

## Bill Would Tax Soda To Fund Health Programs

LINCOLN, Neb. (AP) — The beverage industry and health activists went head-to-head debating whether to tax soda to support health programs.

Lincoln Sen. Bill Avery pitched his proposal on Friday and asked the Legislature's Revenue Committee to include his bill in a tax commission study.

Avery says Nebraska should tax soda even though the state doesn't tax groceries. He says the bill is an effort to reduce childhood obesity by providing about \$11 million for health programs annually.

Schools and health programs supported the bill, saying the extra funding could greatly help health initiatives that are already working. The Nebraska Beverage Association and Nebraska Grocery Association opposed the bill.

Senators also discussed Friday creating a tax commission, which would allow lawmakers to research state tax laws and recommend updates.

## Rep. Introduces Bill To Clear Way For Pipeline

OMAHA, Neb. (AP) — Rep. Lee Terry has introduced a bill to allow the Keystone XL oil pipeline to be built sooner than later.

The Nebraska Republican has long supported construction of the 1,700-mile pipeline that would carry crude oil from western Canada to refineries in Texas. The pipeline would travel through Montana, South Dakota, Kansas, Nebraska and Oklahoma.

Terry's bill would remove the need for a presidential permit for the pipeline to be built.

Earlier this week, Republicans who met with President Barack Obama said the president did not rule out a decision to approve the \$7 billion pipeline.

But Terry says he and others are tired of waiting and that the project would create thousands of jobs.

Opponents say the jobs numbers are exaggerated and that the pipeline poses an environmental threat.

## Man Facing Murder Charge In Death Of Toddler

WATERTOWN (AP) — Authorities have filed a second-degree murder charge against a South Dakota man arrested for abusing a toddler who later died.

Twenty-five-year-old Jay Barse, of Watertown, was arrested Wednesday on an aggravated battery charge after police responded to a report of an unconscious child at his home.

Fourteen-month-old Serenity Seaboy was taken to a Watertown hospital Wednesday and then airlifted to a Sioux Falls hospital, where the toddler died from head trauma.

KWAT radio reports that the new charge was filed Friday. It was not immediately clear if Barse had obtained a lawyer. He's being held on \$50,000 bond and is not expected to make a court appearance until next week.

## Sioux Falls Standoff Ends Peacefully

SIOUX FALLS (AP) — A man wanted for questioning in a Brule County homicide surrendered to Sioux Falls police after a two-hour standoff.

Thirty-six-year-old Kent Davidson was arrested about 10:15 p.m. Thursday on a parole violation after he left the apartment he was in and surrendered.

Police said Davidson was considered armed and dangerous but they did not say if he actually had a weapon.

Attorney General Marty Jackley and Brule County State's Attorney David Natvig say additional charges are expected in the death of 26-year-old Crystal Schulz of Mitchell. She was found dead in a shed on a rural Chamberlain farmstead on Thursday.

Authorities did not release details on any relationship between Davidson and Schulz. It was not immediately clear if he had obtained an attorney.

## Neb. High Court Upholds Murder Conviction

LINCOLN, Neb. (AP) — The Nebraska Supreme Court has upheld a man's 2011 conviction for the 1978 stabbing death of an Omaha man.

Jerry Watson was convicted of first-degree murder and a weapons count in the death of 61-year-old Carroll Bonnet and sentenced to 10 to 20 years in prison.

Bonnet's body was found in his apartment in October 1978, and his car was later found in Illinois. DNA evidence and fingerprints led to Watson, who was in prison in Joliet, Ill., on burglary and drug charges.

Among other arguments, Watson's appeal said that because 33 years had passed since the murder, he was denied his right at trial to confront witnesses, most of whom were dead or unavailable.

On Friday, the Nebraska Supreme Court rejected those arguments.

# Whiteclay Alcohol Sales Drop Again

BY GRANT SCHULTE

Associated Press

LINCOLN, Neb. — A tiny Nebraska town that sells millions of cans of beer on the border of South Dakota's Pine Ridge Indian Reservation saw its alcohol sales drop for the second year in a row in 2012, according to a report by Nebraska's liquor control commission that American Indian advocates said was encouraging.

Four beer stores in Whiteclay, which has roughly a dozen residents, sold what amounts to nearly 3.9 million, 12-ounce cans of beer last year. That's a 10 percent drop from 2011, when the stores collectively sold the equivalent of nearly 4.3 million cans of beer, according to the commission's year-end report.

Alcohol sales had previously been climbing in Whiteclay, which American Indian advocates and others blame for alcoholism and other social problems plaguing the heavily impoverished reservation, where alcohol is banned. In 2010, sales had climbed to 4.9 million cans of beer compared to 4.3 million cans in 2007.

It's unclear why sales have dropped. Business owners in Whiteclay have pointed to financial struggles of the tribal government, which supplies many of the reservation's jobs. But activists who want to shutter Whiteclay scoff at that claim, saying the reservation has been impoverished for generations, and attrib-

ute the decline to increased awareness of the town and the work of Pine Ridge residents to discourage drinking.

The Sheridan County Sheriff's office also installed a security camera in Whiteclay, which allows deputies to keep watch on the town from their home base in Rushville, about 20 miles away.

Nebraska lawmakers have tried for years to address the problem with little success. On Friday, a legislative committee killed a bill that would have increased the state's beer excise tax by 5 cents per gallon. The plan would have generated about \$2.3 million annually to help law enforcement.

The state liquor commission reported that Whiteclay alcohol sales generated \$113,000 for the state last year, down from nearly \$125,000 in 2011.

Activists who oppose Whiteclay's beer sales said they were encouraged by the commission's report.

"Wow, that's awesome," Olowan Martinez, who lives in the reservation town of Porcupine, S.D. "But as good as it is to hear, it's not good enough. The fact is, they're still making millions off the misery of our people."

Mark Vasina, a Lincoln filmmaker who produced a documentary on Whiteclay, attributed the decline to renewed awareness of the town.

Whiteclay and the reservation have seen a surge of media attention in recent years, from a 20/20 special in 2011 to widespread publicity

last year when the Oglala Sioux Tribe filed a federal lawsuit that sought \$500 million in damages from the beer stores, their distributors and big-name beer manufacturers.

The tribe alleged in its lawsuit that one in four children born on the reservation suffer from fetal alcohol syndrome or fetal alcohol spectrum disorder, and the average life expectancy is estimated between 45 and 52 years — the shortest in the North Hemisphere except for Haiti, according to the lawsuit. The average American life expectancy is 77.5 years.

A judge ultimately dismissed the lawsuit, saying the tribe didn't have a legal case but added that Whiteclay "contributes significantly to tragic conditions on the reservation. And it may well be that the defendants could, or should, do more to try to improve those conditions for members of the tribe."

Vasina said tribe members and the tribal police have also used alcohol checkpoints at key times, such as New Year's Eve and high school prom nights.

"All of these were generated out of the reservation, not from folks in Nebraska," Vasina said. "I know there's a lot more talk and concern and awareness — not just awareness of how bad Whiteclay is. That's always been true. But there's an awareness that things can change."

Vasina disputed arguments that the decrease was due to tribal budget cuts.

"Pine Ridge fell off the fiscal cliff in the 19th century," he said.

# Columbus Homeowners Lose Battle For Compensation

BY MARGERY A. BECK

Associated Press

OMAHA, Neb. — More than a dozen Columbus homeowners whose basements were fouled by sewer backups during a 2004 rainstorm are not entitled to damages from the city, the Nebraska Supreme Court ruled Friday.

James and Jamie Henderson filed a lawsuit in which they and 15 other homeowners in the eastern Nebraska city sought a total of more than \$125,000 in damages, plus legal and court costs. They claimed a city worker who restarted sewage pumps during an hours-long downpour caused the backup that flooded their basements with raw sewage.

A lower court rejected the homeowners' claim that the city was responsible, and the homeowners appealed.

Last year, the Nebraska Court of Appeals upheld the lower court's dismissal of the homeowners' negligence claim, but reversed the lower court's dismissal of the homeowners' case for "inverse condemnation," a legal claim brought by property owners who argue that they have not been fairly compensated for private property taken or damaged for a public use.

The city appealed, and the Nebraska Supreme Court on Friday reversed the Court of Appeals' inverse condemnation ruling.

The state's high court said the main issue in an inverse condem-

nation case is to determine whether the property in question was taken or damaged as a result of a government exercising its power of eminent domain to take private property for public use.

The Nebraska Constitution forbids the taking or damaging of private property without fair compensation.

But that law "is not a source of compensation for every action or inaction by a governmental entity that causes damage to property," Nebraska Supreme Court Judge Lindsey Miller-Lerman wrote for the high court. Based on previous court decisions, successful inverse condemnation cases must show that a government intended or could foresee its actions would result

in the taking or damaging of private property.

In the Columbus homeowners' case, there was only evidence of a single event of sewage backup, and evidence presented during the trial showed similar actions by the city's sewage workers had not caused sewage backup at other times, Miller-Lerman wrote. No evidence was presented that showed the city knew that restarting the sewage pumps would damage private property, she said.

George Moyer, attorney for the homeowners, was away from his office Friday and could not be reached for comment.

An attorney for the city, Mark Sipple of Columbus, declined to comment on the ruling.

## OBITUARIES

### Burnell Nelsen

Burnell Nelsen, 86, of Wakonda, SD, passed away peacefully at Wakonda Heritage Manor on Thursday evening, March 14.

Funeral services will be held on Tuesday, March 19, at 11 a.m. at the First Lutheran Church in Wakonda. Visitation will be on Monday evening from 5-8 p.m., with the family present, at the Hansen Funeral Home in Irene.

Burnell was born on March 17, 1926, to Emmanuel and Inga (Lynstad) Nelsen. He grew up in the Utica area and was baptized and confirmed at the Martinez Lutheran Church in Utica, SD. The family later moved to Wakonda where Burnell graduated from Wakonda High School in 1944. Burnell married Gerry (Hevle) on February 14, 1950 at the Trondhem Lutheran church. Burnell was a devoted husband and father to his wife and five children. He loved the life of farming, especially raising cattle and other livestock. Burnell enjoyed fishing, talking "farming," reminiscing, but most importantly, spending time with his family.

Burnell is survived by his wife, Gerry, and his five children, Ron (Jeanne) Nelsen, Volin, Gene (Peg) Nelsen, Wakonda, Linda (Don) Renken, Volin, Mark (Julie) Nelsen, Volin, and Jennifer



Nelsen

Frank. His 13 great-grandchildren, Kyleigh, Haleigh, Brooks, Lochan, Ainsley, Eli, Jayla, Natalie, Nash, Knox, Addison, Danny and Oliver. His sister, Marilyn Enger, Harrisburg, his brother-in-laws and sister-in-laws, Palmer and Janice Erickson, and Howard and Deloris Jensen, of Irene, and several nieces and nephews.

He was preceded in death by his parents, Emmanuel and Inga, his in-laws, Haakon and Alice Hevle, his sister and brother-in-law, Doris Fay and Virgil Booth, his brother, Leland Nelsen, his brother-in-law, Norman Enger, and his sister-in-law and brother-in-law, Adeline and Larry Maine.

Blessed be his memory.  
Yankton Press & Dakotan  
March 16, 2013

### Delores 'Dee' Horacek

Delores "Dee" Horacek, 84, of Yankton died Friday, March 15, 2013, at her residence.

Memorial Mass of Christian Burial is at 11 a.m. Wednesday, March 20, at Sacred Heart Catholic Church, Yankton, with the Rev. Mark Lichter officiating. Burial of her cremated remains will be in the Sacred Heart Cemetery, Yankton.

Visitations begin at 5 p.m. Tuesday at the Opsahl-Kostel Funeral Home & Crematory, Yankton, with a rosary at 7 p.m. followed by a Scripture service at 7:30 p.m. Visitations will resume one hour prior to the service at the church.

### Joan Oswald

Joan Oswald, 82, of Yankton died Friday morning, March 15, 2013, at her residence. Funeral services are pending

with the Opsahl-Kostel Funeral Home & Crematory, Yankton.

### James Guenther

James Guenther, 76, of Magnet, Neb. died on Friday, March 15, 2013 at Mercy Medical Center in Sioux City, Iowa.

Funeral Services will be on Tuesday, March 19, 2013 at 10:30 a.m. at the Wintz Funeral Home in Hartington with the Rev. Jeffery Loseke officiating. Inurnment will be at the Magnet Cemetery at a later date. A visitation and viewing will be on Monday from 4-8 p.m. with a Vigil Service at 7 p.m. at the Wintz Funeral Home. Visitation will continue on Tuesday one hour prior to services.

# PRESS & DAKOTAN

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