

# The Press Dakotan

THE DAKOTAS' OLDEST NEWSPAPER | FOUNDED 1861  
Yankton Media, Inc., 319 Walnut St., Yankton, SD 57078

**CONTACT US**  
PHONE:  
(605) 665-7811  
(800) 743-2968  
NEWS FAX:  
(605) 665-1721  
ADVERTISING FAX:  
(605) 665-0288  
WEBSITE:  
www.yankton.net

**SUBSCRIPTIONS/ CIRCULATION**  
Extension 104  
mike.hrycko@yankton.net  
**CLASSIFIED ADS**  
Extension 108  
tera.schmidt@yankton.net  
**NEWS DEPT.**  
Extension 114  
news@yankton.net  
**SPORTS DEPT.**  
Extension 106  
sports@yankton.net  
**ADVERTISING DEPT.**  
Extension 122  
sales@yankton.net  
**BUSINESS OFFICE**  
Extension 119  
ar@yankton.net  
**NEW MEDIA:**  
Extension 136  
beth.rye@yankton.net  
**COMPOSING DEPT.**  
Extension 129  
kathy.larson@yankton.net

**MANAGERS**  
Gary L. Wood  
*Publisher*  
Michele Schievelbein  
*Advertising Director*  
Tonya Schild  
*Business Manager*  
Michael Hrycko  
*Circulation Director*  
Tera Schmidt  
*Classified Manager*  
Kelly Hertz  
*Editor*  
James D. Cimburek  
*Sports Editor*  
Beth Rye  
*New Media Director*  
Kathy Larson  
*Composing Manager*  
Kristina Tunink  
*District Manager*

**DAILY STAFF**  
Melissa Bader  
Cassandra Brockmoller  
Brandi Bue  
Rob Buckingham  
Caryn Chappell  
Randy Dockendorf  
Jeannine Economy  
Jordynne Hart  
Jeremy Hoeck  
Sarah Lynde  
Shauna Marlette  
Robert Nielsen  
Diana Smallwood  
Cathy Sudbeck  
Sally Whiting  
JoAnn Wiebelhaus  
Brenda Willcuts

**Published Daily Monday-Saturday**  
Periodicals postage paid at Yankton, South Dakota, under the act of March 3, 1979.  
Weekly Dakotan established June 6, 1861.  
Yankton Daily Press and Dakotan established April 26, 1875.  
Postmaster: Send address changes to Yankton Daily Press & Dakotan, 319 Walnut, Yankton, SD 57078.

**MEMBERSHIPS**  
The Yankton Daily Press & Dakotan is a member of the Associated Press, the Inland Daily Press Association and the South Dakota Newspaper Association. The Associated Press is entitled exclusively to use of all the local news printed in this newspaper.

**SUBSCRIPTION RATES\***  
(Payable in advance)  
**CARRIER DELIVERY**  
1-month.....\$12.09  
3 months.....\$36.27  
6 months.....\$72.53  
1-year.....\$133.09  
**MOTOR ROUTE**  
(where available)  
1 month.....\$14.51  
3 months.....\$43.53  
6 months.....\$87.05  
1 year.....\$139.14  
**MAIL IN RETAIL Trade Zone**  
1-month.....\$16.93  
3 months.....\$50.79  
6 months.....\$101.57  
1-year.....\$148.82  
**MAIL OUTSIDE RETAIL TRADE ZONE**  
1 month.....\$19.35  
3 months.....\$58.05  
6 months.....\$116.09  
1-year.....\$186.33  
\* Plus applicable sales tax for all rates

OPINION OTHER VIEWS

## US Should Join China In Venture

**PITTSBURGH POST-GAZETTE (March 30):** The United States has unsuccessfully opposed some of its key allies' decisions to join China's new Asian Infrastructure Investment Bank.

China initiated and has put \$50 billion in capital behind its effort to build a new development bank in Asia. It has recruited so far as founding members 36 countries, including France, Germany, Italy, Saudi Arabia, Turkey and the United Kingdom as well as most Asian countries, in spite of American pressure on these countries to stay out. Chinese President Xi Jinping launched the idea of the bank in 2013, drawing on China's \$3 trillion in foreign exchange reserves and desire to expand its activities in Asian development.

The United States has opposed the new Chinese undertaking, in spite of President Barack Obama's highly publicized 2012 "pivot to Asia." It has done so in an effort to preserve the U.S. and Western European cabdr seat in international economic and financial affairs gained in the 1944 Bretton Woods creation of the International Bank for Reconstruction and Development and the International Monetary Fund. The U.S. preserves for itself the presidency of the International Bank; a European — frequently French — heads the IMF.

U.S. opposition to the Asia bank is unrealistic and out of touch. China currently is considered the world's second-largest economy and is expected to rise to first, ahead of the United States, this year. If American firms and banks are to play a role in the development of as yet relatively undeveloped parts of Asia, Washington needs to get America in on the ground floor of this enterprise, not fight history.

America's inability to influence European powers such as France, Germany, Italy and the United Kingdom not to accept China's invitation to become founding members of the new venture goes hand-in-hand with the decline of U.S.-led NATO as Europe's primary security organ.

The United States, consistent with its concentration on Asia, should be another founding member of the Asia bank. How, otherwise, can it expect to be part of the new development bank's governance and activities?

### ABOUT THIS PAGE

The View page provides a forum for open discussion of issues and interests affecting our readers. Initialed editorials represent the opinion of the writer, but not necessarily that of the **PRESS & DAKOTAN**. Bynlined columns represent the view of the author. We welcome letters on current topics. Questions regarding the Views page should be directed to Kelly Hertz at [kelly.hertz@yankton.net](mailto:kelly.hertz@yankton.net).

### IN HISTORY

**By The Associated Press**

Today is Thursday, April 2, the 92nd day of 2015. There are 273 days left in the year.

**Today's Highlight in History:** On April 2, 1865, Confederate President Jefferson Davis and most of his Cabinet fled the Confederate capital of Richmond, Virginia, because of advancing Union forces.

**On this date:** In 1513, Spanish explorer Juan Ponce de Leon and his expedition landed in present-day Florida. (Some historians say the landing actually occurred the next day, on April 3.)

In 1792, Congress passed the Coinage Act, which authorized establishment of the U.S. Mint.

In 1800, Ludwig van Beethoven premiered his Symphony No. 1 in C Major, Op. 21, in Vienna.

In 1917, President Woodrow Wilson asked Congress to declare war against Germany, saying, "The world must be made safe for democracy." (Congress declared war four days later.)

In 1932, aviator Charles A. Lindbergh and John F. Condon went to a cemetery in The Bronx, New York, where Condon turned over \$50,000 to a man in exchange for Lindbergh's kidnapped son. (The child, who was not returned, was found dead the following month.)

In 1942, Glenn Miller and his orchestra recorded "American Patrol" at the RCA Victor studios in Hollywood.

In 1956, the soap operas "As the World Turns" and "The Edge of Night" premiered on CBS-TV.

In 1968, the science-fiction film "2001: A Space Odyssey" produced and directed by Stanley Kubrick, had its world premiere in Washington D.C.

In 1974, French President Georges Pompidou, 62, died in Paris.

In 1982, several thousand troops from Argentina seized the disputed Falkland Islands, located in the south Atlantic, from Britain. (Britain seized the islands back the following June.)

In 1986, four American passengers were killed when a bomb exploded aboard a TWA jetliner en route from Rome to Athens, Greece.

In 1995, baseball owners accepted the players' union offer to play without a contract, ending the longest and costliest strike in the history of professional sports.

**Ten years ago:** Pope John Paul II, who'd helped topple communism in Europe and left a deeply conservative stamp on the church that he'd led for 26 years, died in his Vatican

apartment at age 84. Terri Schiavo's body was cremated as disagreements continued between her husband and her parents, who were unable to have their own independent expert observe her autopsy. An Australian helicopter on a relief mission in Indonesia crashed on earthquake-devastated Nias Island, killing nine people on board.

**Five years ago:** President Barack Obama, visiting a factory in Charlotte, North Carolina, hailed a new government report showing the most jobs created in nearly three years, saying, "We are beginning to turn the corner." Gunmen seeking to pass themselves off as U.S. and Iraqi soldiers raided a Sunni village outside Baghdad, killing at least 24 people in an execution-style attack. Ohio State junior swimmer Evan Turner was the runaway choice as The Associated Press' college basketball player of the year; Syracuse's Jim Boeheim was the AP's college basketball coach of the year.

**One year ago:** The Supreme Court's conservative majority voted 5-4 to free wealthy individuals to donate to as many political candidates and campaigns as they wanted, further loosening the reins on giving by big contributors. At Fort Hood in Texas, three soldiers were killed and 16 others were wounded in a shooting rampage by another soldier, Army Spc. Ivan A. Lopez, who then killed himself.

**Today's Birthdays:** Actress Rita Gam is 88. Actress Sharon Acker is 80. Actress Penelope Keith is 75. Singer Leon Russell is 73. Jazz musician Larry Coryell is 72. Actress Linda Hunt is 70. Singer Emmylou Harris is 68. Social critic and author Camille Paglia is 68. Actress Pamela Reed is 68. Rock musician Dave Robinson (The Cars) is 62. Country singer Buddy Jewell is 54. Actor Christopher Meloni is 54. Singer Keren Woodward (Banarama) is 54. Country singer Billy Dean is 53. Actor Clark Gregg is 53. Actress Jana Marie Hupp is 51. Rock musician Greg Camp is 48. Rock musician Tony Fredianelli (Third Eye Blind) is 46. Actress Roseilyn Sanchez is 42. Country singer Jill King is 40. Actor Pedro Pascal (TV: "Game of Thrones") is 40. Actor Adam Rodriguez is 40. Actor Jeremy Garrett is 39. Actor Michael Fassbender is 38. Actress Jaime Ray Newman is 37. Rock musician Jesse Carmichael (Maroon 5) is 36. Actress Bethany Joy Lenz is 34. Singer Lee Dewyze (TV: "American Idol") is 29. Actor Jesse Plemons is 27. Singer Aaron Kelly (TV: "American Idol") is 22.

**Thought for Today:** "Never think you've seen the last of anything." — Eudora Welty, American author (1909-2001).

### FROM THE BIBLE

*The Lord takes pleasure in His people; He adorns the humble with salvation. Psalm 149:4. Portals of Prayer, Concordia Publishing House, St. Louis.*

### LETTERS TO THE EDITOR

#### Into The Wind

**Gregg Hubner, Avon**

There is another giant wind farm proposed to go north of Avon. The developers tell us it's at least 100 turbines from 400 to 450 feet tall.

There is a group opposing this that I am part of. Our basic reasons for opposing this giant wind farm are:

We live in too populated of an area, the small amount of money coming into schools and counties will be offset by reduced property values and tax revenue, and increased costs to fix the roads after the developers leave.

Wind farms are bad for the environment; they ruin the landscape and take away the beauty of our rural neighborhoods, the precise reason we all want to live here.

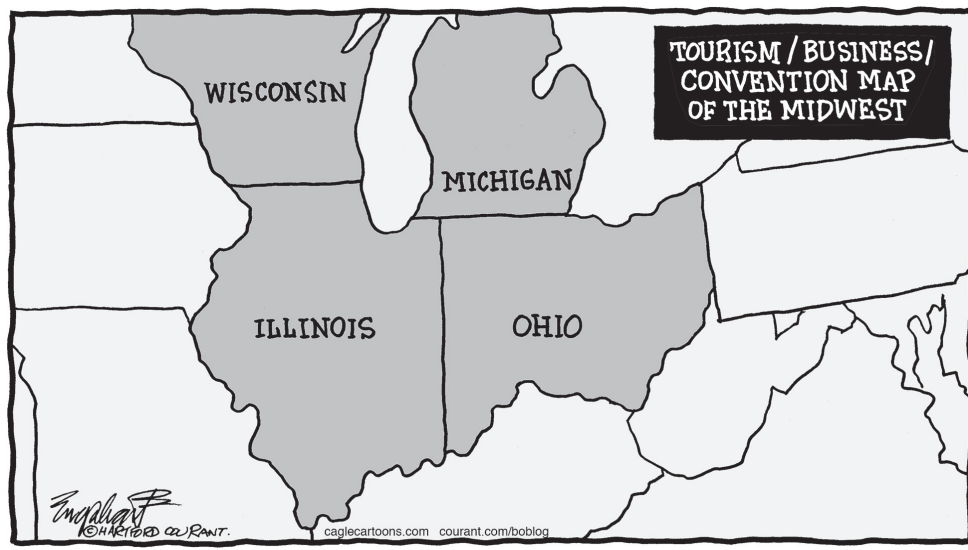
Wind turbines may cause serious health effects in people that live near them including sleeping problems, constant agitation and anxiety. They harm wildlife and migratory birds.

Wind farms are funded by our tax money through the production

tax credit. It is a transfer of wealth from the middle class to the upper class.

Eventual owners of wind farms are foreign or multinational corporations, leaving the farmer or landowner standing alone against them. Did you ever think why these giant developers and foreign corporations need the small local investment group? Do you actually think they need \$300,000 or even \$500,000 that 50 or so people can raise locally? They don't need that money. The developers and foreign corporations need the local group to buy up the air rights from their neighbors. No farmer would voluntarily sell wind rights and easements to a foreign corporation.

This is not a battle between neighbors for and neighbors against wind farms. This is a battle between the farmers, taxpayers and residents that have supported and maintained the community thus far, against giant corporations waiting to get billions of dollars through the production tax credit. Wind farms don't run on wind, they run on subsidies.



Thomas E. Simmons

## An Estate Claim And Jurisdiction

BY THOMAS E. SIMMONS  
University of South Dakota

In Estate of Wayne Ducheneaux v. Douglas Ducheneaux, the South Dakota Supreme Court affirmed Circuit Judge John Brown's dismissal of a case after concluding that the court lacked "subject matter jurisdiction."

Wayne Ducheneaux lived in Tripp County his entire life and was an enrolled member of the Rosebud Sioux Tribe. In his final years, he suffered from a number of health related issues including a bad fall in 2011. He was placed in the Winner Nursing Home. When a dispute among his three daughters and son arose as to his proper care, the nursing home requested that a guardian be appointed.

Wayne's son Douglas was appointed guardian with powers over his father's healthcare and personal decisions while a Winner accountant was appointed as his conservator with powers over Wayne's property and finances. A few months after the appointment of Douglas as Wayne's guardian, however, Wayne signed over two quarters of land to his son.

Wayne's conservator — and later, following his death, his estate — brought suit, claiming that Wayne had lacked the mental capacity to transfer property to his son. The estate argued in the alternative that Wayne's transfers were the product of undue influence. Dr. Teresa Marts testified that Wayne was not competent to make important decisions at the time the land was transferred.

The land involved in the transfers was "trust land," that is, parcels held in trust by the United States government for the benefit of Wayne Ducheneaux. Wayne's estate asked Judge Brown to order Douglas to make application to the Bureau of Indian Affairs to return the transferred property to the estate. Judge Brown dismissed the claim after concluding that his court lacked subject matter jurisdiction over matters involving Indian trust land, never even reaching the question of whether Wayne lacked capacity. Before a court can rule on an issue, it must



Thomas E. SIMMONS

have both personal jurisdiction over the parties involved as well as subject matter jurisdiction over the particular issues in the case. Personal jurisdiction in South Dakota state courts can be lacking when a defendant is an out-of-state residence without any meaningful contacts to South Dakota. Here, Judge Brown's court had personal jurisdiction over Douglas in the Tripp County

Circuit Court, but, Douglas argued, it lacked subject matter jurisdiction.

Subject matter jurisdiction asks whether a court has the authority over a particular type of case. Bankruptcy courts, for example, cannot issue divorce decrees. Federal district courts cannot appoint guardians or decide most civil disputes between citizens of the same state. But state courts have broad and far-ranging subject matter jurisdiction. State courts routinely rule on questions of capacity and undue influence with land transfers.

A 1993 case decided by the Montana Supreme Court involved the award of 4,000 acres of Indian trust land in a divorce proceeding. The court there dismissed that aspect of the divorce proceeding. The Montana Supreme Court found it had no "jurisdiction to adjudicate Indian trust land in any way whatsoever."

The Ducheneaux trust land was not technically within the borders of the Rosebud Indian Reservation. Rather, it was located in Tripp County, which itself lies in the diminished portion of the original Rosebud Indian Reservation. Still, the South Dakota court agreed with the Montana court.

Because the estate's claim of lack of capacity would necessarily adjudicate the ownership of Indian trust land, the circuit court had correctly determined that it lacked the ability to consider the claim. The estate's claim will instead have to be venued in tribal or federal court.

*Thomas E. Simmons is an assistant professor at the University of South Dakota School of Law in Vermillion. Simmons' views are his own and not those of USD.*

Michelle Malkin

## EB-5: The Green-Card Racket

BY MICHELLE MALKIN  
© 2015, Creators.com

Can we stop putting America up for sale to the most politically connected bidders yet? Where is our self-respect?

Since 2001, I've warned about the systemic and bipartisan corruption of America's EB-5 immigrant investor visa program. The latest report from the Department of Homeland Security's inspector general — which outlines the meddling and pandering of No. 2 DHS official Alejandro Mayorkas, Nevada Sen. Harry Reid, Democratic bagman Terry McAuliffe, Hillary Clinton's brother Tony Rodham, former Pennsylvania Gov. Ed Rendell and former Mississippi Gov. Haley Barbour, to name a few — provides yet more sordid evidence that the green cards-for-sale scheme should be completely scrapped.

Created under an obscure section of the expansionist 1990 Immigration Act, EB-5 promised bountiful economic development for the U.S. in exchange for granting permanent residency (and eventual American citizenship) to foreign investors. A few years later, Congress conjured up the idea of EB-5 "regional centers" — government-sanctioned business groups and corporate entities acting as middlemen to administer the immigrant investments and facilitate the visa peddling.

Beltway cronyism was embedded in EB-5's DNA from the get-go. The original Democratic House sponsor and his spokesman went on to establish for-profit companies that marketed the program and provided consulting services. Former federal immigration officials from the George H.W. Bush administration formed lucrative limited partnerships to cash in on their access and EB-5 expertise. An entire side industry of economic book-cookers arose to supply analyses of the "job creation" benefits of EB-5 projects and to gerrymander Census employment data to fit the program's definition of "targeted employment areas" in order to qualify for lower investment thresholds (as was done in New York City's Atlantic Yards/Pacific Park EB-5 deal).

Think Solyndra and federal stimulus math on steroids.

Since the program's inception, rank-and-file adjudicators have tried to enforce the investment standards. But senior managers leaned on them to reverse EB-5 rejections when wealthy donors, law firm pals and political hacks complained.

Fast-forward to 2015. The blood pressure-spiking DHS IG report released last week confirmed what whistleblowers have been telling Capitol Hill for years.

Behind the scenes, the IG found, Dirty Harry Reid pressured Deputy DHS Secretary Mayorkas to overturn his agency's rejection of expedited EB-5 visa applications for Chinese investors in a Las Vegas casino hotel, which just happened to be represented by Reid's lawyer son Rory. Adjudicators balked at the preferential treatment. Mayorkas steamrolled the dissenters, who reported on shouting matches over the cases. Reid's staffers received special briefings from Mayorkas to update them on the project's progress.

One underling called it "a whole new phase of yuck."

Meanwhile, in the words of one DHS official at the Immigration and Customs Enforcement bureau, Mayorkas "absolutely gave special treatment" to electric car racket GreenTech, which zealously sought EB-5 visas for another group of deep-pocketed Chinese investors. McAuliffe helmed the company after it was spun off from a Chinese venture. He plugged in Rodham as president of Gulf Coast Funds Management, which won designation as an EB-5 regional center certified to invest foreign capital in federally approved commercial ventures in Louisiana and Mississippi, including GreenTech. Louisiana GOP Gov. Bobby Jindal and former Mississippi GOP Gov. Haley Barbour both signed letters urging DHS to approve Gulf Coast as a regional center.

After adjudicators dismissed the company's job claims as "ridiculous," "flawed" and "not approvable," McAuliffe personally leaned on then-DHS Secretary Janet Napolitano, "complaining about the denial of the Gulf Coast amendment and requesting her assistance to get the amendment approved and to expedite more than 200 investor petitions."

In violation of recordkeeping and disclosure rules, Mayorkas met with McAuliffe in February 2011 after USCIS denied GreenTech's requests. Mayorkas mysteriously took no notes and could not recall just exactly how many phone calls he took from McAuliffe and what exactly they discussed (though he did remember the "caustic" Democrat yelling "expletives at high volume." Mayorkas met personally with senior staff to urge the agency to reverse its denials and give McAuliffe and company what they wanted and even offered to write the reversals himself.

On a third front, Mayorkas intervened on behalf of EB-5 petitioners seeking green cards by investing in Hollywood studios such as Sony Pictures and Time Warner. He had received pressure from the L.A. mayor's office, where an aide helpfully mentioned she knew a mutual acquaintance of his from his old law firm, O'Melveny and Myers, and from Rendell, a paid consultant to the EB-5 regional center representing the foreign investors. Mayorkas reversed his staff's rejections of more than 200 suspect EB-5 applications and set up a special "deference review board" to bow to Hollywood.

Two decades ago, when the program's failures were first exposed, Rep. John W. Bryant, a Texas Democrat, protested on the House floor: "This provision is an unbelievable departure from our tradition of cherishing our most precious birthright as Americans."

How much more evidence do you need that this foreign investor pay-for-play swindle makes an irremediable mockery of the American Dream? The only effective way to "reform" this abomination is to kill it.

*Michelle Malkin is the author of "Culture of Corruption: Obama and his Team of Tax Cheats, Crooks and Cronies" (Regnery 2010). Her e-mail address is [malkinblog@gmail.com](mailto:malkinblog@gmail.com).*