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Open house

Farm Credit of Western Oklahoma hosts open house

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Trial moved

Trial for petting zoo co-owner moved from January to May

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SCOTUS asked whether states can limit length of time trains block RR crossings

By **Mike W. Ray**
| Southwest Ledger

OKLAHOMA CITY — The State of Ohio filed a petition asking the U.S. Supreme Court to settle the issue of whether states can limit the amount of time trains are allowed to block railroad crossings – and Oklahoma figures prominently in the case.

Ohio's "blocked crossing statute" prohibits stopped trains from impeding traffic flow along public thoroughfares for longer than 5 minutes, with certain exceptions.

The Oklahoma Corporation Commission has a rule that forbids trains from blocking railroad crossings for longer than 10 minutes, with particular exceptions.

In addition, the

Turn to **TRAINS**, p7

Stalled BNSF train blamed for death of man in Noble

By **Mike W. Ray**
| Southwest Ledger

A train blocking a railroad crossing in Noble was blamed for a death that triggered a lawsuit against Burlington Northern Santa Fe Railway.

Linda Byrd filed a lawsuit in Cleveland County District Court on Oct. 27, 2021, accusing BNSF of negligence in the death of her husband 11 months earlier.

The police department in Noble was notified at 8:38 p.m. on Sept. 5, 2020, that the railroad tracks

Turn to **STALLED**, p7

The making of a town

Hochatown establishes its government

By **M. Scott Carter**
| Southwest Ledger

HOCHATOWN — Three residents of Oklahoma's newest town returned to the polls this week to choose five trustees, a town treasurer and clerk.

Hochatown, the small southeastern Oklahoma village that waged a 30-year battle to become incorporated, has begun its effort to build a municipal government. That first step included a municipal election, held on December 20, to elect trustees and city officials.

Dian Jordan, who spearheaded the incorporation effort, said once the trustees were elected and seated, the group would pick one of their own to act as mayor.



"People just light up ... They feel like it's their town and they are so proud and that makes me happy. There are just no words to describe how happy they are."

—**Dian Jordan**

Turn to **HOCHATOWN**, p5

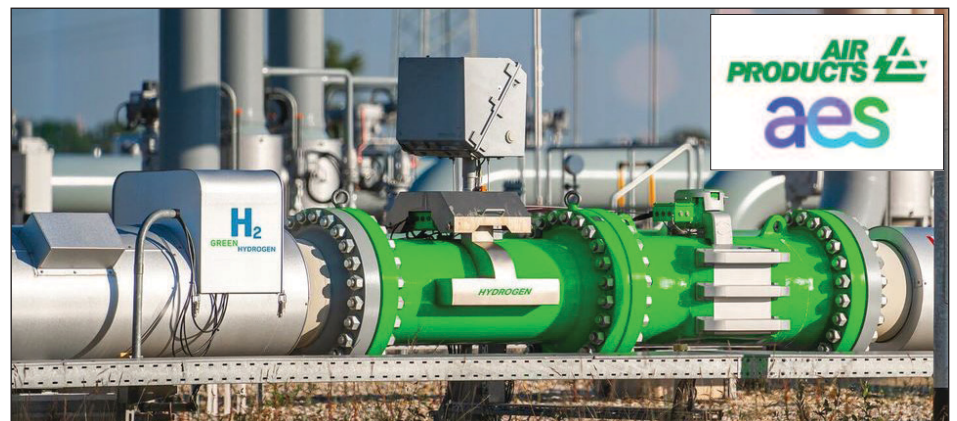
Hochatown voters, having elected to incorporate Nov. 8, now face the task of forming a town government.

\$4B hydrogen production facility planned for idled Oklaunion site

By **Mike W. Ray** |
Southwest Ledger

VERNON, Texas — Two corporations announced plans to invest approximately \$4 billion to construct a "green" hydrogen production facility on the site of a decommissioned electric generating plant near here.

The "mega-scale renewable-power-to-hydrogen project" will include



Mark Potter | Southwest Ledger

The former Oklaunion coal-fired power plant sits idle near Vernon, Texas, on October 15. The facility was retired in 2020 after 34 years of generating electricity. Two companies have announced plans to spend \$4 billion to develop a 'green' hydrogen production facility on the North Texas site.

Turn to **FACILITY**, p3



City to offer one-year extension on School House Slough leases

By **Eric Swanson**
| Southwest Ledger

LAWTON – Lawton will offer School House Slough tenants a one-year extension on their leases, giving city officials more time to find someone to manage the concession area on the east shore of Lake Lawtonka.

The Lawton City Council voted unanimously Dec. 13 to approve the extension, which does not apply to the School House Slough general store. City officials originally proposed extending tenants’ leases for four months, but the Lakes and Land Commission recommended a yearlong extension instead, said Deputy City Manager Dewayne Burk.

“In light of the fact that our consultant is still working on the lakes master plan, and that’s probably not going to be projected to be completed until March, we felt like it’s in the best interests of all the parties involved to go ahead and do a one-year extension without any change,” he said.

Burk said the city will not extend the leases past one year.

Concessionaire Kent Waller currently holds the lease for School House Slough, which



Eric Swanson | Southwest Ledger
From left, Lawton City Council members Mary Ann Hankins and Linda Chapman chat before the council’s Dec. 13 meeting. The council authorized city staff to extend School House Slough tenants’ leases for one year, giving staff time to find someone to take over the concession lease.

is set to expire Dec. 31. Waller has notified the city that he does not plan to renew his lease for another year, and city officials are looking for someone to take over the lease.

More than 200 tenants hold leases with School House Slough Inc. for items such as docks, campers and wet stalls. The tenants pay rent to School House Slough Inc., but their leases will expire at the same time as Waller’s.

Extending tenants’ leases for a year sounds like a good

idea, said Councilman Sean Fortenbaugh.

“It’s going to take a lot of pressure off the staff and off the campers and the people out there on a lease,” he said. “I move to approve this.”

Burk said he would like to offer tenants who make quarterly rent payments an opportunity to make semi-annual payments.

But Mayor Stan Booker said he would leave that decision to city staff.

“I would say that’s administrative,” he said.

County forms board to oversee pretrial release program

By **Eric Swanson**
| Southwest Ledger

LAWTON — A new board will oversee Comanche County’s pretrial release program to make sure the program succeeds, and clients are complying with its requirements.

Comanche County’s Board of Commissioners voted 3-0 Dec. 12 to form the Comanche County Pretrial Release Program Advisory Board, which will monitor the program.

Public defender Debbie Maddox said when county officials started talking about a pretrial release program a year ago, they discussed establishing an advisory board that could provide regular updates for the commissioners and other officials.

“As we’re kind of building that program, it’s important that we all kind of keep on top of it,” said Maddox, who works for the Oklahoma Indigent Defense System. “And so, that was our goal was to bring all of the stakeholders together each month so that we were all aware of how well the program was going, if we could improve it, and how to move on from there.”

The county recently hired the Norman-based company Court Related Services LLC, which provides court supervision and drug testing services, to run the county’s pretrial release program. The company operates in Cleveland, Comanche, Garvin, McClain and Tillman counties.

Court Related Services supervises inmates who have been released from jail and are on personal and/or GPS electronic monitoring.

The program also provides

additional services depending on clients’ needs, which may include:

- An initial assessment to determine clients’ risks and needs.
- Mental health assessments from qualified providers.
- Daily assessments of inmates while they are in jail.

The program is designed to reduce the jail population while promoting public safety, according to an agreement setting up the advisory board. To meet those goals, the program includes a weekly sanctions hearing docket to ensure clients are complying with the rules and conditions set by the judge assigned to the case. Clients who do not obey the rules are required to appear at the next sanctions hearing docket for judicial review.

The judge may modify rules and conditions of supervision for clients who are out of compliance, remove clients from the program and remand them to jail to await final disposition of the case. The judge may also send the client back to jail for a short time to correct minor violations.

The advisory board will meet every 60 days to receive Court Related Services reports and examine the program to make sure it is effective, according to the agreement.

Board members will include:

- The District 2 commissioner.
- Representatives from Court Related Services, Comanche County District Attorney’s Office, the Comanche County Detention Center and the local Indigent Defense Services office.
- A Comanche County judge, appointed by the presiding judge.

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Facility

from p1

approximately 1.4 gigawatts of wind and solar power generation, plus electrolyzer capacity capable of producing more than 200 metric tons of hydrogen each day – more than 73,000 metric tons of hydrogen per year – “making it the largest ‘green’ hydrogen facility in the United States,” said Air Products and The AES Corporation.

The hydrogen plant will be powered by solar and wind energy produced at the site. The gas will be produced by electrolyzers, which split water into oxygen and hydrogen. Since no carbon emissions will be generated, the product is known as “green hydrogen.”

The facility is projected to begin commercial operations in 2027, the two companies reported in a joint press release.

The location is west of Wichita Falls and nine miles east of Vernon, approximately 30 minutes southwest of Frederick, in Wilbarger County, Texas. The site is where the 650-megawatt, coal-fired Oklaunion power plant generated electricity for 34 years, until 2020.

The Oklaunion plant was co-owned by four partners: Public Service Co. of Oklahoma (which operated the facility); sister company AEP Texas; the City of Brownsville, Texas; and the Oklahoma Municipal Power Authority.

The new facility “will be, by far, the largest green hydrogen facility in the U.S. to use wind and sun as energy sources,” said Seifi Ghasemi, chairman, president and CEO of Air Products.

The facility will serve “growing demand for zero-carbon intensity fuels for the mobility market as well as other industrial markets,” officials said. “It will yield a totally clean source of energy on a massive scale, and, if all the green hydrogen were used in the heavy-duty truck market, it would eliminate more than 1.6 million metric tons of carbon dioxide emissions annually when compared to diesel use in heavy-duty trucks.”

The joint venture will sell hydrogen to Air Products for distribution to the transportation market and for new industrial uses, which Air Products declined to identify.

Over the lifetime of the project, it is expected to cir-



The former Oklaunion coal-fired power plant sits idle near Vernon, Texas, on October 15. The facility was retired in 2020 after 34 years of generating electricity. Two companies have announced plans to spend \$4 billion to develop a ‘green’ hydrogen production facility on the North Texas site.

cumvent more than 50 million metric tons of CO₂, emissions that would otherwise be generated in conventional natural gas-based hydrogen production. That volume is the equivalent of avoiding emissions from nearly five billion gallons of diesel fuel.

Air Products and AES said they will jointly and equally own the renewable energy and electrolyzer assets, with Air Products serving as the exclusive off-taker and marketer of the green hydrogen under a 30-year contract.

The project will create more than 1,300 construction and 115 permanent operations jobs, and approximately 200 transportation and distribution jobs, the companies estimate. It also is expected to generate approximately \$500 million in tax benefits to the state over the course of the project’s lifetime.

“This project will capitalize on AES’ position as one of the nation’s largest renewable energy developers and its global leadership in innovations such as energy storage systems and supplying around-the-clock clean energy to data centers,” said AES president and chief executive officer Andrés Gluski.

The Air Products/AES project is subject to receipt of local permits and local, state and federal incentives.

The Inflation Reduction Act signed into law in August by President Joe Biden gives producers with very low CO₂ emissions a credit of \$3 per kilogram of hydrogen produced. Ghasemi said the joint venture can receive up to \$5 per kg if credits for producing green energy and building on the site of a former electric generating plant

are included.

“The tax credits are doing what the U.S. government intended them to do, which is to accelerate implementation of these kinds of projects in the U.S.,” Ghasemi said.

Air Products provides industrial gases; AES operates power plants

AES Corp. owns and operates power plants and is headquartered in Arlington, Virginia. It operates in the U.S., Mexico, India, Central and South America, Europe, Vietnam and Jordan. Earlier this year AES signed power purchase agreements to deliver clean energy to Amazon data centers in California.

Air Products and Chemicals is based in Allentown, Pennsylvania, and was founded in 1940. The company provides essential industrial gases, related equipment, and applications expertise to customers around the world. It had \$12.7 billion in sales in Fiscal Year 2022. It employed approximately 21,900 people in more than 50 countries in Europe, Asia, the Middle East, India, as well as the U.S. and Canada, on Sept. 30, according to the company’s annual report.

The North Texas project is another of Air Products’ major investments in green hydrogen. The company announced in 2020 a \$5 billion arrangement with the Saudi energy firm ACWA Power to build a complex producing about 650 tons per day of hydrogen, and is considering a similar complex in Oman. Air Products also announced plans to spend \$500 million on a hydroelectric-powered project to produce 35 tons of hydrogen

daily in Massena, New York.

Hydrogen demand grows exponentially

Demand for green hydrogen for mobility and industrial applications is expected to grow exponentially across the U.S. over the next decade. The growth in demand is supported by green hydrogen’s role in net-zero ambitions announced by several states and major corporations.

Hydrogen is a versatile energy source for actual and potential uses. It can be produced using different energy inputs and different production technologies. Also, it can be converted to different forms and distributed via different routes: from compressed gas hydrogen in pipelines through liquid hydrogen on ships, trains or trucks.

Hydrogen can replace coke (a petroleum byproduct produced in the coal distilling process) and natural gas as a reducing agent in iron and steel manufacturing. Hydrogen also can enable decarbonization of products such as cement, fertilizer, and petrochemicals.

Primary uses of hydrogen today are as a chemical feedstock in ammonia, food, and drug production, as well as petrochemical and refinery processing. It also is used in crystal growth, glass manufacturing, chemical tracing, metal fabrication, polysilicon and semiconductor manufacturing, metal production, and thermal processing.

Hydrogen also is used to remove sulfur and to hydrotreat and hydrocrack heavier crude

oil constituents into more valuable, lighter products.

Frontier Group spelled out plans for power plant site

The Frontier Group of Companies announced earlier this year that they plan to redevelop the site of the decommissioned Oklaunion power plant “to support heavy industry.”

The Frontier Group of Companies was founded in 2001 and is based in Buffalo, New York.

The companies include “industry-leading operations for industrial demolition, industrial dismantling, asset recovery, equipment repurposing, industrial clean-up, site remediation, brownfield redevelopment, facility acquisition, real estate development, energy exploration, energy production, and materials recycling,” Frontier Group’s website states.

Plans for the Oklaunion Industrial Park include “dismantling obsolete structures along with site clean-up, remediation and environmental monitoring as well as industrial repurposing and industrial materials recycling,” The Frontier Group announced. *Southwest Ledger* was unsuccessful in its efforts to contact someone at the corporate office.

Oklaunion Industrial Park redevelopment plans include “uses for manufacturing, commercial, warehousing, logistics operations and renewable energy,” The Frontier Group says in its advertising.

The site is “strategically located” near Vernon and is “30 minutes southwest of Frederick.” It has “1,000+ developable acres, 6+ miles of rail and a 2+ mile rail loop, electricity, public water, private water/sewer, fiber cable and three warehouses.”

Oklaunion Industrial Park “will tap renewable energy sources with the installation of the Oklaunion Green Energy solar farm,” Frontier Group of Companies claims. “This 119+ megawatt solar array is expected to generate 194 gigawatts of electricity annually while creating carbon offsets equal to 191,100 tons of CO₂.”

Ever-changing Office Dynamics

GROWING YOUR BUSINESS

Sara Orellana



The workplace has changed dramatically in the past few years. Professionals around the world address these changes, encouraging employees to stand up for themselves, set healthy boundaries, and to say no. I must admit, saying no to a boss is something I had to really think about. I fall somewhere between Generation X and Generation Z depending on how you set the years. But my parents raised me with the work habits of a baby boomer. While my peers were setting standards, saying no, and learning to be healthy, I was saying yes to everything and then figuring it out. The stress was unreal. And to be honest, I was never truly happy. I did not appreciate tiptoeing around supervisors hoping not to catch their attention, but I never realized that we could set our own standards. This past year, I have spent a lot of time thinking about work habits and what I have been taught. For example, if I can get all my work done in six hours, why do I need to be on site for eight hours? Or, if it is close to 5 p.m., I can say no to working late. Ultimately, it is up to me what boundaries I am setting. Knowing how to set boundaries, what healthy boundaries are, and how to avoid workplace drama are key soft skills to learn. Choosing to not allow the bad mood of a supervisor to affect me, or worse, to be the whipping boy are key skills. And ones that we must learn as organizations. What changes would you make to your workplace? What skills do you need to master? Are you comfortable saying no to working late? What do you think the consequences of saying no would be? Once you have these answers you can make decisions. Do you think coming together as a team to set healthy boundaries would be an effective exercise for your organization? Would your leaders be open to such a discussion? Or reversely, if leadership chooses to host this discussion, how would you react? How open to healthy changes do you think your workplace is? How badly needed do you think these changes are? I would be very interested in learning more about your thoughts on these topics. I am 100% in favor of setting healthy boundaries at work, of positively pressing leadership to make healthy changes. I am curious how others feel about this and what your thoughts are. How much do you think we need to change in the workplace? No matter your thoughts on the matter, take a few minutes this week to set healthy boundaries for yourself and make 2023 the best year yet.

Sara Orellana is an independent entrepreneur who specializes in strategic planning, leadership, and grant writing. She can be reached at sara@3raptorconsulting.com.

Liver flukes found in new territories; cattle producers urged to stay alert


From staff reports

Boehringer Ingelheim's Senior Associate Director of Cattle Professional Services, Dr. John Davidson, spoke to Senior Farm and Ranch Broadcaster Ron Hays, Oklahoma Farm Report about liver flukes being of great concern for cattle producers across the country. A global leader in animal health, Boehringer Ingelheim employs more than 10,000 people worldwide, operating in more than 150 countries. Founded in 1885, the German-based company produces vaccines, parasiticides, and therapeutics for animals, and ranked No. 1 in swine, equine and pet parasiticides, the company's website states. "The liver fluke is not new," Davidson said. "What is new is we are learning more about changes to the geographical distribution of that organism." Historically, Davidson said, this parasite would be found in lowland and marsh-type country. "That would be the gulf coast of the United States from Texas to Florida," he said. After recently working with veterinarians and sampling native cattle from Missouri, Oklahoma, and Kansas, Davidson said cases of bovine liver flukes were found. "The liver fluke not only needs to be part of the surveillance in the herds when we suspect something is not right with weaning weights or reproductive performance, but it is also a part of the potential treatment and prevention through deworming strategies in the fall of the year," Davidson said. Regarding treatment and response to liver fluke in cattle herds, Davidson said the liver fluke is only susceptible to a few available drugs.

"One is the ingredient in the combination product which is IVOMEK Plus," Davidson said. "There is an oral white wormer, albendazole, that is also effective against the liver fluke, but the injectable product [IVOMEK Plus] would be one that is convenient, and not historically given in some parts of the country where we now think the fluke is present." These drugs, Davidson said, are only effective against liver flukes in the adult stage. "You have to be strategic about using the product when it is effective, where the parasite you are treating and targeting is actually vulnerable and susceptible to the drug," he said. Exposure changes throughout the year based on the season, Davidson said. Cattle producers should take this into consideration when making additions to their herd health program. Testing the herd to see what parasites are present before and after treatment is an effective method against liver flukes that he recommends. "I am a fan of following up to make sure things are working the way that you expect them to," Davidson said.



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Hochatown

from p1

“The residents will vote for five trustees and the trustees will pick the mayor from themselves,” she said.

Tuesday’s election is the capstone of an extended fight with both state officials and the McCurtain County Board of Commissioners. More than a decade ago, Jordan and other area cabin owners fought the Oklahoma Real Estate Commission after it attempted to shut down the area’s cabin leasing business.

The cabin owners and the leasing companies each received letters from the OREC, threatening legal action and big fines if the cabin leasing companies didn’t stop what they were doing and move their businesses under the supervision of a real estate broker. The OREC said the companies were violating state law. The agency said it was going to send its entire team of investigators to southeastern Oklahoma to examine the issue.

After a year’s worth of wrangling, the cabin owners declared victory. Cabin rentals continued and tourism exploded in the southeastern part of the state. Today, Jordan said, more than 30,000 people are in the small town of Hochatown on any given weekend.

“We have seen tremendous growth,” she said. “We’ve grown 20% every year for the past 20 years. For some it seems like Hochatown is an overnight sensation, but it’s not. We’ve been working on this for 20 years.”

The next step, incorporate the town.

Steeped in Oklahoma history, Hochatown was settled by the Choctaws in 1820s, after being set aside for the tribe by the Treaty of Doak’s Stand. Later, after the federal government forced the Choctaws to give up their land and move to Indian Territory, more settlers arrived. Trade routes were established, and by the early 1900s, timber and coal had transformed Hochatown and southeastern Oklahoma. A post office was established in 1894.

But 30 years later, during the Great Depression, when



Hochatown residents celebrate victory Nov. 8 as voters chose to incorporate their community, forming Oklahoma’s newest official town.

the economy crashed, Hochatown, like the rest of Oklahoma, struggled to survive. In 1963 the post office was closed. Since then, Hochatown has struggled to exist.

In the 1970s, the Army Corps of Engineers built Broken Bow Lake. Tourists came and more and more visitors trekked up U.S. 259 for the scenery and stayed for the fishing.

And the residents of Hochatown were happy to help.

“We kinda do the recreation thing really well,” Jordan said in an interview with Southwest Ledger earlier this year. “Tourism is good for Oklahoma and introducing people to nature and to our culture is a wonderful job.”

Still, despite the town’s financial success, the road to incorporation was difficult. Three court battles – including one in front of an Oklahoma Supreme Court referee – countless hours lobbying efforts and some good old-fashioned arm twisting finally convinced the McCurtain County Board of Commissioners to endorse Hochatown’s call for an incorporation election.

On Nov. 8, residents passed the incorporation question by with a 129 to 18 vote. With their incorporation petition official, Hochatown residents now have to build a municipal govern-

ment from the ground up. “We birthed this elephant,” Jordan said. “Now we have to feed it and take care of it.”

In addition to choosing elected representatives, Hochatown will need to develop and pass a municipal tax structure, create municipal ordinances, outfit a police and fire department, develop

municipal services and even find a spot that be used for city hall.

“We’ll get it done,” Jordan said. “We are getting lots of help.”

Jordan said officials with the Oklahoma Municipal League have offered to come and host a training seminar and residents throughout the area have pledged support.

Did you know?

The last town to incorporate in Oklahoma before Hochatown is the master-planned resort community of Carlton Landing in Pittsburg County. Carlton Landing incorporated Oct. 21, 2013 and has a population of 94, according to 2020 U.S. Census data.

It’s not often, Jordan said, a person gets the opportunity to create a new town.

“It truly is stunning,” she said. “When people say you can’t do something, like start a town – and we did. There’s a lot of satisfaction in knowing that we did it.”

Hochatown residents, Jordan said, are excited.

“People just light up,” she said. “They feel like it’s their town and they are so proud and that makes me happy. There are just no words to describe how happy they are.”

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OESC technology transformation decreases fraud, agency CEO says

By **Mike W. Ray**
| Southwest Ledger

OKLAHOMA CITY — The Oklahoma Employment Security Commission achieved several milestones this year, Chief Executive Officer Trae Rahill said recently.

Among those accomplishments was the launch of the updated VerifyOK platform. The revamped online ID verification system has “made the claims process more efficient while also assisting in the prevention of fraudulent activity,” Rahill said.

OESC launched the first version of an identity verification tool in 2020, which was instituted by former OESC executive director Shelley Zumwalt during the pandemic to help the agency fight a tsunami of fraudulent claims. Since that time, OESC’s IT teams have worked to create a completely customized tool “built from the ground up to better support the agency’s needs,” Rahill said.

“This milestone in OESC’s digital transformation journey is just one of many efforts to improve services” the agency provides to Oklahomans, he added.

Other milestones in 2022 included:

- OESC was one of only seven states to receive an Unemployment Insurance Navigator Grant from the U.S. Department of Labor. Oklahoma was awarded \$227,038 to embed a Career Coordinator in the Oasis Fresh Market.

The Oasis Project is a community nonprofit that serves north Tulsa, which historically has experienced high unemployment rates — five times the statewide average — and high poverty levels. Until the Oasis Fresh Market opened in 2021, the area was also classified as a food desert.

The grant is financing an embedded worker to the Oasis Fresh Market, giving the community direct assistance in applying for and receiving unemployment insurance benefits, as well as training



Trae Rahill
Chief Executive
Officer

and reemployment opportunities.

Administered by the Labor Department’s Employment and Training Administration, Unemployment Insurance Navigator grants allow community partners in each

state to conduct outreach and provide resources and training to marginalized communities.

- OESC also was awarded \$100,000 Workforce Innovation Network Grant through the National Governors Association. “These dollars were instrumental in building capacity to connect rural Oklahomans to teleworking jobs across the state,” Rahill said.

- OESC local offices hosted more than 190 hiring events across the state this year to connect candidates with employers. “This helps to boost local economies and workforce needs,” he said.

- Oklahoma’s unemployment rate has remained below the national average every month since before the pandemic, Rahill said. The state unemployment rate in November was 3.4%, compared to 3.7% nationally.

For the filing week that ended Dec. 10, first-time unemployment claims numbered 1,207, which was 114 fewer than the week before, according to the U.S. Department of Labor.

- OESC leadership rolled out a new mission, vision and values for the agency. The entire agency is aligning core functions to newly established goals across the agency’s many services, Rahill said. “This work will be analyzed and distributed internally and to external partners, such as employers and legislators.”

Plans for a comprehensive digital transformation of OESC “to help the organization run more efficiently for citizens, employers and the state” was announced on Sept. 29, 2020, by Zumwalt.

“The ‘BT40’ project is a complete business process

Turn to **OESC**, p11

Legislator files anti-federal government legislation

By **M. Scott Carter**
| Southwest Ledger

OKLAHOMA CITY — A state lawmaker has filed several pieces of legislation which he says will “constrain the federal government within its constitutional limits.”

Republican state Senator Nathan Dahm of Broken Arrow said Senate Bills 21, 22, and 23 would limit federal officials’ power.

“As we begin Bill of



Nathan Dahm
Republican
state Senator

Rights Week, we must acknowledge the ever-increasing encroachment and violation of our rights coming from the regime in D.C.,” Dahm said in a media statement announcing the legislation. “With that in mind, I filed

Senate Bill 23 to stop infringements on Second Amendment rights and SB 21 to require feds to work through the county sheriff, the highest-ranking law enforcement officer in the

county who is directly elected by the people. I also filed SB 22 which allows the state legislature to prohibit state agencies from implementing federal agency rules, so the state no longer does the feds dirty work for them.”

SB 23 would prohibit federal officers from confiscating guns in the state.

A second measure, SB 21, would require federal agents to notify county sheriff’s before operating in the county.

Turn to **LEGISLATION**, p11

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2021 Best of SW OKLAHOMA
2020 Best of SW OKLAHOMA
2019 Best of SW OKLAHOMA



Trains

from p1

Oklahoma Legislature passed a law that would authorize a fine of up to \$1,000 each time a train blocks a public street or highway for longer than 10 minutes, with some exceptions. However, two federal courts derailed the statute and the Supreme Court of the United States declined to intervene.

No federal laws or regulations specifically address “how long a stopped train may block a grade crossing,” Ohio notes. But two Acts of Congress address when federal law preempts state laws pertaining to railroads, the Buckeye State noted.

- The Interstate Commerce Commission Termination Act grants the Surface Transportation Board “exclusive” jurisdiction over railroad “transportation.” As late as 1965, though, the ICC “lacked the power to establish safety regulations applicable to grade crossings,” Ohio noted. “That power resided exclusively in the states.”

- The Federal Railroad Safety Act expressly permits states to enforce laws “related to railroad safety” until the Secretary of Transportation “prescribes a regulation or issues an order covering the subject matter of the State requirements.”

Ohio has asked SCOTUS to rule whether either of those federal Acts preempts state laws that limit the amount of time a stopped train may block a grade crossing.

Besides the Termination Act and the Railroad Safety

Act, Congress also enacted a separate law “showing that it *wants* States involved in this area,” Ohio maintains.

In the Fixing America’s Surface Transportation Act of 2015, Congress tasked the Federal Railroad Administration with “developing a ‘model’ state-action plan to help States evaluate and reduce grade-crossing problems, including the ‘public safety risks posed by blocked highway-rail grade crossings due to idling trains.”

CSX Transportation was charged in Marysville, Ohio, Municipal Court with violating the 5-minute state statute five times between May and November 2018. Four of those incidents involved trains parked on roadways for an hour or longer, law enforcement officers alleged.

A CSX employee admitted its trains “occasionally block grade crossings while loading and unloading” materials at an automobile plant near Marysville.

The town court dismissed the misdemeanor charges, holding that federal law preempts the state’s regulatory authority. Ohio’s Third District Court of Appeals reversed, but the Ohio Supreme Court reinstated the municipal court ruling on Aug. 17, 2022.

“Exercising its traditional authority” over grade crossings, Ohio has forbidden stopped trains from blocking roads for “extended periods” since at least 1853, or almost 170 years. Indiana has done so “since at least 1865” and Kansas has regulated blocked grade crossings since 1897. And

most other states, including Oklahoma, “have some form of anti-blocking law,” Ohio notes.

Ohio’s rules which regulate stoppage times at grade crossings are “related to railroad safety” because they protect the public from dangers that arise when trains block railroad crossings.

Conclusions the same but rationales differ

The Ohio Supreme Court concluded that federal law “preempts this longstanding exercise of the State’s police power,” and that ruling “accords with the consensus view” of several state and federal courts throughout the nation, the SCOTUS petition relates.

However, Ohio points out, “the consensus view does not rest on a consensus *rationale*.” Lower courts are “reaching consistent outcomes” but are doing so “via inconsistent reasoning.”

Some courts say the Interstate Commerce Commission Termination Act of 1995 pre-empts blocked-crossing regulations without regard to the Federal Railroad Safety Act. Others acknowledge that the Safety Act is relevant, but they disagree about whether blocked crossing laws are “related to railroad safety.”

The State of Ohio asserts in its SCOTUS petition that “the stakes are life and death.” When parked trains block crossings for extended periods, “they endanger the public.” First responders are delayed from “reaching emergencies in situations

where every second counts.” A blocked grade crossing in Lockland, Ohio, “delayed firefighters from responding to a fire in March 2022, “allowing for significant fire growth.”

Ohio’s petition refers Supreme Court Justices to an incident that was discussed in the Oklahoma House of Representatives.

“Several years ago, an employee at Davis High School had a medical condition where he almost died, and the ambulance was stuck on the other side of a stopped train,” state House Speaker Charles McCall of Atoka told a House committee in 2019. “The EMT had to crawl through the train and catch a ride in a truck to get to the employee to provide him emergency medical care. This is a serious public safety and health care issue that exists statewide.”

The Ohio petition, which was filed on Nov. 15, also refers to an incident last year in Dixmoor, Illinois. Train blockages “caused an ambulance to be rerouted seven times while taking a patient to the hospital.” Upon finally arriving at the medical center “the patient was pronounced dead.”

A similar fatal incident occurred two years ago in Cleveland County, Oklahoma, resulting in a lawsuit that’s mentioned in Ohio’s SCOTUS petition.

Trains blocking at-grade crossings “incentivize bad choices,” Ohio contends in its petition.

“[F]rustrated individuals may be tempted to crawl between stopped railcars” so

they can “get on with their day.” And if motorists know that trains “routinely block a crossing for extended periods of time,” drivers may navigate around lowered gates at a crossing “or attempt to beat a train through a crossing ... in order to avoid a lengthy delay.”

“Making matters worse,” Ohio asserts, “blocked grade crossings are a persistent problem.” According to the Federal Railroad Administration, the U.S. has roughly 130,000 at-grade railroad crossings; approximately 5,700 of them are in Ohio.

On the last day of 2019 the Federal Railroad Administration began compiling reports of blocked grade crossings; by October 2021 the FRA had received more than 25,000 reported blockages across the nation.

One Facebook page is devoted to “Alabamans to Limit Blocked Rail Crossings.” They contend, “It’s past time for Alabama to pass a state law to limit the amount of time trains can block a road in our state,” the post asserts.

Another Facebook page is reserved for supporters of the “Fight Against Blocked Crossings:” states “When corporate railroads started to build trains up to three and a half miles long, more and more communities have been affected by blocked crossings. As railroads push to make more money, they have put safety and the needs of the community aside.”

CSX was given a deadline of Dec. 15 to respond to Ohio’s petition.

Stalled

from p1

intersecting Maple Street had been blocked for half an hour by a Burlington Northern Santa Fe train. A police officer contacted BNSF “and advised them of the issue.”

Around 9:33 p.m. the NPD received a call from another person who claimed to have been waiting at those same tracks for approximately an hour and a half, unable to cross because of a train blocking the crossing. The NPD contacted BNSF again

“and again advised them of the issue.”

Approximately 15 minutes later the Noble police were contacted by a third person complaining he had been waiting to cross the railroad tracks for more than two hours. Police again notified BNSF of the problem.

About 1:15 a.m. on Sept. 6, 2020, the Noble P.D. received a 9-1-1 call requesting medical assistance for Larry Eugene Byrd, 66, “who was having chest pains and was losing consciousness but still breathing.”

CPR was performed by

family members “and continued until EMS personnel were able to arrive on scene.”

Meanwhile, police officers and emergency medical service personnel were dispatched to the Byrd home. But the only route to that address “was by crossing over the Maple Street crossing, which was fully blocked by a stopped BNSF train...”

Noble police and EMS personnel said they spoke directly to a BNSF conductor, who allegedly refused to move the train, “closed the locomotive’s window and would not respond to any further

questions...”

Finally, at approximately 1:30 a.m. – 10 minutes after BNSF “was first notified of an emergency medical situation” at the Byrd residence half a mile south of the tracks on Front Street, the train “finally moved forward and cleared the tracks.”

Noble Fire Department emergency medical service technicians began defibrillation efforts “but by then it had been 17 minutes since Mr. Byrd had experienced his cardiac event” and it was too late to resuscitate him.

Mrs. Byrd filed a wrongful

death lawsuit against BNSF, its division trainmaster and the BNSF road foreman of engines, along with the train’s conductor and the engineer “who was operating the train that blocked EMS access” to the Byrd home.

BNSF attempted to get the case removed to Oklahoma’s Western District federal court, but U.S. District Judge Stephen Friot denied the motion and sent the case back to Cleveland County on Sept. 22, 2022.

No activity has occurred in the case since that date, the Oklahoma State Courts Network indicates.



Jackson County schools receive TSET 'healthy incentive' grants

By **Mike W. Ray**
| Southwest Ledger

OKLAHOMA CITY — Seven public schools in Jackson County were awarded "healthy incentive" grants from the Tobacco Settlement Endowment Trust to promote physical activity.

Six schools in Altus received grants totaling \$44,000, and a school at Altus Air Force Base received a \$10,000 grant, according to Sarah Carson, public information specialist with TSET.

- Altus Early Childhood Center was awarded \$10,000. The funds will be used to create two outdoor classrooms for students, in order to provide benefits for mental health and academic performance, TSET reported.

- Altus Primary School was awarded \$7,500 to buy physical education equipment for use by all students, to increase their opportunities for physical activity.

- Altus Elementary School received \$4,000 to increase opportunities for students to be physically active by creating two outdoor sensory facilities, TSET reported.

- Altus Intermediate School and Altus Junior High School each received a \$10,000 TSET grant, and Altus High School received a \$12,500 grant. All three will use their funds to buy tools, resources, curriculum, etc., in an effort to decrease vape use. The focus will be "use

of evidence-based cessation and prevention strategies," Carson said.

- L. Mendel Rivers Elementary School at Altus AFB was awarded a \$10,000 TSET grant to purchase physical education equipment for its students, to increase their opportunities for physical activity.

TSET has awarded more than \$7.7 million in incentive grants since 2012.

Created by voters in 2000, TSET is an endowment trust established a percentage of payments from the 1998 Master Settlement Agreement between 46 states and the tobacco industry. Funds are invested by a Board of Investors, and the earnings from those investments are used to support efforts to improve the health of Oklahomans.

From each annual payment, 75% is deposited in the trust. Only the earnings are used each year, preserving the corpus to provide grants and programs that improve health for generations to come. The remaining 25% of the annual payment is split between the Legislature, which receives 18.75% for its Tobacco Settlement Fund, and the Attorney General's office, which receives 6.25% for ongoing enforcement of Master Settlement Agreement provisions.

The balance in the TSET corpus on June 30 was \$1.57 billion, agency ledgers showed.



Eric Swanson | Southwest Ledger

Farm Credit of Western Oklahoma officials Erral Myers, Kyle Dorton, Toby Denny, John Grunewald and Jake Ochsner are shown Dec. 15 in front of the cooperative's Chattanooga field office. The cooperative hosted a holiday open house Dec. 15 at the Chattanooga office.

Farm Credit of Western Oklahoma hosts open house

By **Eric Swanson**
| Southwest Ledger

CHATTANOOGA — Earlier this year, the agricultural lender Farm Credit of Western Oklahoma opened a full-time branch office in Chattanooga for customers in Comanche, Cotton and Tillman counties.

"We feel like this is a very strong agriculture area, and we have a lot of potential to grow our business and serve the farmers and ranchers in south-central Oklahoma," said President/CEO John Grunewald.

Farm Credit officials celebrated the Christmas season with a holiday open house Dec. 15 at the Chattanooga

field office, 309 Fourth St. People attending the event were asked to bring nonperishable food items, which were donated to the Blessing Box food bank in Chattanooga.

Farm Credit lends money to farmers and ranchers, agribusinesses, rural home buyers and exporters of American agricultural products, according to the company's website. The cooperative's other services include appraisals, leasing and term life insurance.

"We loan money to farmers and ranchers, but we also loan to rural electric cooperatives, rural water systems," Grunewald said. "Farmers co-ops also borrow money from the Farm Credit system."

He said Farm Credit has a

loan program for beginning farmers, which provides special rates and services for producers who are just starting out.

"That's really been an emphasis of ours," Grunewald said.

Farm Credit is a producer-owned cooperative, which pays an annual patronage dividend to its members. Last year, the cooperative paid about \$7 million in dividends, Grunewald said.

Farm Credit has field offices in several communities, including Altus, Anadarko, Chattanooga and Guymon. The co-op's board of directors includes Vice Chairman Roger Fischer of Chattanooga and Ricky Carothers of Indianola.

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State law against trains blocking RR crossings derailed by federal courts

By **Mike W. Ray**
| Southwest Ledger

OKLAHOMA CITY — The State of Oklahoma has argued all the way to the highest court in the land – and all to no avail – in support of its statute to penalize trains that block railroad crossings for longer than 10 minutes. A federal trial court ruling that struck down Oklahoma’s law was upheld by the U.S. 10th Circuit Court of Appeals, and the U.S. Supreme Court declined to revisit the issue.

The Interstate Commerce Commission Termination Act of 1995 preempts Oklahoma’s statute because the ICCTA regulates railroad operations, U.S. District Judge Charles B. Goodwin in Oklahoma City ruled, and the 10th Circuit affirmed that decision. On June 21 the Supreme Court denied the state’s request to review that order.

The Oklahoma Corporation Commission in 2019 sought changes to its rules, including one about trains blocking at-grade railroad crossings.

Later that year the Oklahoma Legislature passed House Bill 2472, the Blocked Crossing Act by House Speaker Charles McCall. That measure would have prohibited railcars from blocking vehicle traffic at a crossing on a public highway or street for longer than 10 minutes, except in emergency situations or if the train is “continuously moving”. The law authorized a fine of up to \$1,000 per violation.

Sixteen days after the 10-minute blockage statute went into effect, a Burlington Northern Santa Fe train occupied the side track in Davis for 38 minutes to enable another train to pass on the main line. During that time the BNSF train blocked at least one grade crossing, and a police officer issued a citation for violating the state law.

The next day, in Edmond, another BNSF train occupied the side track for 40 minutes so that two other trains could pass; that train, too, obstructed at least one grade crossing. And 12 days later a BNSF train blocked a crossing while it stopped on the side track in Edmond for 24 minutes to let another train pass. On both oc-

casions a police officer cited the company for violating the statute. (Side tracks are used to park a train going one direction on a main line while a train going the opposite direction passes, the court noted.)

The cities of Edmond and Davis each filed a complaint against BNSF with the Corporation Commission, and a commission official issued a citation and notice of hearing.

BNSF filed suit after receiving 3 citations

BNSF filed suit in Oklahoma City’s Western District federal court against Edmond, Davis and

the Corporation Commission to prevent enforcement of the statute, and Judge Goodwin sided with BNSF.

U.S. courts have observed that federal law “shall be the supreme Law of the Land” regardless of anything in a state’s constitution or statutes to the contrary.

Congress passed the ICCTA “to establish an exclusive Federal scheme of economic regulation and deregulation for railroad transportation.” The ICCTA provides that the Surface Transportation Board has exclusive jurisdiction over transportation by rail carriers and the operation

Turn to **LAW**, p12

Stopping to let a train pass is routine for Oklahomans

By **Mike W. Ray**
| Southwest Ledger

OKLAHOMA CITY — On any given day, drivers somewhere in Oklahoma have to stop for several minutes and wait for a train to pass through an at-grade railroad crossing.

Oklahoma has 23 railway companies and is crisscrossed by approximately 2,900 miles of railroad tracks that intersect with county roads, municipal streets, and state/federal highways at 3,475 public grade crossings, records of the Oklahoma Department of Transportation and the Oklahoma Corporation Commission reflect.

“Emergency service vehicles

in Davis, Oklahoma, can take almost 37 minutes to reach sites two and a half blocks away because of a blocked crossing forcing them onto alternative routes,” the state argued in a legal brief.

A spokesperson for the City of Edmond said municipal officials examined footage from a camera mounted on a building and discovered that during a 41-day period in 2018, between June 25 and August 5, trains blocked a Main Street intersection for a total of 53 hours and 15 minutes.

“We have 11 crossings in our city limits, and a stopped train will typically block five to seven

Turn to **ROUTINE**, p10



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Woman sues Whataburger over injury from lemon pie

By **Mike W. Ray**
| Southwest Ledger

OKLAHOMA CITY — It pays to read and heed a warning label.

Renee Cronemeyer learned this the hard way when trial and appellate courts rejected her claims in a lawsuit filed after she sustained a second-degree burn from a product served at a fast-food eatery.

Cronemeyer sued Whataburger Restaurants in May 2020 in Cleveland County District Court, alleging negligence and seeking “in excess of \$75,000.”

After swimming at her sister’s house on July 1, 2019, Cronemeyer and her sister drove to a Whataburger restaurant in Norman and ordered food via the drive-through lane. The order included a Hot Lemon Pie.

When Cronemeyer bit into a corner of the pie, filling spilled out of the other side, fell onto

“Heat is an essential attribute of a Hot Lemon Pie.”
— Whataburger Representative

her shirt and then onto her upper thighs, she testified in a deposition.

Cronemeyer went to the emergency room at Chickasaw National Medical Center, where she was diagnosed with a second-degree burn on her right thigh and received a topical antibiotic ointment. In her lawsuit she claimed the injury also caused permanent scarring.

The Hot Lemon Pie was served to Cronemeyer in a “standard orange and white pie carton” with which nothing was “visibly amiss.” The warning, “CAUTION: CONTENTS ARE HOT,” was printed on the side of the carton, and Cronemeyer acknowledged that she saw the warning before biting into the pie.

In her deposition, she said she had bought Hot Lemon Pies from Whataburger previously and understood that the food was “supposed to be served hot,” but said that did not mean she understood that “the pie filling was capable of causing a second-degree burn.”

“Heat is an essential attribute of a Hot Lemon Pie,” Whataburger responded.

During her deposition Cronemeyer testified that she was wearing a swimsuit and shorts at the time of the incident, and admitted that “had she been wearing jeans at the time, she likely would not have been burned.”

District Judge Thad Balkman ruled in favor of Whataburger and dismissed the lawsuit on Sept. 16, 2022.

Cronemeyer appealed to the Oklahoma Court of Civil Appeals.

There is no duty to “protect or warn about dangers readily apparent and observable,” the civil appeals court wrote in a 1992 case. A landowner is not required to “protect the invitee against dangers which are so apparent and readily observable that one would reasonably expect them to be discovered,” the court wrote in another case in 1996.

Whataburger cited a 1995 state case in which the court held that a supplier of a product “is not negligent when failing to warn against patent or open and obvious dangers involved with the use of their products.”

The appeals court pointed out that Cronemeyer “was not compelled ... to purchase the Hot Lemon Pie ... and did so under her own free will.” Additionally, the warning on the pie was “legally adequate,”

the appellate court ruled on Dec. 2.

The Norman Whataburger case was reminiscent of the 1992 incident when a 79-year-old widow visiting a McDonald’s restaurant in Albuquerque, New Mexico, was scalded with a cup of coffee whose temperature was estimated at 180 to 190 degrees. The victim sustained second- and third-degree burns.

The woman sued McDonald’s after the corporation refused to pay her medical bills, which exceeded \$10,000. During pretrial discovery McDonald’s admitted it had received more than 700 complaints about burns from hot beverages during the preceding 10 years.

A jury awarded the elderly woman \$160,000 in compensatory damages plus \$500,000 in punitive damages, and subsequently McDonald’s lowered its coffee-brewing temperature 10 degrees.

Routine

from p9

of those crossings and do so immediately,” the spokesperson said.

Burlington Northern Santa Fe Railway is still blocking crossings in Edmond.

During the week of Sept. 25 – Oct. 1, for example, BNSF trains blocked railroad crossings on just one day but on three separate occasions for a total of 2 hours and 26 minutes of stoppages, said Bill Begley, the city’s marketing and public relations manager. And during the week of Oct. 24-30, BNSF trains blocked crossings in Edmond for 2 hours and 50 minutes.

And Edmond has a host of railroad crossings. Just in the downtown area there are railroad crossings at Hurd Street, Main Street, First Street, Danforth Road and Thatcher Street.

A typical train passing through town “takes three to four minutes to completely pass through a public grade crossing,” Begley said.

“We’re working with BNSF on this,” he said. “But rather than an adversarial posture, we’re trying to mutually resolve these issues.”

Living with train traffic “is part and parcel of living here,” Begley

said. “It’s part of why we became a town.” Edmond was a water stop on the Atchison Topeka & Santa Fe Railroad “at Mile Marker 103,” he said.

Edmond residents typically complain on social media, “but rarely in person,” about the disruptions in traffic flow, Begley said.

The Oklahoma Corporation Commission has fielded 841 complaints of trains blocking at-grade railroad crossings for extended periods of time over the past four years, according to Brent Payne, railroad manager in the commission’s Transportation Division.

However, the complaints have plummeted by nearly two-thirds: from 361 in 2019 to 133 this year, Payne said.

During the coronavirus pandemic the number of blocked-crossing complaints “dropped like a stone,” he said. “It may have been that during the lockdown, with people not going out to eat, etc., they weren’t driving and thus not encountering blocked crossings.”

And when federal trial and appellate courts overruled Oklahoma’s blocked-crossing law, “Informed members of the public stopped reporting blockages” to the Corporation Commission, Payne said.

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Trial for petting zoo co-owner moved from January to May

By **Mike W. Ray**
| Southwest Ledger

LAWTON — The co-owner of a petting zoo for children is now scheduled for trial next May in Comanche County District Court on two felony charges of obtaining property/money by false pretenses.

Sammy Dwayne Snider is accused of “cheat[ing] and defraud[ing]” a Fletcher couple who paid him \$23,600 to build a barn. He also faces a separate felony charge which alleges Snider engaged in “a confidence game” designed to be “a trick or deception and done with the intent to cheat and defraud” an Elgin man.

Snider’s cases were set for trial on the January jury docket. But during a district court appearance Dec. 15 Snider requested a postponement and District Judge Scott Meaders pushed the trials back to the court’s May 5, 2023, jury docket.

Snider, 50 lists a Fletcher address but does not live in the corporate limits of the town, Police Chief Jason DeLonais told *Southwest Ledger* in April.

DeLonais said James O’Leary, 52, and his wife, Neta, 72, contacted his office on Sept. 23, 2021, “with a complaint about being financially exploited” by Snider.

The O’Learys reported communicating with Snider in 2020 about building a barn for them. Snider’s financial records showed that he deposited a \$14,000 check from the O’Learys on Nov. 4, 2020; a \$5,200 check from the couple on Jan. 28, 2021; and a \$4,400 check from the couple on Feb. 25, 2021.

“Some of that money was for materials and some was for labor,” DeLonais said.

Snider completed the concrete work and the frame for the structure but then “broke off contact” with the O’Learys,

DeLonais said. Snider “has completed no additional work since then,” the affidavit for his arrest warrant relates.

Fletcher Police Officer Dustin Wilson gathered enough evidence to secure a probable cause warrant to obtain Snider’s financial records. “Officer Wilson found some inconsistencies, some things we thought the district attorney should take a look at,” DeLonais said.

Wilson reported that when Snider accepted the O’Learys’ payments his bank account had been overdrawn three times “and had an insufficient funds charge.”

A separate felony charge accuses Snider of swindling an Elgin man.

On Sept. 16, 2020, Joel Dale Fogelstrom and Snider “agreed to a construction project” at Fogelstrom’s residence in Elgin, Comanche County Sheriff’s Department Detective Chad Kenyon wrote in an affidavit for an arrest warrant.

Snider was supposed to replace the roof on Fogelstrom’s house, build two porches and pour a cement slab for the front porch, Kenyon reported. Snider accepted from Fogelstrom a check for \$27,250 which Snider deposited into his bank account.

After several months “with no contact” from Snider, Fogelstrom “reach[ed] out” more than once “to find out when he was going to start the construction.” Each time Snider gave him an excuse, “ranging from” Snider claiming he had contracted COVID-19 to “his son having heart issues” to Snider “having cancer.”

Assistant District Attorney John Roose filed the second felony charge against Snider on April 6.

Snider is listed, along with his wife, as a co-owner of Snider Family Exotics Petting Zoo east of Sterling off SH-17.

Legislation

from p6

“It is blatantly obvious that we cannot allow unelected bureaucrats or agents of the rogue regime in D.C. to operate in our state without accountability,” Dahm said. “This bill allows the sheriff, an elected official, to keep an eye on the feds when they operate in their county.”

The third measure, SB 22, authorizes the state Legislature to “disapprove the implementation” of certain federal rules or regulations.

Finally, SB 29, would prohibit any member of the Oklahoma National Guard from being released into active duty

“unless Congress has formally declared war or issued a call for a specific purpose.”

While Dahm’s legislation may be popular with some conservatives, the measures could also face an uphill battle before they become law.

Under the U.S. Constitution, the supremacy clause, found in Article 6, makes the federal constitution and most federal law superior to state constitutions and laws.

“It (the supremacy clause) prohibits states from interfering with the federal government’s exercise of its constitutional powers, and from assuming any functions that are exclusively entrusted to the federal government,” an analysis by the Legal Infor-

mation Institute notes. “It does not, however, allow the federal government to review or veto state laws before they take effect.”

Dahm said he hoped state lawmakers would follow former President Donald Trump’s example of bringing troops home from foreign wars.

“I hope this year the Oklahoma Legislature will follow that example and work to bring our troops home and return to a constitutional framework on wars,” he said.

State lawmakers will get the chance to review Dahm’s proposals when the Legislature convenes in February 2023 for the First Session of the 59th Oklahoma Legislature.

OESC

from p6

transformation that will touch every aspect of the agency, not just software and hardware,” she said.

One of the major problems with which the OESC had to cope was its antiquated mainframe, which dated from 1978. “It’s a system that you navigate by pushing F9 and F6,” Zumwalt lamented. “That’s the engine that runs the claims process for this agency.”

The technology that OESC was using in March 2021 “was new in 1981,” Zumwalt said.

“It processes claims, and all our payments go through it. We can’t process claims at night because that’s when it’s running batch files.”

“The mainframe is part of the digital transformation, so that is ongoing,” an OESC spokesperson told *Southwest Ledger* in October. However, the agency did transition to laptop computers/new desktop computers more than a year ago, the spokesperson said. “Additionally, we’ll launch the Employer Portal in the coming weeks/months,” she said.

The transformation project has included streamlining and modernizing agency systems

for claims and submission processing, benefits renewal, appeals, risk management, employer claims and account management, reporting and reemployment.

The “BT40 project” is estimated to cost \$40 million to \$45 million. It is being financed with federal Coronavirus Aid Relief and Economic Security Act funds and the OESC’s technology fund, an agency spokesman said. “No state funds or Unemployment Insurance Trust Fund dollars are being used on this project.”

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Law

from p9

of tracks or facilities, including side tracks.

“The plain language is clear: the Surface Transportation Board has exclusive jurisdiction over the operation of side tracks in Oklahoma,” the appellate court declared.

The Blocked Crossing Statute “regulates how long a rail carrier may block, or occupy, a grade crossing before municipal authorities may fine the rail carrier.” However, the judges noted, “many factors determine the time that a train will block a grade crossing,” including the train’s speed and length, whether the side track intersects the grade crossing, and when a railroad schedules a train to pass.

“The Court does not conclude that *any* statute relating to blocked crossings is prohibited,” Judge Goodwin wrote in his opinion on Nov. 30, 2020. “But a statute that tells railroad companies how long they may stop their trains – for whatever ends – intrudes on the territory reserved to the ICCTA.”

While Oklahoma contends its statute is “for the safety and welfare of the people,” it “effectively regulates rail operations” too, a task the ICCTA reserves for the STB, the appellate court wrote.

The Surface Transportation Board has concluded that the scope of ICCTA preemption “is broader than just direct economic regulation of railroads” and that states and municipalities “cannot take an action that would have the effect of foreclosing or unduly restricting a railroad’s ability to conduct its operations or otherwise unreasonably burden interstate commerce.”

State emphasized its safety concerns

States “generally assume they have safety authority over operations, while railroads generally assume complete preemption of state laws, making any legislative or negotiated solution needlessly difficult,” then-Oklahoma Attorney General Mike Hunter told the Supreme Court.

“Moreover, clarity is needed because, aside from the states, no one is doing anything to solve the numerous safety issues arising from the chronic problem of stopped trains blocking public roads.”

BNSF “does not attempt to address these issues, choosing instead to jam as many trains onto its network as possible, maximizing both its profits and the harm caused by perennial blocked crossings,” Oklahoma Solicitor General Mithun Mansinghani wrote.

During debate on HB 2472 in 2019, Speaker McCall said some 9-1-1 coordinators informed him that because of trains blocking at-grade railroad crossings, they had to send first responders up to 20 miles out of their way to respond to emergencies.

The Federal Railroad Administration “has studied the issue for years,” Mansinghani noted, “and yet, despite acknowledging the safety hazards, it has not issued any regulation or order regarding the issue.”

The state pointed out that blocked crossings in Oklahoma have “forced a paramedic . . . to jump between rail cars of a stopped train to reach a patient in time,” delayed the response times of firefighters and paramedics, and “caused Oklahomans to engage in risky behavior to avoid blocked crossings.”

The “10-minute rule” addressed those safety concerns and therefore fell under the Federal Railroad Safety Act, the State of Oklahoma maintained. The 10th Circuit court, though, said that while the state’s safety concerns are “legitimate,” they “do not concern any ‘hazard to the railroad system or its par-

ticipants’.

Rather, they are local public safety issues – not rail safety issues.”

All three federal courts concluded that federal law preempts the state statute, so the state law is null and void.

Southwest Ledger previously contacted the offices House Speaker McCall and Attorney General John O’Connor for comments about the court rulings, but neither responded.

Okla. has 2,900 miles of tracks, 3,475 crossings

Oklahoma is crisscrossed by approximately 2,900 miles of railroad tracks that intersect with county roads, municipal streets, and state/federal highways at 3,475 at-grade crossings.

Major lines in Oklahoma include the Burlington Northern Santa Fe, which has 952 miles of track in this state, according to a document entered into the court record. The Union Pacific Railroad reports 1,240 miles of track in Oklahoma.

Other railroads in Oklahoma include the Kansas City Southern, 150 miles of track; the Stillwater Central, 257 miles; Grainbelt Corp., 180 miles; the Kiamichi Railroad, 156 miles; Arkansas-Oklahoma Railroad, 70 miles; the Wichita, Tillman & Jackson Railroad, 61 miles; the Hollis & Eastern Railroad, 14 miles; and several other “short lines.”



desperate
afraid
hopeless
anxious



hungry
worried
ignored
desperate



painful
dependent
confused
cheated



ashamed
unemployed
helpless
worthless

PROTECTED

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WE CAN CREATE
FEELINGS OF HOPE
FOR PEOPLE AND
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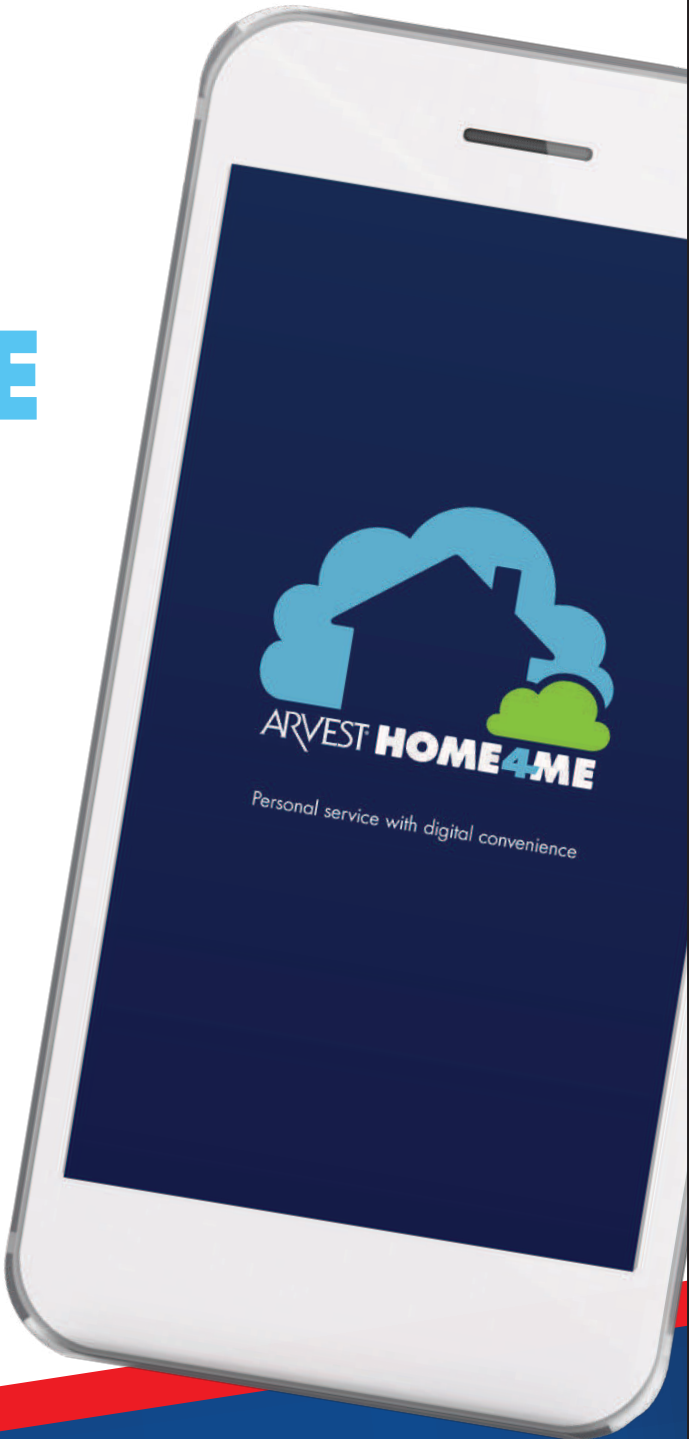
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Winter Severity Impact Potential – 6 PM Thurs Through 6 PM Friday

Weather Forecast Office
Amarillo, TX
Issued December 19, 2022 5:54 AM






Chance for Minor Impacts

Chance for Moderate Impacts

Minor impacts: Expect winter driving conditions and use caution while driving

Moderate impacts: Expect hazardous driving conditions and use extra caution while driving

   NWSAmarillo

weather.gov/ama

Cold front moves in late Wednesday; dangerous wind chills expected

From staff reports

Bitterly cold weather is expected to roll in late Wednesday night. According to State Climatologist Gary McManus it won't be as long or severe as the Feb. 2021 Winter Storm Uri, but we will see very low temperatures and even lower wind-chills.


McManus said there probably won't be much snow.

"There is a bit of a chance for some accumulating snow across northern and eastern Oklahoma that could cause some travel disruptions, but any sort of travel in this type of cold with wind chills down into the -10s to -20s level will be dangerous. Even in light snow with winds blowing 30-50 mph with higher gusts, ground blizzard conditions could be experienced, which would make travel dangerous."

Dangerous Cold Arrives Thursday

Cooler Tuesday. Much colder Thursday

Weather Forecast Office
Norman, OK
Issued December 19, 2022 2:30 AM CST






Key Points:

- Sharply colder and windy behind the front Thursday and Friday
- Dangerous wind chill values between -10 °F and -30 °F expected:
 - Northwest Oklahoma Thursday morning
 - Expanding across Oklahoma / north Texas during the day Thursday and Thursday night
- Light snow accumulations (Trace-2") Thursday
 - Best chance north central Oklahoma

Forecast High Temperatures
(average across Oklahoma and north Texas)

Day	Monday	Tuesday	Wednesday	Thursday	Friday	Christmas Eve	Christmas Day
High Temperature (°F)	50	45	40	15	25	35	40

   NWSNorman

weather.gov/norman

McManus expects extremely cold temperatures on Thursday and an even colder

Friday, but this event will be short-lived. The forecast could still

change, McManus said. "We're still three days away from all this. The forecast can

still change just a bit... not only for the better but also for the worse."



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