

3 Charged In Omaha Killing To Stand Trial

OMAHA, Neb. (AP) — A Nebraska judge has sent the cases against three men charged with killing an Omaha man to Douglas County District Court for trial.
Fifty-year-old James Asmus was found shot to death on Sept. 2 in a south Omaha garage.
Jason Hanan, of Omaha, and Anthony Good Jr. and Corey Brooks, both of Council Bluffs, Iowa, are charged with first-degree murder and weapon charges.
Online court records show Judge Sheryl Lohaus found probable cause and sent the cases to district court last Friday.
All three men are being held without bond.

Nebraska Farmers Move Forward With Harvest

LINCOLN, Neb. (AP) — Nebraska's fall harvest is in full swing, and the U.S. Department of Agriculture says farmers are making good progress.
The USDA issued its weekly crop progress report on Monday. Nebraska's harvest is in line with the average pace.
That means about 11 percent of the corn has been harvested. And about 20 percent of the soybean crop and 80 percent of the dry bean crop had been harvested.
The USDA estimates that 73 percent of the corn crop is in good or excellent condition. That's behind last year's 82 percent and the average of 75 percent at this time of year.
About 78 percent of the soybean crop is in good or excellent shape. That's better than last year's 77 percent and the average of 74 percent.

Sandbag Removal Almost Done In Central S.D.

PIERRE (AP) — Removal of the estimated 3 million sandbags in Pierre-Fort Pierre is almost complete.
Ron Nagle of the Oahe Long-Term Flood Recovery Team tells KCCR that about 90 percent of the sandbags have been removed so far.
Nagle says the only sandbags still in place are those still needed for levees or at the wish of the property owner.
Individuals and teams have been removing the sandbags for about the past two months.
Mucking out of flood impacted basements is now starting. Nagle says one specially-trained team is now in the area and more are expected in the next few weeks.

Wyo. Businessman Killed In Helicopter Crash

PHILIP (AP) — A helicopter crash in central South Dakota over the weekend killed a Wyoming businessman.
Haakon County Sheriff Mel Smith tells KCCR radio that the helicopter crashed in a pasture a mile south of Philip early Saturday afternoon. Sixty-four-year-old pilot James Hladky was pronounced dead at the scene.
Hladky was the owner of Cyclone Drilling Inc. He was alone in the helicopter. Smith says Hladky was flying to Winner to see a friend.
The Federal Aviation Administration is investigating the cause of the crash.

Neb. Senator Proposes Pipeline Siting Bill

LINCOLN, Neb. (AP) — A Nebraska state senator has proposed a bill that would give the state siting authority over the route of a hotly disputed oil pipeline.
Fullerton Sen. Annette Dubas released the measure Monday in an effort to bring lawmakers together for a special session to address concerns about the Keystone XL pipeline proposal.
The bill would require pipeline siting approval by the Nebraska Public Service Commission before any in-state construction could begin.
Dubas stressed that the bill is not designed to prevent pipeline construction. But she says it would ensure that the health, safety and welfare of Nebraskans are considered.
The U.S. State Department is expected to decide on the project by December. Pipeline supporters have said the Keystone XL project is safe and has already undergone a vigorous federal review.

LISTERIA OUTBREAK | NEBRASKA

Family Hopes For Safety Changes

BY JOSH FUNK
Associated Press

OMAHA, Neb. — The family of the 81-year-old Nebraska man who died last month after eating tainted cantaloupe hopes the listeria outbreak leads to improvements in food safety.
George Drinkwalter's relatives hope no other family will have to endure what they have in the past month. They say the Cody, Neb., man's life was cut short because of the fruit he chose to eat for breakfast.
"It was hard to watch him die the way he did die," Randy Drinkwalter, of North Platte, one of George's four sons, told The Associated Press in an interview Monday.
The federal Centers for Disease Control and Prevention has linked 15 deaths and 84 illnesses in 19 states to the strain of listeria found on cantaloupes produced by Jensen Farms in Holly, Colo. Drinkwalter's death is the only one confirmed in Nebraska so far, but there have been five other illnesses in the state.
Like most food-borne illnesses, listeria bacteria have the biggest impact on the elderly and anyone with compromised immune systems. Symptoms can include fever, muscle aches, diarrhea and other gastrointestinal problems.
Drinkwalter's wife, Isla, said he was in good

health before eating cantaloupe for breakfast a couple days in a row. In fact, George Drinkwalter had visited his doctor for a check-up and was told he was looking good shortly before he showed any symptoms, she said.
On Sept. 8, he started shaking, she said. The next day, he fell at home and had to be rushed by ambulance to the Valentine, Neb., hospital.
Initially, doctors told the family they didn't think the illness, which looked like pneumonia, was serious. But within a couple of days, Drinkwalter's condition deteriorated and he became incoherent as he writhed around in bed.
The doctors had Drinkwalter flown to Regional West Medical Center in Scottsbluff on Sept. 13. Tests there confirmed that he was also suffering from meningitis, but didn't immediately identify the cause.
Drinkwalter never improved, and he died on Sept. 14.
Test results confirming listeria was the cause of Drinkwalter's suffering didn't arrive until after he died. But family members don't blame the doctors who did all they could to help, said Keith Drinkwalter, another of George's sons.
"He was still doing good until this damn cantaloupe deal," said Keith Drinkwalter, who lives in Chadron.

Isla Drinkwalter, who just celebrated her 58th wedding anniversary in August, said her husband was a well-liked, kind man who valued family and always supported the local schools. The couple met after he served in the Army in Germany during the Korean War.
Family members recalled the way George Drinkwalter was always joking around and teasing friends and family. They said his smile made an impression on many of the people who contacted them after his death.
"He was pretty soft-hearted, and I think that's rubbed off on some of my kids too," Isla Drinkwalter said.
After ranching along the Niobrara River in the Sandhills near Kilgore for 33 years, the Drinkwalters moved to Cody more than 15 years ago.
Drinkwalter served on local school boards for more than 20 years, and after the family moved to Cody he drove a school bus. George and Isla Drinkwalter also spent many hours driving to Chadron, Neb., Casper, Wyo., and other locations to see their eight grandchildren's and 10 great grandchildren's activities.
"He always wanted to be involved with helping out the school and the community," Keith Drinkwalter said.

SOUTH DAKOTA

Court Asked To Reinstate Prairie Dog Lawsuit

BY CHET BROKAW
Associated Press

PIERRE — Dozens of ranchers asked the South Dakota Supreme Court on Monday to reinstate their lawsuit seeking state compensation for damage from prairie dogs.
Ranchers in an area near Badlands National Park claim they lost money when prairie dogs spread from the public land to their property, destroying wheat fields and pastures. The lawyer for three dozen of them, James Hurley of Rapid City, said state law clearly requires state officials to control prairie dogs that have moved onto private land and to set up a way to compensate landowners for damage if the animals spread beyond specific acreage limits.
But the state didn't do enough to control the prairie dogs and hasn't paid the ranchers, Hurley said.
"This is awful. It's a financial disaster and it cries out for financial relief," Hurley told the Supreme Court.
But Douglas Abraham, a lawyer for the state, said a circuit judge was correct in throwing out the case because legal doctrine has established that the state is immune from such lawsuits unless it agrees to be sued.
"The state is also the only entity that can waive the immunity" Abraham said.

The hearing at Dakota Wesleyan University in Mitchell was broadcast through the court's website. The court will issue a written decision later.
The ranchers live in an area around the Buffalo Gap National Grasslands and graze cattle on private land and pastures leased from the federal government. The prairie dog population expanded after controls were relaxed with the reintroduction of black-footed ferrets, a prairie dog-eating species once thought extinct. The area was chosen to reintroduce ferrets because it had a substantial prairie dog population.
Also, poisoning was restricted while federal officials considered listing prairie dogs as endangered or threatened. They eventually decided against listing the black-tailed prairie dog as endangered or threatened because the animals showed signs of rebounding from earlier population declines.
The ranchers' 2005 lawsuit asked the court to order state officials to follow laws requiring them to control prairie dogs on private land and set up a program compensating ranchers for losses caused by prairie dogs.
Former Circuit Judge A.P. Fuller said the state was required to control the prairie dogs and a trial could be held to determine ranch-

ers' financial damages. The state Supreme Court refused to hear the state's appeal of that decision, and the case was sent back to the circuit court to determine financial damages.
But Fuller was no longer on the bench, so the case was assigned to Circuit Judge Janine Kern, who dismissed the lawsuit after determining Fuller had not given enough attention to the state's argument it was immune from lawsuits.
Hurley said he believes the state gave its consent for such a suit when the Legislature passed laws requiring the Agriculture and Game, Fish and Parks Departments to control prairie dogs that had moved onto private land.
When the federal government reintroduced the ferrets, the South Dakota Legislature passed a law requiring that prairie dogs be limited to the 6,180 acres set in a federal management plan for the Conata Basin and the national grasslands, Hurley said. The law also said if more land was needed for prairie dogs, the state had to compensate landowners for their losses.
Other laws requires state officials to use money from the state's Animal Damage Control Fund, which is supported by money from the state and counties, to control prairie dogs that have spread from public to private land, Hurley said.

"We think (the laws) are clear about what they say," Hurley told the Supreme Court. "We are asking they be enforced."
Abraham said none of the laws dealing with prairie dog control specifically give up the state's immunity from lawsuits. The state also has discretion in using money from the Animal Damage Control Fund to control prairie dogs because it also has to manage coyotes and other animals that cause problems, Abraham said.

Out On The Town

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