))

**Status: enacted**

Issue(s): Damage Costs, Conspiracy, Driver Immunity, Riot, Traffic Interference

## Oklahoma

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### [HB 2095 \(HTTP://WWW.OKLEGISLATURE.GOV/BILLINFO.ASPX?BILL=HB2095&SESSION=2200\)](http://WWW.OKLEGISLATURE.GOV/BILLINFO.ASPX?BILL=HB2095&SESSION=2200): RACKETEERING PENALTIES FOR THOSE INVOLVED IN "UNLAWFUL ASSEMBLIES"

Adds "unlawful assemblies" to the offenses that can be prosecuted as "racketeering activity" under Oklahoma's RICO statute. As a result, an organization or individual found to have "attempted" or "conspired" with individuals to engage in or encourage a protest that is deemed an "unlawful assembly" can be prosecuted under RICO and subject to felony penalties. Oklahoma law broadly defines "unlawful assembly" to include a group of three or more people who gather without lawful authority in a manner "as is adapted to disturb the public peace." ([See full text of bill here \(http://www.oklegislature.gov/BillInfo.aspx?Bill=hb2095&Session=2200\)](http://www.oklegislature.gov/BillInfo.aspx?Bill=hb2095&Session=2200))

**Status: enacted**

Introduced 1 Feb 2021; Approved by House 8 March 2021; Approved by Senate 21 April 2021; Signed by Governor Stitt 28 April 2021

Issue(s): Conspiracy

## Oklahoma

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### [HB 1123 \(HTTPS://LEGISCAN.COM/OK/TEXT/HB1123/2017\)](https://LEGISCAN.COM/OK/TEXT/HB1123/2017): NEW PENALTIES FOR PROTESTS NEAR CRITICAL INFRASTRUCTURE

Targets protests around certain public facilities by creating a new criminal offense for trespass onto property containing "critical infrastructure." The law's extensive list of "critical infrastructure" facilities ranges from a petroleum refinery to a telephone pole. Willfully entering onto property containing critical infrastructure without permission is a misdemeanor, punishable by up to \$1,000 or six month in jail, or both. Evidence of intent to damage or otherwise harm the operations of the infrastructure facility would make the offence a felony, punishable by at least \$10,000 (with no maximum provided) or imprisonment for one year, or both; actual damage or vandalizing of the facility is punishable by up to 10 years in prison and a \$100,000 fine. Organizations found to have "conspired" with perpetrators are liable for up to \$1,000,000. The sponsor of the law told a House of Representatives committee that it was prompted by the Dakota Access Pipeline protests in North Dakota. ([See full text of bill here \(https://legiscan.com/OK/text/HB1123/2017\)](https://legiscan.com/OK/text/HB1123/2017))

**Status: enacted**

Introduced 6 Feb 2017; Signed into law 3 May 2017

Issue(s): Conspiracy, Infrastructure, Trespass

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**HB 2128 ([https://webserver1.lsb.state.ok.us/cf\\_pdf/2017-18%20ENR/HB/HB2128%20ENR.PDF](https://webserver1.lsb.state.ok.us/cf_pdf/2017-18%20ENR/HB/HB2128%20ENR.PDF)): HEIGHTENED PENALTIES FOR PROTESTERS WHO TRESPASS ONTO PRIVATE PROPERTY**

Increases the potential penalties levied on individuals who protest on private property without permission. The law allows prosecutors to hold anyone arrested for or convicted of trespass liable for any damages to personal or real property caused while trespassing. (See full text of bill here ([https://webserver1.lsb.state.ok.us/cf\\_pdf/2017-18%20ENR/hB/HB2128%20ENR.PDF](https://webserver1.lsb.state.ok.us/cf_pdf/2017-18%20ENR/hB/HB2128%20ENR.PDF)))

**Status: enacted**

Introduced 6 Feb 2017; Governor Fallin signed into law 15 May 2017

Issue(s): Trespass

## South Dakota

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**SB 151 ([https://sdlegislature.gov/legislative\\_session/bills/Bill.aspx?Bill=151&Session=2020](https://sdlegislature.gov/legislative_session/bills/Bill.aspx?Bill=151&Session=2020)): NEW PENALTIES FOR PROTESTS NEAR PIPELINES AND OTHER INFRASTRUCTURE**

Heightens potential penalties for protests near oil and gas pipelines and other infrastructure. Under the law, knowingly trespassing on property containing a critical infrastructure facility is a misdemeanor punishable by a year in prison and a \$2,000 fine. Knowingly tampering with any property and as a direct result interfering, inhibiting, or impeding the maintenance or construction of a critical infrastructure facility is a felony punishable by two years in prison and/or a \$4,000 fine. A person or organization found to be a "conspirator" in any of the above offenses faces a range of criminal fines. Any owner, lessee, or operator of any critical infrastructure facility where a crime is committed under one of the above provisions is designated a "victim" under South Dakota law, which entitles them to restitution and other victims' rights. As such, a company that owns a critical infrastructure facility can seek restitution from an individual protester convicted of any of the above provisions, as well as from any person or entity found to be a "conspirator." (See full text of bill here ([https://sdlegislature.gov/legislative\\_Session/Bills/Bill.aspx?Bill=151&Session=2020](https://sdlegislature.gov/legislative_Session/Bills/Bill.aspx?Bill=151&Session=2020)))

**Status: enacted**

Introduced 4 Feb 2020; Approved by Senate 27 February 2020; Approved by House 9 March 2020; Signed by Governor March 18 2020

Issue(s): Conspiracy, Infrastructure, Trespass

## South Dakota

Revises the state's laws on rioting and replaces a "riot-boosting" law that was passed in 2019 but later blocked by a federal court as unconstitutional. The law revises the definition of "riot" under South Dakota law to be "any intentional use of force or violence by three or more persons, acting together and without authority of law, to cause any injury to any person or any damage to property." Under the law, "incitement to riot" is a new felony offense, punishable by up to 5 years in prison and \$10,000 in fines, and defined as conduct that "urges" three or more people to use force or violence to cause personal injury or property damage, if the force or violence is "imminent" and the urging is likely to "incite or produce" the force or violence. The law defines "urging" to include "instigating, inciting, or directing," but excludes "oral or written advocacy of ideas or expression of belief that does not urge" imminent force or violence. Under the law, individuals may additionally be civilly liable for riot and incitement to riot, enabling lawsuits against protesters by the state, counties, or municipalities. Both 2019's "riot-boosting" law and HB 1117 appear to target protests against construction of the Keystone XL and other pipelines. ([See full text of bill here \(\[https://sdlegislature.gov/Legislative\\\_Session/Bills/Bill.aspx?Bill=HB1117&Session=2020\]\(https://sdlegislature.gov/Legislative\_Session/Bills/Bill.aspx?Bill=HB1117&Session=2020\)\)](https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=HB1117&Session=2020)

**Status: enacted**

Introduced 29 Jan 2020; Approved by House 18 February 2020; Approved by Senate 5 March 2020; Signed by Governor Noem 23 March 2020

Issue(s): Riot

## **South Dakota**

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**SB 189 ([HTTPS://SDLEGISLATURE.GOV/LEGISLATIVE\\_SESSION/BILLS/BILL.ASPX?BILL=189&SESSION=2019](https://sdlegislature.gov/legislative_session/bills/Bill.aspx?Bill=189&Session=2019)): EXPANDED CIVIL LIABILITY FOR PROTESTERS AND PROTEST FUNDERS**

\*\*Note: According to an October 24, 2019 settlement agreement that resulted from a constitutional challenge to SB189, the state will not enforce many of the provisions of the law that could be applied to peaceful protesters and organizations that support them.\*\*

SB189 created new civil liability for "riot boosters." South Dakota criminal law defines "riot" broadly such that it can cover some forms of peaceful protest; as originally enacted, SB189 created civil liability for a person or organization that "does not personally participate in any riot but directs, advises, encourages, or solicits other persons participating in the riot to acts of force or violence." It was unclear what might have constituted "advice" or "encouragement" to carry out an act of force, such that an individual who shouted encouragement on the sidelines of a disruptive protest, or organizations that provided advice about conducting a peaceful but disruptive protest, might have been implicated. Following the October 24, 2019 settlement, the state will not enforce this provision. Nonetheless, enforceable provisions of the law still establish civil liability for any person or organization that is advised or encouraged by another, and that "makes any threat to use force or violence, if accompanied by immediate power of execution" in a group of three or more persons. The state or a third party may sue the person or organization for extensive civil damages, including punitive damages. Further, enforceable provisions of the law provide that a person or organization is liable for "riot boosting" if they engage in it personally "or through any employee, agent, or

subsidiary." Accordingly, individuals, organizations, and entities may still be held civilly liable for substantial amounts of money for any involvement in a disruptive protest. Damages recovered by the state shall, according to the law, be deposited in a "riot boosting recovery fund," which may be used to pay for the state's response to disruptive protests. (See full text of bill here ([https://sdlegislature.gov/Legislative\\_Session/Bills/Bill.aspx?Bill=189&Session=2019](https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=189&Session=2019)))

**Status: enacted**

Introduced 4 Mar 2019; Approved by Senate 7 March 2019; Approved by House 7 March 2019; Signed by Governor Noem 27 March 2019

Issue(s): Damage Costs, Conspiracy, Infrastructure, Riot

## **South Dakota**

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**SB 176 (HTTPS://SDLEGISLATURE.GOV/DOCS/LEGSESSION/2017/BILLS/SB176ENR.PDF): EXPANDING GOVERNOR'S POWER TO RESTRICT CERTAIN PROTESTS**

Expands the governor's authority to curtail protest activities on public lands and restricts protests that interfere with highway traffic. The law enables the governor and sheriff to prohibit gatherings of 20 or more people on public land, if the gathering might damage the land or interfere with the renter's use of the land. The law enables South Dakota's Department of Transportation to prohibit or otherwise restrict an individual or vehicle from stopping, standing, parking, or being present on any highway if it interferes with traffic. The law also expands the crime of trespass, providing that an individual who defies a posted order not to enter a zone where assembling has been prohibited would be guilty of criminal trespass. Obstructing traffic or committing criminal trespass are classified as Class I misdemeanors, punishable by one year in jail or a \$2,000 fine, or both. (See full text of bill here (<https://sdlegislature.gov/docs/legsession/2017/Bills/SB176ENR.pdf>))

**Status: enacted**

Introduced 3 Mar 2017; Governor Daugaard signed into law 14 March 2017

Issue(s): Traffic Interference, Trespass

## **Tennessee**

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**SB 451 / HB 881 (HTTPS://WAPP.CAPITOL.TN.GOV/APPS/BILLINFO/DEFAULT.ASPX?BILLNUMBER=SB0451&GA=112): MANDATORY PENALTIES FOR EXPANDED AGGRAVATED RIOT OFFENSE**

Expands the definition of "aggravated riot" and creates new mandatory minimum penalties for that offense. To be convicted of "riot" under Tennessee law, a person only needs to knowingly gather with two or more people whose tumultuous and violent conduct creates "grave danger of substantial damage to property or serious bodily injury to persons or substantially obstructs law enforcement or other governmental function." For instance, one could be held guilty of riot for merely joining a large protest in which there is isolated pushing, even if no one is injured. Under preexisting law, a person could be held liable for aggravated riot if they participated in a riot where someone was injured or substantial property damage occurred, even if the

Case 6:20-cr-00083-RRS-CW Document 83-1 Filed 04/18/22 Page 180 of 155 PageID #: 628  
person did not commit any violence nor intended violence to the victim. Under the law, a person may also be guilty of aggravated riot if they participated in a riot and either participated in exchange for compensation or "traveled from outside the state with the intent to commit a criminal offense." A "criminal offense" could include, for example, temporarily blocking a street as part of a protest. "Aggravated riot" is a Class E felony, which is punishable by up to 6 years in jail and a fine of \$3,000; the law also introduces a mandatory minimum of at least 45 days of imprisonment. ([See full text of bill here](https://wapp.capitol.tn.gov/apps/BillInfo/default.aspx?BillNumber=SBo451&GA=112))

**Status: enacted**

Introduced 8 Feb 2021; Approved by Senate 11 March 2021; Approved by House 28 April 2021; Signed by Governor 13 May 2021

Issue(s): Riot

## Tennessee

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### [HB 8005/SB 8005 \(HTTPS://WAPP.CAPITOL.TN.GOV/APPS/BILLINFO/DEFAULT.ASPX?BILLNUMBER=HB8005&GA=111\): HEIGHTENED PENALTIES FOR "INCONVENIENT" PROTESTS AND PROTEST CAMPS ON STATE PROPERTY](https://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB8005&GA=111)

The law heightens penalties for certain offenses that could encompass conduct by peaceful protesters. The law heightens existing criminal penalties for blocking a street, sidewalk, or "any other place used for the passage of persons, vehicles or conveyances" from a Class C to a Class A misdemeanor. Accordingly, protesters who obstruct or make it "unreasonably inconvenient" to use a street or sidewalk could face up to one year in jail. The law likewise heightens penalties for the existing offense of "obstructing" or "interfering with" a lawful meeting, procession, or gathering, from a Class B to Class A misdemeanor. Protesters who intentionally "interfere with" a meeting of the legislature or other government officials, including by staging a loud protest, could therefore face up to one year in jail. The law also targets protest encampments on the grounds of the Capitol and other areas by broadening the definition of "camping," and heightening penalties for camping on state property. As such, protesters who use or place any "piece of furniture," shelter, or structure on state property could be charged with a Class E felony, if they continue to do so 24 hours after receiving a warning. The offense would be punishable by up to six years in prison, a fine of \$3,000, and restitution for any property damage. The law also amends Tennessee provisions on "riot," (which is defined broadly), including by requiring those convicted of "inciting" or "urging" a riot to pay restitution for any property damage incurred by the offense. When it was introduced, the legislation authorized the Tennessee Attorney General to intervene and prosecute offenses where there has been damage to state property, including those arising in the context of peaceful protests, if the district attorney declined to do so; however those provisions were removed prior to the law's enactment, and replaced with a requirement that district attorneys produce a report on such offenses and how they were dealt with. ([See full text of bill here](https://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB8005&GA=111))

**Status: enacted**

Introduced 7 Aug 2020; Approved by House and Senate 12 August 2020; Signed by Governor Lee 20 August 2020

Issue(s): Damage Costs, Riot, Traffic Interference, Camping

## Tennessee

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Creates new potential penalties for protests and demonstrations that "interrupt" or "interfere with" a pipeline or pipeline construction site. The law makes it a Class E felony for an individual to knowingly "destroy, injure, interrupt or interfere with" a pipeline, pipeline facility, or related infrastructure, including if it is under construction. The offense is a Class E felony, punishable by up to six years in prison and a \$3,000 fine. As introduced, the law provided that an individual or organization that causes or "aids" damage or interference would likewise be guilty of a Class E felony, however these provisions were amended out prior to the law's passage. ([See full text of bill here \(<https://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=SB0264&GA=III>\)](https://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=SB0264&GA=III))

**Status: enacted**

Introduced 29 Jan 2019; Approved by Senate 18 Feb 2019; Approved by House 30 April 2019; Signed by Governor Lee 10 May 2019

Issue(s): Conspiracy, Infrastructure

## Tennessee

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**SB 0902 ([HTTPS://LEGISCAN.COM/TN/TEXT/SB0902/2017](https://legiscan.com/TN/TEXT/SB0902/2017)): NEW PENALTIES FOR PROTESTERS WHO BLOCK TRAFFIC**

Imposes a new fine on any person who intentionally, knowingly, or recklessly obstructs a public highway or street "including in the course of a protest" and in doing so interferes with an emergency vehicle's access to or through the highway or street. "Emergency vehicle" is broadly defined as "any vehicle of a governmental department or public service corporation when responding to an emergency," a police or fire department vehicle, or an ambulance. Unlawful obstruction of a street or highway was already a Class C misdemeanor subject to up to 30 days in jail; the law adds a \$200 fine to the penalty. Sponsors made clear that the law was aimed at protests that obstructed highways. ([See full text of bill here \(<https://legiscan.com/TN/text/SB0902/2017>\)](https://legiscan.com/TN/text/SB0902/2017))

**Status: enacted**

Introduced 9 Feb 2017; Governor Haslam signed into law 12 April 2017

Issue(s): Traffic Interference

## Texas

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**HB 9 ([HTTPS://CAPITOL.TEXAS.GOV/BILLLOOKUP/HISTORY.ASPX?LEGSESS=87R&BILL=HB9](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=HB9)): NEW PENALTIES FOR PROTESTERS WHO BLOCK TRAFFIC**

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Heightens existing penalties for anyone who "knowingly prevents the passage of an authorized emergency vehicle" if the vehicle "is operating the vehicle's emergency audible or visual signals" from a Class B misdemeanor to a state jail felony.

"Emergency vehicle" is broadly defined as "a municipal department or public service corporation emergency vehicle," a police or fire department vehicle, an ambulance, a vehicle of a blood or tissue bank, or a "private vehicle of an employee or volunteer of a county emergency management division." The law also requires that anyone convicted of preventing the passage of an authorized emergency vehicle must serve no less than 10 days of confinement even if the court grants community supervision to the defendant. (See full text of bill here (<https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=HB9>))

### Status: enacted

Introduced 25 Feb 2021; Approved by House 6 May 2021; Approved by Senate 22 May 2021; Signed by Governor 1 June 2021

Issue(s): Traffic Interference

## Texas

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### **HB 3557 (HTTPS://CAPITOL.TEXAS.GOV/BILLLOOKUP/HISTORY.ASPX?LEGSESS=86R&BILL=HB3557): NEW CRIMINAL AND CIVIL PENALTIES FOR PROTESTS AROUND CRITICAL INFRASTRUCTURE**

Creates new criminal sanctions and expansive civil liability for protests near pipelines and other infrastructure facilities, including those under construction. The law provides for four new criminal offenses. One, "impairing or interrupting operation of critical infrastructure facility," is defined as entering or remaining on facility property and intentionally or knowingly "impair[ing] or interrupt[ing] the operation of" the facility. The act is a state jail felony, punishable by up to two years in jail and a \$10,000 fine. This provision could target peaceful protests that, e.g., hinder access to pipelines or pipeline construction sites. A second offense, "intent to impair or interrupt critical infrastructure," is defined as entering or remaining on facility property "with the intent to impair or interrupt the operation of the facility." The act is a Class A misdemeanor, punishable by a year in jail and a \$4,000 fine. This provision could capture peaceful protests that take place near a pipeline or other infrastructure facility, regardless of whether they actually impair or interrupt the facility's operations. The law also creates two new felony offenses for "damage" and "intent to damage" critical infrastructure. Under the law, an association that is found guilty of any of the offenses around critical infrastructure is subject to a \$500,000 fine. The law also creates new civil and vicarious liability for individuals and organizations related to the criminal offenses: A defendant who engages in conduct covered by any of the criminal offenses is civilly liable to the property owner, as is an organization that "knowingly compensates" a person for engaging in the conduct. The property owner may sue for and claim actual damages, court costs, and exemplary damages. (See full text of bill here (<https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=HB3557>))

### Status: enacted

Introduced 6 Mar 2019; Approved by House 7 May 2019; Approved by Senate 20 May 2019; Signed by Governor Abbott 14 June 2019

Issue(s): Conspiracy, Infrastructure

## Utah

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Creates new potential penalties for individuals protesting convenings of the legislature or other meetings of government officials. The law expands "disorderly conduct" to include a person who recklessly causes public inconvenience, annoyance, or alarm by making "unreasonable noises" at an official meeting or in a private place that can be heard at an official meeting. "Disorderly conduct" also includes obstructing pedestrian traffic at an official meeting or refusing to leave an official meeting when asked by law enforcement. The law also increases the penalty for disorderly conduct, such that it is punishable by a \$750 fine on the first offense (an infraction), up to 3 months in jail if a person was warned to cease prohibited conduct (Class C misdemeanor), up to 6 months for a second offense (Class B misdemeanor), and up to 1 year for a third offense (Class A misdemeanor). Accordingly, the law could, for example, be used to penalize silent protesters who refuse to leave a legislative committee meeting. An earlier version of the bill explicitly made it unlawful to commit even a "single, loud outburst, absent other disruptive conduct, that does not exceed five seconds in length." (See full text of bill here (https://le.utah.gov/~2020/bills/static/SB0173.html))

**Status: enacted**

Introduced 24 Feb 2020; Approved by Senate 5 March 2020; Approved by House 12 March 2020; Signed by Governor 30 March 2020

## West Virginia

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HB 4615 (HTTPS://WWW.WVLEGISLATURE.GOV/BILL\_STATUS/BILLS\_HISTORY.CFM?INPUT=4615&YEAR=2020&SESSIONTYPE=RS): NEW PENALTIES FOR PROTESTS NEAR GAS AND OIL PIPELINES

Heightens potential penalties for protests near oil and gas pipelines and other infrastructure. Under the law, knowingly trespassing on property containing a critical infrastructure facility is punishable by a year in jail and a \$500 fine. Criminal trespass on critical infrastructure property with intent to "vandalize, deface, tamper with equipment, or impede or inhibit operations" of the facility is a felony punishable by up to three years in prison and a \$1,000 fine. Actually vandalizing, defacing, or tampering with the facility--regardless of actual damage--is a felony punishable by 5 years in prison and a \$2,000 fine. An individual convicted of any of the offenses, and any entity that "compensates, provides consideration to or remunerates" a person for committing the offenses, is also civilly liable for any damage sustained. An organization or person found to have "conspired" to commit any of the offenses--regardless of whether they were committed--is subject to a criminal fine. The law newly defines "critical infrastructure facility" under West Virginia law to include a range of oil, gas, electric, water, telecommunications, and railroad facilities that are fenced off or posted with signs indicating that entry is prohibited. (See full text of bill here (https://www.wvlegislature.gov/Bill\_Status/bills\_history.cfm?INPUT=4615&year=2020&sessiontype=RS))

**Status: enacted**

Introduced 30 Jan 2020; Approved by House 13 February 2020; Approved by Senate 7 March 2020; Signed by Governor Justice 25 March 2020

## West Virginia

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### [HB 4618 \(HTTPS://WWW.WVLEGISLATURE.GOV/BILL\\_STATUS/BILLS\\_HISTORY.CFM?INPUT=4618&YEAR=2018&SESSIONTYPE=RS\)](https://www.wvlegislature.gov/BILL_STATUS/BILLS_HISTORY.CFM?INPUT=4618&YEAR=2018&SESSIONTYPE=RS): ELIMINATING POLICE LIABILITY FOR DEATHS WHILE DISPERSING RIOTS AND UNLAWFUL ASSEMBLIES

Reaffirms West Virginia's problematic law on rioting, and adds the West Virginia Capitol Police to those authorities who cannot be held liable for the deaths and wounding of individuals in the course of dispersing riots and unlawful assemblies. Under prior West Virginia law, the State Police, sheriffs, and mayors had authority to use means such as curfews and warrantless searches to disperse riots and unlawful assemblies; the law reaffirms and extends this authority to the Capitol Police. According to the law, if a bystander is asked to assist in the dispersal and fails to do so, he or she "shall be deemed a rioter." The law also adds Capitol Police to existing provisions eliminating liability if anyone present, "as spectator or otherwise, be killed or wounded," while the authorities used "any means" to disperse riots or unlawful assemblies or arrest those involved. The law was passed during a statewide strike by West Virginia teachers, thousands of whom protested in February 2018 at the State Capitol. (See full text of bill here ([https://www.wvlegislature.gov/Bill\\_Status/bills\\_history.cfm?INPUT=4618&year=2018&sessiontype=RS](https://www.wvlegislature.gov/Bill_Status/bills_history.cfm?INPUT=4618&year=2018&sessiontype=RS)))

#### Status: enacted

Introduced 13 Feb 2018; Approved by House 22 February 2018; Approved by Senate 8 March 2018; Signed by Governor Justice 10 March 2018

Issue(s): Police Response, Riot, Strikes

## Wisconsin

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### [AB 426 \(HTTPS://DOCS.LEGIS.WISCONSIN.GOV/2019/PROPOSALS/REG/ASM/BILL/AB426\)](https://docs.legis.wisconsin.gov/2019/proposals/reg/asm/bill/AB426): NEW PENALTIES FOR PROTESTS NEAR GAS AND OIL PIPELINES

Creates new potential penalties for protests near oil and gas pipelines and other property of "energy providers." The law expands existing provisions related to trespass and property damage to broadly include the property of all companies in the oil and gas industry. Under the law, trespass onto the property of any "company that operates a gas, oil, petroleum, refined petroleum product, renewable fuel, water, or chemical generation, storage, transportation, or delivery system" is a Class H felony, punishable by six years in prison and a fine of \$10,000. Accordingly, protests in a range of locations may be covered, whether on land containing a pipeline or the corporate headquarters of an oil company. Any damage to property of such a company, with the intent to "cause substantial interruption or impairment of any service or good" provided by the company, is likewise a Class H felony under the law. (See full text of bill here (<https://docs.legis.wisconsin.gov/2019/proposals/reg/asm/bill/ab426>))

#### Status: enacted

### **Issue(s): Infrastructure, Trespass**

For more information about the Tracker, contact Elly Page at [EPage@icnl.org](mailto:EPage@icnl.org) (<mailto:EPage@icnl.org>).



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# Crawfishers, Environmentalists Link Arms To Fight Pipeline

WWNO - New Orleans Public Radio | By [Travis Lux](#)

Published March 7, 2018 at 10:46 PM CST



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Exhibit H-3



Travis Lux / WWNO

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The company behind the controversial Dakota Access Pipeline has started building a pipeline through South Louisiana. Protesters are disrupting construction, and now a judge has ordered construction in the Atchafalaya Basin to stop while a lawsuit plays out in court.

On a Saturday in mid-February, about 40 protesters marched toward a Bayou Bridge Pipeline construction site near Belle Rose, Louisiana. They sat on top of machinery and held a prayer circle, disrupting construction for about an hour. Cherri Foytlin, one of the protest organizers, says the state has plenty of pipelines already.

“Why do we need this one?” she asks the group, rhetorically.



Credit Travis Lux / WWNO / WWNO

Cherri Foytlin and a group of about 40 protesters disrupt construction of the Bayou Bridge Pipeline on Saturday, February 17th.

Like many at the Dakota Access pipeline protests last year, these protesters identify as "water protectors." They're worried that the pipeline could leak and threaten drinking water sources. They want a world without fossil fuels. So they're trying to stop

Now Playing  
WWNO 89.9

On a shady slew in the Atchafalaya swamp, Jody Meche reaches for a crawfish trap over the side of his aluminum boat. It's tied with string to a small tree, and marked with a blue ribbon so he knows it's his. He pulls it out of the water and dumps three crawfish into the boat.

"When you got good water — good muddy water with a current — that's the best eating crawfish in the world," he says, proudly, "No doubt about it."

Meche has fished the basin for almost 30 years. He's not protesting with the others, but he is against the pipeline. He says pipelines disrupt the water flow and create pockets of stagnant water, which is bad for crawfish — and his income.

"It's so frustrating," he says. "Every year it's harder and harder and harder."

Meche is President of the Louisiana Crawfish Producers Association-West — an advocacy group. The crawfish producers joined forces with several local and national environmental groups [to sue the Army Corps of Engineers](#) over the pipeline. They say the Corps didn't consider the environmental impact thoroughly enough when they

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Meche doesn't fully identify with the protesters. He doesn't consider himself an environmentalist and has even worked in the oil industry.

"I'm not opposed to the oil and gas industry," he says. "I know we need all of these [oil-based] products."

Ultimately, he just wants to see the Atchafalaya Basin's health improve.

This isn't the first pipeline in the Basin. Companies have been laying them for decades.

State officials acknowledge that pipelines have contributed to problems in the Basin. Last year, the [legislature even asked](#) the Department of Natural Resources to [study](#) the damage that's already been done and to work on potential solutions.

Vicki Granado is a spokesperson for Energy Transfer Partners, the company funding the pipeline's construction. She says Energy Transfer will make sure it won't harm the environment.

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"We need to have the infrastructure in place to safely and efficiently transport the crude oil where it needs to be," she says. And adds that pipelines are "by far the safest and most efficient way to do that."

Oil production in the United States is soaring, and Granado says the Bayou Bridge Pipeline will help meet the demand here and abroad.

Energy Transfer wants to bring crude oil from other parts of the country to St. James Parish – where there is a lot of refining capacity.

The first part of the Bayou Bridge pipeline has already been built. It currently ends in Lake Charles, where the oil is transferred to other places. The part being built now would bring the oil the rest of the way – through the Atchafalaya to St. James Parish.

But at the end of February, a [judge ordered](#) the company to stop construction while the lawsuit plays out in court.

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"I was overwhelmed. I didn't expect that all," he said, choking up.

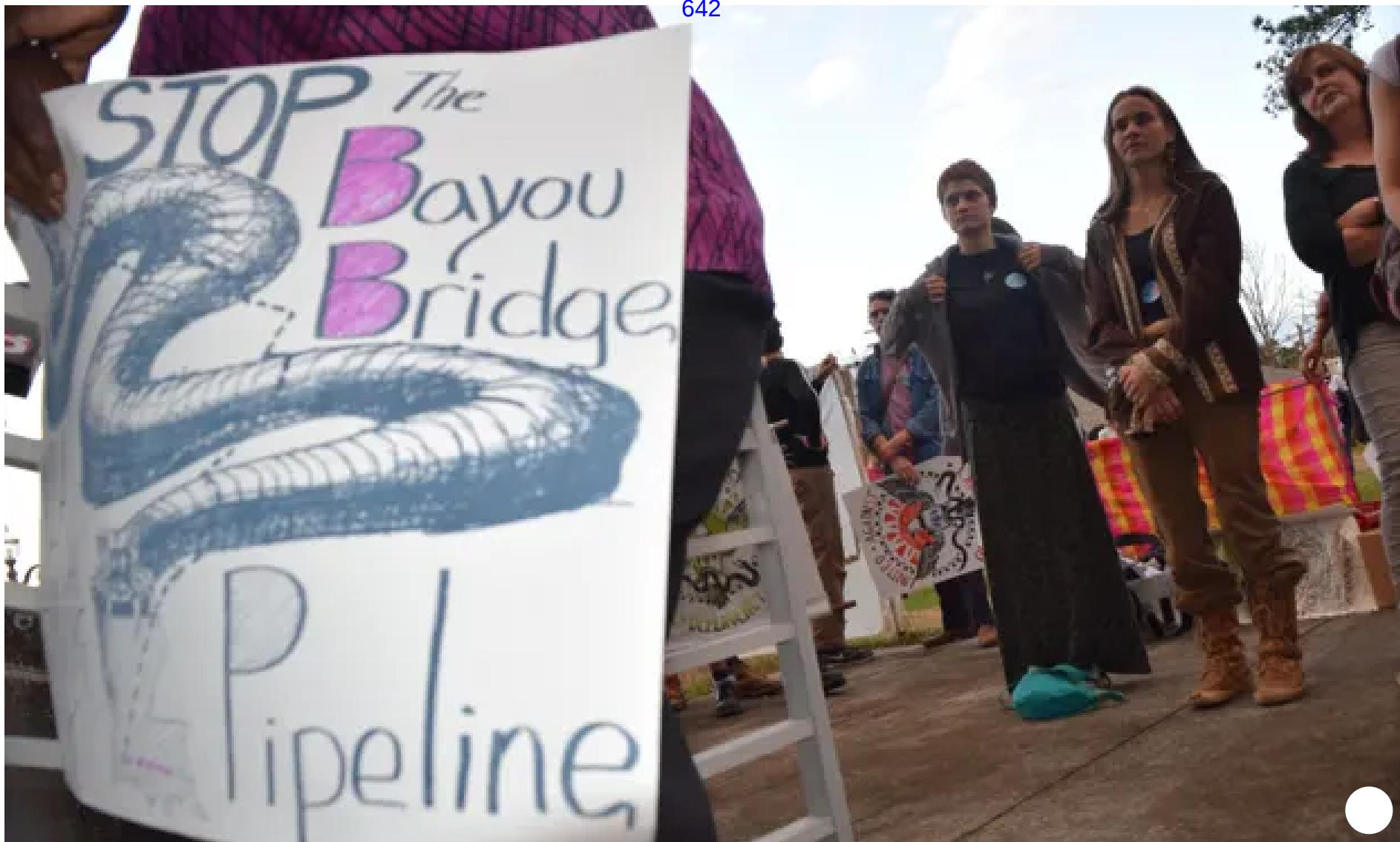
But while crawfishers like Meche might be relieved for now, other activists are gearing up to continue the fight. The pause on construction only applies to the 23-mile section that goes through the Atchafalaya. In the meantime, Energy Transfer will continue building the pipeline on either side, where the water protectors say they'll be waiting.

*Support for the Coastal Desk comes from the Walton Family Foundation, the Greater New Orleans Foundation, the Foundation for Louisiana, and local listeners.*

**Tags**[Coastal Desk](#)[bayou bridge pipeline](#)[oil and gas](#)[pipelines](#)[atchafalaya basin](#)[crawfish](#)[coastal desk](#)**Travis Lux**

As Coastal Reporter, Travis Lux covers flood protection, coastal restoration, infrastructure, the energy and seafood industries, and the environment. In this role he's reported on everything from pipeline protests in the

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**Environment****Protests escalate over Louisiana pipeline by company behind Dakota Access**

Louisiana residents are starting to get involved in environmental issues and are making themselves heard about

**Exhibit H-4**

the disputed Bayou Bridge pipeline

### **Michael Patrick Welch in Baton Rouge**

Sun 15 Jan 2017 07.00 EST

**S**cott Eustis did not stop smiling for hours. The coastal wetland specialist with the [Gulf Restoration Network](#) was attending a public hearing in Baton Rouge. Its subject was a pipeline extension that would run directly through the Atchafalaya Basin, the world's largest natural swamp. Eustis was surprised to be joined by more than 400 others.

"This is like 50 times the amount of people we have at most of these meetings," said Eustis, adding that the proposed pipeline was "the biggest and baddest I've seen in my career".

The company behind the pipeline, Energy Transfer Partners (ETP), had seemed to turn its attention to Louisiana just one day after Native American protesters [thwarted the company's Dakota Access project last month](#).

A spokeswoman for ETP, Vicki Granado, said the Bayou Bridge pipeline extension was announced in June 2015. If approved, the project will run through 11 parishes and cross around 600 acres of wetlands and 700 bodies of water, including wells that reportedly provide drinking water for some 300,000 families.

At the public hearing in Baton Rouge on Thursday, the first speaker, Cory Farber, project manager of the Bayou Bridge pipeline, said it was expected to create 2,500 temporary jobs. When Farber then said the project would produce 12 permanent jobs, the crowd laughed heartily.

"Those who have airboat companies and equipment companies that specialize in putting in equipment, they're not opposed to pipelines because of the short-term jobs," said [Jody Meche](#), president of the state Crawfish Producers' Association, one of dozens who spoke at the hearing.

"But once that pipe is in there, the jobs are gone."

**Once that pipe is  
in there, the jobs are**

Other attendees applauded in favor of the pipeline, and former US senator Mary Landrieu of [Louisiana](#), a supporter, was in attendance. But Native Americans also dotted the crowd, many of them fresh from Standing Rock

**gone  
Jody Meche**

“The Native Americans in North Dakota get a lot of credit for showing people their power,” Eustis said.

Protester Cherri Foytlin, organizer of the pro-sustainability [Bridge the Gulf](#) project, brought her teenage daughters, Jayden and Erin. In November, Erin and 20 other kids from around the country filed a [lawsuit against the federal government](#) for ignoring climate change. The suit will soon go to trial.

Meche not only makes his living in the Atchafalaya Basin, but he also calls it home. Where most in attendance worried about potential oil spills and their effect on drinking water, Meche was more concerned with ways existing pipelines have, he said, “crippled” the fishing industry.

“They excavated the trench that they put the pipe in and then [they didn’t clean up] and it leaves a dam behind that blocks the water flow,” he said on the microphone, “until there’s not enough oxygen in the water for the crawfish, the fish, or anything.”



If approved, the project will run through 11 parishes and cross around 600 acres of wetlands and 700 bodies of water, including wells that reportedly provide drinking water for some 300,000 families. Photograph: Alaina Dunn

Meche said these left-behind “**spoil banks**” also disintegrate and slip down into the interior of the swamp, filling it with silt. “Areas that were 8ft deep 20 or 30 years ago are now a hill,” he claimed, adding that it all increases flood risk to boot. After his three minutes were up, he left the microphone, breathing heavily.

Debate was fierce. Pro-pipeline speakers - oil industry reps, state representatives, a retired Louisiana State University professor - pointed out that many pipelines already run through the Atchafalaya Basin and said pipelines were in general the safest way to transport oil - in the case of the Bayou Bridge pipeline, 280,000 barrels per day of crude to the Gulf coast region, with the potential for 480,000.

At a pre-hearing teach-in outside in the long shadow of Baton Rouge's capital building, Anne Rolfes and her [Louisiana Bucket Brigade](#) activists repeated how pipelines caused 144 accidents in Louisiana alone last year.

Pipeline supporters countered by citing a [Frasier institute study](#) from [2015](#) that said rail transport of oil was more than 4.5 times more likely to experience an accident than pipelines, and that 99% of pipeline accidents from 2003 to 2013 did not damage the environment. Pipeline PR materials also say pipelines are cleaner and more environmentally safe than rail transport because they don't burn fossil fuels.

ETP's new pipeline plans also acknowledge the need to deal with spoil banks, and include a suggested post-construction initiative to improve water quality and flow to the basin.

If he thought this was true, Meche said, he would support the idea. "I have no problem with the pipeline if they do it right," he said. "I do like my oil and gas."

**■ 100,000 people  
were displaced from  
their homes because  
of climate change - I  
guess we're finally  
just sick of this  
Scott Eustis**

He just suspected that ETP would not go the extra mile. "You know how much money you're talking about, bringing tractors back in the basin to fix all that? They're only going to pay what they are obligated to do, and nothing else."

Rolfes also scoffed at oil industry promises. "The best way to determine the future is to look at the past," she said. "And you can see how honest they were about filling the old canals: there's not a single example of them fixing the existing spoil banks."

At least, as activists see it, Louisiana residents are starting to really care about environmental issues and, more importantly, to make themselves heard.

"A lot of times we don't get this opportunity to speak up," said Eustis, still admiring the surprisingly large crowd.

"These oil companies just roll over us."

"But after Katrina, and the BP spill, and the Baton Rouge flood last year - 100,000 people displaced from their homes because of climate change - I guess we're finally just sick of this."

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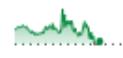
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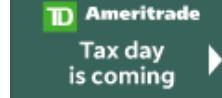
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AP



# Southern Louisiana pipeline draws environmental opposition



January 22, 2017



BATON ROUGE, La. (AP) -- Louisiana environmental groups are gearing up for round two in a battle against a proposed 163-mile oil pipeline that would stretch across south Louisiana from Lake Charles through the Atchafalaya Basin and east to St. James.

Exhibit H-5



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and decried a project they fear will foul the state's wetlands and water.

A second hearing is set Feb. 8 for a permit needed from the Louisiana Department of Natural Resources. That permit is for the roughly 16 miles that will pass close enough to the coast to receive special attention under the state's Coastal Zone program.

The Advocate reports (<http://bit.ly/2jLGgzo>) the proposed Bayou Bridge Pipeline project is being jointly pursued by subsidiaries of Phillips 66, Sunoco Logistics and Energy Transfer Partners, all three of which have a stake in the Dakota Access Pipeline.

"I expect we will have a bigger turnout, because people are fired up," said Anne Rolfes, director of the Louisiana Bucket Brigade environmental group. "... This opposition is really unprecedented."

The proposed pipeline would cross 11 parishes. It would link Louisiana refineries to a major oil-and-gas hub in Texas that connects to larger pipelines throughout North America, including the Dakota Access pipeline between North Dakota and Illinois that has been the subject of intense and ongoing protests.



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The subject of next month's hearing is the DNR permit needed for portions of the pipeline that would pass through state-designated Coastal Zones in St. James and Assumption parishes, said DNR Communications Director Patrick Courreges.

[Story continues](#)

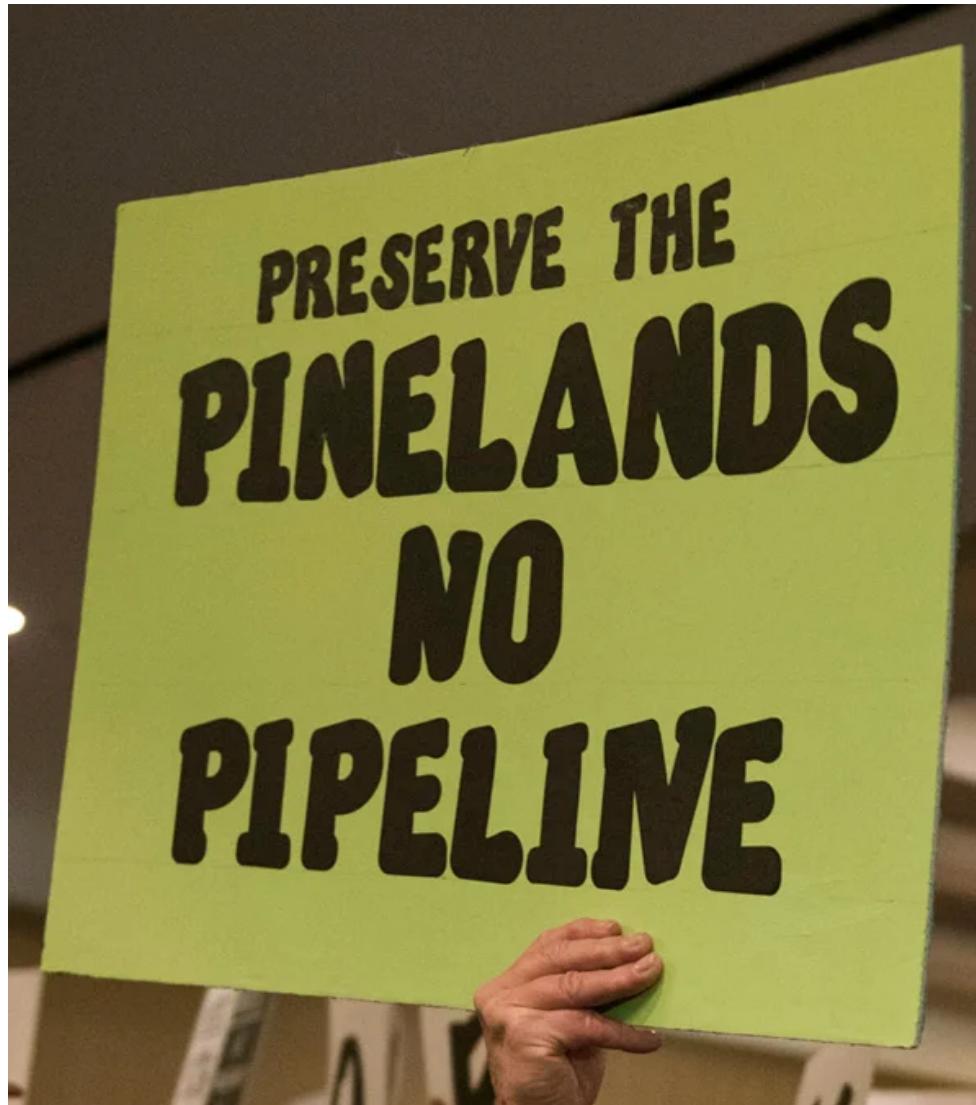


Exhibit H-6

ASSOCIATED PRESS; CHRIS FITZGERALD/CANDIDATE PHOTOS/NEWSCOM

Politics

## 6 Pipelines Projects You Need to Know About

Residents and Native American activists have been protesting against these pipelines.

BY ROSALIE CHAN

JULY 12, 2017

In 2016, protests against the Dakota Access Pipeline in North Dakota — led by the [Standing Rock Sioux](#) tribe — drew attention to the impact of the oil and natural gas industries on the environment. The battle [is ongoing](#), despite an executive order [signed by President Donald Trump](#) to allow the pipeline's construction.

The heightened awareness of the Dakota Access Pipeline draws attention to other pipeline projects throughout the

United States. Across the country right now, over 20 proposed pipelines would run through indigenous land and endanger water sources, including wetlands and aquifers. Then, when spills happen, energy companies responsible for the pipelines may not take full responsibility for cause or cleanup.

Here are six controversial pipeline projects to keep an eye on.

## Line 3 in Minnesota

One of the largest inland oil spills in U.S. history happened along the Line 3 oil pipeline when it spilled 1.7 million gallons of crude oil near Grand Rapids, Minnesota, in 1991. Built between 1962 and 1967, this corroded pipeline is over five decades old and pumps 390,000 barrels of oil per day.

Now, Canadian company Enbridge Energy plans to build a new pipeline to replace its old Line 3 oil pipeline, which would transport oil across northern Minnesota to Superior, Wisconsin, including through Ojibwe treaty territory. However, activists are organizing to persuade Minnesota officials to deny the permit for the pipeline and stop the project.

The White Earth Nation, Red Lake Nation, Leech Lake Band, and Fond du Lac Ojibwe Band have been joined by activist groups to participate in public meetings about the pipeline. The company decided to reroute the pipeline around a wild rice lake used by tribes after the White Earth Nation voiced their concerns, but activists still say the pipeline poses a high risk for water pollution, as does the company's plan to leave the old, deteriorating pipeline in place even after the new one is constructed.

More public hearings in front of an administrative law judge will take place in the fall, and the Minnesota Public Utilities Commission will make a final decision next April. If approved, the pipeline could operate by the end of 2019 and could carry up to 760,000 barrels of oil a day.

## Keystone XL in Nebraska, South Dakota, and Montana

This project was previously blocked in 2015 by the Obama administration, but the Trump administration gave the green light to the Keystone XL by **signing an executive order** for its construction in January. Keystone XL still has a major obstacle though: Nebraska.

The Keystone Pipeline runs from Canada to Texas, but Nebraska has yet to approve the proposed extension route of the Keystone XL, which would go through Montana, South Dakota, and Nebraska. Native American tribes — including the Ponca Tribe and Sioux Tribe of Nebraska — worry that a leak would contaminate sources of water such as the Ogallala aquifer beneath the Great Plains, which is one of the world's largest sources of groundwater. Protests, including a **campaign to build solar panels** in the pipeline's path, **called Solar XL**, have already emerged.

In addition, on July 7, Keystone XL opponents also said that they **may appeal** a South Dakota judge's decision to uphold state regulators' approval for the pipeline in their state.

This pipeline route would carry **830,000 barrels of oil** a day. The State Department estimated that the project will lead to tens of thousands of temporary positions, but just **50 permanent jobs**.

Hearings for the Keystone XL route in Nebraska will **take place August 7–11**, and activists plan to **protest the day before**.

## Pilgrim Pipeline in New Jersey and New York

The Ramapough Lenape Nation have been **leading the fight** against the Pilgrim Pipelines, a 178-mile pipeline that would run from Albany, New York, to Linden, New Jersey. This pipeline proposal passes through the tribe's sacred land, and would carry up to 200,000 barrels of oil a day. Activists are concerned that the pipeline would contaminate drinking water, especially since the pipelines will be built along a fault line, which can increase risks for leaks.

Last year, tribes started **setting up teepees** to protest the pipeline. So far, 28 towns have **passed resolutions**

opposing the pipeline, and a Municipal Pipeline Group has formed to fight the pipeline and develop strategies, according to NorthJersey.com. Currently, the pipeline **does not have a construction time frame** because the company is working on finalizing the route and obtaining permits.

## Rover Pipeline in Ohio

Energy Transfer Partners — the same company behind the Dakota Access Pipeline — is currently constructing the Rover natural gas line running through Ohio. This 713-mile pipeline is set to carry gas from West Virginia, western Pennsylvania, and eastern Ohio to Michigan, has already caused seven spills totaling over 50,000 barrels, including in wetlands. Right now, the pipeline is **under fire** with the Ohio Environmental Protection Agency.

In April, the Ohio EPA found 2,500 square feet of wetlands **filled with drilling fluid**. Later that month, work crews found that fluid had settled on **500,000 acres of wetland**. This fluid contains traces of **toxic diesel fuel**.

A federal energy regulator has launched a public investigation on the pipeline, which may delay its planned completion on November 1. Part of the pipeline was supposed to open this month, but work has been stalled. Much of the construction takes place through farmland, causing **residents to protest**.

On July 10, the Ohio EPA **issued an order** to Energy Partners to take numerous steps for protecting the environment. It also requested the Ohio attorney general to start civil proceedings against the company and to get the company to pay \$914,000 in penalties.

## Atlantic Sunrise Pipeline in Pennsylvania

A group of nuns have been protesting this \$3 billion gas pipeline by building a chapel along its proposed route. About **300 people** showed up to their chapel dedication on July 9.

Nuns from the Adorers of the Blood of Christ own a strip of land where the pipeline is supposed to run, and they say that the pipeline **violates their values about the environment**. Transcontinental Gas Pipe Line Co., the company

that plans to build the pipeline, is now seeking an emergency court order on July 17 to seize the nuns' land.

This 183-mile pipeline would span across 10 counties in Pennsylvania. Forty organizations have **urged the governor** and the state Department of Environmental Protection to deny two environmental permits needed for the pipeline to be built.

## **Bayou Bridge Pipeline in Louisiana**

On June 24, indigenous and environmental justice leaders launched the **L'eau Est La Vie protest camp** along the Bayou Bridge Pipeline route, activism based out of concern that this pipeline would erode wetlands, disrupt the crawfishing industry, and spill into the Bayou Lafourche, which supplies over 300,000 people and the United Houma Nation with clean drinking water.

In addition, residents of St. James Parish, Louisiana, **filed suit** on May 31 to overturn the pipeline's permit from the state's Department of Natural Resources, arguing that the state didn't adequately address the effects from a potential spill in the St. James community and surrounding wetlands.

This 163-mile pipeline would carry **up to 480,000 barrels of oil** a day. Permits through the state Department of Environmental Quality and the U.S. Army Corps of Engineers **are still pending**.

**Related:** [Dakota Access Pipeline Spill Raises Concerns Among Sioux Tribe](#)

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# St. James Parish Council narrowly approves land use needed for controversial Bayou Bridge pipeline

BY DAVID J. MITCHELL | [DMITCHELL@THEADVOCATE.COM](mailto:DMITCHELL@THEADVOCATE.COM)  
AUG 23, 2017 - 9:33 PM

Exhibit H-7



David Mitchell

**VACHERIE** — A split St. James Parish Council cleared the way Wednesday night for the controversial Bayou Bridge pipeline to move through the parish amid opposition from west bank residents over continued industrial development and some calls for buyouts if the pipeline proceeds.

The 162-mile crude oil line proposed from Lake Charles to west St. James has encountered opposition from environmental groups worried about the line's impact on the Atchafalaya Basin farther west. In St. James Parish, the pipeline's broader environmental and safety concerns have come in addition to growing worries about existing and new industries encroaching on neighborhoods in rural sections of the parish.

The \$670 million pipeline would create 2,500 temporary construction jobs and 12 permanent jobs and could carry 480,000 barrels of oil per day east from Lake Charles to the edge of the Mississippi River.



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On Wednesday, the residents and environmental activists who spoke to the council stressed what they see as the poor environmental track record of Energy Transfer Partners, the company that wants to build the pipeline, and the safety as well as the health and environmental impacts they believe the

pipeline would pose. While a company official defended the safety record, he also stressed the manufacturing standards and continued monitoring the future pipeline would receive if built.

*Can't see video below? Click here.*

Even with the Parish Council's blessing on a narrow 4-3 vote, Energy Transfer Partners still needs permits from the state Department of Environmental Quality and the U.S. Army Corps of Engineers and faces a lawsuit over another permit that has already been granted.

But Alexis Daniel, an Energy Transfer Partners spokeswoman, said after the vote that the company expects to start construction on the pipeline this quarter. Daniel, who said the company's time estimates factored in any potential delays from the lawsuit, said the company expects the pipeline to be in service by the first quarter of 2018.

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## Proposed pipeline highlights legacy of problems in Atchafalaya Basin

On Wednesday the council was considering an appeal of the parish Planning Commission's decision May 31 to grant a land use approval needed for the pipeline to pass through west St. James and stop at the rear of two tank farms along the Mississippi, the Plains Marketing and NuStar facilities.

After public discussion and presentation from Energy Transfer Partners, Parish Councilman Clyde Cooper, who appealed the commission decision, proposed overturning that decision but

got only two other votes, Councilmen Ken Brass and Ralph Patin. Councilmen Jason Amato, Ryan Louque, Eddie Kraemer and Alvin "Shark" St. Pierre voted no, with St. Pierre, the council chairman, casting the final, tie-breaking vote.

Cooper's motion failed 3-4.

Then, Louque proposed upholding the Planning Commission, and the vote tally flip-flopped, 4-3, with Cooper, Brass and Patin against and Amato, Kraemer and St. Pierre in favor with Louque. St. Pierre again cast the final, tie-breaking vote.

In both cases, the vote broke along racial lines, with the seven-member council's white majority prevailing and black council members on the losing side of each vote.

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Before the vote, Cooper said he doesn't want to see the pipeline approved until a planned evacuation route for the Burton Lane area is finalized and called for area industries, residents and

parish officials to start meeting on the area's problems.

Some residents called into question the safety of the pipeline as well and want it blocked but Nathaniel Braud, 49, of St. James, suggested that if the pipeline were to come, then residents need an option to be bought out.

"If these thing are going to come and they're going to take place within our community, in the 5th district, on the west bank side, OK, then go ahead with it, but I think that every last one of these people in here should be offered a fair value amount for their property," Braud said, as applause erupted.

Braud said his 82-year-old mother can't afford to move and might not be able to secure a new loan or other financing at her age to leave.

Daniel said later the pipeline would cross Burton Road about 1.5 miles west of the homes on the street. Daniel said the company offers fair market value for land it needs to buy for its pipelines, but she would not directly address whether the company would consider buyouts.

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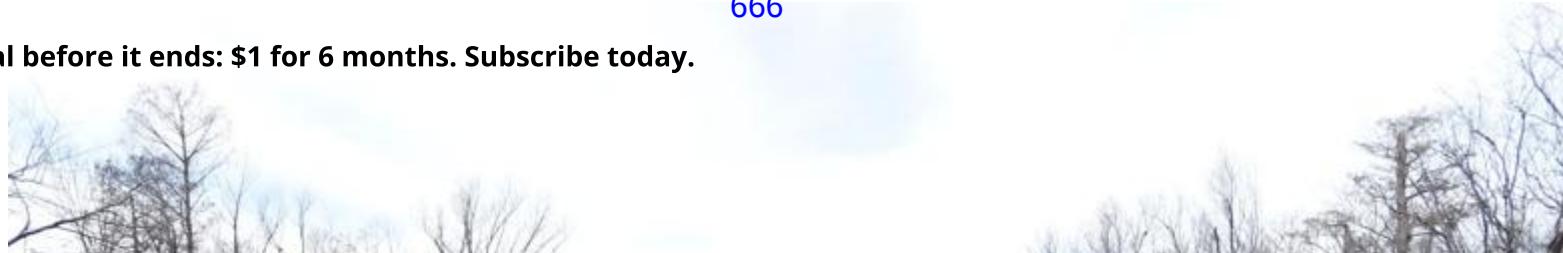
# Bayou Bridge Pipeline begins construction in Louisiana amid protests, legal challenges

BY STEVE HARDY and DAVID J. MITCHELL | shardy@theadvocate.com; dmitchell@theadvocate.com

JAN 24, 2018 - 11:16 AM

Exhibit H-8

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Steve Hardy

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David Mitchell

Construction on the Bayou Bridge pipeline has begun, even as opponents pursue multiple legal challenges to block the 163-mile line across southern Louisiana and some have promised to stand in the way of the bulldozers and backhoes.

Hailed by oil industry advocates as a needed link in the state's industrial infrastructure during a boom in the petrochemical sector, the pipeline will carry crude oil between a hub in Lake Charles and a terminal in St. James Parish but also cut through the environmentally sensitive Atchafalaya Basin.

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## Bayou Bridge pipeline receives Corps, DEQ permits, closing in on construction start

"We are excited to be able to conclude the more than 2 year permitting and have begun construction activities," Energy Transfer Partners spokeswoman Alexis Daniel wrote in a Wednesday morning email to The Advocate. The company is the majority shareholder of Bayou Bridge LLC.

Energy Transfer has said the line will be an economic powerhouse for Louisiana that will create 2,500 construction jobs and that investors have already paid property owners \$106

million for property to build Bayou Bridge.  
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The \$750 million project will link an existing section of the Bayou Bridge line that cuts through Texas and far southwestern Louisiana to the Mississippi River. The announcement of construction comes as the U.S. Energy Information Agency recently forecast that the nation could, this year, break its all-time annual oil production record that was set in 1970 at 10.3 million barrels per day.

Fueled by increased production from the Gulf of Mexico and the Permian Basin in Texas and New Mexico, U.S. production is expected to reach 10.8 million barrels per day in 2019, the agency added, rivaling leading world producers Russia and Saudi Arabia.

The Bayou Bridge pipeline, which will be able to move up to 480,000 barrels per day when finished, will end up in a section of western St. James Parish that's already home to oil tank farms and other major crude oil lines that service river and rail traffic,

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also sends some that oil back toward the nation's midsection and even Canada.

Beyond temporary construction jobs, Gifford Briggs, vice president of the Louisiana Oil and Gas Association, said new pipelines like the Bayou Bridge are upgrades as necessary to move around oil to the state's refineries and other industries as road and highway expansions are for moving around people.

"We've had this amazing industrial renaissance that's been going on in Louisiana, you know, for the past couple of years and construction projects going on all over the place, and as we

Bayou Bridge Pipeline begins construction in Louisiana amid protests, legal challenges. Courts precedent.com  
grow our plants, we're going to need access to more resources,"  
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said Briggs, whose group represents independent drilling, pipeline and other associated service companies.

Briggs echoed the arguments of Bayou Bridge and other supporters of the project that a pipeline is the safest way to move crude compared with trucking or rail. Bayou Bridge also says that 88 percent of the pipeline will run along existing infrastructure.

But opponents have challenged the pipeline in court, saying it poses spill threats to drinking water, fisheries and to residents who live nearby.



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**[Bayou Bridge pipeline winds up in court as environmentalists, state square off](#)**

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St. James Parish Councilman Clyde Cooper, who represents the area where the pipeline will pass in that parish, said late Wednesday morning that he wasn't aware the pipeline work had started.

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He said the pipeline did not come up for discussion at a Parish Council meeting Tuesday. But he said he believes the company should wait to start work while the project is being challenged in court in his parish.

The Tulane Environmental Law Clinic is suing the state Department of Natural Resources, which it claims was overly lax when considering whether to permit Bayou Bridge.

"I think (the company) should have held off until everything is clear and approved," Cooper said.

Among the issues some St. James residents have had with the pipeline is that it will run near a small Burton Street neighborhood already largely surrounded by industrial facilities and further limit access to escape routes should there be an incident.

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## Louisiana environmental groups turn to courts in Bayou Bridge pipeline battle

The residents, Cooper and other parish officials have been petitioning the state for help in finding an alternative access route for the residents. Cooper said state officials have been looking at three possible routes but are still talking with landowners.

The company declined to identify where work had begun Wednesday. Environmental groups have spotted heavy equipment in areas like Bayou Lafourche that they believe are staging there to build the pipeline. They shared photos Wednesday online through sites like the Facebook group for the L'eau Est La Vie Camp.

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The conservationists said Wednesday they were not planning to clash with construction crews yet but are taking photos should crews deviate from the permit or suffer an accident.

The environmentalists are still exploring legal ways to hold up the project, at least until their various lawsuits have been resolved. Different coalitions have sued the company for public records, as well as the Louisiana Department of Natural Resources and the U.S. Army Corps of Engineers for approving the project.

Earthjustice attorney Adrienne Bloch said plaintiffs would take whatever "legally permitted" action they could to bring construction to a halt. She is representing groups that include the Atchafalaya Basinkeeper, the Sierra Club, the Gulf Restoration Network, the Louisiana Crawfish Producers Association-West and the Waterkeeper Alliance.

Basinkeeper executive director Dean Wilson said Wednesday that Bayou Bridge is proposed to be built in areas where existing spoil banks are impeding the flow of water. Oil and gas

Bayou Bridge Pipeline began its environmental impact analysis and protest legal challenges to the Corps' permit on April 12, 2022.

operators need to fix existing infrastructure before adding more, he argued.



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**RELATED****Environmental groups sue Army Corps over Bayou Bridge pipeline approval**

Bayou Bridge opponents are prepared to stand in front of the bulldozers and backhoes but haven't clashed with construction crews yet, said Anne Rolfes, Louisiana Bucket Brigade founder.

**Environmentalists want construction workers to have jobs in oil and gas, they just want them to focus on repairing or replacing the old, rusty equipment that still laces south Louisiana, Rolfes said. For now, she and her cohort are focusing on the battle in court.**

"We're throwing everything we have at them, and it's not in desperation, it's in determination," she said.

Her organization and others will be in Baton Rouge district court Thursday for a hearing on a public records suit. They have sued Bayou Bridge LLC for various documents, arguing that when the company attempted to seize land under eminent domain to build the pipeline, they opened themselves up to public scrutiny such is placed on government agencies. The pipeline company has contested those claims and argued that they are not public record.

The final public body to sign off on the pipeline was the Atchafalaya Levee Board, which gave Bayou Bridge their unanimous support last week. Because the pipeline is designed

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to run under rather than over the levee, board members were less concerned that it would disrupt operations or be impacted by high water, said board President John Grezaffi.

They were also heartened by the Coastal Protection and Restoration Authority's decision not to object to Bayou Bridge. The CPRA has no permitting authority of its own, but it does advise levee boards and the Department of Natural Resources if a proposal may affect coastal projects or levees in the coastal zone. The Authority did not object to Bayou Bridge on either count.

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**This land is your land**

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Exhibit H-9

# 'They're billin' us for killin' us': activists fight Dakota pipeline's final stretch

**Opponents of the 160-mile Bayou Bridge pipeline, which will cross Native American land and 700 bodies of water, have chained themselves to machinery**

Supported by



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**Lauren Zanolli in Lafayette, Louisiana**

@LaurenZanolli

Tue 16 Oct 2018 20.58 EDT

As the flat-bottom fishing boat speeds through waterways deep inside Louisiana's Atchafalaya basin, the largest river swamp in the US, the landscape suddenly shifts from high banks of sediment and oil pipeline markers on either side to an open grove of cypress trees towering above the water. Flocks of white ibis appear, seemingly out of nowhere, to nest and hunt amid the moss-dripped, century-old wetland forest.

"This is what the entire basin is supposed to look like," explained Jody Meche, president of a local crawfishermen alliance and a lifelong resident with a thick Cajun accent.

And it is in peril. Degraded by decades of oil and gas development and lax permit enforcement, the swamp has now emerged as a flashpoint for environmental activists seeking to stop construction of the tail end of the controversial [Dakota Access pipeline](#) (DAPL), which was the subject of mass protests in 2016.

The 160-mile [Bayou Bridge](#) pipeline, as the section of DAPL is known, will cross Native American land and 700 bodies of water, terminating in St James, a tiny African American community in Louisiana's "Cancer Alley", where some residents are already so hemmed in by industrial infrastructure that they lack an emergency

[evacuation route](#)

In a last-ditch effort, one group of activists is staging an unprecedented and divisive physical protest campaign. They have locked themselves to construction equipment, forced construction stoppages by kayaking up to worksites and dangling from trees on makeshift platforms to delay clearcutting.

### **'Thousands of acres are just lost'**



Opponents of the pipeline have locked themselves to machinery. Photograph: Bryan Tarnowski

The Bayou Bridge pipeline (BBP) provides the final link between fracked oil from the Bakken shale fields of North Dakota and the refineries and export facilities of the Gulf coast.

It is the latest addition to 125,000 miles of pipeline that already snake through Louisiana. Environmental advocates contend the pipelines are fueling the state's coastal land loss crisis by blocking the natural flow of sediment through waterways. This causes the delicate wetlands along the coast to wash away more quickly by rising sea levels and leaves coastal communities more vulnerable to hurricanes.

Many here allege that the problem is greatly exacerbated by weak regulation and enforcement. Pipeline developers, they say, have illegally left behind mounds of dredged sediment called spoil banks - a byproduct of the construction process - that act as artificial dams, creating stagnant pools where crawfish and other wildlife can barely survive. Natural bayous, once rich fishing grounds, have silted up.

"Thousands of acres are just lost," said Meche, who is also a member of Atchafalaya Basinkeeper, a local not-for-profit group founded by fishermen that is working to restore and protect the area from further destruction. "Big oil, they've gotten away with it."

Dean Wilson, executive director of Atchafalaya Basinkeeper, charges that oil and gas companies operate with impunity and face little pushback from a state that needs jobs.

For instance, of nearly 60,000 applications for a coastal use permit processed by the state since 1980 - most of which relate to oil and gas development - just 20 have been denied, according to officials. And Wilson says that over the years, he has filed thousands of permit violation reports alleging developers failed to return land to pre-construction conditions or remove spoil banks. Even then, Wilson said, the state often grants pipeline companies after-the-fact permits.



Activists say theirs is the first example of direct action campaign for an environmental cause in the state. Photograph: Bryan Tarnowski/The Guardian

"The entire system is broken. It's seriously like a third-world country," Wilson said.

Energy Transfer Partners (ETP), the majority owner of the Bayou Bridge pipeline and the company behind DAPL, has one of the worst pipeline safety records in the country. According to a 2018 Greenpeace [report](#), pipelines owned by

ETP, Sunoco (which merged with ETP in 2012) and their subsidiaries spilled over 500 times in the last decade. An analysis last year found ETP's pipelines leaked more than twice as often as other companies.

Asked about its compliance record for pipelines in the Atchafalaya basin, a spokesperson for ETP said in an emailed statement that they "continue to safely operate today, meeting all the applicable rules and regulations under which they are permitted".

Wilson's organization and others have sued state and federal agencies to stop pipeline construction, but, despite some short-lived legal victories, the Louisiana department of natural resources has refused to enforce a judge's order to review its approval of the BBP. The pipeline is expected to be completed soon.

"There is no way for us to stop the oil industry," Wilson said. "The question is ... what can I do that is feasible, to save the swamps? Either I do what I'm doing or do nothing. Or just go back to fishing and let them destroy everything."

Meche puts it even more bluntly: "The people that were supposed to be looking out for me and my interests and my environment sold me out, no doubt."

"They're billin' us for killin' us."



 L'Eau Est La Vie has managed to halt construction completely in some areas of the basin for over a month. Photograph: Bryan Tarnowski/The Guardian

## 'Drastic measures'

Cherri Foytlin, a member of the indigenous women's advisory council of the L'Eau Est La Vie camp, was adamant that the fight against BBP had to be escalated outside the courtroom.

"Some people actually believe there is a way to win within these systems. I do not," Foytlin said from the camp headquarters, a plot of land not far from Lafayette, bare except for a line of tents, a small warehouse and an above-ground swimming pool parked in the shade of a carport canopy.

"Is there a way to say 'no'?" she wondered. "This is my question and I'm still waiting to be answered."

Numbers here fluctuate between about a dozen to more than 50 people, and the camp has been calling for more volunteers on the frontlines. Activists say theirs is the first example of a direct action campaign for an environmental cause in the state. The group has managed to halt construction completely in some areas of the basin for over a month, though ETP maintains that the disruptions have not affected their schedule.



Cherri Foytlin, one of the founders of the L'Eau Est La Vie camp. Photograph: Bryan Tarnowski/The Guardian

Since the start of the campaign, there have been more than 50 arrests, including 13 people now facing up to five years in prison under a harsh new anti-protest law that went into effect in August. Backed by ETP, Phillips 66 and other

energy companies, the law declares pipelines “critical infrastructure” and threatens felony charges for anyone trespassing on a pipeline site.

“There’s been a lot of intimidation and physical stuff that happened on this campaign that hasn’t happened on any other campaign,” said Foytlin, who faces three felony charges under the bill.

The law is similar to other anti-protest legislation modeled on a policy supported by the rightwing [American Legislative Exchange Council](#) and passed in states with contentious pipeline projects, the Intercept has reported.

Tactics adopted by L’Eau Est La Vie also anger other pipeline opponents. Wilson and Meche of the Atchafalaya Basinkeeper say they needlessly ratchet up tensions.

“When they finish the pipeline, [the protesters] go and move somewhere else,” said Wilson. “And we’re stuck with the mess, with whatever happens with the local sheriff departments, with the laws they passed. The next pipeline company that comes in is going to be even harder.”

Even as the environmentalist groups are left wondering how to move forward to save the basin, new proposals continue to roll into Louisiana. In August, Tallgrass Energy announced plans for a \$2.5bn crude oil export terminal in Plaquemines Parish. The project also includes a 700-mile pipeline from Oklahoma to St James.

“Frustrations are high, tensions are high,” said Meche. “If these issues don’t get addressed, then I am fearful that the Cajun people that rely on the Atchafalaya basin for their way of life are going to resort to drastic measures.”

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## This land is your land

Oklahoma Statutes Annotated  
Title 21. Crimes and Punishments  
Part VII. Crimes Against Property  
Chapter 69. Malicious Mischief

21 Okl.St.Ann. § 1792

§ 1792. Critical infrastructure facility--Trespass--Damage--Penalties

Currentness

A. Any person who shall willfully trespass or enter property containing a critical infrastructure facility without permission by the owner of the property or lawful occupant thereof shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not less than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for a term of six (6) months, or by both such fine and imprisonment. If it is determined the intent of the trespasser is to willfully damage, destroy, vandalize, deface, tamper with equipment, or impede or inhibit operations of the facility, the person shall, upon conviction, be guilty of a felony punishable by a fine of not less than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the custody of the Department of Corrections for a term of one (1) year, or by both such fine and imprisonment.

B. Any person who shall willfully damage, destroy, vandalize, deface or tamper with equipment in a critical infrastructure facility shall, upon conviction, be guilty of a felony punishable by a fine of One Hundred Thousand Dollars (\$100,000.00), or by imprisonment in the custody of the Department of Corrections for a term of not more than ten (10) years, or by both such fine and imprisonment.

C. If an organization is found to be a conspirator with persons who are found to have committed any of the crimes described in subsection A or B of this section, the conspiring organization shall be punished by a fine that is ten times the amount of said fine authorized by the appropriate provision of this section.

D. As used in this section, “critical infrastructure facility” means:

1. One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization:

- a. a petroleum or alumina refinery,
- b. an electrical power generating facility, substation, switching station, electrical control center or electric power lines and associated equipment infrastructure,
- c. a chemical, polymer or rubber manufacturing facility,

Exhibit I

- d. a water intake structure, water treatment facility, wastewater treatment plant or pump station,
  - e. a natural gas compressor station,
  - f. a liquid natural gas terminal or storage facility,
  - g. a telecommunications central switching office,
  - h. wireless telecommunications infrastructure, including cell towers, telephone poles and lines, including fiber optic lines,
  - i. a port, railroad switching yard, railroad tracks, trucking terminal or other freight transportation facility,
  - j. a gas processing plant, including a plant used in the processing, treatment or fractionation of natural gas or natural gas liquids,
  - k. a transmission facility used by a federally licensed radio or television station,
  - l. a steelmaking facility that uses an electric arc furnace to make steel,
  - m. a facility identified and regulated by the United States Department of Homeland Security Chemical Facility Anti-Terrorism Standards (CFATS) program,
  - n. a dam that is regulated by the state or federal government,
  - o. a natural gas distribution utility facility including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, aboveground piping, a regulator station and a natural gas storage facility, or
  - p. a crude oil or refined products storage and distribution facility including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, below or aboveground pipeline or piping and truck loading or offloading facility; or
2. Any aboveground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, railroad facility or other storage facility that is enclosed by a fence, other physical barrier or is clearly marked with signs prohibiting trespassing, that are obviously designed to exclude intruders.

#### Credits

Laws 2017, c. 190, § 1, emerg. eff. May 3, 2017.

21 Okl. St. Ann. § 1792, OK ST T. 21 § 1792

Current with emergency effective legislation through Chapter 10 of the Second Regular Session of the 58th Legislature (2022). Some sections may be more current, see credits for details.

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End of Document

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# CRITICAL INFRASTRUCTURE PROTECTION ACT

## ***Policy Status***

Type: Model Policy   Status: Final   Date Introduced: December 7, 2017   Date Finalized: January 20, 2018

## ***Task Forces***

- Energy, Environment and Agriculture

## ***Related Articles***

### Critical Infrastructure vs. Free Speech? Protect Both

CARLY GOOD / 11 MONTHS AGO

### Investing in Infrastructure

REP. LINDA UPMAYER / 4 YEARS AGO

Exhibit J

## Protecting Everyday Life Means Protecting America's Infrastructure

GRANT KIDWELL / 4 YEARS AGO

### ***Tags***

- Energy Environment and Agriculture Task Force
- Homeland Security
- Infrastructure
- SNPS 2017

### ***Summary***

Drawing inspiration from two laws enacted in 2017 by the State of Oklahoma, this Act codifies criminal penalties for a person convicted of willfully trespassing or entering property containing a critical infrastructure facility without permission by the owner of the property, and holds a person liable for any damages to personal or real property while trespassing. The Act also prescribes criminal penalties for organizations conspiring with persons who willfully trespass and/or damage critical infrastructure sites, and holds conspiring organizations responsible for any damages to personal or real property while trespassing.

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## **CRITICAL INFRASTRUCTURE PROTECTION ACT**

## Critical Infrastructure Protection Act

### Summary

Drawing inspiration from two laws enacted in 2017 by the State of Oklahoma,<sup>1</sup> this Act codifies criminal penalties for a person convicted of willfully trespassing or entering property containing a critical infrastructure facility without permission by the owner of the property, and holds a person liable for any damages to personal or real property while trespassing. The Act also prescribes criminal penalties for organizations conspiring with persons who willfully trespass and/or damage critical infrastructure sites, and holds conspiring organizations responsible for any damages to personal or real property while trespassing.

### Model Policy

Section 1. {Definitions.} For purposes of this Act:

A. "Critical Infrastructure" has the same meaning given to it in 42 USC 5195c.

B. "Critical infrastructure facility" means:

1. One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization:

a. A petroleum or alumina refinery,

b. An electrical power generating facility, substation, switching station, electrical control center or electric power lines and associated equipment infrastructure,

c. A chemical, polymer or rubber manufacturing facility,

- d. A water intake structure, water treatment facility, wastewater treatment plant or pump station,
  - e. A natural gas compressor station,
  - f. A liquid natural gas terminal or storage facility,
  - g. Wireline and wireless telecommunications infrastructure,
  - h. A port, railroad switching yard, railroad tracks, trucking terminal or other freight transportation facility,
  - i. A gas processing plant, including a plant used in the processing, treatment or fractionation of natural gas or natural gas liquids,
  - j. A transmission facility used by a federally licensed radio or television station,
  - k. A steelmaking facility that uses an electric arc furnace to make steel,
  - l. A facility identified and regulated by the United States Department of Homeland Security Chemical Facility Anti-Terrorism Standards (CFATS) program,
  - m. A dam that is regulated by the state or federal government, o. A natural gas distribution utility facility including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, aboveground piping, a regular station and a natural gas storage facility, or
  - n. A crude oil or refined products storage and distribution facility including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, below or aboveground pipeline or piping and truck loading or offloading facility; or
2. Any aboveground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, railroad facility or other storage facility that is enclosed by a fence, other physical barrier or is clearly marked with signs prohibiting trespassing, that are obviously designed to exclude intruders.

## Section 2. {Criminal Penalties.}

A. Any person who shall willfully and knowingly trespass or enter property containing a critical infrastructure facility without permission by the owner of the property or lawful occupant thereof shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not less than {dollar figure}, or by imprisonment in the county jail for a term of {length of time}, or by both such fine and imprisonment. If it is determined the intent of the trespasser is to willfully damage, destroy, vandalize, deface, tamper with equipment, or impede or inhibit operations of the facility, the person shall, upon conviction, be guilty of a felony punishable by a fine of not less than {dollar figure}, or by imprisonment in the custody of the {Department of Corrections [or substitute the appropriate State equivalent thereof]} for a term of {length of time}, or by both such fine and imprisonment.

B. Any person who shall willfully damage, destroy, vandalize, deface or tamper with equipment in a critical infrastructure facility shall, upon conviction, be guilty of a felony punishable by a fine of {dollar figure}, or by imprisonment in the custody of the {Department of Corrections [or substitute the appropriate State equivalent thereof]} for a term or not more than {length of time}, or by both such fine and imprisonment.

C. If any organization is found to be a conspirator with persons who are found to have committed any of the crimes described in subsection A or B of this section, the conspiring organization shall be punished by a fine that is {number} times the amount of said fine authorized by the appropriate provision of this section.

## Section 3. {Civil Penalties.}

A. Any person who is arrested for or convicted of trespass may be held liable for any damages to personal or real property while trespassing.

B. Any person or entity that compensates, provides consideration to or remunerates a person for trespassing as described in subsection A of this section may also be held vicariously liable for any damages to personal or real property committed by the person compensated or remunerated for trespassing.

## Section 4. {Severability Clause.}

Section 5. {Repealer Clause.} Section 6. {Effective Date.}

[https://www.iberianet.com/opinion/letter-to-editor-pipeline-protests-negatively-impact-louisianians/article\\_a847a72e-5a81-11e9-9382-1bd881c43ed5.html](https://www.iberianet.com/opinion/letter-to-editor-pipeline-protests-negatively-impact-louisianians/article_a847a72e-5a81-11e9-9382-1bd881c43ed5.html)

## LETTER TO EDITOR: Pipeline protests negatively impact Louisianians

Apr 9, 2019

Natural gas and oil continue to play an increasingly important role every day in the U.S. new data reveals natural gas use in the U.S. hit a record high in 2018, due to it's role in producing more than 30 percent of the country's electricity. On the other hand, crude oil production is responsible for fueling our vehicles and air travel, as well as producing a number of other modern necessities. Despite these factors, anti-pipeline protestors across the country have opposed the permitted construction of energy infrastructure projects.

Over the past year, protesters have taken to Louisiana's bayous in an attempt to hinder construction of the Bayou Bridge Pipeline. Protesters have chained themselves to equipment, formed "aerial blockades" blocking the pipeline route and kayaked around construction sites. These unlawful tactics put workers, law enforcement and nearby community members at risk. Nonetheless, the project successfully completed construction and entered into service earlier this month.

Thankfully, Louisiana has already taken steps to protect infrastructure investment. Legislation implemented this past August increases the penalty for trespassing and vandalizing critical infrastructure, including pipelines. A number of other states across the country are also considering similar legislation.

It's time to focus on the facts: a strong energy industry is key to a strong economy. Policymakers, stakeholders and community members must come together and prioritize investment in our critical energy infrastructure.

Exhibit K

**Craig Stevens**

**Grow America's**

**Infrastructure Now**

HLS 18RS-1314

ORIGINAL

2018 Regular Session

HOUSE BILL NO. 727

BY REPRESENTATIVES THIBAUT, ABRAHAM, AMEDEE, ANDERS, BAGLEY,  
BERTHELOT, BILLIOT, BISHOP, TERRY BROWN, CARMODY, STEVE  
CARTER, CHANEY, COUSSAN, CREWS, CROMER, DANAHAY, DAVIS,  
DEVILLIER, DWIGHT, EDMONDS, EMERSON, GUINN, LANCE HARRIS,  
HAVARD, HAZEL, HENSGENS, HODGES, HOFFMANN, HORTON, HOWARD,  
HUVAL, LEBAS, LEOPOLD, MACK, MAGEE, MCFARLAND, MIGUEZ, JIM  
MORRIS, POPE, PUGH, PYLANT, RICHARD, SCHEZNAYDER, SEABAUGH,  
STAGNI, STEFANSKI, TALBOT, THOMAS, WRIGHT, AND ZERINGUE AND  
SENATORS BOUDREAUX, CHABERT, CLAITOR, CORTEZ, ERDEY,  
HEWITT, JOHNS, LAFLEUR, LAMBERT, MORRISH, RISER, THOMPSON,  
WALSWORTH, AND WHITE

CRIME: Provides relative to unauthorized entry of and criminal damage to a critical infrastructure

1

AN ACT

2 To amend and reenact R.S. 14:61(B)(1) and (C) and to enact R.S. 14:61(B)(3), 61.1, and  
3 61.2, relative to offenses involving critical infrastructure; to provide relative to the  
4 crime of unauthorized entry of a critical infrastructure; to amend the definition of  
5 "critical infrastructure"; to provide for a definition of "pipeline"; to amend penalties  
6 for the crime of unauthorized entry of a critical infrastructure; to create the crime of  
7 criminal damage to critical infrastructure; to provide for elements of the offense; to  
8 provide for criminal penalties; to provide relative to court costs and costs of  
9 investigation; to provide for restitution; to create the crime of conspiracy to engage  
10 in unauthorized entry of a critical infrastructure or in criminal damage to a critical  
11 infrastructure; to provide for elements of the offense; to provide for criminal  
12 penalties; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 14:61(B)(1) and (C) is hereby amended and reenacted and R.S.  
15 14:61(B)(3), 61.1, and 61.2 are hereby enacted to read as follows:

HLS 18RS-1314

## ORIGINAL

HB NO. 727

## 1 §61. Unauthorized entry of a critical infrastructure

\* \* \*

3                   B. For the purposes of this Section, the following words shall have the  
4                   following meanings:

\* \* \*

15                         (3) "Pipeline" means flow, transmission, distribution, or gathering lines,  
16                         regardless of size or length, which transmit or transport oil, gas, petrochemicals,  
17                         minerals, or water in a solid, liquid, or gaseous state.

18           C. Whoever commits the crime of unauthorized entry of a critical  
19           infrastructure shall be imprisoned with or without hard labor for not more than five  
20           years, fined not more than one thousand dollars or imprisoned with or without hard  
21           labor for not more than six years, or both.

\* \* \*

## 23 §61.1. Criminal damage to a critical infrastructure

A. Criminal damage to a critical infrastructure is the intentional damaging  
of a critical infrastructure as defined in R.S. 14:61.

B. Any person who commits the crime of criminal damage to a critical infrastructure shall be imprisoned with or without hard labor for not less than one year nor more than fifteen years, fined not more than ten thousand dollars, or both.

HLS 18RS-1314

**ORIGINAL**

HB NO. 727

1           C. Any person who commits the crime of criminal damage to a critical  
2           infrastructure wherein it is foreseeable that human life will be threatened or  
3           operations of a critical infrastructure will be disrupted as a result of such conduct  
4           shall be imprisoned at hard labor for not less than six years nor more than twenty  
5           years, fined not more than twenty-five thousand dollars, or both.

6           D. Any person convicted under the provisions of this Section may be  
7           assessed court costs and the costs of investigation and prosecution reasonably  
8           incurred. The funds received for the costs of investigation shall be remitted to the  
9           law enforcement agency conducting such investigation.

10          E. In addition to the penalties provided by the provisions of this Section, a  
11          person convicted under the provisions of this Section may be ordered to make full  
12          restitution to the owner of the property. If a person ordered to make restitution is  
13          found to be indigent and therefore unable to make restitution in full at the time of  
14          conviction, the court shall order a periodic payment plan consistent with the person's  
15          ability to pay.

16          §61.2. Conspiracy to engage in unauthorized entry of a critical infrastructure or to  
17          engage in criminal damage to a critical infrastructure

18          A. If two or more persons conspire to violate R.S. 14:61, each person shall  
19          be imprisoned with or without hard labor for not more than five years, fined not more  
20          than ten thousand dollars, or both.

21          B. Except as provided in Subsection C of this Section, if two or more  
22          persons conspire to violate R.S. 14:61.1, each person shall be imprisoned with or  
23          without hard labor for not less than one year nor more than fifteen years, fined not  
24          more than one hundred thousand dollars, or both.

25          C. If two or more persons conspire to violate R.S. 14:61.1 wherein it is  
26          foreseeable that human life will be threatened or operations of a critical  
27          infrastructure will be disrupted as a result of such conduct, each person shall be  
28          imprisoned at hard labor for not less than six years nor more than twenty years, fined  
29          not more than two hundred fifty thousand dollars, or both.

HLS 18RS-1314

**ORIGINAL**  
HB NO. 727

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 727 Original

2018 Regular Session

Thibaut

**Abstract:** Amends the crime of unauthorized entry of a critical infrastructure and creates the crime of criminal damage to a critical infrastructure and the crime of conspiracy to commit either of these offenses.

Present law provides for the crime of unauthorized entry of a critical infrastructure and defines critical infrastructure as any chemical manufacturing facility, refinery, electrical power generating facility, electrical transmission substation and distribution substation, water intake structure and water treatment facility, natural gas transmission compressor station, liquified natural gas (LNG) terminal and storage facility, natural gas and hydrocarbon storage facility, and transportation facility, such as ports, railroad switching yards, and trucking terminals.

Proposed law amends the present law definition of "critical infrastructure" to do both of the following:

- (1) Include any and all structures, equipment, or other immovable or movable property located within or upon such facilities, including any site where the construction or improvement of any such facility or structure is occurring.
- (2) Include "pipeline" which is defined by proposed law to mean flow, transmission, distribution, or gathering lines, regardless of size or length, which transmit or transport oil, gas, petrochemicals, minerals, or water in a solid, liquid, or gaseous state.

Present law provides that whoever commits the crime of unauthorized entry of a critical infrastructure shall be fined not more than \$1,000 or imprisoned with or without hard labor for not more than six years, or both.

Proposed law amends the present law penalties to provide that such persons shall be imprisoned with or without hard labor for not more than five years, fined not more than \$1,000, or both.

Proposed law creates the crime of criminal damage to a critical infrastructure and defines it as the intentional damaging of a critical infrastructure as defined by present law. Further provides for the following penalties:

- (1) Imprisonment with or without hard labor for not less than one year nor more than 15 years, a fine of not more than \$10,000, or both.
- (2) If it is foreseeable that human life will be threatened or operations of a critical infrastructure will be disrupted as a result of the conduct - imprisonment at hard labor for not less than six years nor more than 20 years, a fine of not more than \$25,000, or both.

Proposed law provides that any person convicted of this offense may be assessed court costs and the costs of investigation and prosecution reasonably incurred, with the funds received for the costs of investigation being remitted to the law enforcement agency conducting the investigation.

HLS 18RS-1314

**ORIGINAL**  
HB NO. 727

Proposed law authorizes the court to order that the person make full restitution to the owner of the property either by payment in full or under a periodic payment plan consistent with the person's ability to pay.

Proposed law creates the crime of conspiracy to engage in unauthorized entry of a critical infrastructure or to engage in criminal damage to a critical infrastructure, and provides for the following penalties:

- (1) If two or more persons conspire to commit the crime of unauthorized entry of a critical infrastructure, each person shall be imprisoned with or without hard labor for not more than five years, fined not more than \$10,000, or both.
- (2) If two or more persons conspire to commit criminal damage to a critical infrastructure, each person shall be imprisoned with or without hard labor for not less than one year nor more than 15 years, fined not more than \$100,000, or both.
- (3) If two or more persons conspire to commit criminal damage to a critical infrastructure wherein it is foreseeable that human life will be threatened or operations of a critical infrastructure will be disrupted as a result of such conduct, each person shall be imprisoned at hard labor for not less than six years nor more than 20 years, fined not more than \$250,000, or both.

(Amends R.S. 14:61(B)(1) and (C); Adds R.S. 14:61(B)(3), 61.1, and 61.2)



**Senate Judiciary C - Hearing on HB 727**  
**April 24, 2018**

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1 [Starting at 2:10 mark of session footage]

2 **Chairman:** Do we have any house member that has an easy one? Thibaut, yes,  
3 let's get going with it. Let's go ahead and go. House Bill 727. Have a seat  
4 gentleman. House Bill 727.

5 [background conversation]

6 **Chairman:** As you get yourself comfortable there, House Bill 140 by one of your  
7 newer reps, this Leger person, has asked that it be deferred for one week, so 140  
8 will be deferred for one week. He does have a couple of other bills in the mix. Just  
9 before we get going on this, is there somebody here that's supposed to be  
10 presenting Leger's bills for him? We'll look into that. Just I know when we're done  
11 with you guys, they'll be some group of people getting up to leave, but we still have  
12 184, we have the Stefanski Marina Bill as it relates to the theft of goods form a  
13 merchant. Okay, Leger and Hiltferty.

14 It looks like former representative, current Senator Perry will handle those when they  
15 come up after this particular bill. House Bill 727, the author pioneer is  
16 Representative Thibaut. What's the bill do, why do we need it?

17 **Thibaut:** Thank you, Mr. Chairman. Good morning, members. House Bill 727  
18 amends the statute that deals with critical infrastructure. Critical infrastructure in the  
19 state of Louisiana are things like refineries, our porch railways, LNG plants. What  
20 this law does is it gives our law enforcement agencies a legal framework to protect  
21 Louisiana citizens, jobs, and that infrastructure. Similar law was passed in Oklahoma  
22 last year and various other states are looking at it. I want to just address a few things  
23 in my opening. This bill does nothing to impact the ability to peacefully protest. It  
24 only comes into play when there is damage to that critical infrastructure, so if you  
25 don't damage anything, this law does not apply.



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1 In Louisiana, we have over 50,000 miles of pipelines. Many of those pipelines go  
2 through your districts, some in your backyards. A lot of Louisiana folks are employed  
3 by pipelines, we live by them. We all know they carry fuel and other sorts of things.  
4 It's important that we protect those pipelines.

5 **Chairman:** Representative Dwight, you want to--?

6 **Dwight:** Thank you, Mr. Chair and committee. As Representative Thibaut said,  
7 there's a right way and there's a wrong way and that's what this bill is attempting to  
8 address is those that protest the wrong way. We in no way want to inhibit anyone  
9 from doing a peaceful protest and doing it the correct way. That's not our intent,  
10 that's never been the intent. This is for those that choose to do it the wrong way.  
11 We're simply adding pipelines to the critical infrastructure language in the bill. I'll be  
12 happy to answer any questions.

13 **Chairman:** All right, the gentleman on the right, go ahead and introduce yourself  
14 then we're going to take some questions from them. Go ahead.

15 **Tyler Gray:** My name is Tyler Gray. I'm the general counsel for the Louisiana Mid-  
16 Continent Oil and Gas Association. I'm here to provide information and answer any  
17 questions that come up in a legal nature or any other things like that.

18 **Chairman:** Just for the audience members, can you hear this, the folks that are  
19 regulars here, but I'm going to repeat it which our members have lots of other places  
20 where they have to be at one time. It's not a lack of interest in your bill or what you  
21 have to say, but sometimes they have to be in other areas pertaining their own bills  
22 and issues of that sort. Sometimes they're in one of the any rooms paying attention  
23 to what's going on. If they are in another area making a presentation, they're looking  
24 at it on their phone and listening to it in the process. Don't assume that there's a lack  
25 of interest based on where they are.



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1 Okay, sure. All right. We have a couple of questions and there's also a proposed  
2 amendment from Senator Carter. I'm going to take the first round of questions and  
3 then we'll address your amendments.

4 **Carter:** I spoke with the chairman already and the chairman has supported it. Sorry,-

5 **Chairman:** The author?

6 **Carter:** - the author not the chairman.

7 **Chairman:** The same thing sometimes.

8 **Carter:** Exactly [laughs].

9 **Chairman:** All right, Senator White.

10 **White:** On page two, I think some of this language are recently put in years back on  
11 critical infrastructures. We're adding pipelines on page two line 12. That's what we're  
12 doing right there. Then we're putting in a definition on line 15, and then we're putting  
13 in a penalty on line 19.

14 **Thibaut:** Correct.

15 **White:** Then we're going into criminal damage to critical infrastructures. In that on  
16 line 24 we have the intentional damaging, right?

17 **Thibaut:** Correct.

18 **White:** Then you have a penalty for that intentional criminal damage below that on  
19 B, right? I'm just trying to break it down in changes. Then it goes on to the penalty in  
20 C. Then you have a restitution section in D. I don't mean to explain your bill, but I'm  
21 just picking up where it's adding and changing somethings to existing all right.

22 **Thibaut:** Correct.



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1   **White:** Then you have line 11 on page three, you had the conspiracy of two or more  
2   persons?

3   **Thibaut:** Correct.

4   **White:** If you conspire to do the damage. Okay, that's basically it. I see the  
5   difference here. You're just adding some things. If you have conspiracy and you  
6   have the intent to damage the infrastructure, it would include all the infrastructure,  
7   but we're adding pipelines as a critical infrastructure.

8   **Thibaut:** Those apply to all the different critical infrastructures.

9   **White:** Right. Okay, I understand, thank you.

10   **Chairman:** Thank you, Senator White. I never can be sure in this committee  
11   whether or not there's been good communication with the authors on amendments,  
12   but you've seen the amendment that's being offered by Senator Carter for page  
13   three.

14   **White:** I did.

15   **Chairman:** What the amendment does on page three between lines seven and  
16   eight, I would like to go ahead and bring the amendment up and put it on given that  
17   the author has no objection to it. Do the members have the amendment before you?

18   **Speaker 1:** I don't think so.

19   **Speaker 2:** No.

20   **Chairman:** Okay, they'll pass it out. As it's being passed out, what it does is it says  
21   that this section shall not be applied as to prohibit picketing public demonstration  
22   and similar forms of expressing ideas or views regarding legitimate matters of public



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1 interest protected by the United States Constitution, the Constitution of Louisiana.  
2 You're not looking to chill free speech.

3 **Thibaut:** Not at all. I'm fine with the amendment. Legitimate matter might be kind of  
4 broad, but I guess we could work on that if it seems to be a problem, but I  
5 understand what he's getting at. No, we're not trying to squash anybody's free  
6 speech here.

7 **Chairman:** I think what he's saying on the legitimate matters of public matters is  
8 there's some test in the Supreme Court on what type of speech is considered free  
9 speech and not. I don't think we're going to get into a huge long discussion on that.

10 **White:** It wouldn't prohibit gathering and protest on public property about an issue or  
11 a pipeline or a refinery or a chemical plant or a nuclear plant if they wanted to.

12 **Thibaut:** Correct.

13 **White:** This amendment wouldn't prohibit that.

14 **Thibaut:** This bill only deals with criminal damage to that critical infrastructure, so  
15 the intent-

16 **White:** Or that language.

17 **Thibaut:** - doesn't prohibit anything.

18 **Chairman:** Senator White.

19 **White:** I think that's all.

20 **Chairman:** Senator Mills and then we're going to have Senator Perry.

21 **Sen Mills:** Thank you, Mr Chairman. On page two line 18, it says whoever commits  
22 the crime of unauthorized entry of a critical infrastructure. If you just look at the



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1 Atchafalaya Basin, there's so many pipelines that are all over the place. There's so  
2 many that are even exposed. What's the intent of that section of law? Knowing that  
3 there's agricultural portions, tell me what you're trying to get to.

4 **Chairman:** In his question, well, inherited in that is how do you know when you're  
5 trespassing?

6 **Mills:** That's what I'm trying to get to.

7 **Gray:** That piece of the law is actually from 2015 that's already currently in law. The  
8 unauthorized entry, the way that we were able to establish exactly what you're  
9 looking at, which is where's that fine line between being on public property and  
10 private property, and there are two pieces to that. If there is a physical barrier and  
11 the infrastructure is completely enclosed and you are trespassing, you are in  
12 violation of the law. The other one is if there is not a complete enclosure but you are  
13 asked to leave the property, then you have an intent to remain, so there are two  
14 different tests.

15 Either the property is completely enclosed or if you're talking about a situation with a  
16 pipeline, you would have to be told by the property owner that they need to leave  
17 from that private property and you remain, at that point, you would be trespassing.  
18 That's how they differentiate between the two.

19 **Chairman:** You said property owner, but the property owner may have given a  
20 usufruct. Are you talking about the person with the usufruct or are you talking about  
21 the property owner?

22 **Gray:** It depends on that relationship on the lease. It would have to pact.

23 **Mills:** What about state-owned property?

24 **Gray:** That would be the determination of the state if they told them to leave.



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1   **Mills:** Your definition of unauthorized entry, that's because of critical infrastructure?  
2   That's the point that you say is a present law critical infrastructure piece?

3   **Gray:** Right, critical infrastructures, so when you're talking about state law-- I'm  
4   sorry, what I should of said is this is only critical infrastructure, so when you're  
5   talking about state water bottoms and all that kind of stuff in state law, this doesn't  
6   even apply to that. This is only critical infrastructure that is determined under this  
7   definition, you were asked to leave, it is not enclosed and you remain, you're in  
8   violation of this law. Very narrow. That's the only situation it applies.

9   **Mills:** It's a pretty broad though what are pipelines in Louisiana? Pipeline can be  
10   agriculture, it can could affect hunters, it could affect anything. Are you talking about  
11   all pipelines now are considered critical infrastructure?

12   **Gray:** Yes.

13   **Mills:** Okay, thank you.

14   **Chairman:** All right, just a little follow up on that for my edification as well. I have a  
15   piece of property, I'm a farmer and I got a pipeline going through my property. Given  
16   the usufruct or maybe the state or somebody else's taking it through eminent domain  
17   and says that it's going through, who has the right to tell the people to get off the  
18   pipeline?

19   **Gray:** This is something we're actually working to define through the Sheriffs  
20   Association. Current law is that it would have to be the property owner unless it's  
21   detailed in the lease. It's really a fact by fact situation in which you go through that.  
22   Based on what you're describing, whether it's a usufruct or the naked owner, the  
23   landowner, the leaseholder it depends on what that relationship is between the  
24   property owner. Now this is only with a pipeline because all the critical infrastructure  
25   would end up being fully enclosed.



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1   **Chairman:** There's no way we can fully enclose 60,000 miles of pipeline.

2   **Gray:** Correct.

3   **Chairman:** What I'm hearing is for now it's a case by case basis where I'm the  
4   farmer and I like the idea of the pipeline coming through my property, I like the idea  
5   of making my neighbors in the north warm in the winter, and safely getting product  
6   into the refineries. I can tell folks that were unhappy with that, "Don't come on my  
7   property." Maybe, I don't know, Marathon wouldn't be in the position to say that  
8   unless it's nuance through what the actual lease or the manner in which they got it.  
9   All right, so it would require some cooperation with the property owner.

10   **Gray:** Correct.

11   **Chairman:** I sometimes worry about the usufruct folks having command over the  
12   peoples' property that if granted the usufruct. I don't they necessarily ever thought  
13   they were giving up all the rights that they have to their property. Do you see that  
14   being an issue?

15   **Gray:** The naked owner, where if you've granted a usufruct, then the naked owner  
16   would have the right to alienate, so the usufruct, if it's not defined in that relationship  
17   in the lease or whatever that usufruct is granted, then it would defer back to the  
18   naked owner under property law, but they would have to be detailed. It'd be a case  
19   by case basis in that situation. coming all the way back to the actual situation with  
20   the farmer and what happens, I want to make sure it's clear that if there were ever  
21   any unintentional damage, then this law would not apply.

22   This law only applies in a very narrow situation, critical infrastructure, it has to fall  
23   within the definition. There must be a damage for anything in this thing to be  
24   triggered. I want to just make sure that that point is clear when we're looking at this.



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1   **Chairman:** All right, I'm looking if we have other questions in here, but one of the  
2   thing that sort of jumps out at me on this and maybe there are others in your group  
3   that can answer this better, maybe not, I don't know, but we have conspiracy on the  
4   books in Louisiana and I rarely see it used in any particular instance. We already  
5   have conspiracies, so why do we need the section starting on page three that deals  
6   with conspiracy when we already have it?

7   **Gray:** The primary reason to have it in this place is the way current conspiracy law is  
8   written, we didn't want it to be triggered without a damage, so it's important that you  
9   cannot violate this statute unless conspiracy results in someone acting in  
10   furtherance of that conspiracy to actual damage the critical infrastructure.

11   **Chairman:** Where is that in there?

12   **Gray:** The conspiracy is 14 proposed 61.2.

13   **Chairman:** I get that, but where does the damage part come in?

14   **Gray:** In order to be convicted of a conspiracy, you have a meeting of the minds.

15   **Chairman:** Yes, the overt act.

16   **Gray:** You have to have an overt act in furtherance of that conspiracy. In this case,  
17   it's referring to this particular law so it would have to be a damage. It would have to  
18   be a violation of the critical infrastructure.

19   **Chairman:** All right, so you're saying I couldn't just have the agreement to do it and  
20   that the overt act actually has to be damage as opposed to going to get my  
21   explosives, I guess.

22   **Gray:** Right, it has to be intentional damage, it's not an inadvertent damage. There  
23   has to be intent in this law too.



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1   **Chairman:** All right, but the mere agreement to create the damage which is what I  
2   see in federal court all the time on these conspiracies, nothing's happened but  
3   there's been an agreement and they get hooked up on that. That part concerns me  
4   as far as what's the duplicitous part of the conspiracy? My original thought on it was  
5   that the reason that you had your own conspiracy section in there was it related to  
6   the penalties. How do the penalties related to the ordinary conspiracy penalties?

7   **Gray:** These penalties are greater than ordinary conspiracy penalties.

8   **Chairman:** Okay, and the ordinary conspiracy penalties are just tagged to whatever  
9   the underlying crime is.

10   **Gray:** Correct.

11   **Chairman:** All right, Senator Perry. Thank you for answering my questions. Senator  
12   Perry.

13   **Perry:** Thank you, Mr Chairman. What was the initial reasoning for creating a new  
14   statue as opposed to taking the language here and just amending it under  
15   aggravated criminal damage to property? I understand the intent, I get that, but just  
16   why not?

17   **Gray:** Louisiana has a lot of critical infrastructure. If you look at a map of the Gulf  
18   Coast between Louisiana and Southeast Texas, we provide a lot of products to the  
19   entire East Coast all the way to New York City. As part of that, we were paying  
20   attention to what goes on in other states. Oklahoma passed a law to protect their  
21   critical infrastructure. When that happened, we evaluated Louisiana statutes. We  
22   spent a lot of time with former US attorney, Walt Green. If you're not familiar with  
23   him, he spent over 20 years in the justice department prosecuting federal crimes  
24   and he spent time in the DA's office.



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1 We felt that he was someone that we could go to, analyze the way current law was,  
2 and establish a framework that could be utilized here in the state to protect that  
3 infrastructure and look at it from a federal perspective and make sure that they all  
4 work together. From that, we went to analyze what was current law. We found that in  
5 2017, during the criminal justice reform that, inadvertently, there was a piece by  
6 reference removed dealing with criminal damage. As part of that, we got together  
7 with former US attorney Walt green. We analyzed the law and determined that we  
8 were not in line with the current US statutory code which is Federal Law 18 USCA  
9 1366 which relates to destruction of an energy facility.

10 These penalties that are in this proposed bill, House Bill 727, are still significantly  
11 less than what that energy facility destruction you would be liable for. Because of the  
12 difference nuances between intrastate definitions to dealing with this stuff, we  
13 wanted to make sure that we had something inline even if it was lesser than what  
14 the federal government had. In this way, we also did not have to wait on the federal  
15 government here in Louisiana with so much infrastructure here. In analyzing that  
16 entire scope, we determined that we did not have the protections that we needed in  
17 this state, and that's why we came out with this. In concert, the whole time we made  
18 sure that we did not infringe on any constitutional rights.

19 There's no intent, no desire to infringe on free speech. This is about criminal  
20 disobedience, not civil disobedience.

21 **Perry:** That's one of the things I'm going to be interested to hear because I don't see  
22 anything in here that infringes on first amendment rights at all. That would be  
23 interesting to be able to hear their comments on that. Thank you, Mr Chairman.

24 **Chairman:** Senator White, do you mind if we accept the amendment before I call on  
25 you?

26 **White:** Sure.



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1   **Chairman:** Senator Carter has offered amendment 3083 that goes on page three  
2   between lines seven and eight. Senator Carter, do you have any additional  
3   information on that?

4   **Carter:** I just want to make a statement that the amendment and I think the  
5   chairman has already read it, but just for the public, what the amendment does is in  
6   an abundance of caution is to make sure that a person or persons wishing to  
7   peacefully protest that there is nothing in this bill real or perceived that will prevent or  
8   prohibit them from having a peaceful protest. This is kind of a belt and suspenders  
9   just to make sure that, in an abundance of caution, that we cover those things.

10   **Chairman:** All right, Senator Carter has offered amendment 3083. Is there any  
11   objection to 3083? There are five members present, no objection. Amendment 3083  
12   will be adopted. Senator White.

13   **White:** I think most of my questions are answered. I've listened and I think this is  
14   basically just expanding the conspiracy part of it to all infrastructure. I think with the  
15   amendment it doesn't prohibit anyone from exercising their rights to demonstrate or  
16   be vocalized in one of these sites especially if you're on public property. It would  
17   probably prohibit me from coming on private property, but I think public property  
18   rights are still available here. Demonstrations and your opinions and free speech, I  
19   don't see where it's stopping that.

20   **Thibaut:** That's not our intent.

21   **Chairman:** Thank you, Senator White. I'm going to read the green cards. There's a  
22   lot of green cards, and we have some red cards, and we have some white cards.  
23   These are the green in support of cards. Not wishing to speak, Gerald Faulk, New  
24   Iberia. Nic Walts of Cheniere Energy. Carmack Blackmon, Louisiana Railroad.  
25   Lauren Shovan, Jeff Kapotski, Stephenie Cargill, Megan Manchester, Jonna



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1 Lyleson, Gifford Briggs, Fred Palmer, George Gedry, Robert Balen, Sara Rodes,  
2 Neil Buckingham, I've got him off the bench in here. Tommy Williams.

3 [laughter]

4 **Chairman:** Rondy Braxton, Kevin Hays, Liz Mangum, Bryan Farenthold, Rob  
5 Landry, Adam Haddox, Chet Chason, Darren Bovard, Laura Ferrel, Ray Wilhelm,  
6 Matthew Manning, Levil Edmonson, Phillip Fraser, Jody Montelaro, Jacob Sexton,  
7 Thomas Hornsak, Jeremy Gibson, Ben Bennett, Ecko Rodrigue, John Vikneir, Kim  
8 Jaykabear, Craig Shiro, Mr. Williams, Mr. Coons, Mr. Varnido. Mr. Badier, Mr.  
9 Haden, Mr. Mitchell, Mr. Hartman with Phillips. Johnny M Parker, Ronna Harang,  
10 Matthew Harole, Emily Rockwell, Randall Womack, Gary Meyers, Mr. Martin, Elisha  
11 Duhon, Casey Benard, Paul Hudson, John Eric, Josh Brell, John Walters.

12 Two more green cards. One didn't check anything as far as what their position was.  
13 Graham Pickering with Marathon Petroleum, do you wish to speak? Then Madam  
14 President will provide information if requested. Tyler Gray, Mid-continent who's done  
15 that and he's turned in a green card instead of a white card which I appreciate it. I  
16 always find it odd when somebody turns in a white card but it sounds as though  
17 they're opposing or supporting. I appreciate that. We have a Julie Cherry with  
18 Louisiana AFL-CIO, do you want to provide information?

19 **Julie Cherry:** I think most of my concerns have been addressed. I did have a couple  
20 of concerns. I'm not here in opposition.

21 **Chairman:** All right. Before we bring up the opponents, I want to present an  
22 amendment for the committee to consider as well. It's been the practice of this  
23 committee for a while to try to steer away from mandatory minimum sentences. In  
24 this bill on page two line 27, line 28, there's a mandatory minimum of one year for  
25 criminal damage to infrastructure. Then when you go over to the next page on part



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1 C, once foreseeable that human life will be threatened or operations of criminal or  
2 the critical infrastructure will be disrupted, there's a mandatory minimum of six years.

3 The amendment seeks to eliminate both of those mandatory minimums. It doesn't do  
4 anything to the cap, it just eliminates the mandatory minimum. Those certainly are  
5 aspects of the amendment 3098, but the bigger aspect of the amendment is that it  
6 eliminates the conspiracy section beginning at page two line nine to the end of the  
7 conspiracy section. That the chair believes that the conspiracy portion is not  
8 necessary but the members may believe otherwise, but that's what the amendment  
9 does. It eliminates the conspiracy section and then I believe that's already the law on  
10 any of it.

11 The speaker indicated that one of the things is that it alters the penalty that would  
12 ordinarily apply under ordinary conspiracy theory. That's what the amendment does.  
13 I want to give you guys an opportunity to comment on it, so go ahead and offer any  
14 comments that you might have on it as the members digest it. The mandatory  
15 minimums, I don't think there's a whole lot of opposition to that. We've tried to steer  
16 away from that, but on the conspiracy, is it duplicitous or not? If it's not duplicitous or  
17 is it gives it an elevated penalty.

18 I'm just trying to make sure everyone has an opportunity to digest it. Do you have  
19 any comment on it?

20 **Speaker 3:** I sure don't.

21 **Speaker 4:** I think we should just amend it.

22 **Thibaut:** We're kind of in your all's playground. I guess the conspiracy part is not  
23 triggered unless there's damage to that critical infrastructure.



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1   **Chairman:** I don't read it that way. I know that may be the intent, but that's not the  
2   way I read it. I'm not saying you guys are purposely misleading us either, it's just a  
3   difference of opinion. Senator White has a question.

4   **White:** I just wanted to ask staff if these amendments were separable.

5   **Chairman:** Sure, we can divide them. If you want to vote on them separately we can  
6   do that.

7   **White:** I would make a notion that we vote on one through 10 on the mandatory and  
8   then on the conspiracy number 11, we vote on it separately.

9   **Chairman:** All right.

10   Author, everything to say about that or you need a second?

11   **Speaker 5:** No, that's fine.

12   **Chair:** We'll vote on amendments one through 10.

13   **White:** Order 1 through 10 is technical, take that out. That's okay, they understand.

14   **Chair:** The chair is going to state what amendments 1 through 10 do. 1 through 10  
15   eliminate the mandatory minimum that you see on page two for one year and on  
16   page three for six years. Authors have indicated that they don't have any real issue  
17   with those. The chair will make the motion to adopt 30, 98 amendments 1 through  
18   10, is there any objection? There's no objection on amendment 1 through 10.  
19   Amendment number 11, Senator White I expect has an objection to amendment  
20   number 11.

21   **White:** Yes, and if we're setting it up to a matter of federal law, do they have  
22   conspiracy in federal law?

23   **Gray:** They do.

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1   **White:** That's what I thought. I think the conspiracy is a lot more important, not for  
2   some folks that may be in this audience that just want to protest or have a peaceful  
3   protest, but if it would be terrorists that were organized and conspiring to blow up  
4   one of our infrastructures, that maybe in some cases kill many people. Because if  
5   you blow up some of these operating refineries or camp plants, a big section of it,  
6   you may kill hundreds of people with that one explosion, and for that reason, I  
7   objected the conspiracy being removed.

8   **Chair:** I appreciate Senator White's point of view. I would say that it would be  
9   covered by other charges that would apply and I think conspiracy can still be  
10   charged without this, but the chair has made a motion that we adopt amendment  
11   number 11 of 3098 to which Senator White has made an objection. We'll call a vote  
12   on amendment number 11.

13   A yay process amendment number 11, a no-- Senator White does not want  
14   amendment 11 to pass, so he opposes amendment number 11.

15   **White:** The conspiracy part.

16   **Chair:** A yes would be in favor of opposing the amendment. You want to keep the  
17   conspiracy portion within the bill if you vote yes, if you vote no, there will be another  
18   vote.

19   **Berra:** Senator Claitor?

20   **Claire:** No.

21   **Berra:** No. Senator Perry?

22   **Perry:** Yes.

23   **Berra:** Yes. Senator carter?



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1   **Carter:** No.

2   **Berra:** No. Senator Lewis?

3   **Lewis:** No

4   **Berra:** No. Senator White?

5   **White:** Yes.

6   **Berra:** Yes. Three yays and three nays.

7   **Chair:** The motion fails. The chair now renews the motion to report amendment  
8   number 11 favorably to which Senator White- do you have an objection Senator  
9   White? Would you like to vote again?

10   **Senator White:** No.

11   **Chair:** There's no opposition to amendment number 11. Amendment number 11  
12   would be adopted. We go from the opponents now. Thank you, gentlemen. On the  
13   opponents, we have a lot red cards and it looks like every one of them are almost  
14   flecked as far as which to speak. We're going to read those that do not wish speak  
15   first that oppose it. Ann Rose, Louisiana Bucket Brigade. Jenna Shoket doesn't wish  
16   to speak but opposes. Catherine Worskim, Ms. Worskim doesn't wish to speak, I'm  
17   going to frame that one, good to have you. Jonathan Anderson does not wish to  
18   speak but opposes. Ricky Veered does not wish to speak but opposes.

19   All right, we have one, two, three, four, five, six, seven, eight, nine, ten, eleven,  
20   twelve in opposition wishing to speak. Senator Berra previous has made the motion  
21   to limit the speaking time to five minutes. I'm not going to deny anybody the  
22   opportunity to speak that has made the script here, but at the same time, I would ask  
23   that you to not be repetitive.



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1 The first group, William Quigley, Loyola University. Mr. Quigley. Let's see here, Jody  
2 Meche if would you come forward. **[pause 00:35:00]** Annet O'Connor if you would  
3 come forward. I have Ms. Paskomis and I have a good relationship, I'm sorry if I hurt  
4 your feeling.

5 When we were talking about people that are sensitive up here from time to time, she  
6 has always advocate for what she believes in. We are going to go left to right and I  
7 know in some instances it's difficult to be brief on longer subjects. Go ahead, Mr.  
8 Quigley.

9 **Quigley:** Thank you.

10 **Chair:** I'm sorry, go ahead and pass it out. Mr. Quigley has previously provided us  
11 with writing from the Loyola University Clinic. I got inbox a while ago but we want to  
12 make sure that all the members of the committee have it and, We also have  
13 something from Mr. Mich, okay? Thank you. Mr. Quigley.

14 **Quigley:** I thank the committee and I thank you for the actions you've already taken  
15 which have addressed a couple of very serious concerns in terms of the first  
16 amendment implication of this and the conspiracy issues. I do think however, there's  
17 still remain some constitutional issues with this bill as its drafted, not under the first  
18 amendment but under the 5th and 14th amendment where the due process requires  
19 that criminal laws give very specific and clear instructions about what is legal and  
20 what is not legal.

21 As the questions that have already been raised to the proponents indicate, when  
22 you're talking about access to pipeline in a state that is interlaced with pipeline, that  
23 some are on private property, some are on public property and alike, then the issues  
24 of property ownership, as the chair pointed out, use of fraud and alike. We don't  
25 have as much problem with the issue of trespass, but the issue of damage and that I  
26 think we had characterized it as a hyper or super criminalizing the people who were



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1 protesting the pipelines. I do think a couple of your amendment have addressed  
2 that.

3 I would point out that a very similar bill was just beetled last month by the  
4 Republican governor of Wyoming. Wyoming doesn't take second place to anybody  
5 in terms of their use of natural resources either. They told that because it's poorly  
6 drafted and had unintended consequences. I think even the law as it's currently  
7 amended, it's not really clear who the law is focused on and exactly what conduct is  
8 focused upon. If in fact, people are protesting, as we've had a number of protest  
9 already in the state, some are on private property with the permission of the private  
10 property owner, and some are on public property.

11 In some cases, law enforcement says you can be there and you have to go out to  
12 the roadway. Others they say, well, if the private property owner allows you there,  
13 then you can be there. Where then the pipeline people say we have an easement  
14 here and we are saying that you can't be on the property at all. I think there's, in  
15 terms of this Senator White's concern about terrorism, I think that we have plenty of  
16 laws about terrorism and clearly we're not talking about that. We do talk about the  
17 need and the constitutional need to prevent vagueness and overbreadth. Those are  
18 the two concepts that we pointed up in the paper and I think others have pointed out.

19 Is it clear-- Excuse me. Is it clear in this law as it stands right now what conduct is  
20 legal and what is not? I would say that it is not because of the vagueness and over  
21 breath of the thing. I do really want to congratulate the committee on eliminating the  
22 conspiracy. There are 321 decisions in Westlaw in Louisiana on conspiracy and I  
23 think bringing us to that area in a new statute would unnecessarily complicate us.  
24 We do still think that there's some question about the intentional nature of this  
25 singling up pipeline protests. It's very clear that these things were launched after the  
26 protest at Standing Rock and other places. The history of the bill as it was brought  
27 up by its component, omit the fact that the American legislative exchange council  
28 drafted a model bill and it has been tried to be introduced in a number of states.

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1 To my knowledge, there have not yet been any decisions or whether it's  
2 constitutional or not. I think that there certainly will be challenges to that and I think  
3 that whether that's tried to be enforced on the local level or it's just challenged on its  
4 phase on the state level. The state is looking at considerable exposure financially in  
5 terms of the constitutionality of the action.

6 **Chairman:** All right, thank you, Mr. Quigley. Who's Law Clinic named after?

7 **Quigley:** We have a Gillis Long Poverty Law Center.

8 **Chairman:** I'm working toward Jack Nelson. That's the name I want to hear.

9 **Quigley:** John P Jack Nelson is my predecessor at the Loyola Law Clinic and I had  
10 the good fortune of clerking for him in law school. He's been a long time great honor  
11 in our community.

12 **Chairman:** I just wanted to bring up Jack Nelson's name, he's about the greatest  
13 lawyer you never heard of. Do some research on that guy sometime where he gave  
14 up a very, very promising career in the law to do what he thought was right. We  
15 passed a resolution yesterday honoring him and there's not much of his family left,  
16 but I did want to point that out.

17 **Quigley:** Thank you very much.

18 **Chairman:** I have all the respect in the world for your predecessor and appreciate  
19 your discussion. Senator Mills.

20 **Mills:** Thank you, Mr. Chairman. I'm going to give you a test from me, from a legal  
21 expertise, say there was the pipeline or the equipment or the pipeline or there was  
22 some destruction that took place from criminal activity, is there remedy with the court  
23 right now?



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1   **Quigley:** Absolutely. If somebody actually damages property, we have a whole host  
2   of laws for trespass, arson, damage to property, criminal damage to property,  
3   conspiracy, all those other things. Those laws apply to anybody who damages  
4   anybody else's property. It was clear from the proponents that they're trying to carve  
5   out a special place that if you damage pipeline property or pipelines or anything  
6   having to do with that, they want enhanced protection that is unavailable to  
7   everybody else in the State of Louisiana. No, we have plenty of laws that a  
8   prosecutor's use routinely and certainly know how to do in this circumstances as  
9   well.

10   **Mills:** Enhanced protections not usually the norm in this type of situation.

11   **Quigley:** No, this is clearly this industry particularly lead at this time by the pipeline  
12   industry is asking for a special protections. They're asking for a special pleading,  
13   special consideration that they think their property is a lot more valuable than your  
14   property or my property or properties of other businesses in our state.

15   **Mills:** Thank you.

16   **Chairman:** Senator Carter.

17   **Carter:** I don't know who might answer this, but perhaps you can, how will this  
18   potentially impact other navigable waters.

19   **Chair:** You go ahead.

20   **Quigley:** You go ahead. Do you want to start?

21   **Chair:** You're the legal head here, go ahead.

22   **Quigley:** [laughs] You're the legal escort, but this is the man on the navigable  
23   waters. Why don't you go ahead of him?



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1   **Chairman:** All right, so Senator Carter is going to defer his question for a moment.  
2   Sir, introduce yourself.

3   **Jody Meche:** My name is Jody Meche and I'm the president of the Louisiana  
4   Crawfish Producers Association West. I represent just shy of 500 members. We  
5   mainly make our living in their Atchafalaya Basin fishing crawfish and fish.  
6   Atchafalaya Basin for a recreational fishing and providing sustenance for our  
7   families. Nobody talked about the navigable waters and I and members of our  
8   organization, that's where we operate in the navigable water of the United States.  
9   We launch our boats at the many different boats launches along the basin, and we  
10   traverse across the basin in our boats on those water bottom, then we pursue  
11   crawfishing and fish and that's how we make a living.

12   We go and catch some tons up to thousands of pounds of crawfish and bring that to  
13   the market. This year I think we're going to have beautiful crayfish because we had  
14   high water for quite some time, but it is going to be a little late this year. Anyway, we  
15   were traversing those navigable waters.

16   Historically, we had natural bayous that we would always use, but because of so  
17   many pipelines crisscrossing the Atchafalaya Basin, now there are hundreds of  
18   miles of pipelines crossing that Atchafalaya Basin, we pretty much don't use the  
19   navigable bayous that we used to use because they've captured the flow of all of  
20   these bayous and have dammed off a lot of the bayous and now we refer to, well,  
21   how are you going where you thought? I take the 16-inch pipeline. I'd go down to the  
22   30-inch pipeline or around the 21-inch pipeline or the sea boat pipeline or the Florida  
23   gas pipeline, you understand?

24   Now where everything has been dike off and dammed off, we have to traverse these  
25   pipelines which go under these our navigable waters that we make our living on.



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1 It is almost impossible for us to conduct our activities in their Atchafalaya Basin  
2 without using these pipelines. Whether you fish recreationally or you commercial fish  
3 or you just want to go out there and see what the basin has to offer. The potential  
4 we have here is we can potentially be targeted whenever we cross a pipeline or we  
5 travel within a pipeline.

6 Because of the code of engineers not having personnel in regulatory or the means  
7 to go and investigate violations on the Atchafalaya Basin, Atchafalaya Basin keeper  
8 in my organization, we have become the watchdog out there. Whenever violations  
9 are happening out there or someone reports something out there or maybe a  
10 pipeline company dammed off a natural bayou and it no longer going to provide flow  
11 for our swamp so that we can catch crawfish. Some of us have to go out and  
12 investigate that and see if there's a violation.

13 Potentially when one of my members or myself or Mr. Dean Wilson, the Atchafalaya  
14 Basin keeper director which I'm on the board, also of that board, if we go out and  
15 investigate these claims, we can potentially be targeted and thrown in jail or fined.  
16 There are issues there that we're very concerned about. It is impossible, I'm telling  
17 you here today, because of all of these pipelines crossing the Atchafalaya Basin and  
18 the elevated small banks that have been piled up when they're exposed, when the  
19 water recedes, it is pretty much impossible to traverse and fish the Atchafalaya  
20 Basin because of all these pipelines in the Atchafalaya Basin.

21 We're going to have an issue there and we can potentially be targeted. We have a  
22 problem with that.

23 **Quigley:** If I could just then finished the response to Senator Carter. The statute, the  
24 bill that's before you is not just about damage to property, it is about unauthorized  
25 entry and that is a real concern for us, damage.



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1 We have all kinds of laws about damage, but if you look at the actual words in the  
2 proposed statute, it talks about criminalizing unauthorized entry, and clearly if you  
3 unauthorized entry into a place that's fenced off, as they said before, as most of our  
4 actual power stations and those things, then there's no confusion about that, but  
5 unauthorized entry to any place having to do with any pipeline in the State of  
6 Louisiana is creating an incredible variety of places that people can unintentionally  
7 and accidentally violate this law and be subjected to that.

8 **Carter:** That's where I want to go. I mentioned early on and my amendment was to  
9 clarify that people who wanted to have peaceful protests would not be disallowed.  
10 They wouldn't have any infraction on their first amendment, but now I want to go a  
11 little bit deeper because I fully support. Here's where I kind of split the difference, I  
12 fully support the need to protect their pipelines and to make sure that there's no one  
13 whether it's a terrorist or an individual or just somebody seeking to cause harm to  
14 something as significant as our ability to transport through our pipelines. Maybe you  
15 don't have the answer to this, so we'll get the other people back to the table.

16 Where I want to see if we can find a difference is how do we do that without  
17 infringing on the rights of the crawfish fisherman or others who may accidentally  
18 unbeknown to them in the commission of doing their jobs whether it's recreationally  
19 or professionally, get caught in a trick bag of being in a position where they can be  
20 prosecuted when in fact they had absolutely zero intent to harm the pipeline? I don't  
21 know how we get there, but that I think could be as close to a win-win scenario. It  
22 certainly would gain my support if we were able to figure out how we protect that  
23 pipeline and make sure that the critical infrastructure is protected while not taking  
24 away the rights of others to use those navigable waterways.

25 **Quigley:** In the bill itself, if you look at page two on sentence 18, it says, "Whoever  
26 commits the crime of unauthorized entry of a critical infrastructure." Now that's in the  
27 current law, but what the change is being proposed is to redefine what critical  
28 infrastructure is away from power stations, away from a nuclear power plants, away  
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1 from refineries to now, a part of the critical infrastructure is any pipeline in the State  
2 of Louisiana. If we have tens of thousands of miles of pipeline, that is now, in  
3 addition to the intentional damage, the bill as it's offered does talk about intentional  
4 criminal damage, but it still does penalize unauthorized entry, unauthorized  
5 trespass, unauthorized presence around any critical infrastructure that we have  
6 which is pipeline.

7 **Mr. Meche:** That's our problem. The members of my organization, that's our  
8 problem with the bill.

9 **Quigley:** If we were to, because in my estimation - and I'll let the proponent come  
10 back and further explain this - but as I appreciate it, the principle reason for wanting  
11 it to be in the critical infrastructure space, is to protect the pipeline from willful and  
12 knowingly damaging it. It seems to me that there should be some way that we can  
13 craft, specifying that the violation is if a person is attempting to violate or damage the  
14 pipeline versus coming close to it, or traveling nearby.

15 **Phil Quigley:** Trespass. Yes, essentially--

16 **Quigley:** Let's kind of hear from everybody else and maybe we may have some  
17 amendments to kind of talk about that.

18 **Claitor:** Thank you Senator Claitor. Senator Mills, do you want to hold your  
19 question or go forward with it?

20 **Mills:** It's on that same [unintelligible 00:51:10].

21 **Claitor:** All right, Senator Mills.

22 **Mills:** I totally agree with Senator Carter. First of all, Mr. Meche, I want to thank you  
23 for being here because unlike so many people in this room that's being paid to be  
24 here today, you lost money. You couldn't crawfish.



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1   **Mr. Meche:** Sure. I should have been running crawfish [unintelligible 00:51:24]  
2   today.

3   **Mills:** That's right.

4   **Mr. Meche:** I'm just trying to catch crawfish. That's how I make my living. I'm on the  
5   town council for the town of Henderson. I'm on the Levy board. I'm vice-chairman of  
6   the Louisiana Crawfish Promotion and Research Board. I'm on the board of  
7   Directors of the Atchafalaya Basin Keeper. I get paid by catching those crawfish out  
8   at Atchafalaya Basin. I'm not getting paid to be here today.

9   **Mills:** I want to thank you. Tell me actually something, in your day-to-day function, if  
10   that part that was talked about, line 18, "Whoever commits the crime of an  
11   unauthorized entry," what does that do to a crawfisherman that's getting up everyday  
12   to work? What does that do to a hunter that wants to have accessibility to state  
13   land? Tell me what that does.

14   **Mr. Meche:** Everyday that we go out and try to make our living in the Atchafalaya  
15   Basin we could potentially be thrown in jail or fined according to how this bill reads.  
16   Everyday, because we have to traverse through or across thee pipelines. It is  
17   impossible for us to conduct our activity in the Atchafalaya Basin because there are  
18   so many of them and the way that they have been laid they go underneath our  
19   navigable waters that we fish on. We have to go through them or across them.

20   **Mills:** Because of the spoils and the height of the spoils, you probably have to do  
21   different things that mandate you get there to make your living.

22   **Mr. Meche:** No doubt about it. They block off natural sloughs and bayous. You can be  
23   traversing through the bottom running your traps and you're going to run into like this  
24   wall. It's a spall bank wall that should have been pulled back into the ride away to  
25   not disrupt the flow of water or our navigational ability. You know what I'm saying?



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1 That bayou, that slew is right across that spall bank but I can't get into it because it's  
2 damned off.

3 **Mills:** Last question. What caused the spall bank?

4 **Mr. Meche:** The dredging of the ride away when the pipes were laid. They  
5 excavated the dirt out of the water bottom and piled it up adjacent to the ride away  
6 leaving a damning effect and a navigational hazard across the Atchafalaya Basin.  
7 Almost everyone of these pipelines has it and I serve on a committee trying to  
8 address that issue of what it has done to our water quality in Atchafalaya Basin.  
9 They channel sediment into the Atchafalaya Basin, our bottoms are filling up with  
10 sand because that's what they do. We've lost areas and we pretty much have to  
11 navigate these pipelines to get to the areas that we fish.

12 **Mills:** Thank you for what you do.

13 **Mr. Meche:** Thank you all. Thank you all for having me.

14 **Claitor:** Thank you Senator Mills. Senator Perry, somebody that's also familiar with  
15 you eat what you kill.

16 **Mr. Meche:** [laughs] I don't kill them. They kill them when you boil them. I bring them  
17 alive.

18 **Perry:** Thank you, Mr. Chairman. Mr. Meche, this is one of the things that I just  
19 want to clarify on. Revised statute 14:61, which addresses unauthorized entry of a  
20 critical infrastructure. Everywhere is throughout there-- I'll call you professor?

21 **Phil:** Phil is fine.

22 **Perry:** If I misspeak correct me. I want the proponents to also do the same. When  
23 you all, as you say, traversing back and forth across, my opinion, let's say someone  
24 would get charged. My opinion as somebody who would be hired as a defense



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1 attorney, let's say, is, I don't think it falls within the example which you give because  
2 it has to be intent to be in there unauthorized. I think by just going and traversing, my  
3 opinion is, I don't think you're breaking the law. That's the first issue.

4 The second issue is, this Bill won't penalize you intentionally damage. So without the  
5 intent of the damage and without the intent of intentionally being unauthorized in that  
6 particular area, that's where I think it's getting pulled off what the Bill is.

7 **Mr. Meche:** May I address what you're saying?

8 **Perry:** Yes, sir, absolutely.

9 **Claitor:** That's the purpose.

10 **Mr. Meche:** I understand your understanding there. In all due respect, Senator  
11 Perry, you don't have a real good understanding or you may have forgotten what  
12 has been going over the last 20-25 years in the Atchafalaya Basin. I have been  
13 approached by private claimants who say the areas I fish is private property.  
14 Numerous occasions. I've been in court over it, I've been shot at for being on a water  
15 bottom frogging with my boys that I was trespassing on private property. I defeated  
16 that. I had a federal ruling saying I was on the navigable waters of the United States  
17 of America. Meche versus [inaudible 00:55:54] lake area.

18 Other fisherman have been challenged by private claimants in the Atchafalaya Basin  
19 who say that these areas are their private property and we have prevailed in court  
20 saying that it's the navigable waters of the United States of America. Any one of  
21 these claimants accuses any of us of trespassing in the area of the pipeline. The  
22 trespass law has already been modified through this legislature. The burden of proof  
23 is on the accused. So I'm guilty, I have to prove myself innocent.

24 I have to prove I'm on a navigable waters and I have to miss all my fishing and be in  
25 court while I'm doing that. That's how I make my living. We're like a farmer. When



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1 we have that window of opportunity and those crawfish are ready to be caught, at  
2 whatever time of the year it is, because we never know when the conditions are  
3 going to be right. Maybe early, maybe late. This years it's going to go late.

4 **Perry:** I'm listening.

5 **Mr. Meche:** We have that window of opportunity. It's ready, set, let's go. We got to  
6 go get them and we got to catch as much as we can while we can. I can't be in  
7 Baton Rouge testifying before you people. I can't be in court defending what I do for  
8 a living and that I have every right to be there doing my living. Do you understand?

9 **Perry:** Yes.

10 **Mr. Meche:** That is the issue that we are faced with. We're guilty and we have to  
11 prove ourselves innocent. The burden of proof is on the accused. You're guilty of  
12 trespassing. The burden of proof is on the accused that you're not trespassing. I  
13 have to have hydrologists come into play. I have to have expert testimony. I have to  
14 have other fishermen testify that they've been fishing these areas for decades to  
15 prove my innocence. That's already out there. That potential is already out there.  
16 This is just another target that they can target us with. It's a means to target us with.

17 **Perry:** Look, I understand everything you're saying. I think even without you being  
18 here, without this Bill ever being filed, I think the issues you've stated, you're going  
19 to continue to have. Would you agree? What your saying, that basically they're  
20 saying that the burden is on you, that you're guilty until you prove innocent.

21 **Mr. Meche:** This is also another avenue for me to be targeted, because I'm the go-to  
22 guy whenever a violation is faulted, "Hey Gordy, we got bayou that's been blocked  
23 off by this pipeline. They damned it off. The water can't flow through anymore. I can't  
24 access the areas I fish anymore." [unintelligible 00:58:09] off, whatever. I'm the  
25 guy that's got to go check it out. Everytime I go out there now I can potentially be  
26 prosecuted.



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1   **Phil:** The other clarifying point, just to respond, Senator, is that section C, which  
2   again is on page two line 18, it is a crime just entry. It is not a requirement that there  
3   be damage. It's unauthorized entry on anything that is defined as a pipeline.

4   **Perry:** I agree with you that the damage doesn't have to take place, but 14:61 says,  
5   "The intent has to be there to be unauthorized."

6   **Claitor:** I think we've framed that very well and we're going to hear from the  
7   proponents again in a little bit, but I think we're plowing the same ground a little bit.  
8   We have framed it up-- Sir, I'm sorry, say your bit.

9   **Perry:** Along the same lines as Senator Mills, my father-in-law is a crawfisherman. I  
10   don't want it to get lost that I don't understand and I don't appreciate. I truly, truly  
11   appreciate you coming and testifying.

12   **Mr. Meche:** You've been a friend to our industry over the years, Senator Perry, I  
13   know that. You fish crawfish ponds, you don't fish the Atchafalaya Basin.

14   **Perry:** I understand that.

15   **Mr. Meche:** It's a different animal. [chuckles]

16   **Perry:** The people from that area owe you a lot of respect for coming forward.

17   **Mr. Meche:** I don't want respect. I Just want to be able to continue--

18   **Perry:** I understand.

19   **Mr. Meche:** - conducting my way of life and leave something for our kids and our  
20   grandkids and not just let it get trampled on.

21   **Perry:** I understand. Thank you.



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1     **Claitor:** All right, Mr. Meche, Mr Quigley, if you all would excuse yourselves. I'm  
2     going to call up two more to the table and then we're going to get started with--

3     **Mr. Meche.:** Thank you all. You all have a great day.

4     **Phil:** Thank you very much.

5     **Mary Yanik:** Excuse me. Some of our speakers have to leave. Is it okay if they  
6     come next after the current [unintelligible 00:59:50] speaker?

7     **Claitor:** Have a seat. You. No, ma'am, you have a seat.

8     **Mary:** Excuse me, my name is Mary Yanik. I'm an attorney with the New Orleans  
9     Workers Center for Racial Justice. Here today to also speak on this issue is a  
10    member of our organization, Eusebia Gonzalez.

11    **Claitor:** All right, just wait. We're going to hear from Ms O'Connor and then we're  
12    going to come to you guys. I would appreciate it if you'd pass that card to a staff  
13    member and we do it that way rather than hollering from the audience, okay?

14    **Mary:** Apologies. I think you have that card in your sack.

15    **Claitor:** Yes, I got a lot of cards. Young Lady.

16    **Annette O'Connor:** Thank you, Senator Claitor. The proposed House Bill 727--

17    **Claitor:** Introduce yourself first.

18    **Annette:** My name is Annette O'Connor--

19    **Claitor:** Thank you.

20    **Annette:** -with Atchafalaya Basin Keeper. The proposed House Bill 727 introduced  
21    by Representative Thibaut poses a serious threat to the federal and state protected  
22    interests of the public access, citizen enforcement, expression assembly and petition  
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1 in privacy. The impact of HB727 on persons an organizations engaged in pipeline  
2 infrastructure opposition as well as everyday citizens will be significant. Atchafalaya  
3 Basin Keepers wish to voice the concerns and opposition to HB727. We are  
4 concerned with the wide sweeping breadth of this bill.

5 The effect it will have on public accessibility across the State. The chilling effects it  
6 will undoubtedly have on our rights of expression and assembly and the grave  
7 possibilities for robust invasions of privacy under the new conspiracy crime. We  
8 humbly request that you consider the significant constitutional implications of this Bill  
9 before you vote in favor. Thank you for your time and consideration of our comment.  
10 Thank you.

11 **Claitor:** Thank you, Ms O'Connor.

12 **Annette:** Thank you.

13 **Claitor:** All right, so we have an interpreter present? Introduce yourself and tell me  
14 what you're going to be interpreting.

15 **Eusebia Gonzalez:** [Spanish language]

16 **Rachel Taber:** My name is Eusebia Gonzalez, I'm a member of the Congress of  
17 Day Laborers.

18 **Claitor:** Okay, but one moment. You, the lady--

19 **Rachel:** My name is Rachel Taber. I'm also an organizer with the Congress of Day  
20 Laborers here to interpret for Jacinta.

21 **Claitor:** What language will you be interpreting?

22 **Rachel:** Spanish into English.

23 **Claitor:** All right, introduce this lady for us.

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1   **Eusebia:** [Spanish language]

2   **Rachel:** So first of all, I'm a member of the Congress of Day Laborers which is a  
3   non-profit organization.

4   **Claitor:** Her name is?

5   **Rachel:** [Spanish language]

6   **Eusebia:** [Spanish language]

7   **Rachel:** Eusebia Gonzalez.

8   **Claitor:** All right, welcome to Jud C.

9   **Rachel:** [Spanish language]

10   **Eusebia:** [Spanish language]

11   **Rachel:** Thank you so much.

12   **Claitor:** All right, go ahead.

13   **Rachel:** [Spanish language]

14   **Eusebia:** [Spanish language]

15   **Claitor:** Take a breath and let's get the interpretation. Ma'am, why don't you move  
16   over--

17   **Rachel:** I'm here to let my voice be heard because our community, we're often faced  
18   with fighting back against wage theft. Working in construction sites, and I'm very  
19   concerned from what I've heard of this Bill. That it would criminalize anybody  
20   peacefully protesting at a construction site.



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1     **Claitor:** Okay. Maybe she can scoot over one and you could have a seat and we  
2     can go that way.

3     **Rachel:** Right here.

4     **Claitor:** There we go. All right, keep going.

5     **Rachel:** [Spanish language]

6     **Eusebia:** [Spanish language]

7     **Claitor:** Take a breath.

8     **Rachel:** Our community, our organization is formed of people who came to help  
9     rebuild after Hurricane Katrina and reconstruct the city. Our organization exists to  
10    fight back against wage theft.

11    **Claitor:** All right.

12    **Eusebia:** [Spanish language]

13    **Claitor:** All right.

14    **Rachel:** I'm here to oppose any law that would impede people's ability to raise their  
15    voice in peaceful protest at any site. How else can people be heard, if not through  
16    peaceful protest.

17    **Claitor:** All right. Excuse me.

18    **Eusebia:** [Spanish language]

19    **Claitor:** Okay.

20    **Rachel:** We can often be faced with situations where we would need to protest in  
21    front of construction zones because of the nature of wage theft cases.



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1     **Claitor:** Okay. Ms Gonzalez, if you would interpret this for me. There's been an  
2 amendment to the Bill that attempts to address this issue. Through the process,  
3 you'll have an opportunity to continue to see if it actually address your issue. Senator  
4 Carter brought a motion and an amendment and we believe we have addressed this  
5 concern.

6     **Rachel:** [Spanish language] May I be allowed to respond? I'm with the same center  
7 as her and in my capacity as--

8     **Claitor:** Can you identify yourself?

9     **Rachel:** Yes, I'm Rachel Taber. I'm an organizer with the Congress of Day Laborers.  
10 We're just very concerned that this law's being brought forth not-- It's directly in  
11 response to people peacefully raising their voices around an issue. We know that in  
12 wage theft claims and situations with employers, it's a very challenging legal  
13 situation where employees have been authorized to be on a work site but yet  
14 employers retain ownership. There's always a lot of grey area in employee manager  
15 relations. We're very concerned of the economic impact that could take place, not  
16 only for day laborers, workers and their families these people who have severed an  
17 invaluable role in helping us reconstruct, not only after Katrina but here in Baton  
18 Rouge and Lafayette, we know their rebuilding after the horrible floods that so many  
19 suffered from. You wouldn't want to impede not only their well being and their  
20 families, but that of all Louisianans with the important labor they provide and their  
21 need to express their first amendment rights in cases of crime, of wage theft.

22     **Claitor:** All right, thank you, Ms Taber. Thank you, Ms Gonzales for coming to  
23 testify. Dan Crutz. Reverend Crutz. If you guys would give up your seat that would  
24 be great.

25     **Rachel:** Thank you so much.

26     **Eusebia:** Thank you.

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1   **Claitor:** Sure, thank you.

2   **Mary:** No, I haven't said anything.

3   **Claitor:** We had a card from Crutz, but I don't see it anymore. Young lady, would  
4   you identify yourself and what group you're with and if you have anything further to  
5   add.

6   **Mary:** Yes. My name is Mary Yanik. I'm an attorney with the New Orleans Workers  
7   Center for Racial Justice, which is what the Congress of Day Laborers is one  
8   organizing project of the New Orleans Workers Center for Racial Justice, which was  
9   founded after Katrina. Again, on the spirit of rebuilding the city and protecting  
10   workers in the city, I wanted to echo everything that Eusebia said about her  
11   concerns, about the chilling effect on workers, and to again mention that it's not only  
12   criminal damage that's criminalized--

13   **Claitor:** Reverend.

14   **Mary:** - through this law.

15   **Claitor:** Keep going.

16   **Mary:** Additionally, the unauthorized entry onto these critical infrastructure site. The  
17   definition not only includes pipelines and any movable or immovable property that  
18   contains the pipelines, which is extremely broad. It also includes any construction  
19   site where there's any work being done on this, which means that, as everyone  
20   knows, there's a huge number of workers that are on these sites. Louisiana workers.  
21   Many of them are suffering from wage theft or other workplace abuses that are  
22   happening.

23   So an additional Bill to criminalize and further penalize unauthorized entry into these  
24   spaces will make it that much harder for there to be outreach to workers that are  
25   suffering wage theft. It'll make it that much harder for community members to come  
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1 and support those workers. As Eusebia was explaining, has been done in the past to  
2 address the extremely pervasive wage theft. Community member, other workers  
3 have come to negotiate with bosses to ask that they pay what workers are legally  
4 owed. All of that is chilled and threatened by this. Even though these sorts of  
5 activities would generally be protected not only by the First Amendment, but  
6 additionally by federal labor law.

7 **Claitor:** I appreciate what you have to say on that. We're getting a little bit repetitive  
8 and I'm trying not to be repetitive. Thank you for your testimony. It looks like we have  
9 a representative from the Sierra Club, mayor Marjorie Pray, if you're present and you  
10 would like to join the reverend at the table, you can. There's also Kathleen Patton, if  
11 you'd like to join the Reverend at the table, you can. Again, I ask, try not to be  
12 repetitive but I certainly want to hear your particular insight as a committee issue on  
13 that subject.

14 **Dan Chris:** My name is Dan Chris. I'm the executive director of the Louisiana  
15 Interchurch Conference. I hope I'm not being repetitive, but I missed some of this. I  
16 wish to speak against households 727. As a citizen, this poll seems to go beyond  
17 what is reasonable and normal to respect to legal protection of property and critical  
18 infrastructure. As I understand it, there already very adequate protection for private  
19 property as depicted in this Bill. It seems meant to stifle dissent and sets unfair and  
20 perhaps illegal constraints on free speech. With regard to ethical and moral  
21 questions we face in our society today, can turn in protection of the environment,  
22 this Bill seems to try to silence those who would bring up the matter of what is good  
23 or what is potentially destructive to creation.

24 In many instances, we in Louisiana have failed to be good stewards of creation and  
25 that is sad because we're not caring for our creation in such a way that we're  
26 protecting lives, Rivers, streams and wetlands for future generations.



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1 It is very sad to see our legislature try to protect those who are seeking profit over  
2 what is good for the people. The people should be the first responsibility of our  
3 legislators. I hope today you will keep that imperative in mind as you make your  
4 decision on this Bill. Thank you.

5 **Claitor:** Thank you Reverend for keeping it brief and concise. Marjorie, is that right,  
6 Marjorie?

7 **Marjorie:** Marjorie, just Marjorie.

8 **Claitor:** Hey Marjorie.

9 **Marjorie:** Marjorie Virginia Pray.

10 **Claitor:** Welcome to Jud C. Tell us what you'd like to.

11 **Marjorie:** I'm the overseer of a club of Louisiana, the Delta Chapter. I've been a  
12 member, actually, since I was a young person because I always loved the outdoors.  
13 I'm a [unintelligible 01:12:36] I come from fishing, hunting family that lived off the  
14 land. We ate crabs and fish and squirrels and rabbits that my family hunted and  
15 fished. I understand what we need to do to protect it and I have seen in my lifetime  
16 the great decline of wildlife. It bothers me much that the people here in Baton Rouge  
17 don't seem to have that same caring and wanting to protect things.

18 It bothers me because I feel like if this is all we have, and these young people that  
19 are here today representing saying, they want 727, I wonder how many of them  
20 actually realize what they're doing and how many of them aren't being paid to be  
21 here. Like Mr. Meche and many others here who are testifying against this  
22 legislation, who are here because they care and not because they're being paid by  
23 anybody. They're just here because they care about the State of Louisiana and they  
24 care about our children and they care about the future of our children.



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1 It bothers me that there are people here who put money and greed because these  
2 pipelines aren't being built, these ones particularly isn't being built to help our  
3 country have better resources. It's being built to ship our resources overseas to  
4 make money for a few people mostly in other States who are going to pocket big  
5 money because they're selling oil and gas to other places. That bothers me a whole  
6 lot. If this pipeline were being built slowly, and other pipeline, slowly to help our  
7 country and to help our resources, that's one thing. When you let a company that's a  
8 private for profit company ship our resources overseas so they can make money at  
9 the expense of the people of this country, at expense of the rights, the civil rights of  
10 the people of this country.

11 The property owners who are in [unintelligible 01:14:32], I believe, it is their  
12 Virginia. Their people put themselves in trees to keep pipelines from going through  
13 their property and destroying all grown forests. Here, it's people doing it in  
14 Atchafalaya for the same reason. I know I'm making you uncomfortable, it should.  
15 [laughs]

16 **Claitor:** I don't know if you're making me uncomfortable, but though--

17 **Marjorie:** I think some some of the people are. This is not something we should do.  
18 We need to be protecting these young people that are here. If one of them suddenly  
19 comes to Jesus and realizes that we're destroying his future, I think it's  
20 [unintelligible 01:15:05] goes in and climbs in on top of a bulldozer at a pipeline  
21 stage in sight, he could be arrested, maybe end up in Angola for protesting his rights  
22 and what he cares for, for the future of America. It could be one of your children or  
23 grandchildren or a nephew or neighbor. Do they really deserve to go to jail for  
24 protesting for what they believe is right? I don't think so and I don't think you really  
25 think so. I sure hope you don't.

26 **Claitor:** There was an amendment that was put on that issue, but apparently, I'm  
27 not satisfied with the amendment, and I appreciate that we have different views on



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1 this. I've said many times that democracy is messy here and so we hear a lot of  
2 different voices. I do appreciate your comments-

3 **Marjorie:** I think the voices of the people should be first and foremost.

4 **Claitor:** That's why we vote, hopefully. Ma'am.

5 **Kathleen Danton:** Hi. My name is Kathleen Danton. First of all, thank you for  
6 serving our State and thank you and your office staff for taking the phone calls. I  
7 came here today, clearly, because I'm concerned with the idea of access to areas. I  
8 come from a family of hunting and fishermen, too. I guess, with all that's been said  
9 and all that's on your plate, not just in this hearing but with what's going on the  
10 house into and Senate in general. I think Ockham's reason is what we should apply  
11 here. I think that a lot of thought has been put in to crafting amendments that can be  
12 legally efficient and cover all these different situations.

13 When you think about trying to define intent, trying to define conspiracy, trying to  
14 enforce those concepts, it's very murky water and we already have laws on the  
15 books that protect private property. I really think this is government overreach, with  
16 all due respect. I think that we currently have laws that protect this. I think this is an  
17 attempt by one sector of industry to gain advantage by having a higher set of  
18 penalties against people who might do harm to their property.

19 I mostly drove here today in front of your offices offices because I'm very concerned  
20 with three classes of people. First the landowners. If you have something bubbling  
21 up out of the ground or you sense something wrong with a pipeline that's on your  
22 property and you go to investigate that with your little flashlight at night, you could be  
23 trespassing and you could be subject to increased penalties, if you pass this bill. If  
24 you're a hunter and you're pursuing a deer or one of the feral hogs, which  
25 [unintelligible 01:18:01] and you get within that area that is not fenced off but



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1 which is property of the pipeline, again, you could face higher penalties than you  
2 would right now.

3 I also think that-- I worry about who is getting in the mind and interpreting what is in  
4 the mind of the intent and conspiracy. Who's enforcing that? Are we going to have  
5 the time of fiscal constraints? Are we going to have our police out going to meetings  
6 to try to infer who has the intent to harm infrastructure?

7 I just respectfully come back to the part that I think this is overreach. I think that  
8 we're in land of laws, that we have laws now and we don't need to go this further  
9 step of analyzing these three classes of people and extending State resources in  
10 something which is primarily what private security firms should be doing. I  
11 appreciate the opportunity to speak today.

12 **Claitor:** Thank you Mrs. Kathleen. Thank you those three folks. We have three left.  
13 We have Margaret Roghue, Dillon Waguespack and Virginia Richard. Come  
14 forward. You fill that card indicating that you wish to speak. Try not to be repetitive if  
15 you can help it.

16 **Virginia Richard:** John will waive just before the moment. He should be back soon.

17 **Claitor:** All right, thank you. Identify yourself and come to what you want to tell us.

18 **Virginia:** My name is Virginia Richard. I grew up in Acadia Parish, 70516. I currently  
19 live in New Orleans, but still own land in Acadia Parish. I wrote all of you recently. I  
20 hope that you got my email. I'll briefly go over those points. Again, I'm trying not to  
21 be repetitive and then I have a few other points to address the amendments that  
22 we've discussed.

23 First off, thank you all for your time and for listening to my concerns as a landowner  
24 and as a private citizen, and thank you for the amendments that have been  
25 introduced.



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1 I'm the daughter, granddaughter, niece, cousin and step sister of a long line of  
2 Americans who have served to defend our rights. As such, I am deeply concerned  
3 about this bill.

4 As it has been mentioned before there are thousands of miles of pipelines across  
5 Louisiana. They're not marked or enclosed along their entire routes. In fact, at least  
6 one natural gas pipeline, does traverse my family land, though you can't actually tell  
7 where it is just by the markings only that there's a post every quarter mile or so  
8 saying that there is one around here.

9 The broadness of this Bill, as we've already discussed it's multiple classes of people  
10 including myself at higher risk for prosecution for things that are already crimes. I  
11 have no ill intent towards the pipeline on my property but to echo what in this patent  
12 just said. I'm concerned about the hyper criminalization of unauthorized entry  
13 trespass, things of those nature and of that nature.

14 Further, I firmly believe in freedom of speech and the right to peaceful assembly  
15 whether or not I agree with what is being said or with the reason for people's  
16 assembly. This brings me to my point that while I do very much appreciate the  
17 amendments that have been brought up, if there is concern here in this committee  
18 amongst us in the small room about how these amendments will be interpreted, then  
19 I'm even more concerned should this bill become law, how it will be interpreted in the  
20 courts. If this bill is to move forward, and I hope it doesn't, we need even further  
21 explicit protections for hunters, fishermen, landowners and anyone willing to express  
22 their First Amendment rights. Again, trying not to be duplicative, but I can't put  
23 enough focus on the fact that we need more explicit protections and I don't think that  
24 the amendments as they are now go that length.

25 Also, again, on authorized entry is not damage or intent to damage. I'm concerned  
26 about the broadness of the definition including construction sites and not just the



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1 pipelines themselves, because construction sites do extend well beyond the finished  
2 products of the pipeline. Thank you.

3 **Claitor:** Thank you. Ma'am.

4 **Meg Logue:** Well, thank you so much for being here today and for listening to all  
5 this testimony. My name is Meg Logue and I am a resident of New Orleans. I  
6 respect that this bill was introduced with the intention of protecting our infrastructure  
7 and through that, the people of Louisiana. I do respect that intent, but I disagree with  
8 some of the stuff that has come up as to how this all will actually be applied. I hope  
9 that you have heard today, and also in the many calls that I know that you have  
10 received from your constituents over the last week, that there are major concerns  
11 with the overly broad nature of the Bill and some of the potential interpretations of  
12 these statutes.

13 It makes it a real threat to a wide variety of Louisianans. It's not just protesters, as  
14 you saw, it's crawfishers, it's landowners, it's hunters. In my opinion, this bill is  
15 duplicative of protections that are already in place and it seeks to address an  
16 infrastructure sabotage that simply isn't happening on a large scale or otherwise. We  
17 are not being threatened, there have been no active cases of this happening to my  
18 knowledge.

19 Today, I really hope to provide a face for one of the groups of people that would be  
20 impacted by this Bill. I volunteer for a group called 350 New Orleans and I work very  
21 often with the No By Ridge coalition.

22 We've discussed that a little bit today in some of the testimony, but I was arrested for  
23 civil disobedience several months ago along the By Ridge pipeline route. I think as it  
24 stands, even with the amendments, one of my charges for that action was  
25 misdemeanor criminal trespass and under this legislation, I would be facing up to



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1 five years in prison and \$1,000 in fines for what I did that day, even with the  
2 protections that have been added throughout amendment and I do appreciate those.

3 This was not my first recourse in objecting to this pipeline. I have been fighting this  
4 fight for a year and a half in this very capital, in this very building. I have come to  
5 meet with the governor. We have showed up to public comment period, we have  
6 written we have called. We have done so many things to try to express our  
7 opposition for a year and a half. I want to tell you why I'm doing that. I've been doing  
8 this for a year and a half and why I chose to engage in civil disobedience. Our work  
9 comes from a deep desire to protect what we love. We love Louisiana, we love the  
10 Atchafalaya basin, we love our crawfishers, and we love our dear friends in St. John  
11 and St. James who suffer on a daily basis from the impacts of pollution. Their  
12 communities are literally dying. We love our constitutionally given rights to express  
13 dissent when all of those things are under threat, especially by a company like  
14 energy transfer partners whose social license to operate should be revoked due to  
15 their record of negligence, environmental damage and a total lack of regard for  
16 communities that they lay their pipes next to.

17 I know that you may not agree with my fight or the reasons for why I do what I do,  
18 but I hope today that you will protect my right to express those views and not hyper  
19 criminalize the work that we are doing to try and make Louisiana a better place.  
20 There is a long long history in this country of civil disobedience, intent to break laws  
21 that highlights the injustice. To discourage people who are trying to do good work  
22 from calling attention to the injustice that people in Louisiana are facing every day, I  
23 think it's going to be harmful for our State. We need to protect those freedoms and  
24 we need to make it available for people.

25 I urge you to stand for our rights and to stand for our protections for our landowners  
26 to make the very least, make provisions to protect these people. I'm happy to  
27 answer any questions.



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1      **Claitor:** We don't have any questions. We thank you for your testimony and also  
2      remind you that I'm sure you're registered to vote, but one of the things that you can  
3      do when you have an issue like this is, sign people up to vote so that they can vote  
4      for candidates that they like and vote against candidates they don't like and run the  
5      candidates that they want.

6      Frequently, I don't mean to be rude, but I often tell people, if you don't like the way  
7      that I vote, register the vote and vote against me next time and register to vote and  
8      run against me next time.

9      It's a lot to pass to participate in politics and we constantly lament about people not  
10     participating. You're here, you're participating and sometimes it feels like you're  
11     losing in the face, but you're being heard or I haven't won every battle that I've  
12     attempted to fight as well but being in the fight is-- Being in the arena, we all admire  
13     the man and the woman in the arena.

14     Thank you for coming to testify and you-- **[unintelligible 01:29:04]** the card and  
15     apparently, I read it and didn't call you. Introduce yourself and tell us what you want.  
16     This is the last red card, try not to be repetitive. You ladies are welcome to get up or  
17     stay there or whatever suits your fancy.

18     Yes ma'am.

19     **Patroma:** My name is Patroma and I'm not going to be repetitive, I filled out a red  
20     card and didn't check to speak, but after listening, I think I should. I am one of the  
21     landowners on the by-bridge pipeline. We got notice two years ago that they were  
22     coming through our property and after fighting against it, we got letters of eminent  
23     domain threat. We had to allow it.

24     We are crawfish pond owner. We had to drain one of our crawfish ponds for this  
25     pipeline. We were promised a lot of things that this was going to happen and



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1 proceed. I promise you, the pittance we got for it will not replace my concern of  
2 environmental damage that I'm sure is going to happen.

3 I watched the first time they came out and started the construction going through our  
4 property for this third year trucks that are on our land, I promise you not one of them  
5 had a Louisiana plate on them. This is not Louisiana jobs being brought there. I've  
6 watched the construction go through and everything-- All the equipment that they  
7 brought out there, the first couple of days they were really conscientious they sweep  
8 the dirt off the street and stop the traffic. Well, that's progress till this morning I'm  
9 driving here from a justice reform and I have to dodge big chunks of mud in the road  
10 at seven O'clock in the morning. They've already started.

11 Some of the neighbors who didn't receive compensation for this going on, I have  
12 called the police that they're waking him up at seven O'clock with this massive  
13 equipment digging huge holes through our property back there. The police are also  
14 at our property today. My husband told me the show is not here where I am for  
15 criminal justice, it's in my yard. The police are trying to stop the protesters or friends  
16 of mine that I've allowed to be on my property against this. There is somebody  
17 stopping protest, peaceful protest. It's on my property, now.

18 I want you to be aware that I think all the environmental promises they promised are  
19 being broken now. What would they do when it's finished? I'm concerned, and I do  
20 work for oil. I have a son that's a rig manager in North Dakota. I'm totally proper to  
21 [unintelligible 01:31:22] my work in the industry too, but I think there needs to be  
22 responsible for State and what's going on. I would appreciate that some thought and  
23 concern is given to the protesters deserve trying to protect the end result of what's  
24 going on in my property now. We have several acres if this is running through. I'm  
25 not somebody in the subdivision, it's in rural Cladia Parish. I want you to be aware  
26 that we do have property owners that are watching what's going on and it's in my  
27 yard now. Thank you for listening to me.



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1     **Claitor:** Thank you for your testimony. I would suggest that on, even if the main  
2 issues that are-- Is not following under this critical infrastructure deal and I think  
3 most of people were are very concerned about imminent domain and how that works  
4 and taking a property not only by the government but non-government entities, but  
5 that's a conversation for another day. I did invite the proponents back to the table.  
6 Thank you ladies.

7     If we can have the lawyer for the proponents come. I think there's a question or two,  
8 and the two representatives for the table. Did you pull out the red card?

9     **Dylan:** I did, my apologies. I ran out of the room and my testimony was waved. I just  
10 like two seconds literally. I just shared a couple of handouts with you all and-- By the  
11 way, I'm Dylan Waguespack. I'm here today as a citizen but representing Hope  
12 Resensky who is a landowner on the pipeline route. You should have a letter from  
13 her and also a letter from David Levy who's the owner of [unintelligible 01:33:02]  
14 Technologies Inc. both in opposition to the Bill, one as an industry represented and  
15 the other as a land owner. I just wanted to make sure that I got those for you all for  
16 the record and just to let you all know that there are opposed to the Bill as well.

17     **Claitor:** We will introduce copies of that to the record. Thank you. Have a seat. All  
18 right. I don't see the light lit, I'm going to let him go into their clothes unless we have  
19 other questions. Any other questions?

20 I would ask you just to address a little bit some of these concerns and I think you got  
21 murky about when it's prosecute, when it's eligible to be prosecuted and when it's  
22 not. I don't think there's-- I think we've framed the issue pretty well is by prime critical  
23 infrastructure or not and that's a policy question that we're going to answer here, but  
24 if there's--I don't want to engage in a whole lot of back and forth but I thought there  
25 were some questions but I'm not seeing the light to. Are there any questions  
26 members?



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1 Okay, there's no questions. I'm going to skip any further discussion on that unless  
2 you go into your clothes. Members, we don't interrupt them on their clothes. All right,  
3 go.

4 **Quigley** Thank you members and I appreciate the debate and the folks who  
5 testified. We got into all sorts of things that give me of much different bill ideas, I  
6 guess and probably all too, but I don't think a lot of those things apply to what we're  
7 discussing today, and that's criminal intent to damage critical infrastructure. The  
8 chairman said it best, do we consider pipelines to be critical infrastructure? I've got  
9 three gone across the back of my property that I know of. The reverend said we  
10 need to be worried about people. We have over 50,000 miles of pipelines in  
11 Louisiana. We're not moving them any time soon and I think by deciding whether or  
12 not they're critical infrastructure, we don't want people tampering with them, blowing  
13 them up, is about protecting people.

14 A few of the different things-- I don't want to even delve off in some of the things that  
15 we got into, but I'll tell you, evidently, our laws as it deals with pipelines aren't strong  
16 enough. This was influenced by what happened in North Dakota. A \$38 million cost  
17 to straighten local taxpayers and again we've got over 50,000 miles just since this  
18 bill was filed. Somebody said we didn't have any cases going on. No but we should  
19 have instances they brought up by you bridge pipeline.

20 **Claitor:** Don't feel compelled to respond to every single one. We've heard.

21 **Quigley** But this is an issue that I think that we're going to have to deal with in the  
22 future and not dealing with it now. Critical infrastructure, if you look at the millions  
23 out of thousands of miles that we have running across the State, what they carry,  
24 the importance to us. We can't do anything about where they are right now or  
25 whether you like them or don't like them. It's a question of whether we dim them in  
26 the same breath as a nuclear power plant or an LNG facility or refinery.



**Senate Judiciary C - Hearing on HB 727**  
**April 24, 2018**

---

1 I think we do and this gives those law enforcement, our law enforcement guys the  
2 tools they need and it's also a deterrence. I have ask that you move this bill  
3 favorable. You had some good amendments today and possibly there will be some  
4 more on the floor of it, but clean it up a little bit.

5 **Claitor:** All right. Representative of Table it's close on it's Bill. Senator White makes  
6 a motion to report 727 favorably as amended. Is there any objections? Senator Mills  
7 has objected, so a yes will be to report it favorably and no will be not to report it  
8 favorably. I'll call the law.

9 **?Speaker:** Senator Perry.

10 **Perry:** Yes.

11 **?Speaker:** Yes. Senator Barrel.

12 **Senator Barrel:** Yes.

13 **?Speaker:** Yes. Senator Carter.

14 **Quigley** Yes

15 **?Speaker:** Yes. Senator Mills

16 **Mills:** No.

17 **?Speaker:** No. Senator White.

18 **White:** Yes.

19 **?Speaker:** Senator Claitor.

20 **Claitor:** Yes.

21 **?Speaker:** Yes. Five yes, one nay.



**Senate Judiciary C - Hearing on HB 727**  
**April 24, 2018**

---

1      **Claitor:** A house bill 727 will be reported favorably as amended. We appreciate  
2      your time. We appreciate this discussion. We appreciate your willingness to consider  
3      the various amendments that we thought would improve opponent. Senator Perry  
4      has many bills to present. I know you may want to participate and have some  
5      discussion added in the hall as we continue on with the work of the committee  
6      placing. [crosstalk].

7      Okay. We got Regina. We're good. Senator Perry, [**[inaudible 01:38:41]**] to the order  
8      that you want to go and, I think the 242 might be-- Are you doing Stefanski and  
9      Merinos on the loss?

10     **Perry:** Yes.

11     **[01:38:53] [END OF AUDIO]**

12     **[01:38:53] [END OF AUDIO]**

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# About Us

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“ Louisiana’s oil and natural gas industry must maintain a strong voice to ensure safe delivery of affordable, reliable energy that sustains our modern way of life and delivers economic opportunity for all. LMOGA is that strong voice.

**Tommy Faucheux | President**

**LMOGA** serves exploration and production, refining, transportation, marketing, and mid-stream companies as well as other firms in the fields of law, engineering, environment, financing, and government relations.

**LMOGA's mission** is to promote and represent the oil and gas industry operating in Louisiana and the Gulf of Mexico by extending the representation of our members to the Louisiana Legislature, state and federal regulatory agencies, the Louisiana congressional delegation, the media, and the general public.



Louisiana Mid-Continent  
Oil Gas Association

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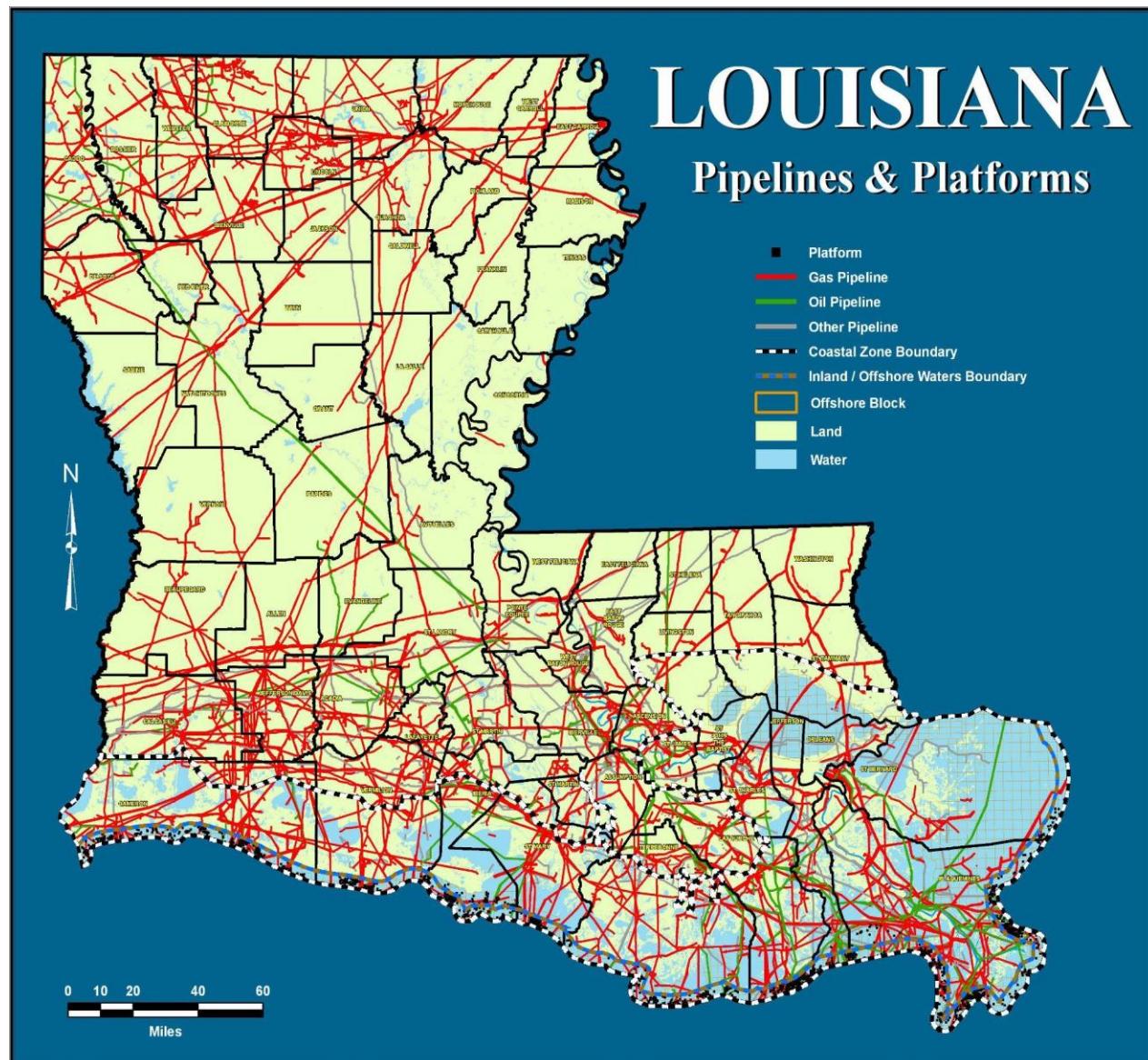


Exhibit O

No Service

27 AM

Yesterday

M

-----Original Message-----

From: T Wright

<[twright831@aol.com](mailto:twright831@aol.com)>

To: foytlinfam

<[foytlinfam@gmail.com](mailto:foytlinfam@gmail.com)>

Sent: Wed, Jul 25, 2018

Subject: Permission

I give permission to Cherri Foytlin and anyone associated with her to be on the property that I and other family members have interest in, St. Martin Parish, LA Section 4, T-11-S, R-9-E. We are opposed to the Bayou Bridge Pipeline going through this area which should be protected against contamination and hazards to the area posed by this pipeline.

Respectfully, Theda Larson-Wright (Daughter of Warren Carl Larson, Sr.)

Phone: [575-313-6708](tel:575-313-6708)

Chris Martin  
February 17, 2022

Page 1

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF LOUISIANA

ANNE WHITE HAT, RAMON \*  
MEJIA, and KAREN SAVAGE \*  
\*  
\* CIVIL ACTION NO.  
v. \* 6:20-cv-00983  
\*  
BECKET BREAUX, in his \*  
official capacity as \* JUDGE ROBERT R.  
Sheriff of St. Martin \* SUMMERHAYS  
Parish; BOFILL DUHE, in \*  
his official capacity as \* MAGISTRATE JUDGE  
District Attorney of the \* CAROL B. WHITEHURST  
16th Judicial District \*  
Attorney's Office \*  
\* \* \* \* \*

The deposition of CHRIS MARTIN, taken in  
connection with the captioned cause, pursuant to the  
following stipulations before Mary LeJeune-Kephart,  
via Zoom Videoconferencing, on the 18th day of  
February 2022 beginning at 9:09 A.M.

Exhibit Q

Chris Martin  
February 17, 2022

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<p>1       a -- another beat before you answer. So what was the 2       date of -- of that arrest of -- of the arrest report 3       that you authored? 4       A    Don't remember the date specifically. 5       Q    Okay. But you remember the events? 6       A    Yes, ma'am. 7       Q    And were you working private security at that time? 8       A    I don't know. I don't recall. 9       Q    Okay. Were -- did you work with a -- any private 10      security company in relation to the Bayou Bridge 11      Pipeline? 12      A    Yes, ma'am. 13      Q    Okay. And how -- how much do you think you worked 14      security, private security, in relation to the 15      pipeline? 16      A    I don't remember actual dates or totals. 17      Q    What company was that? 18      A    I believe there was two companies. One was HUB 19      Security and the other one was Sunbelt. 20      Q    And were those companies, to your knowledge, 21      retained by Bayou Bridge to provide security to the 22      pipeline? 23      A    I wasn't part of the contract process, so I'm not 24      sure who specifically retained them but they were 25      related to the Bayou Bridge Pipeline.</p>	<p>1       Q    Did you have to -- did you sign a contract for -- 2       for that work with -- with those companies? 3       A    I signed paperwork but I don't remember if it was 4       with them or internal paperwork for our office. 5       Q    Do you normally have to fill out paperwork before 6       you work private security? 7       A    Sometimes. 8       Q    And how -- what is the -- the -- your understanding 9       of the sheriff's office policy when it comes to 10      working private security? 11      A    I'm not completely sure. Typically it's a 12      supervisor that does all that and will tell you if he 13      needs employment form or not. 14      Q    So there might be paperwork, internal -- internal 15      paperwork at the sheriff's office regarding these 16      security details? 17      A    Yes, ma'am. 18      Q    Okay. What -- what do you get paid for that private 19      security work, is it by the hour? 20      A    It is but it varies on contract to contract. 21      Q    Do you remember what you got paid for your work in 22      regard to the Bayou Bridge Pipeline? 23      A    No, ma'am, I don't. 24      Q    Do you remember approximately what you get paid? 25      A    I'm sorry, I don't. It's changed a couple of times</p>
<p>1       over the years and I don't remember at what point it 2       changed. 3       Q    When you're working private security for a company 4       like HUB or, I believe you said it was Sunbelt, do 5       you normally work in -- show up for work in your -- 6       your sheriff's office uniform? 7       A    Yes, ma'am. 8       Q    Do you normally wear a body cam? 9       A    No, ma'am. 10      Q    Okay. Would you have been wearing a body cam at the 11      time of -- of these arrests that you wrote about? 12      A    I don't recall. 13      Q    Okay. What is your -- so you've been at the 14      sheriff's office for about twenty years, are you a 15      supervisor to any other deputies? 16      A    Yes, ma'am. 17      Q    And how long have you been a supervisor? 18      A    I don't recall exactly when I became a supervisor, 19      but it's been a while. 20      Q    Okay. Were you supervising, is it Lieutenant 21      Gauthier, at the time of -- of this incident? 22      A    As far as what happened with the security detail or 23      as my duties in the sheriff's office? 24      Q    Both. 25      A    As my duties within the office, no. As my -- as far</p>	<p>1       as the pipeline concern, yes. 2       Q    And -- and why is that? 3       A    I was tasked with dealing with any day-to-day issues 4       that came up dealing with the pipeline. 5       Q    And -- and you -- okay, so you were -- you were 6       tasked with dealing with day-to-day issues with the 7       pipeline through -- through the private security 8       company that you were working with at the time? 9       A    No, ma'am, through one of the supervisors at the 10      sheriff's office or supervisors here. 11      Q    Oh, okay, sorry. So I'm sorry, can you -- can you 12      clarify that. So you weren't supervising Deputy 13      Gauthier on a day-to-day basis normally, but because 14      of the pipeline you, the pipeline business, you were 15      sup -- you were what, supervising the activities 16      related to the pipeline? 17      A    And I'm sorry -- portions of it, yes. 18      Q    And -- and which portions were you -- were you 19      supervising? 20      A    We had one supervisor that dealt with scheduling and 21      where everybody was working and then I would deal 22      with any issues that came up. I was, I guess, their 23      point of contact if they had problems while working. 24      Q    And that was in your capacity as -- as an employee 25      of the sheriff's office?</p>

6 (Pages 18 to 21)

Chris Martin  
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1 Gauthier. Can you describe how you were involved in  
2 those arrests?  
3 A Yes, ma'am. Lieutenant, I don't remember his rank  
4 at the time, Lieutenant Gauthier had contacted me and  
5 told me they had some people trespassing or on the  
6 right-of-way for the pipeline. They had constructed  
7 a platform in a tree and tied that platform to the  
8 pipeline so the pipeline couldn't -- couldn't work,  
9 it couldn't move.  
10 I instructed Deputy, or Lieutenant Gauthier, to  
11 tell the people they were trespassing if they were on  
12 the right-of-way and give them a certain amount of  
13 time to leave, a half an hour to forty minutes, and  
14 if they still refused to leave after that time frame  
15 that we would be able to make an arrest. I in turn  
16 started heading that way to help him. It's a long  
17 trip to get there.  
18 I don't remember where I was, but from a boat  
19 landing to the site was, I'm gonna guess an hour,  
20 forty minutes to a hour twenty minutes. When I got  
21 there, I believe me and him crossed at a push rack,  
22 which was a couple of hundred yards from the actual  
23 site that it happened where they -- they were.  
24 He explained to me that -- I don't recall if he  
25 explained to me there or on the radio or phone, but

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1 he explained to me that they had re -- the protestors  
2 had removed some survey spikes in the direct area  
3 that they were standing in. He explained to me that  
4 they had set up the tripod in the tree and the people  
5 he had arrested were standing directly under the  
6 tripod in relation to the pipeline.

7 So I was able to go to the scene, it takes a  
8 little while longer, you had to take an airboat to  
9 get there, you couldn't walk. Me and another deputy,  
10 Deputy Dupuis, when we get to the scene I was able to  
11 follow the pipeline berm. There was a berm that they  
12 dug to lay -- then lay the dirt over to lay a pipe in  
13 the trench where they were gonna bury it and the  
14 stakes, the marker stakes, would have been on the  
15 other side of that berm.

16 So I was able to follow the berm south-ish,  
17 southwest, I guess, further back towards the push  
18 rack and fins some survey markers that weren't pulled  
19 out and I was able to see they were approximately  
20 five yards from the dirt berm on two separate  
21 markers. I was then able to line that up with a tree  
22 further down that was also five, about five yards off  
23 of the berm.  
24 And then from that access point I was able to  
25 see the three trees under the sky pod that was still

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1 hanging from the tree and see that -- that would have  
2 been in that right-of-way for the pipeline. I was  
3 able to contact Lieutenant Gauthier and advise him  
4 that what I was able to determine there and that it  
5 was on the right-of-way and then we stayed out there  
6 another day and a half dealing with the sky pod and  
7 people in it.  
8 Q So when you -- when you say "that you saw some  
9 stakes at some point along the berm", how -- how --  
10 how far would you say that was from where the -- from  
11 where the sky pod was?  
12 A My report said fifty, about fifty yards, but I  
13 didn't remember before reading it.  
14 Q Okay. Did you -- did you review any paperwork or  
15 have any communications with anyone connected with  
16 Bayou Bridge that would have told you how many feet  
17 what the right-of-way was?  
18 A I reviewed some plats, but I don't remember the  
19 distance the right-of-way was.  
20 Q Did you have any communications with anyone  
21 connected with the Bayou Bridge Pipeline Company  
22 about what -- what they would have said was  
23 constituted the right-of-way?  
24 A They provided the plat information to us, but I  
25 don't recall having a specific conversation other

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1 than them -- them telling us the markers, the survey  
2 stakes, would have been the right-of-way.  
3 Q Did you -- did you come to know at any point or were  
4 you aware that Bayou Bridge did not have legal  
5 authority to be there on that property constructing  
6 the pipeline?  
7 MR. MCINTIRE:  
8 Objection to form.  
9 MS. SPEES:  
10 Q You can answer.  
11 A I'm understanding you're asking two questions.  
12 You're asking if I knew and did I come to know?  
13 Q Did you --  
14 A If I understand right?  
15 Q That's correct.  
16 A At the time I did not know, now I do.  
17 Q Okay. Knowing -- knowing that, at the time you were  
18 out there, Bayou Bridge did not have a legal  
19 authority to be there, would that -- would that have  
20 changed your opinion as to any applicability of the  
21 critical infrastructure law of Louisiana Revised  
22 Statute 1461?  
23 MR. MCINTIRE:  
24 Objection to form.  
25 MR. MOLL:

Chris Martin  
February 17, 2022

Page 30	Page 31
<p>1       Same objection.</p> <p>2   A   So I can make sure I understand what you're asking.</p> <p>3       If I did know at that time if my thought would have</p> <p>4       changed?</p> <p>5   MS. SPEES:</p> <p>6   Q   Yes.</p> <p>7   A   Yes, ma'am.</p> <p>8   Q   Okay. How would -- how would it have changed?</p> <p>9   A   If I knew they couldn't be there we would have</p> <p>10      enforced them not being there.</p> <p>11   Q   Okay. Do you recall -- did you have any</p> <p>12      communications with anyone in the sheriff's office</p> <p>13      about the applicability of Revised Statute 1461 to</p> <p>14      these in -- to these incidents?</p> <p>15   A   Don't recall specifically, but there was three</p> <p>16      supervisors, myself and two other supervisors, in the</p> <p>17      patrol division that I would imagine we would have</p> <p>18      discussed it.</p> <p>19   Q   Who were the other supervisors?</p> <p>20   A   It would have been Waverson Guidry and Robley</p> <p>21      Picard.</p> <p>22   Q   Okay. What -- you say you probably would have</p> <p>23      discussed it, why -- why is that?</p> <p>24   A   To the previous question of who I would have</p> <p>25      discussed it with or did?</p>	<p>1       Q   Why would -- why would it have come up? Why -- why</p> <p>2       would you have discussed the applicability of this</p> <p>3       law?</p> <p>4       MR. MCINTIRE:</p> <p>5       Well, can he add to his previous answer</p> <p>6       is what he was asking.</p> <p>7   MS. SPEES:</p> <p>8   Q   Oh, I'm sorry. I didn't hear the -- I didn't hear</p> <p>9       that. Of course.</p> <p>10   A   Finish the previous answer, I'm sorry. I also</p> <p>11      discussed it with our risk manager, Jack Bienvenu.</p> <p>12   Q   And why would you have discussed it with the risk</p> <p>13      manager?</p> <p>14   A   Because it was a new law that came about and several</p> <p>15      of our deputies were told during the process of our</p> <p>16      dealing with the protestors that they were gonna sue</p> <p>17      us about making these arrests, so we just wanted to</p> <p>18      make sure that we were doing what we needed to do the</p> <p>19      correct way.</p> <p>20   Q   And what was -- what was your understanding of that</p> <p>21      new law and what it prohibited?</p> <p>22   A   My understanding was that it prohibited you from</p> <p>23      being in a -- inside of a critical infrastructure or</p> <p>24      trespassing on a critical infrastructure.</p> <p>25   Q   Did you have any communications with anyone</p>
Page 32	Page 33
<p>1       connected with the Bayou Bridge Pipeline Company</p> <p>2       about the enforcement of Revised Statute 1461?</p> <p>3   A   No.</p> <p>4       MR. MCINTIRE:</p> <p>5       Objection to form. He said no.</p> <p>6   A   No, ma'am.</p> <p>7   MS. SPEES:</p> <p>8   Q   Did you have any conversations with anyone at the</p> <p>9      private security companies that you mentioned, HUB or</p> <p>10     Sunbelt, concerning the applicability of 1461?</p> <p>11   MR. MCINTIRE:</p> <p>12      Objection to form.</p> <p>13   A   No, ma'am.</p> <p>14   MS. SPEES:</p> <p>15   Q   Okay. Did you -- you -- you testified that you</p> <p>16      advised Lieutenant Gauthier that -- that you believed</p> <p>17      the protestors were on critical infrastructure. Did</p> <p>18      you -- did you, in the course of your supervision,</p> <p>19      advise other deputies about the parameters of the</p> <p>20      critical infrastructure law?</p> <p>21   MR. MCINTIRE:</p> <p>22      Objection to form.</p> <p>23   A   Not that I can remember specifically.</p> <p>24   MS. SPEES:</p> <p>25   Q   Did you receive any written instructions, either</p>	<p>1       from your risk management officer or anyone within</p> <p>2       the sheriff's office, about Revised Statute 1461?</p> <p>3   A   No, ma'am.</p> <p>4   Q   Okay. So just to -- did you receive any written</p> <p>5      instructions or communications at all from anyone</p> <p>6      about the applicability of 1461?</p> <p>7   A   Specifically written or did I talk to anybody about</p> <p>8      it?</p> <p>9   Q   Written.</p> <p>10   A   No, ma'am.</p> <p>11   Q   Okay. You -- you indicated that you would have</p> <p>12      spoken with your other supervisors and the risk</p> <p>13      manager about the -- the new law, 1461, who else did</p> <p>14      you speak to about it?</p> <p>15   A   I may have spoken to deputies that made arrests on</p> <p>16      it after they encountered people trespassing on a</p> <p>17      day-to-day basis, but that would be it, oh, and the</p> <p>18      district attorney.</p> <p>19   Q   When did you speak with the district attorney?</p> <p>20   A   I don't recall. It would have --</p> <p>21   Q   Would it -- sorry, go ahead.</p> <p>22   A   It would have been before our first arrest and then</p> <p>23      when I turned all the case files in for any arrests</p> <p>24      we made.</p> <p>25   Q   And who were you communicating with at the DA's</p>

Chris Martin  
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	Page 38	Page 39
1	A Yes, ma'am.	1 Q Was Mr. Langlinais ever out on the site when you
2	Q When were those meetings?	2 were there?
3	A I don't recall specifically.	3 A Any site?
4	Q Would they have been in 2018?	4 Q Any of the pipeline sites?
5	A Yes, ma'am.	5 A Yes, ma'am.
6	Q Did you have meetings with Mr. Langlinais after this	6 Q Was he -- was he there the day that you went to
7	-- this meeting you're referring to where he first	7 follow up after -- after Lieutenant Gauthier's arrest
8	notified you about the new law?	8 on August 18th?
9	A I talked to him several times. I don't remember if	9 A I don't believe.
10	we actually had an official meeting with him or not.	10 Q Okay. Is Mr. Langlinais connected with a private
11	Q What were -- what did you discuss in those	11 security firm, to your knowledge?
12	conversations?	12 A I don't know.
13	A It would have been different incidents they were	13 Q Okay. Does Mr. Langlinais have any law enforcement
14	having trouble with on the pipeline day to day.	14 experience?
15	Q And what about those incidents?	15 A I believe he was a retired marshal, US Marshal.
16	A If we -- they had something going on or any problems	16 Q Do you know if he was from Louisiana or was he from
17	with something on the pipeline he would have	17 out of state?
18	contacted me to inform me about them.	18 A I'm not a hundred percent sure. I think he was from
19	Q Was anyone from the DA's office in the meeting you	19 Louisiana but not a hundred percent sure.
20	had with Mr. Langlinais at the sheriff's office about	20 MR. MCINTIRE:
21	the new law?	21 But with a name like Langlinais.
22	MR. MOLL:	22 MS. SPEES:
23	Objection to form.	23 Q Right. I -- I want to go back to the -- to the --
24	A No, ma'am.	24 the question of your private security employment. I
25	MS. SPEES:	25 see we're coming up on an hour and just want to check
	Page 40	Page 41
1	in and -- and see how you're doing. Do you feel like	1 MR. MOLL:
2	you need or want a break?	2 Objection to form.
3	A No, ma'am. I think I'm good for another half an	3 A Yes, ma'am.
4	hour or so.	4 MS. SPEES:
5	Q Okay.	5 Q But you didn't see where Mr. Mejia and Ms. Savage
6	MR. MCINTIRE:	6 were standing at the time they were arrested,
7	Yeah, I could use a break in another ten,	7 correct?
8	fifteen minutes, I think, not right now.	8 A No, ma'am, I did not.
9	MS. SPEES:	9 Q Okay. Were you in contact with any of the
10	Okay. We can make that happen, Mr.	10 landowners of this property?
11	McIntire.	11 A No, ma'am.
12	MS. SPEES:	12 Q Do you know if anyone from the sheriff's office was
13	Q So just to go back to when you showed up at the site	13 in contact with the landowners?
14	on August 18th and you, I just want to confirm, that	14 A I don't believe directly.
15	you estimated that the markers that you did see were	15 Q Okay. Did you receive any communications about
16	about fifty yards away from the sky pod, I noted that	16 landowners and whether or not they were granting
17	you said that was about fifty yards, right?	17 their permission to the protestors to be on the
18	MR. MOLL:	18 property?
19	Objection to form.	19 A I don't remember. I did see a text message in the
20	A Yes, ma'am.	20 report I reviewed, but I don't remember seeing that
21	MS. SPEES:	21 at that time. I'm not -- I'm sorry, I don't know if
22	Q And so you -- you're basically eyeballing from	22 it's a text message or email, but it's a picture of a
23	stakes that are fifty yards away and -- and -- and	23 phone with a letter on it.
24	making a determination that that sky pod would have	24 Q How -- how -- how did you become aware that the
25	been on the right-of-way, correct?	25 protestors did not have permission to be on that

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1 Yeah.  
2 --OFF THE RECORD--

3 Reporter's Note: (Technical difficulty; signal lost after  
4 which testimony continues as follows)

5 --ON THE RECORD--

6 MS. SPEES:

7 Q So I -- I was saying that I don't think we have much  
8 longer to go, Sergeant Martin, just want to follow up  
9 on a couple of things. One is just -- just to  
10 clarify that you -- you testified that you -- you  
11 came to know that Bayou Bridge Pipeline did not have  
12 the legal authority to be out on that property in  
13 Bayou Chene at the time of these -- these arrests,  
14 correct?

15 MR. MCINTIRE:  
16 Objection to form.

17 A Yes, ma'am.

18 MS. SPEES:

19 Q And that had you -- had you known that at the time  
20 you would not have made these arrests for  
21 unauthorized entry of a critical infrastructure,  
22 correct?

23 MR. MCINTIRE:  
24 Objection to form.

25 A Don't know if I would have made them or not. I

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1 definitely would have consulted with risk management  
2 and our attorneys about what do we do from there.

3 MS. SPEES:

4 Q You also testified that Mr. Langlinais gave you a  
5 packet, I believe you said, of information that  
6 included the plat information and who -- who would  
7 have those documents now?

8 A They're attached to the report that Lieutenant  
9 Gauthier had, the report packet in our system.

10 Q Okay. And that would include the plat information  
11 and any communications, any other communication from  
12 Mr. Langlinais that was in that packet?

13 A It's -- yes, ma'am. It's two different PDF files.  
14 I don't know how many pages one of them is, but it's  
15 all the Clerk of Court information with the plat for  
16 a couple of different plots including that one. It's  
17 all Bayou Chene plots. And I want to say an affidavit  
18 is a Stockstill document, whether it's signed for  
19 saying Glenn Stockstill was the majority shareholder  
20 and giving Bayou Bridge permission to say who can and  
21 can't be on his property.

22 Q So would you agree with me that -- that we, here in  
23 Louisiana, have a lot -- a lot of pipelines, is that  
24 a fair statement? Would you agree with that?

25 A I'm not sure how many we have, but I would imagine

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1 there's a few.

2 Q And would you agree that a lot of these pipelines  
3 are underground?

4 A Yes, ma'am.

5 Q Okay. And would you agree that sometimes they're  
6 underground in places where you wouldn't have reason  
7 to know that, just from looking at it, that there's a  
8 pipeline there?

9 MR. MCINTIRE:  
10 Objection to form.

11 A I would agree.

12 MS. SPEES:

13 Q Okay. As a -- as a sheriff's deputy and a law  
14 enforcement officer, how would you go about enforcing  
15 1461 in situations like that?

16 MR. MCINTIRE:  
17 Objection to form.

18 A Can you clarify exactly what kind of situation  
19 you're talking about?

20 MS. SPEES:

21 Q In the -- in the situation where there's a,  
22 supposedly, a pipeline underground that you can't see  
23 and you -- you're being asked to enforce 1461, how  
24 would you go about doing that?

25 MR. MCINTIRE:

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1 Objection. Objection to form.

2 A One more question, 1461 is the trespassing on a  
3 critical infrastructure? I don't remember the  
4 statute code.

5 MS. SPEES:

6 Q Yes, that's correct.

7 A If I was asked to enforce that statute on a pipeline  
8 that wasn't underground and not clearly marked, I  
9 wouldn't enforce it there.

10 Q What if you have a landowner or a -- or a pipeline  
11 company that is -- is complaining about presence on  
12 that pipeline?

13 MR. MCINTIRE:  
14 Objection to form.

15 A The statute would allow me to make an arrest in  
16 those circumstances. They -- he can complain and we  
17 can look at a trespassing offense or a different  
18 offense, but I don't know that that statute would  
19 apply.

20 MS. SPEES:

21 Q How would you -- why -- why wouldn't -- why wouldn't  
22 it apply?

23 A I don't remember verbatim and I don't have the  
24 actual statute in front of me to quote it, but from  
25 what I could remember there were several subsections

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1       that said it either had to be clearly marked,  
2       designated, fenced off, where somebody would know it  
3       was a restricted area and not just a pipeline or  
4       under construction. And if none of those applied you  
5       wouldn't be able to apply that statute to that crime.

6       Q     Okay. I want to go back to the private security  
7       work because I -- I may have misunderstood your  
8       testimony. I want to make sure I'm clear. Were --  
9       did you testify that you were not working private  
10      security during -- between, let's say, May and  
11      September in relation to the Bayou Bridge Pipeline?

12      MR. MCINTIRE:

13      Objection to form.

14      A     I don't remember when I specifically started. I  
15      don't remember. From what I remember, my first  
16      actual dealing with a protestor was June-ish and I  
17      would have worked after that point some -- some time  
18      period and I would have worked between June and  
19      August, but I don't remember specific days I worked.

20      MS. SPEES:

21      Q     Okay.

22      A     I'm gonna retract that. I'm not a hundred percent  
23      sure. I may have worked one or two days in May.

24      Q     Okay.

25      A     Don't remember. I'm sorry.

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1       Q     Well, that clarifies because I -- I -- your -- your  
2       -- your memory is that you did work private security  
3       at some points during -- during that period?

4       A     Yes, ma'am, it is.

5       Q     Okay, all right. Just give me a moment. We might  
6       be close to -- to done here.

7       A     Yes, ma'am.

8       Q     I just want to make sure. Who is the -- who's  
9       considered the custodian of records at the sheriff's  
10      office?

11      A     We have a records department.

12      Q     Okay. And is it the records department that houses  
13      documents like you were referring to that Lieutenant  
14      Gauthier would have with the plat information?

15      A     They would have the actual original document that  
16      would have been turned over with a case file to the  
17      DA's office, but we have a scanned copy attached in  
18      our reporting system and they would have access to  
19      that.

20      Q     Okay. And back to the private security question,  
21      who -- who -- you don't recall whether you were  
22      working for HUB or Sunbelt or do you recall whether  
23      you were working for HUB or Sunbelt?

24      A     At which point?

25      Q     Between June and May and August of 2018.

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1       A     Majority of it would be HUB. I think really early  
2       on I worked a few days for Sunland [sic], maybe -- I  
3       don't want to give you a wrong number, but I'm gonna  
4       say under five days, under -- maybe closer to two,  
5       but it would have been before we started any HUB  
6       security and everything else would have been through  
7       HUB.

8       Q     Okay. And who -- who was -- who were you dealing  
9       with at HUB, who was your contact point?

10      MR. MCINTIRE:

11      Objection to form.

12      A     It depends at which point. Once I took over  
13      scheduling it would have been Angela Deer.

14      MS. SPEES:

15      Q     Okay. What about before you took over scheduling?

16      A     I didn't have a contact at HUB before that.

17      Q     How was it that you came to be working for HUB?

18      A     The office entered a contract with them and they  
19      asked for deputies who wanted to work the security  
20      detail.

21      Q     When you say "the office", do you mean the St.  
22      Martin Parish Sheriff's Office?

23      A     Yes, ma'am, our sheriff's office.

24      Q     Okay. And you say there was a contract with HUB?

25      A     I'm -- I'm assuming. We started a work detail with

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1       them as my knowledge.

2       Q     I see, okay. Did the -- do -- to your knowledge,  
3       did the sheriff's office keep a record of which  
4       sheriff's office employees were working for HUB  
5       during that time?

6       A     Not that I'm aware of.

7       Q     Okay. Do you have records of when you worked for  
8       HUB and how much you were paid?

9       A     I don't have records of when I worked. I have a, I  
10      don't know the tax form, but I have -- I filed taxes  
11      that year and it's on my tax documents, a total, but  
12      I don't know days.

13      Q     Okay. Do you -- do you recall how many times you  
14      met with Mr. Chevalier at the DA's office about these  
15      arrests?

16      A     No, ma'am, but it wouldn't have been more than one  
17      or two. I don't remember if he was that first  
18      person, like I said, or if it was Chester Cedars, but  
19      two would have been the max if it was him the first  
20      time.

21      Q     Okay, all right. I think that's all I have. I'm  
22      gonna ask my co-counsel to let me know if there's  
23      anything else. Just on that note with -- with the  
24      DA's office, did you meet before the arrests --  
25      before there were any arrests about this law?

14 (Pages 50 to 53)

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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF LOUISIANA

ANNE WHITE HAT, RAMON \*  
MEJIA, and KAREN SAVAGE \*  
\*  
\* CIVIL ACTION NO.  
v. \* 6:20-cv-00983  
\*  
BECKET BREAU, in his \*  
official capacity as \* JUDGE ROBERT R.  
Sheriff of St. Martin \* SUMMERHAYS  
Parish; BOFILL DUHE, in \*  
his official capacity as \* MAGISTRATE JUDGE  
District Attorney of the \* CAROL B. WHITEHURST  
16th Judicial District \*  
Attorney's Office \*  
\* \* \* \* \*

The deposition of GABRIEL GAUTHIER, taken in connection with the captioned cause, pursuant to the following stipulations before Mary LeJeune-Kephart, via Zoom Videoconferencing, on the 18th day of February 2022 beginning at 9:04 A.M.

Exhibit R

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Page 2	Page 3
1 APPEARANCES: 2 3 FOR THE PLAINTIFFS, ANNE WHITE HAT, RAMON MEJIA, and KAREN SAVAGE: 4 5 PAMELA C. SPEES LUNA MARTINEZ CENTER FOR CONSTITUTIONAL RIGHTS 666 BROADWAY, 7TH FLOOR NEW YORK, NEW YORK 10012 7 8 WILLIAM QUIGLEY PROFESSOR OF LAW LOYOLA UNIVERSITY COLLEGE OF LAW 7214 ST. CHARLES AVENUE NEW ORLEANS, LOUISIANA 70118 10 11 FOR THE DEFENDANT, BECKET BREAUX: 12 13 PATRICK B. MCINTIRE OATS & MARINO 100 EAST VERMILION STREET SUITE 400 LAFAYETTE, LOUISIANA 70501 14 15 FOR THE DEFENDANT, BOFILL DUHE: 16 COREY MOLL PORTEOUS, HAINKEL AND JOHNSON 704 CARONDELET STREET NEW ORLEANS, LOUISIANA 70130 19 20 21 22 23 24 25	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25  <b>S T I P U L A T I O N</b> It is hereby stipulated by and among counsel for plaintiff and counsel for defense that the deposition of GABRIEL GAUTHIER be taken before Mary LeJeune-Kephart, Certified Court Reporter, by counsel for the plaintiff for all purposes, pursuant to notice and to the provisions of the appropriate statutes of the Code of Civil Procedure of the State of Louisiana. The parties hereto waive all formalities in connection with the taking of said deposition, except the reading and signing thereof, the swearing of the witness and the reduction of the questions and answers to typewriting. Per Article 1443(D) of the Louisiana Code of Civil Procedure, counsel for all parties reserve all objections until trial or other use of the deposition. * * *
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
Page 4	Page 5
1 INDEX 2 3 EXAMINATION BY MS. SPEES..... 7 4 EXAMINATION BY MR. MCINTIRE ..... 35 5 6 OBJECTIONS: 7 BY MR. MCINTIRE ..... 18 8 BY MR. MCINTIRE ..... 19 9 BY MR. MCINTIRE ..... 22 10 BY MR. MCINTIRE ..... 23 11 BY MR. MCINTIRE ..... 24 12 BY MR. MCINTIRE ..... 25 13 BY MR. MCINTIRE ..... 26 14 BY MR. MCINTIRE ..... 27 15 BY MR. MCINTIRE ..... 28 16 BY MR. MCINTIRE ..... 29 17 BY MS. SPEES..... 31 18 BY MR. MCINTIRE ..... 32 19 BY MR. MCINTIRE ..... 33 20 BY MR. MCINTIRE ..... 34 21 22 EXHIBITS: 23 EXHIBIT #1 MEJIA ARREST AFFIDAVIT ..... 38 24 (NOT PROVIDED FOR ATTACHMENT) 25	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25  <b>MADAME COURT REPORTER:</b> We're now on the Record. The time is 9:04 A.M. Central Standard Time. The attorneys participating in this deposition acknowledge that I am not physically present in the deposition room and that I will be reporting this deposition remotely via video conferencing. They further acknowledge that in lieu of an oath administered in person the witness will verbally declare his testimony in this manner and is under penalty of perjury. Please state your name, the party you represent, your current location and agreement on the Record please. <b>MS. SPEES:</b> Pam Spees representing the plaintiffs. <b>MR. QUIGLEY:</b> Bill Quigley also representing the plaintiffs. <b>MR. MCINTIRE:</b> Patrick McIntire representing the sheriff. <b>MR. MOLL:</b> Corey Moll representing District Attorney

2 (Pages 2 to 5)

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<p style="text-align: center;">Page 6</p> <p>1 Bo Duhe in his official capacity. 2 MADAME COURT REPORTER: 3 Mr. McIntire, you got -- you got 4 everything out? 5 MR. MCINTIRE: 6 Yeah, you wanted us to say we agreed with 7 the -- 8 MADAME COURT REPORTER: 9 Right, yeah. 10 MR. MCINTIRE: 11 -- what you stipulated. Right. 12 MADAME COURT REPORTER: 13 Yeah, I think I might have had -- I might 14 have had a little tiny delay on mine. Okay. 15 Will the witness please raise your right hand? 16 Do you solemnly swear or affirm that the 17 testimony you're about to give will be the 18 truth, the whole truth and nothing but the 19 truth? 20 THE WITNESS: 21 I do. 22 MADAME COURT REPORTER: 23 Thank you. 24 THE WITNESS: 25 I think our camera shifted.</p>	<p style="text-align: center;">Page 7</p> <p>1 MS. SPEES: 2 Yeah, it shifted a bit. It's okay. 3 GABRIEL GAUTHIER, 4 after having been duly sworn, was examined and did 5 testify as follows: 6 EXAMINATION BY MS. SPEES: 7 Q Good morning. 8 A Good morning. 9 Q Just a note that something we realized yesterday is 10 that microphone in front of you, it's -- if you could 11 pull it a little bit closer. It's not -- we were 12 losing some audio occasionally yesterday, so I think 13 that's good. So good morning, my name is Pam Spees 14 and I am -- I'm representing Karen Savage, Anne White 15 Hat and Ramon Mejia in this matter. Could you -- 16 could you state your full name and -- yeah, state 17 your full name please. 18 A Gabriel Thomas Gauthier. 19 Q And could you give us your date of birth? 20 A May 31st of 1977. 21 Q Okay, great. And what is your -- what is your rank 22 at this point? 23 A I'm a captain. 24 Q Captain. Okay, so I can call you Captain Gauthier? 25 A Yes, ma'am.</p>
<p style="text-align: center;">Page 8</p> <p>1 Q And do you understand why we're here today? 2 A I do. 3 Q And -- and what is your understanding of that? 4 A It's in reference to an arrest I made on the 5 pipeline in 2018, I believe. 6 Q Okay. And did you review any documents in 7 preparation for your deposition today? 8 A I did. 9 Q And what -- and what documents did you review? 10 A My investigative report. 11 Q Okay. 12 A Along with other statements. 13 Q What -- what were those? 14 A They are in the investigative packet. 15 Q What did the packet include? 16 A ADSI report along with warrants, huh-uh, affidavits, 17 arrest affidavits, booking sheets and so on. 18 Q Okay. And did you bring any documents with you 19 today? 20 A I did. 21 Q And -- and what were those? 22 A I have a printout of the -- the criminal statute, 23 1461, unauthorized entry of a critical infrastructure 24 along with a printout of my report from ADSI. 25 Q Okay, great. Have you ever been deposed before?</p>	<p style="text-align: center;">Page 9</p> <p>1 A Yes. 2 Q How many times? 3 A Three or four times. 4 Q Okay. And -- and what were those depositions in 5 reference to, if you recall? 6 A One was involving a trespassing in Atchafalaya 7 Basin. It was -- I believe I was being sued for 8 violation of civil rights, civil rights violation. 9 Q And the -- 10 A And -- and that's it. It was an arrest for 11 trespassing. They were -- crawfisherman was fishing 12 on somebody else's property. 13 Q I see. And -- and what about the other times, you 14 mentioned three or four times? 15 A One time before involving a separate pipeline issue. 16 I think it was about -- about a month ago. 17 Q Okay. 18 A It may have not even been a month ago. 19 Q Okay. Was -- was that in the Spoon case? 20 A Yes. 21 Q Okay. And -- and what about the others? 22 A One time was a contractor fraud, a personal 23 contractor fraud. Not a contractor fraud, I sued a 24 contractor and I had -- I was deposed in -- in that 25 when I was building my house.</p>

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Page 10	Page 11
<p>1 Q I see, okay. And any other -- any other 2 depositions?</p> <p>3 A That's it.</p> <p>4 Q Okay. And so, you mentioned the lawsuit involving 5 the crawfisherman, what -- have you -- are there any 6 other times that you've been sued?</p> <p>7 A No, ma'am.</p> <p>8 Q Okay, all right. So you -- you've been deposed 9 pretty recently. You -- I don't know if it was over 10 Zoom. These sets of depositions are my first time 11 doing this over Zoom, so it's pretty awkward for me 12 and we've had some glitches. My internet's gone out. 13 I think someone else's internet went out yesterday. 14 So if -- if you don't hear all of my question, 15 you know, just please -- please stop, let Mr. 16 McIntire know or let me know that, you know, cause 17 it's just really important that you hear my question. 18 And what we found is if you give it a couple of 19 beats after I ask, I think it's -- the -- the sound 20 works better that way and Mrs. Kephart can -- can 21 make sure she's getting everything down. 22 And then sometimes my questions just aren't 23 clear, just because of me, not because of any 24 technological thing, so please feel free to ask me 25 for clarification if -- if you're not sure what I'm</p>	<p>1 asking. Does that sound good?</p> <p>2 A Yes, ma'am.</p> <p>3 Q Okay. How long have you been with the St. Martin 4 Parish Sheriff's Office?</p> <p>5 A I've been with them since '96, but I left and came 6 back in '04.</p> <p>7 Q Why did you leave?</p> <p>8 A I went to another agency.</p> <p>9 Q What agency was that?</p> <p>10 A Broussard Police Department and Iberia Parish 11 Sheriff's Office.</p> <p>12 Q Okay. How long have you been a captain?</p> <p>13 A Six months.</p> <p>14 Q Okay. Where did you work before '96 when you joined 15 the sheriff's office?</p> <p>16 A I was in high school.</p> <p>17 Q Okay.</p> <p>18 A I worked at a grocery store. I mean, I had jobs in 19 high school and you know.</p> <p>20 Q Were -- were you there in St. Martinville or?</p> <p>21 A Yes, ma'am.</p> <p>22 Q Okay. Have you worked private security since you've 23 been at the sheriff's office? Do you take on private 24 security jobs?</p> <p>25 A Yes.</p>
<p>1 Q And who have you worked for in that capacity?</p> <p>2 A I've worked for Breaux Bridge Casino doing security. 3 It's through the sheriff's office. I worked for UL 4 Police Department during their football games and 5 events. And there are probably several more that I 6 can't think of right off the top of my head.</p> <p>7 Q Okay. Were you working for a private security 8 company on the -- at the time of the arrests we're 9 here to discuss today?</p> <p>10 A I was -- I was working for the sheriff's office. We 11 were working for a private security company. I think 12 it was HUB Security.</p> <p>13 Q Okay. When you say "we were working", what do you 14 -- what do you mean?</p> <p>15 A I was getting -- yes, I was working for HUB Security 16 cause the, I believe, the checks were from HUB 17 Security.</p> <p>18 Q Okay. Do you recall how often or how much you 19 worked for HUB Security during, let's say, between 20 July and -- and October of that year?</p> <p>21 A I don't.</p> <p>22 Q Okay. Do you recall how much you got paid?</p> <p>23 A No.</p> <p>24 Q Okay. Were there timesheets you had to -- you had 25 to keep as part of your work on -- on this detail?</p>	<p>1 A No, ma'am.</p> <p>2 Q Okay. I'm sorry, we have -- we lost Mr. Moll. 3 MS. SPEES: 4 Mr. Moll, are you with us? 5 MR. MOLL: 6 I'm here. Sorry, was having some issues 7 there. I think I'm good now. 8 MS. SPEES: 9 Okay. Did you -- do -- how much -- how 10 long were you gone? 11 MR. MOLL: 12 It was -- it was just a blip, just a 13 second. I'm good. 14 MS. SPEES: 15 All right, good. 16 MS. SPEES: 17 Q Okay. So -- so you -- you were working for HUB at 18 -- at the time of this -- these arrests, which were 19 on August 18th, correct? 20 A Yes, ma'am. 21 Q Okay. And was anyone else with you on that day, 22 anyone else from the sheriff's office with you on 23 that day? 24 A Yes. 25 Q Who -- who was with you?</p>

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	Page 14		Page 15
1	A Chris Champagne.	1	Q Okay. Do you know when you did that?
2	Q Okay. And -- and who is -- who is Mr. Champagne?	2	A Shortly after the event.
3	A He's a coworker. He works for the sheriff's office	3	Q Would it have been the same day or a day or two
4	here and was scheduled the same day as me working	4	later?
5	that area.	5	A I don't know.
6	Q Okay. Would he also have been working for HUB on	6	Q Okay. Can you describe for me what -- how you came
7	that day?	7	to be out on the property that day, and by the
8	A I don't know what he would have been doing. I	8	property we're talking about the -- the property you
9	assume he was.	9	-- you're describing in your report, sounds like you
10	Q Okay. Were either of you wearing a body camera on	10	-- you were near Bayou Crook Chene.
11	that day?	11	A Yes, ma'am.
12	A Yes.	12	Q Can you tell me how you came to be out there that
13	Q Who -- who was wearing one?	13	day?
14	A I -- I believe I was wearing one and I don't know if	14	A I took a boat there, was delivered to a construction
15	Chris was or not. He may have been.	15	site. And when we got there the construction workers
16	Q Okay. Do you know what would have happened with	16	were saying they had four people on the -- on the
17	that footage?	17	right-of-way. And then we walked down about, I -- I
18	A I don't.	18	don't even know if it was -- might have been a couple
19	Q What do you normally do with -- with the footage	19	of miles, down a pipeline and saw four people.
20	captured by your -- by your camera after -- after --	20	Q Okay. What -- you say you saw four people, what was
21	after working an incident like this?	21	happening when you -- when you saw the four people?
22	A It's downloaded into a server here at the sheriff's	22	A They were standing beneath a tree.
23	office. That particular camera -- camera, I believe	23	Q And -- and then what happened?
24	I had taken it from patrol and given it back to Chris	24	A They were told to leave.
25	Martin.	25	Q And what did they -- did anyone respond?
	Page 16		Page 17
1	A I don't recall exactly what -- they may have.	1	know what to refer to it as, that marked it.
2	Q What -- you said you walked a coup -- maybe a couple	2	Q Yeah. Sometimes people refer to it as a
3	of miles from Bayou Crook Chene and --	3	right-of-way or an easement.
4	A It was a long distance from where I was dropped off.	4	A right-of-way, yeah.
5	I don't remember exactly how far it was.	5	Q So you're saying there were -- there were markers
6	Q Okay. So you don't remember once you got to the	6	there at that time?
7	four people that you saw standing under the tree, you	7	A Yes.
8	don't remember if anyone -- did you -- did they	8	Q And where were they standing in relation to the
9	communicate with you in any way?	9	markers?
10	A I don't remember.	10	A Within the -- the boundary of the marker.
11	Q Okay. Now, initially -- so -- so then what	11	Q Okay. What did the marker --
12	happened?	12	A Closer to the pipeline.
13	A They were told to leave and they had thirty minutes	13	Q What did the markers look like?
14	to leave and when we -- when I came back they were --	14	A It was a stick with a flag on the top.
15	they were still there so they were arrested.	15	Q Okay. Do you recall who made the complaint that --
16	Q Okay. And what were they arrested for?	16	or -- or how did you come to believe that they did
17	A Trespassing.	17	not have permission to be there?
18	Q And -- and how did you come to believe they were	18	A The construction -- the construction, that's who
19	trespassing?	19	prompted me to the area was the construction workers.
20	A Because they were -- they were on property that was	20	And then I spoke to Chris Martin and he -- he
21	-- didn't belong to them. It was in the right of	21	verified that they weren't supposed to be there.
22	passage within the construction site.	22	Q Okay. Did you -- but you yourself didn't have any
23	Q How -- how do you define the construction site?	23	contact with property owners?
24	A There were survey markers along the borders of the	24	A No, ma'am.
25	-- the easement or right of passage, I don't really	25	Q Okay. And -- and do you know the names of any

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1 property owners who -- who might have complained?  
2 A I don't.  
3 Q Okay. Do you -- are -- are you aware that Bayou  
4 Bridge Pipeline Company was later found by a Court to  
5 have been -- have been trespassing on that property?  
6 A I --  
7 MR. MCINTIRE:  
8 Objection to form.

MS. SPEES:

Q You--

A I'm not.

Q I'm sorry, could you -- could you say that again?

A I'm not aware of anything.

Q So -- so you didn't -- you didn't know that later on  
15 a Court found Bayou Bridge to have been trespassing  
16 on that property at the time?

MR. MCINTIRE:

Objection to form. Go ahead.

A No.

MS. SPEES:

Q Okay. If I represent to you that that in fact  
22 happened, that -- that a Court in St. Martin Parish  
23 found that at the time of -- of the arrests that you  
24 made, Bayou Bridge itself was trespassing, would that  
25 have affected your decision as to whether to arrest

Page 19

1 the people standing there that day?  
2 MR. MCINTIRE:  
3 Objection to form.  
4 A I don't -- I don't know.  
5 MS. SPEES:  
6 Q So -- but it was the -- the pipeline company that -  
7 well, what is your understanding of who hired HUB,  
8 you say you were working for HUB, what's your  
9 understanding of who -- who -- who contracted with  
10 HUB?  
11 A I have no understanding of who contracted with HUB.  
12 Q Okay. Did you ever encounter someone named Eddie  
13 Langlinais?  
14 A Yes.  
15 Q How so?  
16 A I saw him on a construction site. I'm -- I was  
17 familiar with him from before and I saw him on a  
18 construction site out there one time.  
19 Q What was your understanding of what he was doing  
20 there?  
21 A I don't have any understanding of what he was doing  
22 there.  
23 Q Okay. Did you ever interact with anybody working  
24 for the, other than construction workers, anybody  
25 working for the pipeline company?

Page 20

1 A Not that I'm aware of.  
2 Q Okay. Now, you initially arrested -- well, can you  
3 -- can you tell me -- let's go back to the moment  
4 when you said you'd let thirty minutes pass, the --  
5 the people were still standing under the tree, what  
6 happened then?  
7 A I went back and I saw four people that were still  
8 under the tree and identified them to be Brittany  
9 Osland, Ramon Mejia and Madeline Hicks and Karen  
10 Savage.  
11 Q You -- you identified them at that point?  
12 A Upon arrest, after they were arrested.  
13 Q Okay. So -- so how -- how did you effectuate the  
14 arrests?  
15 A Went down to the area where they were, detained them  
16 with handcuffs and -- and then started to identify  
17 them. They identified themselves.  
18 Q And -- and was it just you and -- and is it Deputy  
19 Champagne at the time who were effectuating the  
20 arrests?  
21 A That I remember.  
22 Q Okay. And do you recall what you arrested them for  
23 at the time?  
24 A It was trespassing.  
25 Q Just basic trespassing?

Page 21

1 A Yes. No, I arrested them for critical  
2 infrastructure, that's 61.  
3 Q Okay.  
4 A 1461.  
5 Q All right. So just going -- going to your report,  
6 and this I'm looking at, let's -- let's look at the  
7 -- let me go ahead and I'm just gonna put this on the  
8 screen. Let's see here, see if I can do this right.  
9 Now, can you still hear me?  
10 A Yes.  
11 Q Okay. My computer is just frozen so I'm gonna stop  
12 the share and ask you to look at --  
13 MS. SPEES:  
14 Mr. McIntire, can we look at the Ramon  
15 Mejia affidavit?  
16 MR. MCINTIRE:  
17 Let me double check with the PEL. That's  
18 the Ramon Mejia jail affidavit, is that what  
19 you're looking at?  
20 MS. SPEES:  
21 That's correct, yes.  
22 MR. MCINTIRE:  
23 Okay, we've got it.  
24 MS. SPEES:  
25 Okay, great.

6 (Pages 18 to 21)

Gabriel Gauthier  
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Page 23

1 MS. SPEES:

2 Q So just for the Record, Mr. -- Captain Gauthier is  
3 -- is looking at the affidavit of the -- the -- the  
4 arrest affidavit for Ramon Mejia. It's dated August  
5 18, 2018 and Captain Gauthier, would you just refer  
6 to the last paragraph of this affidavit?

7 A While in transport Lieutenant Chris Martin -- you  
8 want me to refer to it or read it?

9 Q You don't need to read it. I just wanted to direct  
10 your attention to it. So there it says that -- I  
11 mean, could you basically just describe what it says  
12 there?

13 A Lieutenant Chris Martin came out there and observed  
14 the sight and positively identified that they were  
15 within the right-of-way and -- and suggested that  
16 they in violation of unauthorized entry of -- of  
17 criminal infrastructure.

18 Q Okay. Who was in charge out there that day? Who --  
19 who would you say was in charge?

20 MR. MCINTIRE:

21 Objection to form.

22 MS. SPEES:

23 Q You -- you can answer if you understand.

24 A Are you -- are you talking about whenever --

25 Lieutenant Chris Martin when he -- when he got there

1 cause he outranked everybody.

2 Q Okay. Was there anyone affiliated with the pipeline  
3 company or the construction company that you would  
4 say was in charge that was the go to person that was  
5 telling you what was going on out there?

6 MR. MCINTIRE:

7 Objection to form.

8 A No, not that I remember.

9 MS. SPEES:

10 Q Okay. Do you remember the names of the -- the --  
11 the people you interacted with when you got to Bayou  
12 Crook Chene?

13 A I don't.

14 Q Okay. So could you -- could you just describe why  
15 it was -- it was only when you were transporting the  
16 people that you arrested that you -- you learned from  
17 -- from now Sergeant Martin that they should be  
18 charged with violation of the critical infrastructure  
19 law?

20 A Because it was -- he -- he made me aware of it, the  
21 critical infrastructure law, and I think you --  
22 you're gone.

23 Q Can you hear me?

24 A Yes.

25 Q Okay. Yeah, I had -- my camera's frozen. I've just

Page 24

Page 25

1 tried to turn it off but I can still hear you.

2 A Keep going?

3 MR. MCINTIRE:

4 Yeah. Yeah.

5 A Okay. So when I arrested them I believe they were  
6 trespassing and then when I was made aware of this --  
7 this unauthorized entry of a critical infrastructure  
8 it better fit what I observed out there.

9 MS. SPEES:

10 Q How did it better fit what you observed?

11 A It was upon a critical infrastructure which is a  
12 pipeline, construction site of a pipeline.

13 Q Why would you not have -- have thought to charge  
14 them with that immediately?

15 MR. MCINTIRE:

16 Objection to form.

17 A I wasn't fam -- I might -- I might have known about  
18 the law, but I wasn't very familiar with the law.

19 MS. SPEES:

20 Q Okay. So you -- you've had a chance to review the  
21 law and -- and are you more familiar with it now?

22 A Yes.

23 Q Okay. What -- what is your understanding of what is  
24 prohibited by that law with respect to pipelines?

25 MR. MCINTIRE:

1 Objection to form.

2 A The -- a pipeline or construction site's considered  
3 critical infrastructure. And their entering upon  
4 that pipeline is a violation of that law.

5 MS. SPEES:

6 Q Okay. Would --

7 A And the remained there after they were told to  
8 leave.

9 Q Okay. How do you determine whether someone is  
10 trespassing on a pipeline that's not, I'm not talking  
11 about a construction site, I'm asking how -- how  
12 would you determine when you're trying to enforce  
13 this law whether someone is -- is trespassing on a  
14 pipeline?

15 MR. MCINTIRE:

16 Objection to form.

17 A What I used to determine was the -- the survey lines  
18 placed there by the surveyors and they were clearly  
19 within the survey lines. I determined that that was  
20 the premise of the pipeline or construction site.

21 MS. SPEES:

22 Q Okay. What -- I understand that's what you're --  
23 you're testifying happened that day and I'm asking  
24 you to speak just as a general matter. As -- as an  
25 officer, when you are trying to figure out how to

7 (Pages 22 to 25)

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1 enforce this law, what are you gonna look for in  
2 terms of violating or -- or trespassing on a  
3 pipeline, not a construction site, a pipeline?

4 MR. MCINTIRE:

5 Objection to form.

6 A I -- I don't understand the question.

7 MS. SPEES:

8 Q So if -- if you are called to property, let's say,  
9 and you have a landowner who's saying this person or  
10 -- or a pipeline company, which is saying that this  
11 -- these people are -- are on our pipeline and it's  
12 not a construction site and let's say it's a pipeline  
13 that's underground, how are you gonna determine  
14 whether that person is violating the critical  
15 infrastructure law?

16 MR. MCINTIRE:

17 Objection to form.

18 A I'm very -- I really don't know how to answer that  
19 question.

20 MS. SPEES:

21 Q Okay. All right, so you -- you testified that there  
22 were -- that there were survey markers and that these  
23 -- these folks, these four people, were standing  
24 within the survey marker line; is that correct?

25 A Yes.

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1 Q Okay. Now, Sergeant Martin testified that when he  
2 -- when he arrived he did not see survey markers  
3 there and so I'm -- I'm not trying to catch you up on  
4 anything, I'm just letting you know that that was his  
5 testimony and -- and does that not accord with your  
6 recollection?

7 MR. MCINTIRE:

8 Objection to form.

9 A I -- I remember seeing survey markers. They may not  
10 have been right where they were standing and some of  
11 them may have been removed.

12 MS. SPEES:

13 Q Okay. I'm still here. I'm just -- I haven't  
14 frozen, I'm just looking at my notes. Were you  
15 involved in any other arrests of protestors with  
16 respect to the Bayou Bridge Pipeline?

17 A I don't believe so.

18 Q How often or how many times did you -- do you recall  
19 working on the Bayou Bridge Pipeline detail?

20 A Probably twenty times.

21 Q And what -- where --

22 A That's an approximate time. I don't recall every  
23 time.

24 Q Sure. No, I understand. What -- what period was  
25 that, was that in August or September of 2018, how --

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1 what was the time span?

2 A It was over several months.

3 Q Okay. And what -- what did your work consist of?  
4 Where were -- where were you working this detail?

5 A At different sites throughout the Atchafalaya Basin.

6 Q Was it all in St. Martin Parish?

7 A Yes.

8 Q Okay. Do you recall how much you were -- you were  
9 getting paid by HUB?

10 A I don't.

11 Q Was it hourly?

12 A Yes.

13 Q Do you have -- recall an approximation?

14 A You want me to approximate?

15 Q If you --

16 A Thirty -- probably Thirty -- Thirty Dollars an hour,  
17 Thirty-Five Dollars an hour. It was a -- it was  
18 north of Thirty, I think.

19 Q Okay, that's helpful. Thank you. Now, you -- you  
20 indicated that you -- you weren't familiar with the  
21 -- the law at the time, did you -- did anyone ever  
22 provide you with instructions about enforcing it?

23 MR. MCINTIRE:

24 Objection to form.

25 A No, not that I recall.

Page 29

1 MS. SPEES:

2 Q Did you have -- so did you have any written  
3 communications about the law and its -- how to  
4 enforce it?

5 A Not that I remember.

6 Q Okay. If the -- if, as I said, the -- a Court later  
7 found that Bayou Bridge was trespassing on that  
8 property, do you believe -- well, Bayou -- a Court  
9 found that Bayou Bridge was trespassing at the time  
10 you made these arrests and so it did not have a legal  
11 right to be there, do you believe you had a -- had a  
12 -- do you believe that these -- these folks were  
13 trespassing on critical infrastructure at the time?

14 MR. MCINTIRE:

15 Objection to form.

16 A I can't really say what I believe right now based  
17 upon that.

18 MS. SPEES:

19 Q Okay, fair enough. So when you were working this  
20 detail for HUB, your -- did you show up in your St.  
21 Martin Parish Sheriff's Office uniform?

22 A Yes.

23 Q And the same firearm you would use if you were on  
24 official duty?

25 A Yes.

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Page 30	Page 31
<p>1 Q And -- and you do recall that you were wearing a 2 body cam that day, correct? I believe that was your 3 testimony.</p> <p>4 A I can't be -- I can't be absolutely correct about if 5 I was wearing a body cam that day. I believe I was.</p> <p>6 Q Okay, all right. That's -- that's fair.</p> <p>7 MS. SPEES: 8 So I think we -- we may be close to done, 9 Mr. McIntire. I just want to take a minute and 10 check with my client and co-counsel and we can 11 come back in ten minutes?</p> <p>12 MR. MCINTIRE: 13 That's fine.</p> <p>14 MS. SPEES: 15 Okay. And -- and just before we go off 16 the Record, Mrs. Kephart, I did want to just 17 put -- put back on the Record in this 18 deposition as well our -- the fact that Mr. 19 McIntire produced some documents on Wednesday 20 evening, the 16th, but -- but did so in -- in 21 spite of the objection that Captain Gauthier 22 and the other deponents are not parties and 23 subject to the docu -- discovery requirements 24 of Rule 34.</p> <p>25 Putting that on the Record and the -- and</p>	<p>1 -- and noting that we are objecting to the 2 timing and substance and we'll leave this 3 deposition open pending resolution and any 4 further documents that come to us. Sound good? 5 MR. MCINTIRE: 6 Yeah and -- and our objection to leaving 7 the deposition open. I think we -- Rule 34 8 doesn't apply to non-parties and the request 9 that accompanied the deposition notice was 10 under Rule 34. We have produced some 11 documents, do not pretend that that's a 12 comprehensive document production, but we don't 13 believe that that's grounds for leaving the 14 deposition record open.</p> <p>15 MS. SPEES: 16 Okay. All right and on that note we'll 17 come back at -- let's come back at 10:00.</p> <p>18 MR. MCINTIRE: 19 Okay.</p> <p>20 MS. SPEES: 21 All right, great, thank you.</p> <p>22 --OFF THE RECORD--</p> <p>23 --ON THE RECORD--</p> <p>24 MS. SPEES: 25 Q Just a couple more questions and then we can -- we</p>
<p>1 can call it a day, I think. You -- you said that you 2 had to walk a couple of miles, approximately, to get 3 to where these folks were standing under the tree. 4 Do -- did I hear you say correctly -- am I correct 5 that you walked along the -- the right-of-way to get 6 there?</p> <p>7 MR. MCINTIRE: 8 Objection to form.</p> <p>9 MS. SPEES: 10 Q You can answer.</p> <p>11 A Within the right-of-way. I'm not sure where I 12 remember walking there. I walked within the -- the 13 very near to the berm or the dirt that was dug out of 14 the pipeline.</p> <p>15 Q Okay. And -- and did it seem that -- that a lot of 16 trees had been cleared along that route?</p> <p>17 A I don't remember seeing any trees that were cleared.</p> <p>18 Q Okay. Okay, let me just check my notes here. Let's 19 see. Okay, I want to just go back and -- and ask a 20 question I tried to ask earlier, but I may not have 21 been clear. The hypothetical question about how you 22 might enforce this law and I'm over here in Southwest 23 Louisiana and we have a lot of pipelines in this part 24 of the state. Would you agree that there -- you got 25 a lot of pipelines over there too?</p>	<p>1 MR. MCINTIRE: 2 Objection to form.</p> <p>3 A I -- I don't know if we have a lot or not.</p> <p>4 MS. SPEES: 5 Q Okay. Would you agree that pipelines run under the 6 ground?</p> <p>7 A Yes.</p> <p>8 Q Okay. Have you seen markings for pipelines that are 9 underground?</p> <p>10 A Yes.</p> <p>11 Q Have you -- are you also aware that there are 12 pipelines sometimes without markings?</p> <p>13 A I'm not aware of it.</p> <p>14 Q Okay. So I -- I just want to go back to this 15 hypothetical one more time. Let's say that a -- a 16 pipeline operator calls you out to some property and 17 says there are protestors on -- on our pipeline and 18 the pipeline is -- has already -- it's underground, 19 it's already been constructed.</p> <p>20 There's no construction site. The pipeline's 21 underground and my question to you is you have 22 someone who's complaining, how do you, as a law 23 enforcement officer, determine whether they are 24 violating the critical infrastructure law?</p> <p>25 MR. MCINTIRE:</p>

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<p style="text-align: center;">Page 34</p> <p>1           Objection to form. 2   A   I would confirm that there's a pipeline there. 3   MS. SPEES: 4   Q   How would you confirm it? 5   A   Through the man -- the pipeline manager that called 6   us there. 7   Q   And in your mind, what would the -- where would the 8   protestors need to be in order to be charged with 9   this with respect to the pipeline that the pipeline 10   manager tells you it's in the ground? 11   MR. MCINTIRE: 12        Objection to form. 13   A   I would establish the boundary of being the clear 14   cut portion at the sides of the pipeline and if they 15   were in there that -- they would -- they would be in 16   violation of that. 17   MS. SPEES: 18   Q   How would you go about establishing that? 19   MADAME COURT REPORTER: 20        I -- I think you cut out. 21   A   I'm having trouble -- somebody started talking. 22   MADAME COURT REPORTER: 23        That was me, the Court Reporter. I think 24        Ms. Pam's last question cut out. I only caught 25        the tail end.</p>	<p style="text-align: center;">Page 35</p> <p>1   MS. SPEES: 2   Q   I asked -- okay, I'll ask it again. How would you 3   go about determining -- determining that area? 4   A   It's -- it's hard for me to answer these 5   hypothetical questions because there would be several 6   other -- there would possibly be several other 7   circumstances on each complaint. 8   MS. SPEES: 9        Okay. I think that's all I have, Mr. 10      McIntire, so we'll follow up about -- well, we 11      need to see if Mr. Moll has any questions. 12   MR. MOLL: 13        I do not have any questions at this time. 14   MR. MCINTIRE: 15        I do have a -- a couple of questions for 16        clarification. 17   MS. SPEES: 18        Sure. 19   EXAMINATION BY MR. MCINTIRE: 20   Q   Deputy Gauthier, during the break just now, with the 21   help of IT from this morning, we were able to get 22   some of the videos, body cam videos, to play; is that 23   correct? 24   A   Yes. 25   Q   The videos that we've seen, were those from August</p>
<p style="text-align: center;">Page 36</p> <p>1       the 18th? 2   A   I believe those were from the 19th. 3   Q   So the day after the -- 4   A   Cause the date on the video was the 19th. I didn't 5   see any from the 18th. 6   Q   Would these be the videos of the body cam that you 7   might have been thinking of when you testified 8   earlier? 9   A   Yes, it could have been. 10   Q   Thank you. That's all I have. 11   MR. MCINTIRE: 12        I will say, Pam, we are gonna make a 13        search for additional body cam videos and see 14        if there are some from the 18th. I just didn't 15        want to leave the Record, you know, the way it 16        was if in fact the -- the camera he was 17        thinking of was the 19th. 18   MS. SPEES: 19        Okay. Was the -- the footage of the 19th 20        of the same location? 21   A   Yes. 22   MS. SPEES: 23        Okay. Then -- then I think we'd want to 24        see that too, Mr. McIntire. 25   MR. MCINTIRE:</p>	<p style="text-align: center;">Page 37</p> <p>1       Yeah. 2   MS. SPEES: 3        Okay, great. Okay, Mr. Moll has nothing. 4       I have nothing further. I think we can 5       conclude for now. 6   MADAME COURT REPORTER: 7        Okay, so Mr. Moll and Mr. McIntire want a 8       copy of the transcript? 9   MR. MCINTIRE: 10        Yes, please. 11   MADAME COURT REPORTER: 12        And read and sign to you, Mr. McIntire? 13   MR. MCINTIRE: 14        Yes, please. 15   MADAME COURT REPORTER: 16        Okay. 17   MR. MOLL: 18        And yes, yes for me on a copy. 19   MADAME COURT REPORTER: 20        Okay. Did you put any -- I don't think 21       you put any exhibits on, did you Ms. Pam? Did 22       you attach any exhibits? 23   MS. SPEES: 24        We -- we referenced Mr. Mejia's warrant 25       af -- arrest affidavit. I'll send you that.</p>

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<p style="text-align: center;">Page 38</p> <p>1           MADAME COURT REPORTER: 2           Okay, so you do want to attach it as 3           "Exhibit 1"? 4           MS. SPEES: 5           Yes. 6           MADAME COURT REPORTER: 7           And you still have my email address? 8           MS. SPEES: 9           Yes, I do. 10          MADAME COURT REPORTER: 11          All right, thank you so much. 12          THE WITNESS WAS EXCUSED. 13          DEPOSITION CONCLUDED AT 10:14 A.M. 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">Page 39</p> <p>1           REPORTER'S PAGE 2 3           I, Mary LeJeune-Kephart, Certified Court Reporter in 4           and for the State of Louisiana, the officer, as defined in 5           Rule 28 of the Federal Rules of Civil Procedure and/or the 6           Article 1434(B) of the Louisiana Code of Civil Procedure, 7           before whom this proceeding was taken, do hereby state on 8           the Record: 9           That due to the spontaneous nature of the interaction 10          and discourse of the proceeding, double-dashes (--) have 11          been used to indicate pauses, changes of thought and/or 12          talkovers; that such is the universally accepted method for 13          a court reporter's transcription of a proceeding; that 14          double-dashes (--) do not indicate that words or phrases 15          have been left out of the transcript. 16          And that the spelling of any words and/or names which 17          could not be verified through reference resources have been 18          denoted with the parenthetical phrase "(spelled 19          phonetically)."  20 21 22 23 24 25</p>
<p style="text-align: center;">Page 40</p> <p>1           CERTIFICATE 2 3           This certification is valid only for a transcript 4           accompanied by my original signature and original required 5           seal on this certificate. 6           I, Mary LeJeune-Kephart, Certified Court Reporter in 7           and for the State of Louisiana, as the officer before whom 8           this testimony was taken, do hereby certify that GABRIEL 9           GAUTHIER, after having been duly sworn by me upon authority 10          of R.S. 37:2554, did testify on the 18th day of February 11          2022, via Zoom Videoconferencing, as hereinbefore set forth 12          in the 38 foregoing pages; that this testimony was reported 13          by me in the voice-reporting method, was prepared and 14          transcribed by me or under my personal direction and 15          supervision, and is true and correct to the best of my 16          ability and understanding; that the transcript has been 17          prepared in compliance with the transcript format 18          guidelines required by statute and rules of the board; that 19          I am informed about the complete arrangement, financial or 20          otherwise, with the person or entity making arrangements 21          for deposition services; that I have acted in compliance 22          with the prohibition on contractual relationships, as 23          defined by Louisiana Code of Civil Procedure Article 1434 24          and rules of the board; that I have no actual knowledge of 25          any prohibited employment or contractual relationship,</p>	<p style="text-align: center;">Page 41</p> <p>1           direct or indirect, between a court reporting firm and any 2           party litigant in this matter, nor is there any such 3           relationship between myself and a party litigant in this 4           matter; that I am not related to counsel or to any of the 5           parties hereto, I am in no manner associated with counsel 6           for any of the interested parties to this litigation, and I 7           am in no way concerned with the outcome thereof. 8           This 18th day of February 2022, New Orleans, 9           Louisiana. 10 11 12 13 14 15          _____ 16          Certified Court Reporter 17 18 19 20 21 22 23 24 25</p>

Andrew Bonvillain  
February 17, 2022

Page 1

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF LOUISIANA

ANNE WHITE HAT, RAMON \*  
MEJIA, and KAREN SAVAGE \*  
\*  
\* CIVIL ACTION NO.  
v. \* 6:20-cv-00983  
\*  
BECKET BREAU, in his \*  
official capacity as \* JUDGE ROBERT R.  
Sheriff of St. Martin \* SUMMERHAYS  
Parish; BOFILL DUHE, in \*  
his official capacity as \* MAGISTRATE JUDGE  
District Attorney of the \* CAROL B. WHITEHURST  
16th Judicial District \*  
Attorney's Office \*  
\* \* \* \* \*

The deposition of ANDREW BONVILLAIN, taken in connection with the captioned cause, pursuant to the following stipulations before Mary LeJeune-Kephart, via Zoom Videoconferencing, on the 17th day of February 2022 beginning at 1:00 P.M.

Exhibit S

Andrew Bonvillain  
February 17, 2022

Page 2	Page 3
1 APPEARANCES:	1 STIPULATION
2 FOR THE PLAINTIFFS, ANNE WHITE HAT, RAMON MEJIA, and KAREN	2 It is hereby stipulated by and among counsel for
3 SAVAGE:	3 plaintiff and counsel for defense that the deposition of
4 PAMELA C. SPEES	4 ANDREW BONVILLAIN
5 LUNA MARTINEZ	5 be taken before Mary LeJeune-Kephart, Certified Court
6 CENTER FOR CONSTITUTIONAL RIGHTS	6 Reporter, by counsel for the plaintiff for all purposes,
7 666 BROADWAY, 7TH FLOOR	7 pursuant to notice and to the provisions of the appropriate
8 NEW YORK, NEW YORK 10012	8 statutes of the Code of Civil Procedure of the State of
9 WILLIAM QUIGLEY	9 Louisiana.
10 PROFESSOR OF LAW	10 The parties hereto waive all formalities in
11 LOYOLA UNIVERSITY COLLEGE OF LAW	11 connection with the taking of said deposition, except the
12 7214 ST. CHARLES AVENUE	12 reading and signing thereof, the swearing of the witness
13 NEW ORLEANS, LOUISIANA 70118	13 and the reduction of the questions and answers to
14 FOR THE DEFENDANT, BECKET BREUX:	14 typewriting.
15 PATRICK B. MCINTIRE	15 Per Article 1443(D) of the Louisiana Code of Civil
16 OATS & MARINO	16 Procedure, counsel for all parties reserve all objections
17 100 EAST VERMILION STREET SUITE 400	17 until trial or other use of the deposition.
18 LAFAYETTE, LOUISIANA 70501	18 * * *
19 FOR THE DEFENDANT, BOFILL DUHE:	19
20 COREY MOLL	20
21 PORTEOUS, HAINKEL AND JOHNSON	21
22 704 CARONDELET STREET	22
23 NEW ORLEANS, LOUISIANA 70130	23
24 ALSO PRESENT:	24
25 GREGORY MOROUX	25
26 IN-HOUSE COUNSEL FOR SMPSO	
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1 INDEX	1 MADAME COURT REPORTER:
2 EXAMINATION BY MS. SPEES..... 6	2 The remote swearing in or I can read the
3 OBJECTIONS:	3 summary into the record again. It's your
4 BY MS. SPEES..... 7	4 preference.
5 BY MR. MCINTIRE..... 10	5 MR. MCINTIRE:
6 BY MR. MCINTIRE..... 21	6 We'll stipulate.
7 BY MR. MCINTIRE..... 24	7 MS. SPEES:
8 BY MR. MCINTIRE..... 27	8 We'll do the same.
9 BY MR. MCINTIRE..... 29	9 MADAME COURT REPORTER:
10 BY MR. MCINTIRE..... 31	10 Okay.
11 BY MR. MCINTIRE..... 32	11 MR. MOLL:
12 BY MR. MCINTIRE..... 34	12 Agree.
13 BY MR. MCINTIRE..... 36	13 MADAME COURT REPORTER:
14 BY MR. MCINTIRE..... 37	14 Okay, thank you. All right, so if our
15 BY MR. MCINTIRE..... 38	15 witness would raise your right hand. Do you
16 BY MR. MCINTIRE..... 39	16 solemnly or affirm that the testimony you're
17 BY MR. MCINTIRE..... 40	17 about to give will be the truth, the whole
18 EXHIBITS:	18 truth and nothing but the truth?
19 EXHIBIT #1 TYPED REPORT ..... 42	19 THE WITNESS:
20	20 I do.
21	21 MADAME COURT REPORTER:
22	22 Okay, thank you.
23	23 ANDREW BONVILLAIN,
24	24 after having been duly sworn, was examined and did
25	25 testify as follows:

2 (Pages 2 to 5)

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Page 6

1 EXAMINATION BY MS. SPEES:  
2 Q Okay. Can you hear my okay?  
3 A Yes.  
4 Q Great. Good afternoon, my name is Pam Spees and I'm  
5 an attorney representing the plaintiffs in this  
6 matter. Can I get you to spell or -- or pronounce  
7 your last name and spell it?  
8 A Bonvillain, B-O-N-V-I-L-L-A-I-N.  
9 Q And I guess we'll note your address as St. Martin  
10 Parish Sheriff's Office again.  
11 MS. SPEES:  
12 Mr. McIntire?  
13 Mr. McIntire:  
14 Yes, please, rather than give home  
15 addresses.  
16 MS. SPEES:  
17 Sure.  
18 MS. SPEES:  
19 Q And can you give us your -- your date of birth?  
20 A 6/4/74.  
21 MS. SPEES:  
22 Just to get started here, I want to put  
23 something on the Record that we related to a  
24 communication we got from Mr. McIntire last  
25 night. When he delivered some documents to us

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1 in advance of these depositions today, Mr.  
2 McIntire expressed the position that -- that as  
3 a -- as a deputy you're not a party to this  
4 proceeding and are not subject to the document  
5 production under Rule 34 of the Federal Rules  
6 of Civil Procedure.

7 And I just want to note that for the  
8 Record and that we are objecting to that, both  
9 the timing, the substance and the -- timing and  
10 the substance of that and will plan to leave  
11 this deposition open pending resolution of that  
12 further down the road.

13 MR. MCINTIRE:

14 And of course -- and of course we had our  
15 objection to the document production request to  
16 the deputy under Rule 34 of the Federal Rules.

17 MS. SPEES:

18 That we received last night, right.

19 MS. SPEES:

20 Q Okay. And just a note as we go forward into it, are  
21 you -- what is your rank now or your position with  
22 the sheriff's office now?

23 A Sergeant of the narcotics unit.

24 Q Okay. So it's okay if I -- if I refer to you as  
25 Sergeant Bonvillain?

Page 8

1 A Yes.  
2 Q Am I saying that right?  
3 A Yes.  
4 Q We've noted earlier that there's sometimes an issue  
5 with the microphone picking up your responses, so we  
6 found that it works better if that's closer to you.  
7 Yeah, I think that'll -- that'll work for Mrs.  
8 Kephart, who's our Court Reporter.  
9 As we go through this I'm going to -- we --  
10 we've had some issues that I also think with -- with  
11 the delay, so if you want to give it two or three  
12 beats after my question and then -- and then respond,  
13 I think it works better for picking up the fullness  
14 of your response if we do it that way.  
15 I'm going to try to keep my questions clear and  
16 not as compound as they sometimes are. If you have  
17 any questions or -- or need clarification, don't  
18 hesitate to -- to stop me and -- and ask for that and  
19 I'll try to rephrase the question so that it's clear.  
20 The -- you -- you heard Mrs. Kephart refer to  
21 the usual stipulations and that has to do with  
22 objections that your attorney may make and for the  
23 most part Mr. McIntire may make some objections but  
24 you -- you're still required to answer unless he  
25 instructs you not to and that we shouldn't have to

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1 encounter that today. I'm noticing that something's  
2 happening with the camera, it's shifting  
3 occasionally.

4 MR. MCINTIRE:

5 It's supposed to be a smart camera that  
6 focuses on -- the best we can tell is it -- it  
7 tracks movement. See, it shifted over toward  
8 me just now and then Mr. Moreau moved and it  
9 included him in the picture. If that becomes  
10 too much of a distraction we may take a break  
11 and get IT to look at that.

12 MS. SPEES:

13 Okay, all right. Well, hopefully it  
14 won't.

15 MR. MCINTIRE:

16 Maybe just move every now and then. Yeah  
17 and it'll keep you in the picture.

18 MS. SPEES:

19 And I'm just realizing I forgot to start  
20 the recording. I'm gonna start that now, Mrs.  
21 Kephart.

22 MADAME COURT REPORTER:

23 Okay, go ahead.

24 MS. SPEES:

25 Q Sergeant, do you understand why we're here today?

3 (Pages 6 to 9)

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1	A Yes. Q And -- and what's your understanding of that? A That there's a lawsuit filed against the sheriff's office about arrests were made on the pipeline. Q That's right. And did you see, have a chance to review the deposition notice? A Yes. Q Okay. And did you see that there were -- there was a document request attached to that deposition notice? A Yes. Q And did you bring any documents with you today? A No. Q Okay. Did you review any documents in preparation for your deposition today? A Yes. Q And what were those? A My arrest report. Q Okay. MR. MCINTIRE: And if you could -- let me just caution the witness. Give it that beat because it is on Zoom and -- and somebody may have an objection, so give us just a beat after she finishes the question before you give the	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	answer. That'll help a lot. MS. SPEES: Q Okay. The arrest report, I'm gonna just share a document on the screen for a moment just to make sure that we're talking about the -- the right thing here. Can you see my screen? A Yes. Q And you see a document on that screen? A Yes. Q Do you recognize that document? A Yes. MR. MCINTIRE: We have a copy here. MS. SPEES: Q Okay. And can you tell us what that document is? A The narrative to my report. Q Okay. Is this the document you were just referring to that you said you reviewed? A Yes. Q Okay, great. Stop sharing now, make sure I didn't end the recording. Okay, so -- so before we get into the substance of that, was there -- were there any other documents that you reviewed? A The letter from the landowner. Q Okay.
1	A And the text message. Q And what was the text message? A Saying that they had permission to be on the property. MR. MCINTIRE: It -- it's one of the documents that we included in the production from last night. MS. SPEES: Q Okay. Was there anything else you reviewed? A And part of the lawsuit. Q Which part? A The statute. Q The -- when you refer to the statute, are you referring to the law prohibiting unauthorized entry onto a critical infrastructure? A Yes. Q Okay. And that's Louisiana Revised Statute 14:61? A I believe it is. I'm not sure what the -- I'm not sure what the statute number is offhand. Q Okay. Well, just for the sake of this deposition we'll refer to it as the critical infrastructure law, if that's okay with you? A Yes. Q Okay. Have you ever been deposed before? A Yes.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Q When was that? A 2014 or '15. Q Was that the only time? A Then prior to that, I don't remember the year, I did a deposition for an auto accident. Q Okay. In 2014 or 2015, what was that in reference to? MR. MCINTIRE: Yeah, you can tell them. A Officer involved shooting I was in. MS. SPEES: Q Okay, all right. Have you ever -- have you ever been sued? A Not that I'm aware of. Q Okay, good. Okay. So you've been deposed before, you -- you -- you know how this generally goes and -- and like I said, if -- if there's anything that's not clear, feel free to ask me to clarify as we move forward. How long have you been with the sheriff's office? A Over thirteen years. Q Thirteen years. What's your position now? A Sergeant of the narcotics investigations unit. Q Okay. How long have you been in that position? A Since October of 2020.

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<p>1 Q Okay. What was your position before that? 2 A I was a patrol sergeant. 3 Q What was your position at the time of the arrests 4 that we're going to be discussing today? 5 A A deputy in the patrol division. 6 Q Okay. Where did you work before the sheriff's 7 office? 8 A I was in the National Guard. 9 Q Anything before that? 10 A I was in -- I worked for Stuller Settings. 11 Q What is that? 12 A It's a jewelry manufacturer in Lafayette. 13 Q Oh, okay. And did you have any employment before 14 that? 15 A Yes, I worked for the St. Landry Parish Sheriff's 16 Office, then the Opelousas Police Department before 17 that, then the Arnaudville Police Department prior to 18 that, the St. Landry Parish Sheriff's Department 19 prior to that and then US Marine Corps prior to that. 20 Q Okay. Have you -- do you ever work private 21 security? 22 A Just went I worked at Stullers. 23 Q Oh, you were work -- were you working as private 24 security at -- in that -- 25 A Yes, I worked in their security division.</p>	<p>1 Q Okay. Do you ever work private security in -- in 2 addition to your employment with the St. Martin 3 Parish Sheriff's Office? 4 A How do you mean private security? 5 Q Do you -- have you ever -- have you ever provided 6 security services for a private security company 7 while you've been employed with the St. Martin Parish 8 Sheriff's Office? 9 A No, I'm not allowed to. 10 Q Why is that? 11 A That we're not allowed to so I -- I don't work for a 12 private security company. 13 Q Can I ask what -- what you -- what you mean by 14 you're not allowed to? Do you -- is there a policy 15 at the St. Martin Parish Sheriff's Office that 16 prohibits it? 17 A If I work for a private security company it would be 18 secondary employment and I'd have to get that 19 approved. 20 Q And so, you've -- you've never sought to have that 21 approved? 22 A I've never tried to get outside employment with 23 another job since I've been at the sheriff's office. 24 Q Okay, all right, thank you. I want to turn to the 25 -- the arrests that we're here to talk about today</p>
<p>1 and that are the subject of the -- the report that 2 you prepared. First of all, let me ask you about 3 this report. How did you -- how did prepare this 4 report? Did you yourself type it up? 5 A Yes. 6 Q When did you type up this report? 7 A I don't recall the exact day that I typed it up. 8 Q Do you -- do you have a sense of how close to the 9 actual events of September 3rd, I'm -- I'm referring 10 to your report now and it starts out on September 11 3rd. You're describing some events that took place 12 on that date. Do you recall how soon after that you 13 would have typed it up general -- approximately? 14 A Sometime within that week. 15 Q I'm sorry, could you repeat that? 16 A Sometime within that week. 17 Q Okay. Could you describe to us how you came to be 18 at the property that day that you're describing in 19 this report? 20 A I was working off-duty security and the location was 21 on this property. 22 Q Okay. When you say "off-duty security", what do you 23 mean? 24 A It means I was working and not getting paid by the 25 sheriff's office.</p>	<p>1 Q Who were you working for? 2 A The pipeline company. 3 Q Okay, all right. So you said you were working 4 off-duty security for the pipeline company and then 5 how did you come to -- to be out on the site that 6 day? 7 A That's the area I was assigned to work. 8 Q Okay. Who assigned you? 9 A I want to say Lieutenant Martin. 10 Q Okay. Do you recall if you were in uniform that -- 11 that day? 12 A Yes, I was in uniform. 13 Q Okay. Do you normally wear a body camera? 14 A Yes. 15 Q Were you wearing a body camera that day? 16 A No, I did not have one on that day. 17 Q Okay. Did any -- I noticed that you referred to 18 Lieutenant Jay Caperville, Sergeant Todd Noel and 19 Deputy John Deglandon, I don't know how you say that 20 name. They were with you that day? 21 A Yes. 22 Q Were any of them wearing a body camera? 23 A Lieutenant Caperville for sure that I can remember. 24 Q Okay. Were they also working private off-duty 25 security?</p>

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1 A Yes, we were all working off-duty security.  
2 Q Okay. And I'm sorry, what was the company?  
3 A I don't remember the company's name.  
4 Q Okay. So how did you -- how were you notified that  
5 you should go out to the property that day?  
6 A When we reported for work.  
7 Q Right, you reported for work and then what happened?  
8 A So we went to our sites and that's where we were  
9 working.  
10 Q Okay. So can you -- can you describe what happened  
11 after you got there?  
12 A When we first got there?  
13 Q Sure.  
14 A We were at the guard shack.  
15 Q And then what happened?  
16 A We were at the guard shack most of the day.  
17 Q Okay. And so, you were at the guard shack, did you  
18 have any conversations with any of the -- with anyone  
19 out there?  
20 A With who specifically?  
21 Q No, I'm asking if you had -- had conversations with  
22 -- you -- your -- you said you were at the guard  
23 shack most of the day.  
24 A Yes.  
25 Q Did you have any conversations while you were at the

Page 19

1 guard shack?  
2 A With who?  
3 Q With anyone.  
4 A I'm sure I did. I don't recall exactly who all I  
5 had conversations with that day.  
6 Q Okay. So can you -- can you describe how you came  
7 to interact with -- with the people you're describing  
8 in your report?  
9 A Let's see. I'm gonna refer to my report.  
10 Q That's fine.  
11 A Pipeline employee informed us that several  
12 protestors had come onto the pipeline right-of-way  
13 and were jumping on the equipment. At that time the  
14 four of us walked back to where the protestors were  
15 located at.  
16 Q How far was that from the guard shack?  
17 A I'm not sure exactly how far it was.  
18 Q Was it half a mile, a quarter of a mile, was it a  
19 few hundred feet?  
20 A It was more than half a mile. I'm not sure exactly  
21 how far it was.  
22 Q Okay. Did you have any written communications or  
23 text communications with anyone from the pipeline  
24 company that day about the protests?  
25 A Did not.

Page 20

1 Q Okay. Did Lieutenant Martin, or I guess Sergeant  
2 Martin now, did Sergeant Martin send you any written  
3 communications about the property or the protests  
4 that day?  
5 A Not that I remember.  
6 Q Okay. So could you describe your -- what happened  
7 after you -- you left the guard shack and went to the  
8 site?  
9 A So you want me to describe when I got to the site?  
10 Q Yes, please.  
11 A There was approximately thirty to thirty-five  
12 protestors on the pipeline right-of-way.  
13 Q How -- how do -- do you know it was the pipeline  
14 right-of-way?  
15 A Cause it's marked -- it was marked with survey  
16 stakes, survey markers.  
17 Q Did anyone show you on a map or a plat what the  
18 right-of-way was?  
19 A No.  
20 Q Did anyone tell you how many -- how many feet wide  
21 that right-of-way was?  
22 A No.  
23 Q Did you ever come to learn that Bayou Bridge  
24 Pipeline did not have legal authority to be there at  
25 this time?

Page 21

1 MR. MCINTIRE:  
2 Objection to form.  
3 MS. SPEES:  
4 Q You can answer.  
5 A Yes.  
6 Q When did you come to learn that?  
7 A When they had their Court case.  
8 Q And what -- and what did you hear about that?  
9 A That they didn't have the right of way.  
10 Q And how did you hear about that?  
11 A On the news.  
12 Q Knowing that now, would -- that -- that the pipeline  
13 company itself didn't have a right to be there, would  
14 that have affected your decision making as to seeking  
15 arrest warrants for the protestors that day?  
16 A No.  
17 MR. MCINTIRE:  
18 Object -- objection to form.  
19 MS. SPEES:  
20 Q Okay. What happened after you got out there and saw  
21 them on what -- what you -- what you describe is the  
22 right-of-way?  
23 A Once we got there, let's see, so I'm gonna refer to  
24 my report again. Once we got there Lieutenant  
25 Capterville was asked by Karen Savage if he would

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1 speak with her. While he was speaking with her, I  
2 spoke with the employees of the pipeline.  
3 They said that the protestors are throwing mud  
4 into the exhaust in the fuel tank of an excavator,  
5 which caused it to be inoperable, causing damage to  
6 the machine. Employees pointed out a white female  
7 who was wearing a purple shirt, purple shorts, as the  
8 one who threw the mud into the machine. Had her face  
9 covered with a scarf.

10 Employees advised that a protestor went to the  
11 guard shack located by them and threw mud off -- all  
12 over the inside of the building. They also locked  
13 the door to the building and took the keys to it.  
14 After Lieutenant Capterville finished speaking to Ms.  
15 Savage, Sergeant Noel, Deputy Deglandon and I  
16 approached the protestors.

17 I advised the protestors four times that they  
18 were trespassing on a critical infrastructure. I  
19 told them they needed to move off the right-of-way.  
20 Protestor's spokesperson, identified as Sherry  
21 Fortland (phonetic), advised that they were not  
22 leaving.

23 MADAME COURT REPORTER:  
24 Hello?

25 A Hello.

Page 23

1 MADAME COURT REPORTER:  
2 I thought I froze.  
3 MR. MCINTIRE:  
4 Yeah, I think Pam may have frozen there.  
5 MADAME COURT REPORTER:  
6 Okay. I heard -- I heard your whole  
7 answer but I -- I was afraid I went down again  
8 like earlier. My -- mine still looks like it's  
9 good, so okay.

10 MS. MARTINEZ:  
11 I am texting her now. She's had troubles  
12 with the Wi-Fi today.  
13 MR. MCINTIRE:  
14 Just go off the Record for a minute.  
15 --OFF THE RECORD--  
16 --ON THE RECORD--

17 MS. SPEES:  
18 Q So -- so the events that you've just been describing  
19 happened on September 3, 2018, correct?  
20 A Yes.  
21 Q And after that, though, it was several days after  
22 that that you, in your report, you indicate that you  
23 were going to seek or obtained arrest warrants,  
24 correct?  
25 A Yes.

Page 24

1 Q Why -- why was -- what -- why was there a several  
2 day lag time between the time that you were out on  
3 the property and seeking arrest warrants?

4 MR. MCINTIRE:

5 Objection to form.

6 A Because there's no internet out on the pipeline, so  
7 couldn't do the reports there. I had a doctor's  
8 appointment the next day, so when I came back to work  
9 I worked on my report.

10 MS. SPEES:

11 Q Okay. And I notice in this report that you -- can  
12 you hear me?

13 MADAME COURT REPORTER:

14 You broke up.

15 A Now I can.

16 MS. SPEES:

17 Q Okay. I'm gonna go off video just in the hopes that  
18 that helps. Can you hear me now?

19 MADAME COURT REPORTER:

20 We can hear you, but when you started  
21 your question a while ago it -- it froze and  
22 then you came back in but I didn't get the  
23 question.

24 MS. SPEES:

25 Okay. I'll repeat the question.

Page 25

1 MS. SPEES:  
2 Q In your report you refer to the fact that you  
3 reviewed body worn camera video and observed Karen  
4 Savage on the right-of-way, correct?  
5 A Yes.  
6 Q And who -- what was -- what or who was the source of  
7 that body worn camera?  
8 A I'm not sure exactly whose body camera it was.  
9 Q Okay. Does that footage still exist?  
10 A I do not know if it does or not.  
11 Q Okay. But it was after reviewing this footage that  
12 you decided to seek an arrest warrant for Karen  
13 Savage, correct?  
14 A Yes.  
15 Q Okay. Do you recall what date Ms. Savage and Ms.  
16 White Hat were arrested?  
17 A No, I do not.  
18 Q All right. I'm going to attempt to share another  
19 document with you. Let's see if I can get this.  
20 Okay, do you see this document?  
21 A Yes.  
22 Q I'm sorry, I didn't hear that.  
23 A Yes.  
24 Q Do you recognize it?  
25 A Yes.

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<p>1 Q And can you just identify what it is? 2 MR. MCINTIRE: 3 I think I've got a hard copy here to show 4 the witness as well. 5 MS. SPEES: 6 Thank you, Mr. McIntire. 7 A Yes, it's a booking sheet for the St. Martin Parish 8 Sheriff's Office. 9 MS. SPEES: 10 Q Okay. And it's -- it's the booking sheet for Karen 11 Savage? 12 A Yes. 13 Q Okay. And do you see the date of arrest there? 14 A Yes, I do. 15 Q Does -- and it says September 18th of 2018, does 16 that refresh your memory? Does -- do you agree that 17 that's the date on which Ms. Savage and Ms. White 18 Hat were arrested? 19 A Yes. 20 Q Okay. And do you see the place of arrest? 21 A You talking about the location of offense? 22 Q Place of arrest. 23 A Yes. 24 Q Can you -- can you just read that into the Record? 25 A 2981 Bayou Benoit Levee Road.</p>	<p>1 Q Okay. Can you describe that location? 2 A It is a boat landing. 3 Q So -- so the date of arrest is about two weeks after 4 the events you're describing in your report and at a 5 boat landing. How did you come to know that Ms. 6 Savage and Ms. White Hat were at the boat landing 7 that day? 8 MR. MCINTIRE: 9 Objection to form. 10 MS. SPEES: 11 Q You can answer. 12 A I observed them at the boat landing. 13 Q Did you just happen to be there that day? How did 14 -- how was it that you -- you came to observe them 15 there? 16 A I was working off-duty security again and we were 17 instructed by Lieutenant Martin to patrol that boat 18 landing. 19 Q Do you know why you were instructed to patrol that 20 boat landing? 21 A No, I do not. 22 Q Okay. How long had you been patrolling the boat 23 landing? 24 A I don't recall how long. 25 Q Did you have information in advance or reason to</p>
Page 28	Page 29
<p>1 know that Ms. Savage and Ms. White Hat would be at 2 that boat landing that day? 3 A No, I did not. 4 Q I'm going to stop sharing the screen. How -- can 5 you describe what happened when you got to the boat 6 landing that day? 7 A We were on boat patrol and we parked up at the boat 8 landing, then people started coming into the boat 9 landing and parking. 10 Q And then what happened? 11 A Then I seen -- observed Karen Savage arrive at the 12 boat landing and I had an active arrest warrant for 13 her, so I executed the warrant. 14 Q And then what happened? 15 A I then transported her to the St. Martin Parish 16 Correctional Center and booked her in on the active 17 arrest warrant. 18 Q How far is the correctional center from the boat 19 landing? 20 A About forty-five minutes. 21 Q Did you go straight from the boat landing to the 22 correctional center? 23 A Yes, I did. 24 Q So were you involved in -- in the arrest of Ms. 25 White Hat?</p>	<p>1 A No, I was not. 2 Q Okay. Who was? 3 A Do not know. 4 Q Okay. Now, when it comes to the critical 5 infrastructure law, what's your understanding of what 6 is prohibited by that? 7 MR. MCINTIRE: 8 Objection to form. 9 MS. SPEES: 10 Q You can answer. 11 A Do you have a copy of it so that I can see? 12 Q I can show you a copy of it and I'm happy to do 13 that, but I'd first like to hear what your 14 understanding is of what that law prohibits. 15 A Prohibits trespassing on anything -- anything that's 16 deemed critical infrastructure. 17 Q Okay. And how do you determine whether something is 18 a critical infrastructure? 19 A Can I see that statute please? 20 Q I will show you the statute, but I'm asking in 21 general -- let me -- let me back up. 22 A I would read the -- I -- I would read the statute 23 then I would determine if something's violating on it 24 after reading the statute. 25 Q Did you receive any -- any guidance or instructions</p>

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<p>1 from anyone at the sheriff's office about what is 2 prohibited by that statute?</p> <p>3 A No, I read the statute.</p> <p>4 Q Did -- so -- so no one gave you any instruction?</p> <p>5 A Not that I recall.</p> <p>6 Q Okay. Did anyone connected with the pipeline 7 company give you any instructions or -- about that 8 law?</p> <p>9 A No.</p> <p>10 Q Did anyone from the pipeline company communicate 11 with you in any way about that law?</p> <p>12 A No.</p> <p>13 Q Did anyone connected to the security company give 14 you any instructions about that law?</p> <p>15 A No.</p> <p>16 Q Okay. So in your report you indicate that the 17 protestors moved off the berm twice; is that correct?</p> <p>18 A That is correct.</p> <p>19 Q And you indicate that they -- the second time they 20 left and went back into the woods, correct?</p> <p>21 A So you're asking if they went back into the woods 22 after they left the second time, cause you'd cut out?</p> <p>23 Q Yeah, I'm just saying that in your report, that's 24 what your report indicates, that they actually left, 25 what you're referring to as the right-of-way, and</p>	<p>1 went back -- went -- went into the woods, correct?</p> <p>2 A Yes, that's correct.</p> <p>3 Q Okay. Does the sheriff's office have a policy -- 4 well, let me ask you this. So early on in our 5 conversation you indicated that you had never engaged 6 in secondary employment, I believe, since you've been 7 working at the sheriff's office, but then you 8 mentioned this off-duty security detail, correct?</p> <p>9 A Correct. So are you ask -- so to clarify, are you 10 asking if I had another job with a whole -- because 11 that's what I took you were asking me if I had a 12 second job with another business besides the 13 sheriff's office?</p> <p>14 A No and I want to -- I want to get clear on this. I'm 15 not trying to -- it's just awkward questioning on my 16 part. I was asking if you had ever worked private 17 security and did you -- have you gotten paid by 18 another company for providing security services while 19 you've been at the sheriff's office?</p> <p>20 MR. MCINTIRE: 21 Objection to form. 22 A Yes, I have. 23 MS. SPEES: 24 Q Okay. And -- and what company was that? 25 A Oh, I -- I don't remember all of them.</p>
<p>1 Q Okay. What company were you working with at the 2 time of these arrests?</p> <p>3 A The pipeline company.</p> <p>4 Q Okay. And how much were you being paid?</p> <p>5 A I honestly don't remember.</p> <p>6 Q Okay. Do you recall how much you or how many days 7 you worked for this pipeline company?</p> <p>8 A No, I do not.</p> <p>9 Q Do you recall whether it was a matter of fewer than 10 ten days or more than two weeks?</p> <p>11 A I don't recall the exact amount of time, days I 12 worked.</p> <p>13 Q Okay. Who did you answer to at that company?</p> <p>14 MR. MCINTIRE: 15 Objection to form. 16 A I answered to Lieutenant Martin.</p> <p>17 MS. SPEES: 18 Q Okay. So Lieutenant Martin was -- was also working 19 for the company at the time?</p> <p>20 MR. MCINTIRE: 21 Objection to form. 22 A I do not know.</p> <p>23 MS. SPEES: 24 Q Okay. Did you ever communicate with someone named 25 Eddie Langlinais?</p>	<p>1 A Yes. 2 Q And what did you communicate with Mr. Langlinais 3 about? 4 A So when I was assigned to the US Marshals Violent 5 Offender Task Force, Mr. Langlinais was the deputy US 6 marshal in charge of the Lafayette office and I that 7 was my boss. So when I did see him we just caught 8 up, cause I hadn't seen in a while. 9 Q And -- and what was his purpose, was he out on the 10 sight? 11 A I -- I saw him at a boat landing one day, told him 12 hi. We talked for about five minutes and that was 13 it. 14 Q Did you understand whether he was working for the 15 pipeline company or -- 16 A I don't know. 17 Q Okay. If the footage from the body worn camera 18 still exists, where would it -- where would it be in 19 the sheriff's office? 20 A I do not know. 21 Q Is there a custodian that oversees archival -- 22 archiving of records like that? 23 A I'm sure there is. 24 Q Okay. And you don't know who that -- 25 A No.</p>

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1 Q -- person --  
2 A Can you -- can you repeat that? You were breaking  
3 up.  
4 Q Okay. I asked -- I just was asking whether you know  
5 who that person is in --  
6 A No, I do not.  
7 Q When you were working for the pipeline company, you  
8 -- well, you said you went to the -- the boat launch,  
9 the boat ramp, that day on the 18th of September 2018  
10 and were you in a -- in a sheriff's office unit?  
11 MR. MCINTIRE:  
12 Objection to form.  
13 A I started out on a boat and then I went back to the  
14 other boat landing and I brought my unit to the boat  
15 landing where they were arrested at.  
16 MS. SPEES:  
17 Q Okay. Do you know whether there was a contract or  
18 agreement between the sheriff's office and the  
19 pipeline company for security services?  
20 A No, I do not.  
21 Q Okay.  
22 MS. SPEES:  
23 Mr. McIntire, my co-counsel, Bill  
24 Quigley, is gonna have to leave soon and I  
25 would like to confer with him for a couple of

1 minutes. If we could take a break now and  
2 reconnoiter at 2:00?  
3 MR. MCINTIRE:  
4 Sure.  
5 MS. SPEES:  
6 Great, thank you.  
7 --OFF THE RECORD--  
8 --ON THE RECORD--  
9 MS. SPEES:  
10 Q All right. I don't think we're gonna be much  
11 longer. Just want to clarify a couple of things.  
12 When -- and I'm just trying to understand the -- the  
13 difference between when you're working off-duty  
14 security versus when you're working in your official  
15 St. Martin Parish Sheriff's Office capacity. You  
16 indicated that the only person you were -- well, that  
17 you were working the off-duty detail at the time of  
18 these arrests on September 18th, correct?  
19 A Yes.  
20 Q Okay. And you -- you were reporting to, or getting  
21 instructions from, Sergeant Martin; is that correct?  
22 A Yes.  
23 Q Okay. And you -- you weren't interacting with  
24 anybody from -- else from the pipeline company or the  
25 -- or any private security company, correct?

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1 MR. MCINTIRE:  
2 Objection to form.  
3 A Correct.  
4 MS. SPEES:  
5 Q How did you become involved in the off-duty work on  
6 the pipeline? Was it something -- how did -- how --  
7 did you have to sign up for it, what -- how did that  
8 come about?  
9 A They -- they put it out that there was a detail  
10 starting and you could sign up for days to work it.  
11 Q Who put that out?  
12 A Lieutenant Martin was in charge of the detail.  
13 Q And it went out to (inaudible) --  
14 A You broke up.  
15 Q -- office employees?  
16 A Can you re -- can you say the whole question again?  
17 You were breaking up.  
18 Q Yeah, sorry. That communication from -- from  
19 Sergeant Martin went out to sheriff's office  
20 employees?  
21 A Yes.  
22 Q Okay. So you signed up for that and your  
23 understanding was you were gonna be paid by the  
24 pipeline company to do the off -- off-duty security,  
25 correct?

1 MR. MCINTIRE:  
2 Objection to form.  
3 A Correct.  
4 MS. SPEES:  
5 Q Okay. I want to go back to the -- the critical  
6 infrastructure law.  
7 MS. SPEES:  
8 Mr. McIntire, do you have a copy of it  
9 there?  
10 MR. MCINTIRE:  
11 I have the -- the text that's in the  
12 complaint, which is --  
13 MS. SPEES:  
14 We may not need it. Let me -- let me ask  
15 but I -- I don't want to --  
16 MR. MCINTIRE:  
17 -- (Inaudible) --  
18 MS. SPEES:  
19 Sorry?  
20 MR. MCINTIRE:  
21 The paragraph -- the complaint quotes the  
22 statute.  
23 MS. SPEES:  
24 Okay.  
25 MR. MCINTIRE:

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<p>1           We got that. 2           MS. SPEES: 3           Okay. You can hold it there. That's 4           fine. 5           MS. SPEES: 6           Q    You would -- did you -- were you aware that 7            pipelines had been added to the definition of 8            critical infrastructure that year? 9           A    Yes. 10          Q    And how would you determine whether someone is 11           violating that law with respect to a, let's say, an 12           underground pipeline that's already built? 13          MR. MCINTIRE: 14           Objection to form. 15          A    First we had a complaint of trespassing, then once 16           the people were told that they were trespassing, they 17           -- they had a defined area which they were 18           trespassing. 19          MS. SPEES: 20          Q    If -- and so now you're speaking to -- to the events 21           out on -- out in Bayou Chene, right? 22          A    Yes. 23          Q    Okay. I'm asking -- I'm not asking about those 24           events. I'm asking about if you have a pipeline 25           that's already been built and it's underground, how</p>	<p>1           would you determine if someone is violating that law? 2           MR. MCINTIRE: 3           Objection to form. 4           A    Again, I would need a complaint of trespassing, 5           which is what we had, and it's a marked area. 6           MS. SPEES: 7           Q    Okay. I'm just looking back through your report one 8           more time here. You said you reviewed, in 9           preparation for today, a text message about 10           permission for protestors to be on the property and 11           an affidavit. Had you seen those communications 12           before the arrests on, or not before the arrests, but 13           before you were out there on the property on 14           September 3rd? 15          MR. MCINTIRE: 16           Objection to form. 17          A    No, I had not. 18          MS. SPEES: 19          Q    When did you come to know of those communications? 20          A    Yesterday. 21          Q    Okay. So when you were out there on September 3rd, 22           why did you believe that the protestors were not 23           authorized to be there? 24          A    Why did I believe that is what you're asking? 25          Q    Yes.</p>
<p>1           A    Because they had the right-of-way marked with survey 2           markers and working on the pipeline. 3          Q    And -- and you testified that you -- you later came 4           to know that the pipeline company didn't have 5           authority to be there, correct? 6          MR. MCINTIRE: 7           Objection to form. 8          A    Yes, I later learned they lost the -- the lawsuit. 9          MS. SPEES: 10         Q    And when you say "lost the lawsuit", you -- you mean 11           -- do you mean that they were found to have been 12           trespassing on that property? 13         A    I know they lost the lawsuit. 14         Q    Okay. Did you ever have any communication with 15           anyone at the district attorney's office in St. 16           Martin Parish? 17         A    About what? 18         Q    About -- I'm sorry, good question. About the -- 19           about these arrests? 20         A    No, I have not. 21         Q    Did you have any communication with anybody at the 22           DA's office about the critical infrastructure law? 23         A    No, I did not. 24         Q    Okay. This may be one of the shortest depositions 25           ever.</p>	<p>1           MS. SPEES: 2           Mr. McIntire, maybe you can beat the 3           weather, beat it back. I -- I'm concluding at 4           this point, but leaving it open and Mr. -- 5           MR. MCINTIRE: 6           Mr. Moll? 7           MS. SPEES: 8           Moll, I don't know if you have -- uh-huh. 9           MR. MOLL: 10           I don't have any questions of the witness 11           at this time. 12           MS. SPEES: 13           Okay. 14           MR. MCINTIRE: 15           I don't have any questions, but I would 16           ask that his -- the typed report that he was 17           reading from previously that we have that 18           marked as an exhibit and attached to the 19           deposition. 20           MADAME COURT REPORTER: 21           Yeah, Ms. Spes, you didn't attach any of 22           the documents used as exhibits. Did you want 23           to? 24           MS. SPEES: 25           I didn't intend to, but it's fine. Well,</p>

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<p style="text-align: center;">Page 42</p> <p>1 obviously -- Mr. McIntire, do you want to send 2 that to Mrs. Kephart? 3 MR. MCINTIRE: 4 Okay, we will do that and I guess this -- 5 that'll be just "Exhibit 1". 6 MADAME COURT REPORTER: 7 Okay. I put my email address in the 8 chat. 9 MS. SPEES: 10 And -- and Mr. McIntire, we'll -- 11 obviously we're gonna want the -- the camera 12 footage. 13 MR. MCINTIRE: 14 Yeah. 15 MS. SPEES: 16 And some of the other documentation that 17 was referred to earlier, so we'll follow up 18 about that. 19 MR. MCINTIRE: 20 Okay. 21 MADAME COURT REPORTER: 22 Okay. And Mr. Moll and Mr. McIntire, you 23 want copies of the transcript? 24 MR. MCINTIRE: 25 Yes, please.</p>	<p style="text-align: center;">Page 43</p> <p>1 MR. MOLL: 2 Yes, please. 3 MADAME COURT REPORTER: 4 Okay. And did you want to do a read and 5 sign on this one also, Mr. McIntire? 6 MR. MCINTIRE: 7 Yes, please. 8 MADAME COURT REPORTER: 9 Okay. I'll send that to you as well. 10 All right, I think that's all we have. Did you 11 get my email address? 12 THE WITNESS WAS EXCUSED. 13 DEPOSITION CONCLUDED AT 2:14 P.M. 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: center;">Page 44</p> <p>1 REPORTER'S PAGE 2 3 I, Mary LeJeune-Kephart, Certified Court Reporter in 4 and for the State of Louisiana, the officer, as defined in 5 Rule 28 of the Federal Rules of Civil Procedure and/or the 6 Article 1434(B) of the Louisiana Code of Civil Procedure, 7 before whom this proceeding was taken, do hereby state on 8 the Record: 9 That due to the spontaneous nature of the interaction 10 and discourse of the proceeding, double-dashes (--) have 11 been used to indicate pauses, changes of thought and/or 12 talkovers; that such is the universally accepted method for 13 a court reporter's transcription of a proceeding; that 14 double-dashes (--) do not indicate that words or phrases 15 have been left out of the transcript. 16 And that the spelling of any words and/or names which 17 could not be verified through reference resources have been 18 denoted with the parenthetical phrase "(spelled 19 phonetically)."  20 21 22 23 24 25</p>	<p style="text-align: center;">Page 45</p> <p>1 CERTIFICATE 2 3 This certification is valid only for a transcript 4 accompanied by my original signature and original required 5 seal on this certificate. 6 I, Mary LeJeune-Kephart, Certified Court Reporter in 7 and for the State of Louisiana, as the officer before whom 8 this testimony was taken, do hereby certify that ANDREW 9 BONVILLAIN, after having been duly sworn by me upon 10 authority of R.S. 37:2554, did testify on the 17th day of 11 February 2022, via Zoom Videoconferencing, as hereinbefore 12 set forth in the 43 foregoing pages; that this testimony 13 was reported by me in the voice-reporting method, was 14 prepared and transcribed by me or under my personal 15 direction and supervision, and is true and correct to the 16 best of my ability and understanding; that the transcript 17 has been prepared in compliance with the transcript format 18 guidelines required by statute and rules of the board; that 19 I am informed about the complete arrangement, financial or 20 otherwise, with the person or entity making arrangements 21 for deposition services; that I have acted in compliance 22 with the prohibition on contractual relationships, as 23 defined by Louisiana Code of Civil Procedure Article 1434 24 and rules of the board; that I have no actual knowledge of 25 any prohibited employment or contractual relationship,</p>

12 (Pages 42 to 45)

Andrew Bonvillain  
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1 direct or indirect, between a court reporting firm and any  
2 party litigant in this matter, nor is there any such  
3 relationship between myself and a party litigant in this  
4 matter; that I am not related to counsel or to any of the  
5 parties hereto, I am in no manner associated with counsel  
6 for any of the interested parties to this litigation, and I  
7 am in no way concerned with the outcome thereof.

8 This 17th day of February 2022, New Orleans,  
9 Louisiana.

10  
11  
12  
13  
14  
15 Certified Court Reporter  
16  
17  
18  
19  
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21  
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23  
24  
25

AUTHORIZATION FOR REMOVAL OF TRESPASSERS

I am the owner(s) of the property(ies) described in the Permanent Easement Agreement attached hereto (the "Property"). Bayou Bridge Pipeline, LLC ("Bayou Bridge") and its personnel are authorized to contact law enforcement on my behalf in the event that I am unavailable and a trespass occurs. I have not granted authorization, express, legal, or implied, for any individual(s) to enter or remain on the Property and/or the pipeline right of way, nor have I permitted someone to enter the Property to interfere with the construction of the Bayou Bridge pipeline. Thus, any individual on the Property that refuses to leave the Property upon request by Bayou Bridge is trespassing, and I request that law enforcement remove them from the Property.

Witness:

Landowner:

Dominic D. Giampola  
Print Name: Dominic D. Giampola

Glenn D. Stockstill  
Glenn D. Stockstill,

Witness:

Paulette Stockstill  
Print Name: Paulette Stockstill

STATE OF LOUISIANA

PARISH OF ASCENSION

Personally appeared before me, Rhonda W. Bellina, a Notary Public of the state and parish aforesaid, personally came Dominic D. Giampola who being first duly sworn deposes and states that he/she was one of the subscribing witnesses to the execution of the foregoing instrument by Glenn D. Stockstill who signed the same in his/her presence and that of the other subscribing witness whose names are affixed as such and that he/she now recognizes all said signatures to be true and genuine.

Dominic D. Giampola  
Subscribing Witness

Witness my hand and official seal this 30<sup>th</sup> day of July, 2018.

Rhonda W. Bellina  
(Notary Public)

My commission expires: RHONDA W. BELLINA  
Notary Number: NOTARY PUBLIC  
Life Commission  
Ascension Parish, LA  
(ID #269)

## AFFIDAVIT

Incident # 18-15689

**STATE OF LOUISIANA**  
**Versus**

**Ramon Mejia**  
**H/M DOB 05-21-1983**  
**SS#457-85-1059**  
**661 Power Cl.**  
**Biloxi, Mississippi**

**STATE OF LOUISIANA**  
**PARISH OF ST. MARTIN**  
**16<sup>TH</sup> JUDICIAL DISTRICT**

Before me, the undersigned Notary/Judge in Parish aforesaid personally appeared Detective Gabriel T. Gauthier of the Parish and State aforesaid, who being duly sworn and says that Ramon Mejia late of the Parish/County of St Martin on or about the 18th day of August , 2018 in the Parish of St. Martin did:

**LARS 14:61 Unauthorized Entry of a Critical Infrastructure**

**LARS 14:63.3 Remaining After Being Forbidden**

against the peace and dignity of the State of Louisiana. The affiant charges that the accused committed the above described offense and was arrested for said offense on August 18<sup>th</sup>, 2018 at 8:55 AM based on the following information:

On August 18, 2018 I Detective Gabriel T. Gauthier was working in the at a Pipeline construction location near "Bayou Crook Chene" in the Atchafalaya River Basin, which is located within the Parish of St. Martin.

Upon my arrival at the location I was advised by several pipeline construction workers that there was a group of about four people standing beneath a "tree house" which is located within the pipeline's "right of Way".

I walked south from "Bayou Crook Chene" along the Pipeline route for approximately 2 miles and located a group of people standing beneath a "sky pod" which was attached to a rope that was tied to the actual pipe inside a trench that had been dug...

I made contact with the four individuals identified to be Brittany Osland, Ramon Mejia, Madeline Hicks and Karen Savage and informed them that they were trespassing and they needed to "move on". I informed the four suspects that they had 30 minutes to vacate the area or they would be placed under arrest for "remaining after being forbidden". .

After 30 minutes had passed I informed them that they were being placed under arrest for LARS 14:63.3 Remaining After Being Forbidden, the four individuals were placed under arrest for said charge, with no further incident and transported to the St. Martin Parish Correctional Center where they were booked.

While in transport Lt. Chris Martin came out to the site of the arrest and positively verified that the location the four people were standing is clearly in the "right of way" of the pipeline and that they are in violation of LARS 14:61 Unauthorized Entry Of A Critical Infrastructure.

**Exhibit U**

THUS DONE AND PASSED at, SMSO Louisiana, on the 18 day of August 2018 before

me, Alasha Allen

after reading of the whole.

Notary / Judge

Det. Charles Gauthier

AFFIANT'S SIGNATURE

Address: 400 St. Martin Street  
St Martinville La 70582

CONSIDERING THE ABOVE AND FOREGOING, it is determined that probable cause for arrest **did/did not** exist in the above entitled case and defendant **should /should not** remain incarcerated at this time, this determination being made this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ am/pm at \_\_\_\_\_ in, \_\_\_\_\_ Louisiana.

Victim Information:

Name: **State Of Louisiana**  
Address:

Phone #

JUDGE

## AFFIDAVIT

Incident # 18-15689

**STATE OF LOUISIANA  
Versus**

Karen Savage  
W/F DOB 12-21-1965  
236 EAST 118<sup>th</sup> Street  
New York City, New York

**STATE OF LOUISIANA  
PARISH OF ST. MARTIN  
16<sup>TH</sup> JUDICIAL DISTRICT**

Before me, the undersigned Notary/Judge in Parish aforesaid personally appeared Detective Gabriel T. Gauthier of the Parish and State aforesaid, who being duly sworn and says that Karen Savage late of the Parish/County of St Martin on or about the 18th day of August , 2018 in the Parish of St. Martin did:

**LARS 14:61 Unauthorized Entry of a Critical Infrastructure**  
**LARS 14:63.3 Remaining After Being Forbidden**

against the peace and dignity of the State of Louisiana. The affiant charges that the accused committed the above described offense and was arrested for said offense on August 18<sup>th</sup>, 2018 at 8:55 AM based on the following information:

On August 18, 2018 I Detective Gabriel T. Gauthier was working in the at a Pipeline construction location near "Bayou Crook Chene" in the Atchafalaya River Basin, which is located within the Parish of St. Martin.

Upon my arrival at the location I was advised by several pipeline construction workers that there was a group of about four people standing beneath a "tree house" which is located within the pipeline's "right of Way".

I walked south from "Bayou Crook Chene" along the Pipeline route for approximately 2 miles and located a group of people standing beneath a "sky pod" which was attached to a rope that was tied to the actual pipe inside a trench that had been dug...

I made contact with the four individuals identified to be Brittany Osland, Ramon Mejia, Madeline Hicks and Karen Savage and informed them that they were trespassing and they needed to "move on". I informed the four suspects that they had 30 minutes to vacate the area or they would be placed under arrest for "remaining after being forbidden". .

After 30 minutes had passed I informed them that they were being placed under arrest for LARS 14:63.3 Remaining After Being Forbidden, the four individuals were placed under arrest for said charge, with no further incident and transported to the St. Martin Parish Correctional Center where they were booked.

While in transport Lt. Chris Martin came out to the site of the arrest and positively verified that the location the four people were standing is clearly in the "right of way" of the pipeline and that they are in violation of LARS 14:61 Unauthorized Entry Of A Critical Infrastructure.

**Exhibit V**

THUS DONE AND PASSED at, SMSO Louisiana, on the 18 day of August 2018 before

me, Ashley Allen after reading of the whole.

SLC  
NOTARY / JUDGE

DW G. L.

**AFFIANT'S SIGNATURE**

Address: 400 St. Martin Street  
St Martinville La 70582

CONSIDERING THE ABOVE AND FOREGOING, it is determined that probable cause for arrest **did/did not** exist in the above entitled case and defendant **should /should not** remain incarcerated at this time, this determination being made this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ am/pm at \_\_\_\_\_ in, \_\_\_\_\_ Louisiana.

**Victim Information:**

Name: **State Of Louisiana**  
Address:

Phone #

JUDGE

**STATE OF LOUISIANA  
PARISH OF ST. MARTIN  
16TH JUDICIAL DISTRICT  
APPLICATION FOR ARREST WARRANT**

**STATE OF LOUISIANA  
VERSUS  
ANNE M WHITEHAT  
7532 Hurst Street  
New Orleans, LA, 70118  
DOB: 09/05/1967  
SSN: 504-72-8345  
American Indian/Alaskan Native Female**

I, Detective Andrew Bonvillain , certify under oath that one **ANNE M**

**WHITEHAT** did commit

2 Counts of RS14:61--UNAUTHORIZED ENTRY OF A CRITICAL INFRASTRUCTURE--

(FELONY)

1 Count of RS14:63.3--ON LAND AFTER BEING FORBIDDEN-- (MISDEMEANOR)

within this State and Parish, and the jurisdiction of the 16TH Judicial District Court, contrary to the form of the statutes of the State of Louisiana in such case made and provided, and against the peace and dignity of the same, in that the following did occur:

On September 3, 2018 at around 1400 hours, I, Deputy Andrew Bonvillain, along with Lt. Jay Capterville, Sgt. Todd Noel, and Deputy John Deglandon, were working security on the Bayou Bridge Pipeline. We were located in the Bayou Chene area of the Atchafalaya Basin.

While at the guard shack, a pipeline employee informed us that several protesters had come onto the pipeline right of way and were jumping on the equipment. At this time the four of us walked to the location that the protesters were located at. It should be noted that this location is in a remote wooded area of the Atchafalaya basin.

Upon arriving at the location, I observed that were approximately 30 to 35 protesters on the pipeline right of way. The protesters included Anne Whitehat. I spoke with an employee of the pipeline and he stated that the protesters had thrown mud into the exhaust and the fuel tank of an excavator which caused it to be inoperable and causing damage to the machine.

The employee also advised that a protester went into the guard shack located by them and threw mud off over the inside of the building. The protesters also locked the door to the building and took the key to it.

At this time, I approached the protesters and advised them four times that they were trespassing on a critical infrastructure. I told them that they needed to move off of the right of way. The protester's spokesperson, who was identified as Cherri Foytlin, I/F DOB: 9/30/1972,

Warrant/Case NO: 18-16778/18-16778

advised that they were not leaving. It should also be noted that Cherri Foytlin is the leader of the protest group, which is known as L'eau Est La Vie.

At this time the protesters were in violation of LA R.S. 14:61 Unauthorized entry of a critical infrastructure and LA R.S. 14:63.3 Remaining in places or on land after being forbidden.

There was a dirt berm on the right of way that Foytlin was standing on top of. Behind Foytlin was a steep incline. At this time, I grabbed Foytlin's arm in an attempt to arrest her. She jerked away from me and stepped backwards. She fell and was going down the incline head first. I grabbed her leg to keep her from falling.

At this time several protesters also grabbed Foytlin and were pulling her down the decline. Sgt. Noel advised me to let her leg go. I let her leg go and the protesters then pulled her down the incline. The other protesters, including Whitehat, then moved down the incline.

The other Deputies and I then followed the protesters down the decline. Once we were on level ground, I advised the protesters that they needed to stay off of the right of way. I advised them that the boundary of the right of way is marked by wooden stakes with blue and white ribbon attached to it. I again told them that if they cross the boundary they will be trespassing. All of the protesters then moved off of the right of way.

At this time, Lt. Capterville spoke to Foytlin and advised her of the same thing. Foytlin then told Lt. Capterville that if the pipeline workers leave the right of way, then her people will leave as well. At this time I told the workers that they can resume working again.

When the workers started the engines to the equipment, Foytlin gathered the protesters together and told them to go back on the right of way. At this time all of the protesters, including Anne Whitehat, then started to walk back up the incline. Sgt. Noel then stood in front of Foytlin and stopped her from getting to the top of the incline. The rest of the protesters, including Whitehat, stopped with Foytlin on the incline.

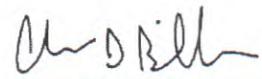
At this time Whitehat is in violation of LA R.S. 14:61 Unauthorized entry of a critical infrastructure.

At this time Lt. Capterville spoke to Foytlin again and she stated that if the workers leave, the protesters will leave. We then had the workers leave from the work site. At this time Foytlin then had the protesters gather around her and she told them to leave the right of way. All of the protesters then moved off of the right of way into the woods.

It should be noted that the St. Martin Parish Sheriff's Office has been dealing with the protesters at the Bayou Chene worksite since August 18, 2018. On August 18<sup>th</sup>, 19, and 21<sup>st</sup>, the Sheriff's Office arrested a total of six people. Five of the arrests were for trespassing on the right of way. The protest group has been told on those days that they are not allowed on the right of way and if they come on the right of way, they will be arrested for trespassing.

Our office has also obtained an affidavit from the land owner restricting the group or anyone associated with the group from the entire track of land at this location not only the right of way.

I hereby certify under oath the facts contained herein to be true and correct, under penalties of perjury, so help me God.



Detective Andrew Bonvillain  
Affiant  
St. Martin Parish Sheriff's Office

Warrant/Case NO: 18-16778/18-16778

THUS DONE AND PASSED on the 6 day of September, 2018.

*Lewis H. Pitman, Sr.*

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Lewis Pitman

Judge, 16th Judicial District

**STATE OF LOUISIANA  
PARISH OF ST. MARTIN  
16TH JUDICIAL DISTRICT  
ARREST WARRANT**

**State of Louisiana  
Versus  
ANNE M WHITEHAT  
7532 Hurst Street  
New Orleans, LA, 70118**

**DOB: 09/05/1967  
SSN: 504-72-8345  
American Indian/Alaskan Native Female**

**TO ANY COMMISSIONED PEACE OFFICER:**

WHEREAS, complaint has been made to me under oath and under penalty of perjury, by **Detective Andrew Bonvillain** charging one **ANNE M WHITEHAT** with

2 Counts of RS14:61--UNAUTHORIZED ENTRY OF A CRITICAL INFRASTRUCTURE--  
(FELONY)

1 Count of RS14:63.3--ON LAND AFTER BEING FORBIDDEN-- (MISDEMEANOR)

Now, therefore, you are hereby commanded, in the name of the State, to apprehend and arrest the said accused to be brought before our Court to answer the said complaint. You are further commanded to keep the said accused in safe custody pending a session of the Court, or until released according to law, and this shall be your warrant.

Given under my official signature, this 6 day of September,  
2018.

*Lewis H. Pitman, Sr.*

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Lewis Pitman

Judge, 16th Judicial District

Judge, 16TH Judicial District  
State of Louisiana

**STATE OF LOUISIANA  
PARISH OF ST. MARTIN  
16TH JUDICIAL DISTRICT  
APPLICATION FOR ARREST WARRANT**

**STATE OF LOUISIANA**

**VERSUS**

**KAREN G SAVAGE**

**236 E. 118th Street**

**New York, NY, 11035**

**DOB: 12/21/1965**

**SSN: 350-70-2321**

**White Female**

I, Detective Andrew Bonvillain , certify under oath that one **KAREN G SAVAGE** did commit

1 Count of RS14:61--UNAUTHORIZED ENTRY OF A CRITICAL INFRASTRUCTURE--  
(FELONY)

within this State and Parish, and the jurisdiction of the 16TH Judicial District Court, contrary to the form of the statutes of the State of Louisiana in such case made and provided, and against the peace and dignity of the same, in that the following did occur:

On September 3, 2018 at around 1400 hours, I, Deputy Andrew Bonvillain, along with Lt. Jay Caperville, Sgt. Todd Noel, and Deputy John Deglandon, were working security on the Bayou Bridge Pipeline. We were located in the Bayou Chene area of the Atchafalaya Basin.

While at the guard shack, a pipeline employee informed us that several protesters had come onto the pipeline right of way and were jumping on the equipment. At this time the four of us walked to the location that the protesters were located at. It should be noted that this location is in a remote wooded area of the Atchafalaya basin.

Upon arriving at the location, I observed that were approximately 30 to 35 protesters on the pipeline right of way. Lt. Caperville went and spoke to Karen Savage. At this time Ms. Savage was not on the pipeline right of way.

While Lt. Caperville spoke with Ms. Savage, I spoke with an employee of the pipeline and he stated that the protesters had thrown mud into the exhaust and the fuel tank of an excavator which caused it to be inoperable and causing damage to the machine.

The employee also advised that a protester went into the guard shack located by them and threw mud off over the inside of the building. The protesters also locked the door to the building and took the key to it.

At this time, I approached the protesters and advised them four times that they were trespassing on a critical infrastructure. I told them that they needed to move off of the right of way. The protester's spokesperson, who was identified as Cherri Foytlin, L/F DOB: 9/30/1972,

Warrant/Case NO: 18-16778/18-16778

THUS DONE AND PASSED on the 15 day of September, 2018

*Lewis H Pitman, Jr.*

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Lewis Pitman

Judge, 16th Judicial District