

A Chronology Of Investigation Into GOED And Benda

Compiled By Bob Mercer

MARCH 18 — Federal grand jury serves subpoena on custodian of records for Gov. Dennis Daugaard's office. Eight sets of records are sought.

APRIL 8 — As result of subpoena, governor via legal counsel Jim Seward sends letter to state Attorney General Marty Jackley requesting investigation. Specific targets are travel vouchers for Dec. 14, 2009, airline ticket to China and March 10, 2010, airline ticket to China. Both involve EB-5 immigrant investments.

LATE AUGUST — Governor and others receive interim briefing from attorney general about progress of investigation.

SEPT. 19 — Pat Costello, commissioner of economic development in the Daugaard administration, terminates state contract with SDRC, the Aberdeen-based company that manages EB-5 immigrant investor activities in South Dakota for state government. No reason is given in letter. On Nov. 22, however, governor's spokesman Tony Venhuizen said August briefing led to the termination.

OCT. 22 — The body of Richard Benda is found on a farm near Lake Andes. It is determined he died two days earlier on Oct. 20. He appears to have died from gunshot wound. Benda was secretary of tourism and state development from 2006 through 2010 in then-Gov. Mike Rounds' administration. Benda wasn't retained by Daugaard's new administration in 2011.

NOV. 21 — Attorney general announces results of investigation into Benda's death. Jackley says Benda died from a self-inflicted gunshot wound that is ruled a suicide.

NOV. 21 — On same day Jackley sends letter to Daugaard with three major findings from the travel investigation.

NOV. 22 — Daugaard releases Jackley letter detailing results from investigation.

Jackley says double billing and payment were found regarding two airline tickets to China on Nov. 1, 2009, and Dec. 8, 2009;

Jackley said a third instance of double billing and payment was found regarding an airline ticket to Las Vegas on Jan. 11, 2010; and

Jackley said funds were improperly diverted from a \$1 million state Future Fund grant intended for Northern Beef Packers Limited Partnership that was issued in January 2011.

The grant was for construction and equipment expenses. It had been approved on or about Dec. 8, 2010, while Benda was still secretary and Rounds was governor. Future Fund grants are made at a governor's discretion.

Jackley said \$550,000 was diverted by Northern Beef to pre-pay EB-5 loan monitoring fees for SDRC in 2011. Benda had signed the EB-5 management contract with Joop Bollen, president of SDRC, in 2010.

Benda wasn't mentioned by Jackley regarding the diversion. Jackley specifically stated SDRC used the services of the California and South Korea-based Hanul Professional Law Corporation to identify and recruit potential EB-5 investors.

Jackley said federal authorities have jurisdiction over the EB-5 program and he said he would continue to assist them regarding those matters including "the impropriety of the payment" of the \$550,000.

Jackley said that because "the individual who submitted the (travel) vouchers is deceased, there will be no further action" by his office on that part of the matter.

Benda

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law enforcement would provide a copy of the subpoena Friday.

"Because that relates to the ongoing federal investigation, I would refer you to the U.S. attorney," said Tony Venhuizen, the governor's spokesman.

Jackley said he sent his findings to Brendan Johnson, the U.S. attorney for the district of South Dakota.

Jackley, a Republican, was U.S. attorney prior to Johnson, a Democrat.

Johnson said Friday he could neither confirm nor deny the existence of a subpoena or an investigation.

"All I can confirm is I received the letter from Jackley," Johnson said.

Jackley was asked whether any additional wrongdoing was found in relation to the eight matters covered in the subpoena.

"The attorney general (office) has released its findings of potential financial misconduct. The other matters will have to come from federal authorities," Jackley replied by e-mail.

Jackley said in his letter to Daugaard that Benda submitted double billings and received double payments for two airline tickets to China in 2009 and for a third trip to Las Vegas in 2010 totaling \$5,590.80.

At the time, Benda was secretary of tourism and state development in then-Gov. Mike Rounds' administration. Benda's state salary was last listed at \$134,698 annually.

Jackley told Daugaard that because "the individual who submitted the (travel) vouchers is deceased, there will be no further action" by his office on that part of the matter.

Benda's body was found Oct. 22 at a farm near Lake Andes. Jackley released the official determination Thurs-

day that Benda died of a self-inflicted gunshot wound. His Oct. 20 death was ruled a suicide.

Jackley said Thursday that no suicide note was found.

Mike Butler, who is from Sioux Falls and was Richard Benda's attorney, issued a statement about the case Friday night.

"Richard consulted with me after he became aware that he was being investigated for alleged wrongdoing in connection with (Northern Beef)," he said. "I had discussions with law enforcement authorities and was more than confident that the allegations were political, not criminal."

"Richard was a private man," Butler continued. "He was angry and upset. He dreaded the publicity of being accused and the consequences of it. I did not imagine he would take his life. He spoke of the love of his daughter and how this would impact her. Richard was a great public servant, father and a friend to many."

Benda had become an important advocate for the Northern Beef plant during his time working for Rounds and in the three years since then.

Jackley in his letter didn't mention Benda regarding the diversion of the \$550,000, however. The state money reportedly was used to pre-pay loan monitoring fees for SDRC.

SDRC is an Aberdeen-based company that until Sept. 19 held the state contract for recruiting EB-5 immigrant investors to help finance various large projects in South Dakota.

Benda and SDRC president Joop Bollen signed the contract in 2010. It had been negotiated in 2009. Benda and Bollen, along with others, went on recruiting trips.

Northern Beef received at least two rounds of EB-5 financing from pools of South Korea and China investors totaling \$60 million.

Under the federal EB-5

program, foreign investors make \$500,000 loans in return for eventually getting permanent visas that allow them and their families to live anywhere in the United States.

The investors often pay additional amounts, such as \$50,000 to \$75,000 apiece, to cover expenses incurred by SDRC and similar agents in their home countries for travel, recruiter commissions, marketing, events and related costs.

The \$550,000 of diverted state funds came from a \$1 million grant that then-Gov. Rounds awarded Dec. 8, 2010, during his final weeks in office.

Benda was secretary of tourism and state development in the Rounds administration from 2006 through 2010. Daugaard didn't retain Benda in his new administration in 2011.

The \$1 million grant by Rounds to Northern Beef came from the Future Fund, over which the governor has sole control.

The Future Fund's source of revenue is businesses that participate in South Dakota's unemployment insurance program.

At the time Rounds approved the grant, Benda already had been officially informed he wouldn't be kept by the incoming Daugaard administration.

Daugaard in his statement Friday said Benda was employed by SDRC at the time the money was redirected from Northern Beef.

Jackley focused in his letter on a law firm that was used by SDRC to identify and recruit potential EB-5 investors: Hanul Professional Law Services, based in California and Seoul, South Korea.

James Park, a member of the firm, specialized in EB-5 work and participated in South Dakota recruiting trips. At one point in 2009, Park was listed as SDRC president and as manager for an EB-5 loan pool for Dakota Provisions, the turkey processing center at Huron.

The SDRC web site, before Costello ordered it taken down, showed GOED and Park as its two partners.

Northern Beef received the \$1 million state check in January 2011. Asked who at Northern Beef diverted the \$550,000, Jackley referred the question to federal authorities. The \$550,000 went to SDRC, he said. Asked whether Hanul received money from the diversion, Jackley referred the question to federal authorities.

Jackley, who was appointed as attorney general by Rounds in 2009, said his investigation is now closed.

That indicates there won't be an attempt by state authorities to recover the \$550,000 from Northern Beef, which is bankrupt, and its officers, or SDRC and its president, Joop Bollen, or the Hanul law firm and James Park.

"Because the EB-5 program is a federal immigration program run and controlled by federal immigration authorities, the United States Attorney and the Department of Justice have primary (jurisdiction) over federal immigration law and the EB-5 program," Jackley wrote.

"I will naturally continue to assist federal authorities regarding these concerns, including the impropriety of the payment of the \$500,000 loan monitoring fees toward a federally EB-5 funded project," he continued.

Daugaard in his public statement referred to a betrayal of trust.

"This is a sad situation. Richard Benda's death leaves questions that may never be answered," Daugaard said.

Rounds in a statement said Friday he was "deeply disappointed and surprised."

Rounds said the "alleged financial concerns occurred after Richard left the government. I was back in the private sector at that time."

Runoff

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estimates the 2014 runoff season will begin with system storage 4.6 maf below the base of the flood control and multiple use zone.

Why didn't last month's high runoff make more of a dent in the persistent drought situation?

Becker noted the October record runoff figures reflect only one month and only part of the basin covering Montana, Wyoming and the Dakotas.

"2012 was quite a drought year and dug us a pretty good hole," he said. "To pull out, it would take quite a little bit."

The drought mode also affects hydropower, which the Corps said remains below normal.

The six mainstem power plants generated 598 million kilowatt hours (kWh) of electricity in October. Typical energy generation for the month of October is 814 million kWh. The power plants are projected to generate 7.5 billion kWh of electricity this year, compared to the normal of 10 billion kWh.

Despite its near-record runoff, the Fort Randall reservoir finished October down 6.76 feet at elevation 1,346.5 feet above mean sea level (msl), according to the Corps. The reservoir is expected to decrease nine feet in November.

The October precipitation provided a welcome boost, said Tom Curran, operations

manager for Fort Randall Dam near Pickstown.

"The whole system was really dry last year, so any late rainfall will be helpful at this point," he said. "We had below-normal runoff into the whole system last year. It would take above-normal runoff for several years to get it back up to normal levels."

Curran credited the improved soil moisture as a key in allowing more runoff to enter and recharge the river system. "I think it helps this whole region going into winter," he said.

Starting this week, the Missouri River releases are being reduced for the winter season.

According to the Corps, Fort Randall releases ranged from 21,000-29,000 cubic feet per second (cfs) in October, averaging 25,800 cfs.

"We were at 28,000 cfs on Tuesday, and Wednesday we starting the decrease. We are decreasing it at 2,000 to 3,000 cfs a day," Curran said. "We are doing a stretch where we wait for six or seven days to see if the river stabilizes and goes down a little bit. We may go lower after that. We generally stop at 10,500 cfs unless it's real cold, then we increase to make sure we have adequate river flow (downstream) at Gavins Point."

During October, the Gavins Point releases ranged from 23,000-30,000 cfs with an average of 27,200 cfs.

"We are running pretty

much full out right now at Gavins Point," Becker said. "We are at 30,000 cfs, and starting Saturday (today) we will start decreasing by 3,000 cfs a day until we get to 15,000 cfs. We could continue to lower it to 12,000 cfs if it meets the needs of downstream water users."

This winter will carry a number of wild cards when it comes to replenishing the Missouri River basin, according to state climatologist Dennis Today of South Dakota State University in Brookings.

"The (Atlas) blizzard had very heavy snow, and it melted off. There isn't much melt-off left for much of the now," he said. "We will gradually accumulate snow as time goes on. It becomes a matter of how much snowpack develops and whether it melts off or accumulates during the winter."

A slow, gradual spring melt could prevent problems, while

a fast melt would likely trigger major flooding, Today said.

"Because of the wet soil, we will need to watch in the spring for more localized flooding," he said. "There are certain parts within the whole upper Missouri River basin that we're watching."

Officials are also watching tributaries such as the James River, he said.

"The Jim is pretty wet. I wouldn't be surprised to see some flooding of the Jim River this spring," he said. "A factor is the type of snowfall. If we don't get wet snowfall, then we may have some minor flooding and it won't be as big an issue. If we have a big snowpack that's heavy and wet, then we may see some (major) flooding."

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Winter

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pattern is likely for the whole winter.

As for total snowfall, Edwards said it is still anyone's guess.

"Precipitation and snowfall are often the most difficult to forecast," Edwards said. "Without El Nino or La Nina affecting our climate this winter, we rely on climate models and long term trends to give hints to what lies ahead."

The other problem with precipitation is that a single large winter storm can produce more than the average amount of precipitation for a single month. Predicting any individual storm for the winter is nearly impossible to do, noted State Climatologist, Dennis Today. He added that soil moisture has been replenished this fall, with a wet October and the end of the growing season reducing

water demand by crops and vegetation.

"This will be of great benefit in setting up soil conditions for the winter season and the spring," Today said. "There does not appear to be any risk of developing drought over the next few months. The Seasonal Drought Outlook has been consistent in saying no new drought through February 2014 for South Dakota. In eastern South Dakota, soils are on the moist side, but not saturated like fall/winter 2010-2011."

Edwards said a quick look to the forecast for the rest of November showed below average temperatures dominating the state for the next six to 10 days. The state will also remain mostly dry during that same time. Temperatures are likely to turn a little warmer as December begins, and potentially some more moisture will come to the area.

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