



Cougars win
Sports Page 1

THE TRUTH WELL TOLD
Independent

Friday

February 24, 2017
Number 77 Volume 130



GALLUP, NEW MEXICO 87301

©2016 THE GALLUP INDEPENDENT CO.
http://www.gallupindependent.com

PHONE 505-863-6811

PER COPY 50¢



Cable Hoover/Independent

Armed Gallup Police officers move into position where a fugitive couple from Kentucky were taken into custody near the Super 8 motel on Historic Highway 66 in Gallup Wednesday.

Training pays off

GPD's Emergency Response Team was ready when fugitives discovered

By Bill Donovan
Independent correspondent
cops@gallupindependent.com

GALLUP — The first operation by the Gallup Police Department's recently revived Emergency Response Team could not have gone any better. Deputy Police Chief Franklin Boyd said Thursday he was "very happy"

about the outcome with the arrest at a Gallup motel of two fugitives who were being sought by law enforcement agencies in Kentucky in connection with the shooting of two people.

When it was over, the two — Derrick May Thomas, 23, and Elizabeth Michelle Neal, 22 — surrendered peacefully and Neal's two children were turned



Thomas

Neal

See Kentucky couple, Page 5

Navajo AG: Sue EPA for Gold King Mine spill

By Marley Shebala
Diné Bureau
navajo1@gallupindependent.com

WINDOW ROCK, Ariz. — Navajo Nation Attorney General Ethel Branch is urging individuals impacted by the Gold King Mine environmental disaster to hold the U.S. Environmental Protection Agency accountable.

Branch said in a Thursday news release that the EPA's Jan. 13 announcement that it is "not legally able to pay compensation for" Federal Tort Claims Act claims related to the Gold King Mine spill is shameful but not surprising.

"The agency's actions were reckless and grossly negligent leading up to their release of at least 880,000 pounds of toxic heavy metals into Cement Creek (Colorado), and ultimately into the waters of the Navajo Nation," she said. "We intend to hold the USEPA and other responsible parties accountable for those actions. I encourage each individual impacted by the spill to do the same."

Branch said Navajo individuals who have submitted claims probably received a letter in the mail from the EPA denying their specific claim.

"They will have six months from the date of the mailing of the denial letter to file suit in the appropriate US district court," Branch explained. "Those Navajo claimants who have not yet submitted claims but who wish to recover compensation from the USEPA for injuries arising out of the Gold King Mine spill must still submit an administrative FTCA claims to the USEPA before they can file a lawsuit."

See Gold King Mine spill, Page 5

Woman takes drugs to court, gets plea deal

By Bill Donovan
Independent correspondent
cops@gallupindependent.com

GALLUP — A Gamera woman who was found to have methamphetamine in her possession while appearing in Gallup Magistrate Court was given a conditional discharge.

Gilethia Tom, 24, appeared before 11th Judicial District Court Judge Robert Aragon Feb. 17 after entering into a plea agreement with the District Attorney's Office.

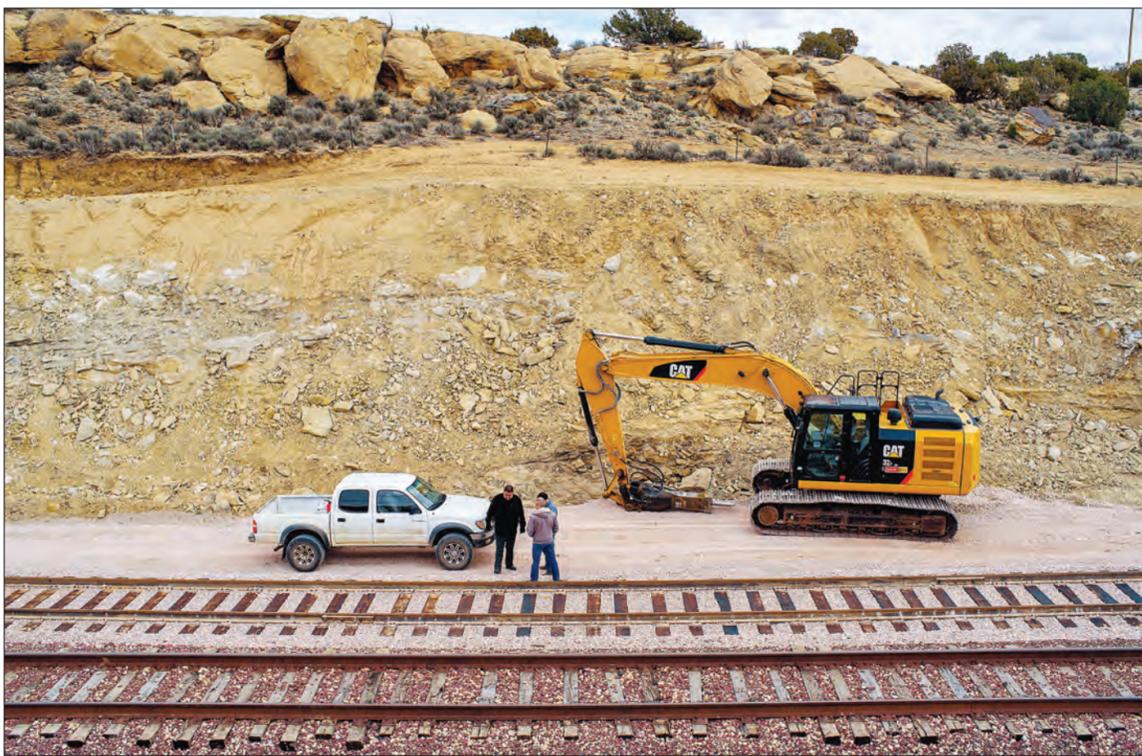
In a hearing that lasted less than five minutes, Aragon said he would adhere to the agreement fashioned by the parties with a conditional discharge.

In the agreement, she pleaded guilty to possession of a controlled substance, a fourth-degree felony. The possession of drug paraphernalia



Tom

See Meth case, Page 5



Cable Hoover/Independent

A new rail line runs parallel to the old Defiance Spur at Gallup Land Partners' Gallup Energy Logistics Park near Mentmore Wednesday.

BRING ON THE BUSINESS

Energy park stage one complete, preparing to expand



Cable Hoover/Independent

New Mexico Gov. Susana Martinez laughs and talks with Robert Roche, owner of Gallup Land Partners, during a dedication of the Gallup Energy Logistics Park as a certified BNSF site at the New Mexico Capitol in Santa Fe Feb. 9.

By Kyle Chancellor
Staff writer
city@gallupindependent.com
Twitter: @KylechanCity

GALLUP — Four months after the announcement that construction would begin on the new Gallup Energy Logistics Park, Phase 1 is complete and Gallup Land Partners has its eyes set on what's next.

The Gallup Energy Logistics Park is a 2,500 acre plot of land situated 5 miles northwest of Gallup and is owned and operated by Gallup Land Partners. This first phase of construction includes 11,000 linear feet of double-track rail lines that will service the 365-acre Burlington Northern and Santa Fe Railway-certified site.

The construction of the park was done by two companies: Strike, which completed the extensive dirt work for the site, and R&R Contracting, which laid the rail lines. Michael Sage, of the Greater Gallup Economic Development Corporation, said Strike moved 80,000 cubic yards of material and laid

See Energy Logistics Park, Page 5

House passes \$6 billion budget bill

By Sherry Robinson
Independent correspondent



SANTA FE — On party-line votes late Wednesday night, House members passed a \$6.087 billion spending bill and a solvency bill that would raise about \$250 million to help pay for it.

House Bills 2 and 3, the budget bills, were a creation of the House Appropriations and Finance Committee, and Chairwoman Patty Lundstrom, D-Gallup, was on her feet for a couple of hours defending them.

The budget bills keep spending flat, for the most part, but schools would receive about \$32 million more, and the judicial system, wracked by years of bud-

get cuts, would see a 3.9 percent increase. Medicaid would rise slightly. Two economic development incentives would receive \$17 million. But higher education would give up another 1 percent, state prisons would lose 1.6 percent and certain education initiatives would lose funding. The state's cash reserves would rise to a respectable 3.2 percent.

House Bill 202 would collect gross receipts taxes on internet retail sales, increase the vehicle

excise tax from 3 to 4 percent, increase the commercial truck identification permit tax from \$5 to \$90, remove the gross receipts tax exemption from nonprofit health care organizations (they would pay a reduced tax), and divert money from the legislative retirement program.

"We've swept balances. We've cut education. We've tried to find any unencumbered funds," Rep. Carl Trujillo, D-Santa Fe, the sponsor of HB 202, said. "We are bleeding. We need to get to the positive side of reserves."

Rep. Doreen Wonda Johnson, D-Crownpoint, said: "People are calling us, emailing us and visiting in person to say they won't

stand for more cuts. I received a note from a teacher who has an average of 33 students in a classroom that was not physically built for that many students."

Democrats made it clear they had no stomach for more cuts. They also wanted to avoid another downgrade of state bonds by credit rating agencies, which raises project costs, and said their bills reflected responsible decisions. Republicans objected to two pieces of HB 202 that raise taxes. They propose instead to use capital outlay funds and delay \$25 million in payments from the state's film rebate program.

See Legislature, Page 5

Gold King Mine spill

Continued from Page 1

Branch said they will then have six months from the date of the EPA's denial letter to initiate a lawsuit in the appropriate federal district court.

She noted that many Navajo claimants are working with the tribe's outside legal counsel, Hueston Hennigan LLP, to develop their claims.

"Hueston Hennigan LLP will continue to assist in developing and filing those claims," Branch said. "Those who have not yet filed a claim, but who have experienced personal injuries or losses, such as unexpected expenses or lost work, time, spent rounding up and penning up your livestock, and watering and feeding livestock on a regular basis, should reach out to the Navajo Nation's outside counsel, Hueston Hennigan, LLP, by phone at 213-788-4276 or by email at GKMClaims@hueston.com to start preparing their claim against the USEPA."

She added that the deadline to file a claim is two years from the date of injury, which for the Gold King Mine spill may be as soon as Aug. 5.

Ludicrous

Duane "Chili" Yazzie, president of the Shiprock Chapter, which sits along the San Juan River and has about 3,000 farms and ranches, called the attorney general's message ludicrous.

"It is ludicrous to think that as farmers who have lost so much economically, culturally and spiritually that we would have confidence in the tedious and iffy options presented by the AG," Yazzie said.

He added, "We believe a great opportunity was lost with the arbitrary reaction of threatening a lawsuit in the heat of the moment, when the EPA was whimpering around and Director (Gina) McCarthy was admitting guilt and making commitments to make it right for us, 18 months ago.

"Our Navajo leadership could have brought EPA to the table to hammer out an agreement compelling EPA to make things right, including compensation," Yazzie said. "We feel we have been left behind by the tribal government; filing claims for compensation at this point is like trying to retrieve a bucket of water that's

already gone down river."

The EPA released 3 million gallons of toxic wastewater from an abandoned gold mine in Colorado into the Animas and San Juan rivers Aug. 5, 2015.

When the Navajo Nation filed a \$160 million claim against the EPA for injuries resulting from the Aug. 5, 2015, Gold King Mine spill in December, Branch said the catastrophic spill released more than 3 million gallons of hazardous waste and that about 880,000 pounds of heavy metals, including lead and arsenic, were released into the waters flowing through the tribe's sovereign territory.

Branch noted Thursday that her statements were "informational only" and not intended to convey legal advice.

The EPA stated in a January news release that the decision by the EPA's independent claims officer, which was guided by the Department of Justice, involved the administrative claims brought under the Federal Tort Claims Act.

"When passing the FTCA, Congress wanted to encourage government agencies to take action without the fear of paying damages in the event something went wrong while taking the action," the EPA explained. "So the act does not authorize federal agencies to pay claims resulting from government actions that are discretionary, that is, acts of a governmental nature or function and that involve the exercise of judgment.

"Because the agency was conducting a site investigation at the Gold King Mine under the Comprehensive Environmental Response, Compensation, and Liability Act, the agency's work is considered a 'discretionary function; under this law,' the federal agency noted. "Therefore, the circumstances surrounding the Gold King Mine incident unfortunately do not meet the conditions necessary to pay claims."

Branch condemned the denial: "It is shameful but not surprising of the Obama Administration, which sought to minimize injuries to the Navajo Nation and the Navajo people from Day 1 that Administrator (Gina) McCarthy went back on her word and issued a blanket denial of tort liability on behalf of U.S. EPA."

Lawmakers consider payday loan bills

SANTA FE. (AP) — Bills aimed at regulating payday and title loan lenders in New Mexico are up for a hearing before a panel of House lawmakers.

One of the measures would cap rates at 36 percent on small loans issued by lenders that are not federally insured, while another calls for a much higher

interest rate.

Short-term, high-interest lending practices have been a target of consumer advocates for decades in New Mexico, but efforts to rein in the business fall flat year after year.

The industry says it's one of the few options for low-income New

Mexicans who find themselves in a bind and are ineligible for traditional credit. But consumer advocates describe the lending practices as unscrupulous.

Some 30 states already have banned auto title loans, and a dozen have capped rates at 36 percent or less.



Cable Hoover/Independent

Adam Wilkey, right, with Gallup Land Partners, and Michael Sage, of the Greater Gallup Economic Development Corporation, tour the Phase 1 construction site at Gallup Land Partners Gallup Energy Logistics Park near Mentmore Wednesday.

Energy Logistics Park

Continued from Page 1

17,000 tons of sub-ballast stone to create roadways in the park, access roads and for the undertrack structure. He also said that R&R, along with the 11,000 feet of line laid, used 6,000 rail ties and 7,200 tons of ballast stone under the tracks.

The newly constructed rail loop connects to the Fort Defiance, Arizona, rail spike, which was formerly used by BNSF to service coal mines, but as of late was used as rail-car storage. The new track also surrounds the old Carbon Coal Loop, 9,000 feet of track that surrounds the Gamarco Coal Mine. The mine is still located and operating in the bottom portion of the Gallup Energy Logistics Park and will operate transloading coal into trucks for transportation.

Three hundred and sixty-five acres of the total 2,500 were recently labeled BNSF-certified, which according to Sage and Adam Wilkey, of Gallup Land Partners,

makes the park attractive to prospective tenants.

The certification means that Gallup Land Partners has compiled all of the studies and research that a company would need to complete before building in the park. Those studies include archaeological site studies, biological impact studies, utilities plans and geological studies.

"A customer who builds a new rail-served facility on a BNSF Certified Site is expected to save between six to nine months of construction time as a result of the site's advanced level of preparedness for development," a recent BNSF news release on the announcement stated.

This also means that BNSF will market the park to their book of business, Sage said.

Who will use the facility?

As for businesses that are looking to come into the park, both Sage and Wilkey said they have been in talks

with companies that would like to utilize the park but cannot release the names of those companies yet.

Wilkey said the "low hanging fruit," or types of companies that would be well served by a site such as the Energy Logistics Park, would be transportation/transloading companies, energy companies, any company that moves heavy or large loads, and possibly manufacturing and distribution in the future.

Wilkey also indicated the site could be beneficial to energy companies out of the San Juan Basin, providing a shorter route straight to the BNSF Transcon, the rail company's super highway.

Both Sage and Wilkey said the amount of jobs brought in because of the park will depend entirely on the type and size of companies that set up shop. More than likely, they said, job creation would begin slowly, but as more companies come to town and demand for the park grows, as Gallup Land

Partners expects it to, so would job creation.

Gallup Land Partners is already planning for that growth, with plans for the second of the seven phases of construction already beginning. The second phase, as would most subsequent phases, includes another, larger rail loop that allows for more space for companies.

"If (Gallup Land Partners) thought this first phase could service the companies we're looking at, we wouldn't be looking at expanding already," Wilkey said.

Gallup Land Partners is also looking at the improvement of Carbon Coal Road. The road stretches 5 miles northeast of the Energy Logistics Park and connects with U.S. Highway 491. Sage said this improvement could open up the park to more business from the northwest corner of the state, but will also reduce heavy traffic in residential parts of west Gallup and make overall access to the park easier.

Legislature

Continued from Page 1

Governor promises vetoes

Gov. Susana Martinez has said repeatedly that she would veto tax increases, although she and Republicans are open to collecting gross receipts taxes from online retailers. They're also in agreement on removing the exemption for nonprofit hospitals and treating all health care providers the same.

Lundstrom said: "The main reason we are here is to fund state government. I believe we have funded the priorities for New Mexico. Representatives from both sides is the aisle have been on subcommittees. This has been an incredibly heavy lift for our committee, and we do function as a committee. We're a really strong team that works well together."

House members gave her a standing ovation. Then they voted along party lines, 37-32. The bills move to the Senate.

On the Senate floor Thursday, Senate Finance Committee Chairman John Arthur Smith, D-Deming, said: "We're out of places to cut." Without new revenues, he said, "we would have to build reserves out of the hides of education and health care."

Smith warned legislators that they would all have to do things they didn't like.

Meth case

Continued from Page 1

charge was dismissed.

Tom was arrested Oct. 21 when she came to the magistrate court and was searched. Police discovered a small amount of meth and a cou-

"We can't legislate by polling," he said.

Lt. Gov. Sanchez signs court funding bill

Sitting in for Martinez, who was out of state, Lt. Gov. John Sanchez signed House Bill 261 to provide \$1.6 million to meet emergency needs of the state's judicial system until June 30, the end of fiscal year 2017. It provides enough funding for courts to pay juries; \$80,000 will allow the state Supreme Court to avoid furloughs and closures.

"I spent most of my career in courtrooms as a prosecutor," Martinez said in a news release. "I've seen firsthand just how important it is to fund our courts."

The governor took flak from Democrats for twice vetoing bills with funding to relieve the cash-strapped courts. She said court expenses weren't properly vetted, but judges testified before legislative finance committees that they had already abbreviated hours and were holding high vacancy rates in staff to keep the doors open.

"House Bill 261 funds the courts to address their budget shortfall without overfunding the judiciary, and allows them to pay back their Board of Finance loan," Martinez said.

ple of pipes used for smoking meth in her possession.

She had been incarcerated in the McKinley County Adult Detention Center since Dec. 23.

Aragon placed her on supervised probation for 12 months.

Kentucky couple

Continued from Page 1

over to the New Mexico Children, Youth and Families Department until Neal's relatives came to town to take custody of them.

Lt. Billy Padavich, head of the 18-member Emergency Response Team unit, said his team first received word that Thomas and Neal were staying at the Super 8 Motel, 1715 W. Historic Highway 66, about 9:30 a.m. Wednesday.

Police officials in Owens County, Kentucky, had been looking for the two since the previous Friday after Thomas reportedly got into an argument with Neal's father John Neal and then shot and wounded him and Neal's sister Amber Neal before heading west with his former girlfriend, Elizabeth Neal, and her two young daughters.

The news couldn't have come at a better time, Padavich said, because the Emergency Response Team members were spending the week in training in Gallup and all were available to respond immediately to the call.

Emergency Response Team

The Emergency Response Team, which consists of regular patrol personnel as well as detectives and narcotics agents, was created in October, Boyd said, to provide the police department with a way to respond to any major emergency or situation with a team that has been trained to deal with those kinds of situations, whether it be crowd control or someone taking a hostage.

In Wednesday's operation, the team faced a situation in which Thomas was considered to be armed and dangerous, so any kind of confrontation had to take into consideration the safety of the two children.

Negotiators

For that reason, Padavich said, storming the motel room was out of the question, so the decision was made to make the arrest in the motel's parking lot when they were headed to their vehicle.

The team includes four members who have been trained in negotiations, but that

wasn't needed in this case.

The team also had three expert riflemen who were assigned to a high vantage point north of the motel where they could use their powerful rifle scopes to watch the motel room to ascertain if there was any activity going on inside the room and possibly give other members a warning if it looked as if they were preparing to leave.

One of the things the team did was contact Burlington Northern Santa Fe Railway officials and ask them to stop rail traffic through Gallup while the operation was going on because the watchers on the hill wanted to maintain a line of sight on the room at all times.

"The railroad was very cooperative," Boyd said.

The law enforcement agencies in Kentucky had been tracking the couple by satellite so they knew they were at the motel. Padavich said that as soon as the team got to the motel, they located the car they were driving. He said he arranged the team accordingly to make sure all possible avenues of escape were covered.

Within an hour the opera-

tion was over, he said.

Caught by surprise

Thomas and Neal, accompanied by the two children, walked out of the motel room.

"We caught them by surprise," Padavich said, and the two were told to get on the ground, which they did.

Thomas was not armed and police Thursday were in the process of getting a warrant to search their car to see if the weapon used in the shooting was there.

Thomas was arrested on a warrant in connection with the two shootings and Neal was arrested on a warrant not connected to the shooting. Both are still in custody at the McKinley County Adult Detention Center on no bond, waiting for extradition back to Kentucky.

Boyd said one reason this operation went as well as it did was the training the Emergency Response Team members had been getting since October, which is far above the training that the average officer on the police force has received.