



TODAY!

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Area Wrestlers Hit The Mats Tuesday • 8

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High Court: Government Could Be Held Liable For Flooding

WASHINGTON (AP) — The Supreme Court ruled Tuesday that the federal government is not automatically exempt from paying for damage caused by temporary flooding from government-owned dams.

The court sided with the Arkansas Game and Fish Commission in its appeal of a lower court ruling that said the federal government did not have to pay for damage to thousands of trees after the U.S. Army Corps of Engineers released more water than usual from its dam on the Black River. The release of additional water benefitted farmers, but the commission said its hardwood forest suffered significant damage.

The commission said the damage amounted to the government taking its property, for which compensation would be owed under the Constitution.

The Court of Federal Claims agreed and ordered the government to pay \$5.6 million for destroyed and damaged trees. But the U.S. Court of Appeals for the Federal Circuit in Washington said damage resulting from temporary, as opposed to permanent or inevitable, flooding cannot be compensated under the Constitution's Takings Clause.

Justice Ruth Bader Ginsburg, writing for the court, said the appeals court was mistaken. Ginsburg said that "government-induced flooding of limited duration, but severe impact, can amount to a taking of property warranting just compensation."

But Ginsburg also cautioned that the court was not deciding that the government has to pay for all flooding caused by government action, or even necessarily in this case. Instead, courts must consider the details on a case-by-case basis. The justices also ordered the appeals court to consider other arguments advanced by the government to avoid liability.

Justice Elena Kagan sat out the case because she worked on it while serving in the Justice Department.

The case is *Arkansas Game and Fish Commission v. U.S.*, 11-597.

INSIDE TODAY

American Profile

CELEBRATING THE AMERICAN SPIRIT

KOZIAR'S Christmas Village

December 4, 2012

Pennsylvania family lights up the farm

COMPLIMENTS WILL BE IN ORDER

WE'RE ON FACEBOOK

AMERICAN PROFILE

HAPPY HOLIDAYS

LISTEN, THIS TIME OF YEAR, THE WHOLE BEING GOOD THING WILL STRESS ANYONE OUT. BESIDES, YOU'RE JUST A STUPID BEAGLE.

THE DOCTOR IS IN

Dec. 5
20 shopping days to Christmas



KELLY HERTZ/P&D
Sacred Heart School (SHS) eighth grader James Welter, right, and his classmates work at putting together food packs for the Kids Against Hunger program Tuesday afternoon at the school in Yankton. The efforts by SHS students from various grades put together about 12,000 meals, each of which consists of rice, soy, a vitamin and mineral mixture, and dried vegetables. Some of the food items are bound for Haiti, but others will be shipped to the Rosebud Indian Reservation and also be used in the local Sack Pack program.

Facility Official Has Different Tone With County Commission

BY NATHAN JOHNSON
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Recalibrating his approach to the Yankton County Commission, the general manager of Dakota Plains Ag Center took on a more conciliatory tone Tuesday in regards to a proposed grain facility.

When Matt Winsand spoke with commissioners last month, the tone of the conversation was at times combative as each side staked out their positions on how the costs of road upgrades would be addressed should Dakota Plains build its project along the railroad approximately three miles northwest of Yankton at Napa Junction.

"The biggest thing is, I want to apologize on behalf of Dakota Plains," Winsand said Tuesday. "We didn't follow the proper procedures and policies you have in place when looking to bring a new business into Yankton County."

In the last several weeks, he stated that he has been going through the county's zoning procedure and researching ways that infrastructure upgrades have been done for similar facilities in the state.

"It's a whole different group standing before you than it was two weeks ago. Same person, different attitude. I'm a little more knowledgeable of what's going on in the area. What can we do as a team to get this going?"

MATT WINSAND

The estimated \$28 million first stage of Dakota Plains' project would include the es-

UN Disability Treaty Rejected

WASHINGTON (AP) — Led by Republican opposition, the Senate on Tuesday rejected a United Nations treaty on the rights of the disabled that is modeled after the landmark Americans with Disabilities Act.

With 38 Republicans casting "no" votes, the 61-38 vote fell five short of the two-thirds majority needed to ratify a treaty. The vote took place in an unusually solemn atmosphere, with senators sitting at their desks rather than milling around the podium. Former Senate Majority Leader Bob Dole, looking frail and in a wheelchair, was in the chamber to support the treaty.

The treaty, already signed by 155

nations and ratified by 126 countries, including Britain, France, Germany, China and Russia, states that nations should strive to assure that the disabled enjoy the same rights and fundamental freedoms as their fellow citizens. Republicans objected to taking up a treaty during the lame-duck session of the Congress and warned that the treaty could pose a threat to U.S. national sovereignty.

"I do not support the cumbersome regulations and potentially overzealous international organizations with anti-American biases that infringe upon American society," said Sen. Jim Inhofe, R-Okla.



HANDS UP

The Yankton Middle School seventh- and eighth-grade chorus perform the spiritual-tinged "Elijah and Joshua" during the YMS chorus and orchestra holiday concert Tuesday night at the YHS/Summit Activities Center. Both the orchestra and chorus performed tunes that carried a holiday flavor, ranging from "Feliz Navidad" and a selection from "The Nutcracker" to "In December" and "You're A Mean One, Mr. Grinch." To see or purchase images from this event, visit spotted.yankton.net. (Kelly Hertz/P&D)

Daugaard Eyes Modest Increase In S.D. Budget

\$4.1B Plan Hikes Education And Health Funding, But Doesn't Restore Cut Funds

BY CHET BROKAW
Associated Press

PIERRE — Gov. Dennis Daugaard on Tuesday proposed a \$4.1 billion state budget plan to the Legislature that would include modest spending increases on schools, health care and public worker salaries but that wouldn't make up for last year's deep spending cuts.

The Republican governor's plan calls for roughly 3 percent increases in spending on schools and universities, as well as hospitals, nursing homes and other facilities that provide medical services to the poor. The increases would more or less offset inflation, and education and health care officials have already said such hikes wouldn't come close to restoring 2011 funding cuts made to close a \$127 million budget shortfall caused by the most recent recession.



Daugaard

Daugaard said the final budget, which the GOP-controlled Legislature must pass before adjourning in March, has to be based on conservative revenue estimates and must make sure ongoing revenue is sufficient to cover ongoing spending.

"Ongoing revenue pays for ongoing expenses, one-time funds pay for one-time expenses, and reserve funds are used only for emergencies," Daugaard said in a prepared statement issued before he addressed the Legislature.

Daugaard's budget would authorize South Dakota to spend \$4.1 billion in state, federal and other funds in the fiscal year that begins July 1, which is roughly the

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D18 Lawmakers Split On Budget Proposal

BY DEREK BARTOS
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As Gov. Dennis Daugaard unveiled his plan Tuesday for a balanced Fiscal Year 2014 state budget, District 18 lawmakers responded with mixed reactions to the proposal.

By calling for only an approximate 3 percent increase in spending for schools and medical facilities that provide services to the poor, Democratic House leader Rep. Bernie Hunhoff said the governor's budget failed to address major public policy issues.

"First there's education funding. Everybody that campaigned for office in 2012 agreed that education funding on the local level was the biggest issue. And he didn't address that in the budget. So that's a disappointment," Rep. Hunhoff said. "Secondly, I think the biggest economic development and health care issue we face is whether or not to expand Medicaid, and we just kind of kicked that to the side. I think that's a mistake."

However, Rep.-Elect Mike Stevens said that with all the uncertainty surrounding Congress and how it will act on the national "fiscal cliff" issue, a conservative ap-



J. Hunhoff



B. Hunhoff



Stevens

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