

2010

Legal and Public Notices

11+9

NOTICE OF APPLICATION
NO. 7414-3 to Appropriate Water

Notice is given that Calvin Hanson, 31524 452nd Ave, Meckling SD 57069 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (100 feet deep) located in NE 1/4 SE 1/4 Section 32-T93N-R53W for irrigation of 169 acres located in the S 1/2 NE 1/4, SE 1/4 Section 32-T93N-R53W and N 1/2 NE 1/4 Section 5-T92N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7414-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 19, 2012.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirmer, Secretary, Department of Environment and Natural Resources.
Published once at the total approximate cost of \$25.82.

Judge Makes Documents Order In S.D. Dog Raid Lawsuit

SIoux FALLS (AP) — A federal judge is allowing some documents to be shielded from public view in a lawsuit stemming from a raid on a South Dakota dog breeder's property, as she tries to prod attorneys to "make it a priority" to ready the two-year-old case for trial.

Hurley dog breeder Daniel Christensen is suing Turner County, the now-defunct Second Chance Rescue Center and the Humane Society of the United States for \$5 million in damages over the Sept. 2, 2009, raid, which another judge ruled was illegal because search warrants weren't properly obtained. Authorities seized 172 of Christensen's dogs and charged him with that many counts of inhumane treatment of animals. Prosecutors eventually dropped the charges.

Attorneys on both sides in the federal lawsuit have clashed in written filings for more than two years. U.S. District Judge Karen Schreier on Wednesday granted the Humane Society a protective order allowing it to hand over internal emails and other documents to Christensen's attorneys without having them made public, the *Argus Leader* reported.

2 Cleared Of Smuggling Cigarettes Into Nebraska

LINCOLN, Neb. (AP) — Two of the six people accused of smuggling cigarettes from Vietnam and unlawfully selling them in Nebraska have been mostly cleared by a federal jury.

The jury decided Wednesday Nhu Van Phan and Tang "Janny" Nguyen weren't actively involved. The only guilty verdict returned was that Tang Nguyen had possessed contraband cigarettes.

The *Lincoln Journal Star* reports the four others charged in the cigarette-importing scheme have all entered pleas and are set for sentencing. Prosecutors say the group had more than 10,000 cigarettes shipped to homes in Lincoln and Nebraska City, and then resold them without paying state and federal taxes.

Defense attorneys argued that Tang Nguyen and Nhu Van Phan didn't know it was illegal to get cigarettes from Vietnam and didn't intend to defraud anyone.

Don McLean To Appear On S.D. Parade Float

PIERRE (AP) — Singer and songwriter Don McLean is to perform on South Dakota's float in this year's Macy's Thanksgiving Day Parade in New York later this month.

The South Dakota Department of Tourism announced Thursday that McLean will appear on the float and perform his 1971 hit "American Pie" during the Nov. 22 parade.

The Department of Tourism's "Mount Rushmore's American Pride" float will feature Mount Rushmore National Memorial, Black Hills National Forest and Badlands National Park in an effort to drive more visitors to the state.

This is the third year the float has appeared in the Macy's parade.

Body Found At Omaha Fire Was Homeless Man

OMAHA, Neb. (AP) — Authorities have released the name of a man whose body was found inside a burning Omaha building.

He was identified as 40-year-old John Lucas Jr., who was described as a homeless man.

Fire Capt. Tim McCaw says a preliminary autopsy report shows Lucas died from smoke inhalation.

The fire started a little before 4:30 a.m. Tuesday. Lucas' body was found on the second floor of the building, which was abandoned and once housed a tavern.

McCaw says investigators do not suspect a crime in the fire, but that the cause of the blaze is still being investigated.

Thune Seeks Re-Election As Conference Chairman

SIoux FALLS (AP) — Sen. John Thune has announced his intention to seek re-election to the third-highest ranking Republican position in the U.S. Senate.

Thune said Thursday that he intends to be re-elected as the Senate Republican Conference Chairman. He has held the position since January of this year.

In a news release, Thune said the country is a crossroads and communicating the Republican vision to grow the economy, create jobs and restore the nation's fiscal health is important.

Thune is the highest ranking Republican senator from South Dakota since Sen. Chan Gurney of Yankton, who served as conference vice-chair, the No. 5 position, in the 1940s.

Police Seeking Man Who Reportedly Robbed Bank

RAPID CITY (AP) — Rapid City police are looking for a local man who is accused of robbing a North Dakota bank.

The U.S. District Court of North Dakotas has issued an arrest warrant for 19-year-old Colt Schneider. Schneider's last known address is in Rapid City, though he hasn't been seen in the area for several weeks.

The warrant is for bank robbery, use and carry of a firearm during and in relation to a crime of violence and aiding and abetting.

Authorities believe Schneider was one of three men who held up a bank in New England, N.D., at gunpoint last month.

Evangelist Files Lawsuit Against SDSM&T

RAPID CITY (AP) — A Rapid City evangelist is suing the South Dakota School of Mines & Technology, alleging that the school charged him \$50 to speak on campus and limited him to an area inside a campus building.

Mark Gavin, of Black Hawk, filed the lawsuit in U.S. District Court. He is seeking a more prominent location on campus to preach. The lawsuit claims that the school treated religious speech as commercial speech when Gavin attempted to preach on campus in 2010 and 2011.

The *Rapid City Journal* reports that The Center for Religious Expression, a Memphis, Tenn., based nonprofit, filed the lawsuit on Gavin's behalf.

An official for the school said the college could not comment on pending litigation.

Man Reports Seeing Mountain Lion Near Omaha

BENNINGTON, Neb. (AP) — A landscape worker has reported seeing a mountain lion running along a road in suburban Bennington, on the northwest side of Omaha.

Omaha television station KETV reports that the man called Douglas County authorities to report that he'd seen the animal near Bennington Road.

Officials have been unable to confirm the report.

Mountain lions, which also are called cougars or pumas, have turned up as far east in Nebraska as Omaha.

Murder-Suicide Victim Was Dental Hygienist

RAPID CITY, S.D. (AP) — A Rapid City woman who authorities say was shot and killed by her boyfriend before he turned the gun on himself was a local dental hygienist.

Police say 58-year-old Brad Swanson killed 55-year-old Deb Ohlmacher and then himself Tuesday night. Authorities say the two had been involved in a rocky romance.

Ann Shepherd tells the *Rapid City Journal* that she knew Ohlmacher for about 25 years. She says Ohlmacher was a single mother with a son who works as a chef in Denver.

The newspaper reports that court records show Swanson had a criminal history that involved violence.

Man Accused Of Making Threats On Corn Price

LINCOLN, Neb. (AP) — A 61-year-old eastern Nebraska farmer has been accused of making threats against a grain buyer so he could get extra money for his corn.

The *Lincoln Journal Star* reports that Leo Johnson, of Tekamah faces felony charges of terroristic threats, extortion and stalking in Washington County. He's charged with being a felon in possession of a firearm and resisting arrest in nearby Burt County.

A court document says Johnson twice called a corn buyer in Blair in September and demanded an extra 15 to 20 cents over the going price for corn, otherwise "things were going to get bloody."

Johnson remained in Washington County Jail on Thursday, pending \$200,000 bail. His attorney didn't immediately return a message from The Associated Press.

Drought Conditions Unchanged In S.D.

SIoux FALLS (AP) — Drought conditions have not changed in South Dakota over the week, with all of the state in some form of drought and more than half in the two worst categories.

The latest U.S. Drought Monitor map shows that extreme or exception drought continues to cover most of the southern half of South Dakota.

North Dakota still has no areas in those categories, and only about three-fourths of the state is now in some form of drought. That is down from 90 percent last week. About 30 percent of the state remains in severe drought.

FOR SALE!

Call P&D Classifieds

(605) 665-7811

TRY US!

Our fudge, chocolates & desserts are so good, you'll want to take them home and say you made them!



At the Riverfront Event Center 121 W. 3rd St. 605.689.3333

Court: Evidence Of Coercion In Nebraska Murder Case

BY GRANT SCHULTE
Associated Press

LINCOLN, Neb. — Two Nebraska men wrongfully charged with murder have enough evidence to move forward with their lawsuit alleging that state and local authorities conspired to build a false case against them, a federal appeals court ruled Thursday.

The court decided that a jury should hear the lawsuit filed by cousins Matt Livers and Nicholas Sampson against a former crime-scene investigator who has since gone to prison for evidence tampering, along with authorities in Cass and Douglas counties, and the Nebraska State Patrol.

The cousins spent six months in jail after they were charged with the 2006 murders of Wayne and Sharmon Stock, of Murdock. The Stocks were found shot in the head at close range after an Easter Sunday gathering at their Cass County farmhouse. The charges were later dropped after two Wisconsin residents, 18-year-old Jessica Reid and 20-year-old

Gregory Fester II, pleaded guilty to the crimes.

David Kofoed, Douglas County's head crime-scene investigator, was convicted of evidence tampering and sentenced to as many as four years in prison. Prosecutors said Kofoed planted Wayne Stock's blood in a car linked to Livers and Nicholas. It was the only physical evidence that tied both men to the crime.

Livers, who is mentally disabled, initially confessed to the killings but quickly recanted. His attorney argues that the confession was coerced, and prosecutors say Kofoed claimed to discover the blood evidence after Livers recanted.

A three-judge panel of the appeals court ruled that all of the evidence suggests that investigators conspired to violate both men's civil rights.

"Livers and Sampson presented some evidence that would allow a reasonable juror to infer some or all of these appellants and Kofoed coerced Livers' confession, fabricated evidence against Livers and Sampson, and

arrested them without probable cause," the court said in its ruling.

Sampson's attorney, Maren Chaloupka, said her client plans to take the case to trial.

"The jury is going to consider how the Cass County and State Patrol investigators and David Kofoed were working together to perpetuate a false case to convict Nick Sampson of murders he did not commit," she said. "As I said earlier, we are not screwing around here."

The ruling allows Livers and Sampson to proceed with their case against Kofoed, the Douglas and Cass county sheriff's offices, Nebraska State Patrol investigators Charles O'Callaghan and William Lambert, and local investigators Earl Schenck and Sandra Weyers.

The court ruled that Douglas County Sheriff Tim Dunning cannot be included in the lawsuit, because he was not directly involved in the case. Livers and Sampson alleged that Dunning failed to properly train, supervise or discipline Kofoed.

Kerrey: Political Hatred Becoming Growing Problem In United States

BY MARGERY A. BECK
Associated Press

OMAHA, Neb. — Sitting in his midtown Omaha home a day after Tuesday's election, Bob Kerrey said a shout from outside made him reflect on what he believes is political hatred that has grown increasingly intense.

"Somebody in my neighborhood walking their dog ... was screaming at me. 'Why don't you go back to New York, you carpet-bagger!'" Kerrey said Thursday.

"There's a lot of anger in this state. The anti-Obama, anti-Obamacare, anti-Harry Reid anger washed over onto me. And some of it is decidedly unpleasant."

In a telephone interview Thursday with The Associated Press, Kerrey said he understands people disagreeing with his views, but the anger he's seen is unsettling.

"Hatred is a dangerous thing," he said.

Kerrey, a Democrat, lost by double-digits to Republican Deb Fischer, a two-term state senator who will replace retiring Democratic U.S. Sen. Ben Nelson.

Fischer told the AP in a separate interview Thursday that she understands people are frustrated by partisan gridlock in Congress.

"Of course there's frustration out there. And it is because they see the gridlock. They see nothing's happening. They understand that (Senate Majority Leader) Harry Reid controls the agenda and that's why nothing is happening in the Senate."

spectful," she said.

She wouldn't call it hatred, but she acknowledged plenty of anger.

"Of course there's frustration out there. And it is because they see the gridlock. They see nothing's happening. They understand that (Senate Majority Leader) Harry Reid controls the agenda and that's why nothing is happening in the Senate."

Kerrey insists the anger is not hard to find — one need only look as far as his campaign.

"There was a supporter of mine in Scotts Bluff County that had a swastika put on his car. And this was a guy who fought the Nazis in the Second World War. There was a guy earlier in the campaign who wanted to shoot me," Kerrey said.

In that case, a 68-year-old Omaha man faces a federal charge of using interstate communication to threaten another person. Prosecutors said the man sent an email in August to a political action committee suggesting putting "bullets in Democrat heads," including Kerrey's.

Kerrey said he does not consider the man a threat, and even told the man's attorney as much, "But it came from an ugly, ugly place," he said.

"It's not political disagreements here now. It's not: Here's your view on abortion; here's my view on abortion. Here's your view on taxes; here's my view on taxes. It's flipping off a candidate with his son standing right next to him in a parade. That's the experience that I'm having. Fortunately, I don't have to experience it anymore."

He thinks the contempt and vitriol is hurting the state.

"I think there's a significant difference between what I could have done for Nebraska and what Sen. Fischer will be able to do," Kerrey said. "I think it's measurable. That's why I was campaigning, but Nebraskans chose something else. And they will get it."

Kerrey blames his loss on millions of dollars spent by outside groups on political ads painting him as liberal New Yorker. Kerrey, a former Nebraska governor and two-term U.S. senator who grew up in Lincoln, moved to New York at the end of his second Senate term to become president of The New School.

"I think if I had not gone to New York — if I had left the Senate and stayed in Nebraska — I think it's a different campaign," he said. "It was not seen as a positive. Very few people regarded it as something that might help me understand the cost of higher education or national security because of 9-11. It was seen almost entirely as a negative."

Kerrey said he's not bitter about the loss, but acknowledged that questions of whether Democrats have a place in Nebraska evoke his passionate response.

"As a Nebraskan who has paid lots more taxes than Deb Fischer and probably more than all five of the Republican statewide officeholders combined, I want this to be an inclusive place," he said. "Gay, straight, men, women, Republican, Democrat — I want this to be an inclusive place," he said.

The state has benefited enormously from the influx of Latinos in recent years, even those here illegally, he said. They are paying customers who contribute to the local economy, said Kerrey, who owns five health clubs and eight restaurants in Omaha and Lincoln.

Those businesses and his family and friends in Nebraska will keep him tied to the state, Kerrey said. He also plans to keep the Omaha house he bought in May. But he doesn't know whether he'll stay in Nebraska. Much will depend on where he finds his next job; retirement, the 69-year-old Kerrey said, isn't an option.

"Whatever it is, it will be private," he said. "I'll be back in the private sector."

Save Up To \$2350

with manufacturer's rebates and utilities rebates

HURRY! Rebates End 11/15!



36 Months No Interest**

**Certain restrictions apply. With purchase of qualified air conditioner or heat pump system.

Larry's HEATING & COOLING

920 Broadway • 665-9461