

## 2010 Legal and Public Notices

erty during reasonable business hours for inspection and bidding on said vehicle.

The above-stated public auction and sale of the above-described vehicle shall take place at MW Automotive, at the above address on December 31, 2013 at 1:00 pm in Yankton, Yankton County.

The above-stated vehicle shall be sold by public auction to the highest bidder for cash.

The highest bidder would also be responsible for the unpaid repair bill as state above.

Dated this 17th day of December, 2013.

MW Automotive  
by Doug Marquardt

/s/:

## South Dakota

# Man Convicted Of Raping Child Gets New Trial

BY CHET BROKAW  
Associated Press

PIERRE — The South Dakota Supreme Court ruled Thursday that a Valley Springs man convicted of raping a 6-year-old girl must get a new trial.

The high court ruled unanimously that Kevin Buchholtz, 58, is entitled to a new trial because improper testimony was allowed in his first trial last year. The justices said a nurse was allowed to give testimony that improperly bolstered the girl's credibility.

A jury in August 2012 convicted

Buchholtz of two counts of first-degree rape, one count of sexual contact with a child and one count of indecent exposure. He was sentenced to 60 years in prison.

The Supreme Court said a nurse who examined the girl found no physical evidence of sexual abuse. But based on what the girl said she saw, felt and heard, the nurse testified that her "medical diagnosis is child sexual abuse."

The high court said most courts across the nation restrict such testimony.

In a child sexual abuse case, an expert can tell a jury about the

characteristics of abused children and describe the characteristics exhibited by the child involved in the case, the Supreme Court said. An expert can give an opinion about whether medical evidence is consistent with a victim's allegations, but cannot express an opinion that sexual abuse has actually occurred based solely on a victim's statement, the justices said.

"To allow that kind of opinion raises the prospect of future trials with opposing experts telling jurors which witnesses they should believe, all under the guise of rendering a diagnosis," Justice John K.

Konenkamp wrote for the court.

Buchholtz argued that the girl may have been confused or mistaken about what happened. But without any physical evidence of rape, the nurse's testimony put to rest any question about whether the girl had imagined or made up her account of what happened, the Supreme Court said.

A jury has to decide whether sexual abuse has occurred, the high court said.

Lawyers involved in the case did not immediately return phone calls seeking comment.

# Oil Trains Raise Concerns In Small Towns, Cities Across U.S.

BY MATTHEW BROWN AND JOSH FUNK  
Associated Press

WOLF POINT, Mont. — It's tough to miss the trains hauling crude oil out of the Northern Plains. They are growing more frequent by the day, mile-long processions of black tank cars that rumble through wheat fields and towns, along rivers and national parks.

As common as they have become across the U.S. and Canada, officials in dozens of towns and cities where the oil trains travel say they are concerned with the possibility of a major derailment, spill or explosion, while their level of preparation varies widely.

Stoking those fears was the July crash of a crude train from the Bakken oil patch in Lac Megantic, Quebec — not far from the Maine border — that killed 47 people. A Nov. 8 train derailment in rural Alabama where several oil cars exploded reinforced them.

"It's a grave concern," said Dan Sietsema, the emergency coordinator in northeastern Montana's Roosevelt County, where oil trains now pass regularly through the county seat of Wolf Point. "It has the ability to wipe out a town like Wolf Point."

The number of carloads hauled by U.S. railroads has surged in recent years, from 10,840 in 2009 to a projected 400,000 this year.

Despite the increase, the rate of accidents has stayed relatively steady. An Associated Press review of federal hazardous material accident records show most of those incidents involved small quantities of oil.

Railroads say 99.997 percent of hazardous materials shipments reach destinations safely. Representatives said they work hard to prevent accidents and make sure emergency responders are prepared, by training about 20,000 firefighters and others annually.

"It's not something to be afraid of," said Union Pacific CEO Jack Koraleski. He said there is not a safer option than rail.

Federal officials who oversee railroads said they've responded to the boom in oil trains by beefing up rail car inspections in oil-producing states such as North Dakota. Tougher safety standards are being considered for the tank cars that carry oil.

But the accident records kept by the U.S. Department of Transportation point to the daunting size of that task. Oil trains are now active in virtually every corner of the country, and since 2008, crude releases from rail cars have

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GREG RHOADS

been reported in 29 states.

The potential for a major accident looms ominously for emergency officials. Urban areas and towns near railroad facilities are better prepared, while rural officials know they may be on their own in the first crucial hours after an accident.

New Castle County, Del., has extensive resources and well-trained firefighters because it is home to an oil refinery and a complex of chemical manufacturing plants.

County emergency management coordinator Dave Carpenter said the industry has worked closely with officials to improve emergency response since an incident in 1984, so he's not especially concerned about the crude oil shipments.

"We're probably one of the more-prepared places in the nation," Carpenter said.

But even in another relatively well-equipped area, like Little Rock, Ark., Pulaski County emergency manager Andy Traffanstedt said he worries that a fiery accident like the one in Quebec could overwhelm firefighters.

"Sometimes things are so catastrophic that you can't ever get ahead of it," he said, even though his county has three hazardous materials teams and a Union Pacific rail yard with more resources nearby.

Trains headed west out of the Bakken oil patch in North Dakota snake their way along the Missouri River and slice through towns large and small before crawling over the Continental Divide at Glacier National Park to reach coastal refineries.

Like spokes on a wheel, others head south to the Gulf, east to New York and Pennsylvania, north into Canada.

One of the first places trains heading west pass through is Wolf Point, an agricultural town of about 2,600 people on the Fort Peck Indian Reservation.

On a line historically dominated by grain and freight shipments, crude trains are now a daily sight. Horns announce their approach as locomotives pulling 3 million gallons of crude per

shipment pass just a block from the town's business district and only yards from the public high school.

Emergency officials in Montana and beyond generally praised the railroad industry's responsiveness to derailments.

Burlington Northern Santa Fe Railway, the dominant railroad in the Bakken, maintains its own hazardous materials emergency crews, totaling more than 200 personnel at 60 sites scattered across the country. The other major railroads take similar precautions and offer specialized training to local firefighters.

Yet corporate responsibility can only do so much, said Sietsema, who noted that the last significant derailment in his county came when a freight train hit a truck at a road crossing.

"Burlington Northern is pretty much Johnny on the spot," he said. "But BN can only control so much."

Like most rural communities, Wolf Point has an all-volunteer fire department. The nearest hazardous materials teams are stationed on the other side of the state, six to eight hours away.

There's no containment boom on hand if oil entered one of the Missouri River tributaries crossed by the rail line.

As for controlling an oil-fueled fire, Wolf Point's fire department would use up its supply of specialized foam in a matter of minutes, said Chris Dschaak, Wolf Point's mayor-elect and a volunteer firefighter.

Similar limitations exist for fire departments across the U.S., said Alan Finklestein, a fire marshal in Ohio who conducts hazardous materials training for government agencies and first responders.

He said the problem has been compounded by cutbacks in emergency personnel and training in recent years due to the ailing economy.

Greg Rhoads, a railroad emergency preparedness consultant and former CSX employee, said knowing what rail traffic is passing through a community and understanding the potential risks is crucial to being prepared.

Rhoads said he doesn't think any community could handle a disaster like the one that unfolded in Quebec last July, but every fire department, even small ones, can do some things to prepare and develop a basic plan.

"If you have 10, 15, 20 railcars on fire, it would challenge Denver, Chicago or any major fire department," Rhoads said.

## County Seeks Bar Dues Reimbursement

MADISON, Neb. (AP) — Madison County will seek to recover thousands of dollars in dues paid to the Nebraska State Bar Association after a recent ruling by the state Supreme Court.

Madison County pays the annual Nebraska Bar Association dues of its prosecutors, defense attorneys and some judges, the *Norfolk Daily News* reported.

But earlier this month, the Nebraska Supreme Court ruled that while attorneys in Nebraska must continue to pay annual bar dues to remain licensed to practice law in the state, those dues must be limited to only those activities necessary to regulate the legal profession, such as maintaining records, mandating continuing education for lawyers and enforcing the ethical rules of attorneys. The ruling made voluntary those dues that would go for other activities, such as lobbying and running programs like legal self-help desks and legal mentoring programs.

That means mandatory fees will drop to \$98 a year in most cases, from the previous annual dues of about \$300 a year.

The state's high court ruled that members who have already paid 2014 dues at the old rate must be reimbursed, if they ask.

On Tuesday, the Madison County Board of Commissioners voted 3-0 to ask for reimbursement for the past four years.

Madison County Attorney Joe Smith said in a memo to the board that the county has paid nearly \$10,000 to the state bar association in dues over the past four years. That means the county would seek reimbursement of more than \$6,000.

## Officials Alarmed By Bison Crash Deaths

HOT SPRINGS (AP) — Officials at Wind Cave National Park in southwestern South Dakota are taking steps to reduce the number of bison killed by motor vehicles after a rash of deaths this year.

Fourteen bison have been confirmed killed in crashes in 2013, with six of those deaths happening in the last three months.

"In a typical year, we average three bison killed. Six in just three months is an alarming amount," Park Superintendent Vidal Davila said. "We're concerned about the safety of our travelers. We don't want people to get hurt. Sometimes just driving the speed limit is too fast for bad weather conditions."

No people have been hurt in the crashes this year, according to park spokesman Tom Farrell.

The park is stepping up patrols, working on better signs and moving bison away from roads, where animals are drawn by salt used to melt snow and ice. The park doesn't salt the roads, but vehicles carry it in from other areas.

"Bison licking salt on roads during or after a winter storm, especially at night, can be nearly impossible to see," Davila said. "It is hard to imagine an invisible 2,000 pound animal, but with their brown hair they just blend into the darkness."

## Gov. Appoints 2 To Transportation Panel

PIERRE — Gov. Dennis Daugaard has chosen two men to fill vacancies on the state Transportation Commission.

Larry Thompson, CEO of Vantage Point Solution telecommunications company at Mitchell, will succeed Kevin Schieffer of Sioux Falls.

Schieffer resigned earlier this year to accept an appointment from the governor to the state Board of Regents. The remainder of the term expires in April 2016.

Tim Dougherty, a Sioux Falls lawyer, will succeed Mike McDowell, who retired earlier this year from his job as CEO for Heartland Consumers Power District at Madison.

The remainder of the term expires in April 2014. The commission has nine members whose major responsibilities include setting the annual construction plan, approving the winter maintenance plan and approving project bids.

## Train Derails West Of Rapid City

BLACK HAWK (AP) — Canadian Pacific Railway Ltd. says more than a dozen of its rail cars derailed west of Rapid City near Black Hawk.

Spokesman Andy Cummings in Minneapolis told The Associated Press no one was injured in Thursday afternoon's mishap and there is no threat to the public.

Local law enforcement officials say a bridge collapsed, but Cummings says it's premature to speculate on a cause. The train was on a track parallel to Sturgis Road when 13 or 14 cars derailed.

The Highway Patrol says the railroad is working with authorities to clear debris from Peaceful Pines Road so it can reopen.

Interstate 90's Exit 52 into the town is also closed. Anyone entering Black Hawk must use Exit 48 or Exit 55. I-90 traffic isn't impacted.

# Bridge Designated To Honor American Legion

BY BOB MERCER  
State Capitol Bureau

PIERRE — There's no rule or policy prohibiting it, so the state Transportation Commission agreed Thursday to naming a second segment of highway in honor of the South Dakota American Legion.

This time it's the restored two-lane bridge that connects Chamberlain and Ocoma. American Legion Potter Post 3 at Chamberlain made the request.

The structure over the

Missouri River has been called the I-90 loop bridge. Now it is the American Legion Memorial Bridge.

"That is a historic bridge. Since it's been refurbished and looks so nice now, we thought it would be a great time to name it, to rename it," said Doug Feltman of Chamberlain, representing the post.

State policy prohibits naming a segment of highway in honor of more than one party. But there's nothing that addresses a situation where a party wants

multiple segments of highway to receive the same designation, according to Scott Rabern, a state Department of Transportation official.

He said U.S. 281 through South Dakota from the Nebraska border to the North Dakota is designated as the American Legion Highway.

Other states handle highway naming in multiple ways, according to Rabern.

Commissioner Mike Trucano of Deadwood asked whether there should be a clarification in DOT

regulations for similar situations in the future.

Transportation Secretary Darin Bergquist said that won't be necessary. He said DOT has a naming policy that isn't set in formal rule.

"You don't really have any rules that govern this," Bergquist said.

The old bridge follows the traditional route of U.S. 16, which was replaced by Interstate 90. There is a modern four-lane bridge on I-90 just downstream from the old bridge.

## FDA

From Page 1A

FDA said when it proposed the rules that they could cost large farms \$30,000 a year.

The food safety law was passed by Congress at the end of 2010, weeks before Republicans assumed control of the House. Since then, many GOP lawmakers have said the rules are too burdensome for farmers, and the House version of a five-year farm bill would delay some of the rules.

Supporters have said the new laws are needed after several high-profile foodborne illness outbreaks in peanuts, spinach, eggs and other foods. While many farmers and food manufacturers already follow good food safety practices, the law would

aim to ensure that all of them do. There are an estimated 3,000 deaths a year from foodborne illness.

The rules are already somewhat tailored to make the changes easier on farmers. They would apply only to certain fruits and vegetables that pose the greatest risk, like berries, melons, leafy greens and other foods that are usually eaten raw. A farm that produces green beans that will be canned and cooked, for example, would not be regulated.

In addition to regulating farms and food manufacturing facilities, the food safety law also authorized more inspections by the FDA and gave the agency additional powers to shut down food facilities. In addition, the law required stricter standards on imported foods.

Taylor said the new proposed produce rules are expected by next summer.

## Drought

From Page 1A

particular saw high amounts of precipitation, with areas in Montana, North Dakota and South Dakota experiencing levels 150 to 200 percent of normal.

In Yankton, precipitation for 2013 through November 30 totaled 29.66 inches, compared to the historical average of 23.24. Yankton saw only 13.39 inches of precipitation for the same period in 2012.

"This was quite the wet year for the region," Fuchs said.

The climatologist said the high levels of precipitation allowed much of the region to

rebound from the 2012 drought, although not everyone was so fortunate, such as southwest Nebraska.

"Several areas did not pick up as much precipitation ... there are still some problem areas," Fuchs said.

According to the latest U.S. Drought Monitor released Thursday, most of Nebraska is still seeing some level of dry conditions, with areas in the western part of the state still experiencing severe or extreme drought. However, South Dakota has mostly recovered from the drought, with only a small part of the eastern edge of the state in the abnormally dry category.

Drought conditions did not change much since the last Drought Update Webinar on Nov. 21, which is to be expected

during winter months, Fuchs said. However, weather experienced during the following months will have an impact on soil conditions next spring, he said.

"The real wild card in this is going to be how much snow we see this winter and how much of that is going to be sitting atop frozen snowpack," he said.

Fuchs said the forecasts for the rest of the winter season (through February) are currently predicting cooler temperatures to continue for the Dakotas and Nebraska, with chances for precipitation varying throughout the region.

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