

The PSC Commissioner Meeting, 12 Jun 2019, Questions not allowed.
10-Sep-2020

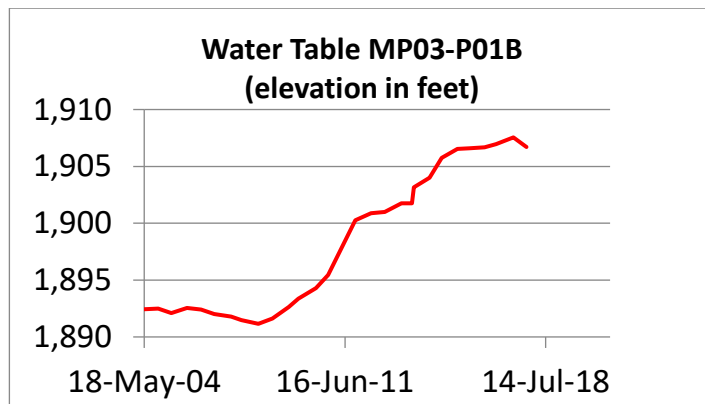
Appendix F

These are the questions Clyde Eisenbeis was not allowed to ask at the 12 Jun 2019 PSC Commissioner Meeting to discuss the Eisenbeis family complaint about North American Coal (NAC).

11 Jun 2019

- 1) Why did the PSC take photos of Esther Eisenbeis farmland, in 2011 and 2014, if it was not coal mining related?
- 2) Why did the PSC state it is not coal mining related if pond water netting was found on the Esther Eisenbeis farmland?
- 3) Why was the NAC letter, dated 19 Jun 2018, not given to Clyde Eisenbeis until a year later on 10 Jun 2019? The PSC Commissioner meeting was on 12 Jun 2019.
- 4) Why did the PSC not question the contents of that NAC letter? The PSC photos dated 8 Oct 2008, prove the ditches were not filled with sediment.
- 5) Why did the PSC not question the missing statements about the mining sedimentation pond water overflowing onto the Esther Eisenbeis farmland?
- 6) Why did the PSC not ask Clyde Eisenbeis if he was involved in the design and layout of the proposed diversion ditch? He did not. He lived in Iowa.
- 7) Why did the PSC not ask Clyde Eisenbeis to verify the accuracy of that NAC letter? There are false statements in that letter. Does the PSC classify this as ok?
- 8) Will NAC be held accountable for a dishonest letter that was used to make a PSC final decision?
- 9) Why does the PSC not question NAC why NAC deepen the road ditch if it is not mining related? Did NAC deepen the road ditch to penalize the Eisenbeis family because they did not allow NAC to discharge more pond water from the south mine into the farmland creek?
- 10) NAC falsely stated they did not have written authorization to install an approach. Later, they admitted they did have written authorization. Why did the PSC not question this?
- 11) Why does the PSC allow NAC to block access to farmland? The NDCC laws are to protect people and their property.
- 12) The PSC final decision letter states that the Eisenbeis family formal complaint was "unclear". If the Eisenbeis family formal complaint was "unclear", why was Clyde Eisenbeis not asked to clarify?

- 13) Why does the PSC think the pond water discharge into the farmland creek did not also flow south? The ground in that area is quite level. Water discharged into the farmland creek will flow north and south. It caused Wayne Eisenbeis to get often get stuck in his field (south of the Esther Eisenbeis farmland) after pond water was discharged into the farmland creek.
- 14) Why does the PSC ignore the water table elevations increasing to the farmland elevation (a half mile south of the Esther Eisenbeis farmland) during the years that pond water was discharged into the farmland creek? This eventually flooded part of the Esther Eisenbeis farmland. This is mining related.



- 15) Why does the PSC ignore?
- North Dakota Century Code 38-14.1-02 (35 b) - pdf document - "Surface coal mining operations means: ... The areas upon which such activities occur or where such **activities disturb the natural land surface**. Such areas shall also include any **adjacent land** the use of which is incidental to any such activities"
 - North Dakota Administrative Code 69-05.2-01-02 (1) - pdf document - "**Adjacent area** means land located **outside** the affected area or **permit area**"
 - PSC Memorandum 6 to Mine Operators, March 8, 1995 - pdf document, March 8, 1995 - "Listed below are specific activities and types of disturbances which are included under the scope of 'Surface Coal Mining Operations,' as defined in NDCC Section 38-14.1-02(33). These **activities and disturbances** must be conducted **within the boundaries** of a **surface coal mining permit**."
- 16) Why was NAC not required to apply for a permit before they dug on the Esther Eisenbeis farmland? NAC needs a permit to dig on land NAC owns. Does NAC need a permit to dig on land someone else owns?
- 17) Clyde Eisenbeis met at the farmland with Jerry Becker, NAC, and Bill Kirk, NAC, on 13 Apr 2016. The farmland renters, Jerome Boeshans and Jayne Boeshans were there too. Jerry Becker stated NAC would install an approach, within a few weeks, at that meeting. Later, NAC wanted permission to discharge pond water into the farmland creek from mining to the south of the farmland. Clyde Eisenbeis

did not approve of this, as the farmland was already flooded. That is when NAC reneged on building an approach. Clyde Eisenbeis does not trust anything else Jerry Becker or other NAC employees say. Since then, everything is in writing via documents and emails.

Road ditch on 8 Oct 2008



Road ditch on 3 Jun 2021



Diversion ditch on 8 Oct 2008



Diversion ditch on 16 Sep 2014



After the meeting Clyde Eisenbeis requested PSC photos of the NAC land. The PSC states they do not have photos of the NAC land.

- a) Did the PSC take photos of the NAC land on those days? The PSC response has been they don't have photos.

The PSC never states they did not take photos.

- b) Why would the PSC take photos Esther Eisenbeis farmland but not take photos of NAC land?