

**LAW ENFORCEMENT SENSITIVE**

OPORD #162 – Dakota Access Pipeline Protest (Morton County)

February 22, 2017/1700 thru February 23, 2017/1700

*(New Information in Italics)*

**1. Situation**

- **TODAY, FEB 22, 2017**
  - *0700 – Bismarck PD (Scott Brand) provided protective vests to contractors, Scott Davis and Levi Bachmeier*
  - *0750 hrs - 3 large fires are burning in the Oceti Sakowin camp and appear to have been set to burn debris*
  - *0859 hrs - a wooden structure in the camp has been set on fire*
  - *0900 hrs - contractors advised that camp security denied them access to do cleanup in the camp today and the equipment turned around and left the area at approximately 0850 hrs.*
  - *0912 hrs - BIA reports they have established a TCP on Hwy 1806 south of the Oceti Camp and will be prohibiting any traffic to the camp.*
  - *1114 – Numerous fires burning in the camp and fireworks being discharged*
  - *1149 hrs - a large fire is reported in the Rosebud Camp*
  - *1203 hrs - Cannonball School reports they will be dismissing school at 1230 hrs today.*
  - *1240 hrs - report of a large fire following a possible explosion in the Oceti Camp*
  - *1245 hrs - a walking procession has left the camp and is walking south on Hwy 1806. Reported as approximately 30-40 persons.*
  - *1250 hrs - Ft. Yates and Selfridge are reported as dismissing school for the remainder of the day.*
  - *1254 hrs - south TCP reports a 17 year old female burn victim begin transported by ambulance just passed through. Burns were apparently as a result of one of the fires in the camp.*
  - *1256 hrs - received a report of a 2nd burn victim (7 year old male) also being transported from the camp*
  - *1257 hrs - the number of persons in the southbound walking procession is now reported at approximately 100*
  - *1304 hrs - the procession has now stopped in the middle of the Cannonball Bridge and are doing a ceremony and are blocking the entire roadway of Hwy 1806.*
  - *1307 hrs - the ambulances transporting the burn victims have reached the bridge and were able to get through the procession.*
  - *1320 hrs - report of a yurt and another building now on fire in Oceti camp*
  - *1329 hrs - protesters are closing the gate at the north entrance to the camp to block the entrance.*
  - *1333 hrs - protesters are also stringing razor wire across the camp north entrance.*
  - *1351 hrs - report that a tepee and another structure have been started on fire in the camp*
  - *1415 - (4) protesters on a bus departed from the Oceti Sakowin Camp - taking the long way around over to ND HWY 6 enroute to the transition Center in Bismarck...Reported 100 dispersed to lodging in the immediate area and are not really/essentially gone.*
  - *1420 - Requested Logan Thompson (Prairie View Construction) to pull stuck protester bus full of equipment out of the camp and currently on hold due to the gates being blocked - Scott Davis and his brother Ray Moore are responding to mediate.*

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- 1420 - Requested Logan Thompson (*Prairie View Construction*) to pull stuck protester bus full of equipment out of the camp and currently on hold due to the gates being blocked - Scott Davis and his brother Ray Moore are responding to mediate.
- 1432 hrs - additional fires and explosions reported in the camp
- 1429 - Protesters will not allow track hoe (*Logan Thompson*) into camp to retrieve the stuck school bus - Scott Davis, Ray Moore are on their way back to the TOC.
- 1530 - A vehicle (possibly a pickup truck) observed on fire in the camp.
- 1610 hrs - LE officers are beginning to make arrests of protesters that are on Hwy 1806 in front of the protest camp
- 1651 – 10 arrests at this time
  
- LAST NIGHT, FEB 21 – 22, (*Trooper Tracy Buzick, NDHP*)
  - Several large fires in camp- counted 6 at one time around 2400- one was so large it illuminated the entire camp. Increase drone activity over the south TCP, camp and turtle hill
  - 0314 - Female returning to the south TCP told previously she was trespassing. Given the chance to return to camp- refused- 0317 10-83 one female for interference with a government function and possession of marijuana.
  - 0415 - 299 reports significantly more activity in the camp than previous night's roughly 50 up and in camp compared to maybe a dozen moving during previous nights
- DAY SHIFT, STAGING FEB 21 (*Trooper Aaron Enzinger, NDHP*)
  - 0925 cleanup crews and equipment were denied access to the camp and were unable to do any work today
  - 1057-1109 hrs. Mobridge ambulance was escorted north on Hwy 1806
  - 12 noon the BIA checkpoint moved further south due to an individual being seen with a spotting scope and lever action rifle on the east side of HWY 1806 on a hilltop.
  - 1215 hrs. Hp299 is in the air trying to locate the individual with rifle
  - 1250 hrs. Deputy Moll meeting CBS News crew at the north TCP
  - 1315 Deputy Moll escorting/assigned to CBS News crew and showing them around. Detail completed at 1457 hrs.
  - A 66 y.o.a. male from New York approached the BIA check point in a vehicle. Vehicle had strong odor of marijuana and officers investigated. He was arrested for possession of marijuana and marijuana paraphernalia.
- YESTERDAY, FEB 21
  - 0800 TOC Briefing Tomorrow
  - 0700 briefing at the FOB
  - A fast moving thunderstorm with lightening, 40-mph winds, and 0.10-inch of rain moved through the AO this evening at approximately 1800
  - The Cannonball River at Breien is projected to reach 8-feet (Action Stage) by Friday Morning
  - Forecasted colder temperatures will freeze exposed ground and future precipitation will tend to run off more than what we have experienced lately
  - Transition Center to assist with coordinating transport of persons displaced from the camps established at 1307 Grumman Lane in Bismarck; contact the NDDoH DOC at. Transition Center Manager is Russ Korszniewski

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- Only two full roll-off dumpsters hauled out today - road work needed in the camps to allow mobility of haul trucks and protesters...2-loads hauled to the Walworth County Landfill yesterday (FEB 20) and total now 238

**COMMAND AND GENERAL STAFF MEETING**

- Sheriff Kyle Kirchmeier (IC)
- Chief, Jason Ziegler (OSC)
- (I&I) Intelligence Briefing
- Tom Doering (LSC)
  - Weather (See Weather)
  - Logistics (See Logistics)
- Injuries and Fatalities
  - 1) Injuries – 38 (Two protesters suffered burns on 2/22 due to fires lit in the Oceti Sakowin Camp)
  - 2) Fatalities – 1
- Weather and Visibility Information:

***WEATHER***

***Today*** - Rain, snow, and sleet before 10am, then snow likely between 10am and noon, then rain and snow likely after noon. Patchy fog between noon and 1pm. High near 36. North wind 9 to 16 mph, with gusts as high as 23 mph. Chance of precipitation is 100%. Total daytime snow and sleet accumulation of less than one inch possible.

***Tonight*** - A slight chance of rain and snow before 7pm, then a slight chance of snow between 7pm and 9pm. Cloudy, with a low around 24. North wind 7 to 13 mph. Chance of precipitation is 20%.

***Thursday*** - Mostly cloudy, with a high near 30. Northeast wind 7 to 15 mph, with gusts as high as 22 mph.

***Thursday Night*** - Mostly cloudy, with a low around 18. Northeast wind around 15 mph, with gusts as high as 22 mph.

***Friday*** - Partly sunny, with a high near 29. North wind 13 to 16 mph, with gusts as high as 24 mph.

***Friday Night*** - Mostly cloudy, with a low around 15.

***VISIBILITY***

**Morton County EM Support  
Wednesday, February 22, 2017**

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|                               | Tonight     | Tomorrow Morning | Tomorrow Daytime | Tomorrow Evening |             |
|-------------------------------|-------------|------------------|------------------|------------------|-------------|
| Visibility (miles)            | Poor        | Poor             | Good             | Good             |             |
| Clouds at or below 2,000 feet | Poor        | Very Poor        | Marginal         | Marginal         |             |
| <b>Category Definitions</b>   |             |                  |                  |                  |             |
|                               | Very Good   | Good             | Marginal         | Poor             | Very Poor   |
| Visibility (miles)            | More than 7 | 5 to 7           | 3 to 5           | 1 to 3           | Less than 1 |
| Clouds at or below 2,000 feet | None        | A few            | Some             | Numerous         | Overcast    |

**2. Strategic Goals**

- Life Safety is ensured for all - local landowners, the public, workers, emergency responders, and protestors
- The exercise of property rights, and enjoyment of property, is protected for those who have a legal right to that exercise and enjoyment
- Unlawful actions and actors no longer impacting public and private sector operations and the lawful exercise of Constitutional Rights; or are marginalized to a point where they are no longer a factor
- Legal projects and commerce can take place unhindered
- Increased confidence in government and their ability to maintain law and order
- State and local governments maintain law and order within their jurisdictions; with emphasis on the Cannonball Ranch area of operations in addition to pinpointed areas of unlawful protest activity
- Tribal government establishes law and order on tribal land; with emphasis on the northern boundary area of operations in addition to pinpointed areas of unlawful protest activity
- Balance all public information (traditional/social) coverage to ensure support of strategic goals through active engagement and messaging
- Execution:
  - Protestors/trespassers in small or manageable groups need to be arrested and charged accordingly for applicable criminal violations committed within the presence of sworn officers. This applies if it can be safely accomplished by the number of officers on scene.

**3. Concept of the Operations/Commander’s Intent:** Each responder will use extreme caution when working in and around the area of operations and be especially observant to the possibility of weapons. All responders will practice self-control in accordance with departmental policy and work to protect the safety of all.

**4. Coordinating Instructions:**

- Operational Directives:

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- We have seen large scale criminal activity such as trespassing, etc. During these time frames, there are sometimes smaller groups that are trespassing or committing other criminal violations in the surrounding areas, yet apart from the larger group. We need to do what we can with these individuals. Smaller groups that can be arrested safely with the number of available officers should be arrested.
- When a Code Red is activated, officers assigned to the patrol force need to remain in the patrol cars so they are available to respond to other calls from county residents & monitor an active scene. During a protest incident, the patrol force remains an active, mobile patrol force and can provide backup to officers.
- When an incident occurs, we need to make sure local residents of all nearby farms/ranches are checked on. Officer presence in their yards is beneficial if possible. We need to do what we can to make them feel safe & secure.
- Get as many photos as we can of protestors, vehicles, any weapons or officer safety threats. Get these photos to the TOC and we will get them to Rob Keller - email pictures to:
  - Jay.grueble@mortonnd.org
  - Lynn.woodall@mortonnd.org
  - kternes@nd.gov
  - emehrer@nd.gov
  - tnelson@burleighsd.com
  - twangen@burleighsd.com
- While responding to large numbers of protestors at a given site, attempt to limit the protestor's access to that site so as to manage the number of protestors. Allow them to leave, but try to limit access to the site.
- Officers who observe criminal activity or evidence of criminal activity (such as fence cutting, trespassing, and vandalism) shall be documented with photos and officer reports as soon as possible & forwarded to the Detective Dion Bitz or Jay Gruebele at the TOC. A lot of evidence of criminal activity exists, but reports are lacking.
- During a Code Red, officers will be informed where to respond and direction will be given by the Forward Command. Officers will respond to the area to maintain a presence, but will not advance if deemed unsafe by the First Line Commanders due to protestor numbers. Officer safety is priority #1.
- If someone is in danger or an active assault is taking place, MFF will advance as necessary to bring the individual(s) to safety
- Very important that all traffic stop information is relayed to I&I
- There are four layers/tiers of CodeRED call up
  - Tier 1 – 30 Minute CodeRED Activation (Minus following day's day shift)
  - Tier 2 – 100 Mile On Duty Personnel (Minus following day's day shift)
  - Tier 3 – 100 Mile On and Off Duty Personnel (Includes all on and off duty)
  - Tier 4 – All Hands Statewide – On and Off Duty – Signal 100
  - Tier 5 – Emmons County Response
- Officers reporting to the AO south of Fort Rice should sign in at the serpentine
- The CodeRED message will state where to respond, e.g., Fort Rice Base, Turtle Hill, Drill Site, Backwater Bridge etc.
- General Guidance
  - Forward all complaints against the MCSO to the Attorney General's Office 328-2210

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- If ambulance support is needed in the AO, Operations in the TOC will notify the NDDoH, Department Operations Center (DOC) who will notify DOH Ambulance assets at the FOB
- In regards to press allowed into the AO - Ensure a consistent standard is established and adhered to
- Staff at the TCP will attempt to determine where building materials are being delivered and the identity of the trucker/trucking company and who requested the materials
- Reinforce the need for operational security – NO COMMUNICATIONS BY ANY MEANS WITH ANYONE WHO DOES **NOT** HAVE THE NEED TO KNOW!
- All staff will remain dedicated to planning initiatives in order to maintain a more proactive level of preparedness
- Drone Restriction Information:
  - The most important restriction forbids operations directly over people.
  - An individual can be cited under Century Code as well as turned over to the FAA for civil actions *and there may be federal charges.*
- Field Commanders will develop a written after action review after each incident
- Media Briefings will be conducted as the situation requires – instead of on a biweekly schedule
- Email Live-streams of social media to PIOs
- “Who Else Needs To Know” If information is passed along to you – determine who else needs visibility and forward on to them
- At the end of each work day, forward phone lines from the TOC/LEC to dispatch
- Keep Morton County, Tribal and Sioux County Social Services advised of incidents involving children associated with the protest
- Any evidence of construction occurring at the camps needs to be reported up the chain to the congressional delegation along with USACE
- Criminal and traffic code violations will be handled by LE with jurisdiction
- Advise IC when media-types arrive at the SEOC, LEC/Courthouse and pass along to PIO
- Advise Metro Area Ambulance when missions end
- MCSO Deputies will continue to contact State Radio to page out Rural Fire Departments when protest incidents occur in their Fire District and pass along the Deputy’s contact information to the first responding fire unit
- Fire Departments dispatched to the AO will stage at the FOB until LE deems the scene safe
- Forward pictures reflecting crime or violence to the PIO
- If there are any incidents related to the pipeline protest within 5 miles of the St. Anthony school notify Morton County Commissioner Ron Leingang 445-7406 and Jesse Smith 220-7522...Community outreach through Everbridge is another mechanism for notifying residents near St. Anthony
- State Radio will notify the Morton County Sheriff’s Office of all emergency calls within the area of operations, so that a rapid escort can be provided
- Important Times and Dates:
  - Meeting/Briefing schedule for next Operational Period
    - 0700 – TOC/SEOC Opens
    - 0900 – Command and General Staff Meeting (Next Friday – 2/24)
    - Important Dates:

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| <b>Court Timeline</b>  |   |                                     |  |
|--|---|-------------------------------------|--|
| Date and Time  | Case or Event   | Location                            | Description  |
| 02/24/2017   | Standing Rock Sioux Tribe v. US Army Corps  | U.S. District Court, Washington, DC | Deadline for CRST and SRST replies in support of its Motion for Preliminary Injunction based on Religious Freedom Restoration Act  |
| 02/27/2017<br>1:00 pm central<br>or 2:00 pm eastern  | Standing Rock Sioux Tribe v. US Army Corps  | U.S. District Court, Washington, DC | 1. Hearing on CRST's Motion for Preliminary Injunction based on Religious Freedom Restoration Act<br>2. On this date, and every Monday thereafter, Dakota Access to inform Judge Boasberg as to the likely date that oil will begin flow beneath Lake Oahe |
| 03/06/2017   | Standing Rock Sioux Tribe v. US Army Corps  | U.S. District Court, Washington, DC | On this date, and every Monday thereafter, Dakota Access to inform Judge Boasberg as to the likely date that oil will begin flow beneath Lake Oahe   |
| 03/07/2017   | Standing Rock Sioux Tribe v. US Army Corps  | U.S. District Court, Washington, DC | Deadline for response briefs in opposition to SRST's Motion for Partial Summary Judgement  |
| 03/13/2017   | Standing Rock Sioux Tribe v. US Army Corps  | U.S. District Court, Washington, DC | On this date, and every Monday thereafter, Dakota Access to inform Judge Boasberg as to the likely date that oil will begin flow beneath Lake Oahe   |
| 03/15/2017<br>(estimated)  | Standing Rock Sioux Tribe v. US Army Corps  | U.S. District Court, Washington, DC | Defendant's deadline to respond to Tribes' Motions to Amend Complaint  |
| 03/20/2017   | Standing Rock Sioux Tribe v. US Army Corps  | U.S. District Court, Washington, DC | On this date, and every Monday thereafter, Dakota Access to inform Judge Boasberg as to the likely date that oil will begin flow beneath Lake Oahe   |
| 03/21/2017   | Standing Rock Sioux Tribe v. US Army Corps  | U.S. District Court, Washington, DC | Deadline for SRST reply briefs in support of SRST's Motion for Partial Summary Judgement   |
| 03/27/2017   | Standing Rock Sioux Tribe v. US Army Corps  | U.S. District Court, Washington, DC | On this date, and every Monday thereafter, Dakota Access to inform Judge Boasberg as to the likely date that oil will begin flow beneath Lake Oahe   |
| 04/11-12/2017  | United States v. Joy<br>United States v. Friedman<br>United States v. Wender<br>United States v. DeMercado<br>United States v. Albright<br>United States v. Luman | U.S. District Court, Bismarck, ND   | Central Violation Bureau ("CVB") trial dates before Magistrate Miller for CFR violations occurring in William L. Guy Federal Building on November 17, 2016.  |
| Within 14 days of the resolution of Dakota Access's pending motion for summary judgment on the | Yankton Sioux Tribe v. US Army Corps  | U.S. District Court, Washington, DC | The parties shall file a status report and proposal for resolving this matter within this time; in the meantime, production of the administrative record and the briefing schedule is held in abeyance.  |

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|  |  |  |  |
|--|--|--|--|
| easement/right-of-way issue in Standing Rock Sioux Tribe v. US Army Corps, U.S. District Court, Washington, DC |  |  |  |
|--|--|--|--|

**Communications:**

- On the Vertex VXP829 portables and Vertex Bag Radios ECI changed the programming as follows:
  - 1) Removed all banks except existing bank #1. So, orange button will not change banks.
  - 2) Forced Encryption to be on. This means encryption will always be on. This only applies to channels with encryption.
  - 3) Disabled scan capabilities. Users cannot turn scan on.
  - 4) Add white tape to antenna when completed.
  - 5) Add yellow tape to antenna if it has DAPL frequencies.
- In order to communicate effectively with State Radio please follow the procedures below:
  1. Only one repeater can be up at a time - use Bismarck Tower 1 repeater down to Ft. Rice and Solen Tower 1 repeater south of Ft. Rice - when both repeaters are up they cancel each other out.
  2. ALL DAPL protest related radio calls must use State Radio Channel 1, preferably always utilizing encryption. It's understood that some units are not capable of utilizing encryption and will be transmitting in the clear.
  3. ALL other calls for service must use State Radio Channel 2.
  4. **VLaw-31 (Old Channel 3) has been compromised and should no longer be used**
    - State Unit Numbers identified for hand-held radio use by the ND National Guard are: 9200 – 9209 and 9220, all others will use their State Unit Number or if not available distinguish with their agency and normally used unit number
- In order to communicate securely – ensure encryption is turned on and don't use VRS
- With the assistance of Mandan PD, a new repeated TAC channel can currently be utilized, only during times of Code Red Call outs for MFF, QRT, Cut, Tactical and other units directly related to the incidents.
- For Morton SO units everyone should have MANDAN PD 2 (MPD 2) on channel 19 on both portables and mobiles.
- Mandan PD, Bismarck PD and Burleigh SO should already have MPD 2, in addition BCI, may have accessibility and Parole & Probation does have accessibility.
- We will still continue normal day to day DAPL operations on State Channel. 1, PLEASE NO Traffic on VLaw31, unless Metro Ambulance is unable to utilize State Channel 2.
- Communications on MPD 2 are law enforcement sensitive, be aware of your surroundings! Morton Communications will be available on this channel should the need arise. Any issues advise CPT Woodall



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(See ICS 203 – Contact Telephone Numbers and Email Addresses)

(See ICS 205 - Communications Plan)

**Safety:**

- Remain observant of each other for cold weather injuries
- All injuries will be reported immediately to the responder's supervisor and brought to the agency specific Human Resources Director
- Remain extremely observant and cautious in the vicinity of protesters

**Logistics:**

- *Peanut Pie Enterprises requested for handling culturally sensitive material and mediation tomorrow*
- *Prairie View Construction requested for additional heavy equipment operations tomorrow*
- *Eight additional light towers being delivered tomorrow for lighting up the camp tomorrow night*
- *2 light towers requested for the TCP south on ND HWY 1806 in Sioux County*
- *Delivering 175 Overshoes, 175 rubber gloves and 136 Tyvek suits to the FOB in the morning*
- Provide prisoner processing materials to the QM at the FOB, i.e., clip boards, tablet paper, sharpies, 2-gallon plastic bags (100) and duct tape
- 2 – Commercial Walkie-Talkies provided to Prairie View Construction to coordinate cleanup operations
- Maintain accurate accountability of all issued resources AND ESPECIALLY HIGH DOLLAR/SENSITIVE ITEMS
- Any over the counter medications needed by responders are available from the Morton County Correctional facility (POC: CPT. Dave Psyck)

**Finance:**

- Mutual Aid agencies supporting operations in the AO will be reimbursed based on actual costs (regular and overtime)
- Reimbursement is also eligible for backfilling regular time at the mutual aid agency's home station
- The congressional delegation is working on a continuing resolution for federal funding to off-set costs being accrued

Kyle Kirchmeier (Incident Commander)