

From: Clyde Eisenbeis <cte677@gmail.com>
Subject: Farmland
To: Todd Schwartz <todd.schwarz@nd.gov>
Cc: Sheriff Terry Ternes <tternes@nd.gov>

Newest email is at the bottom.

Sheriff Terry Ternes told me you have some questions. I'd be glad to answer your questions. Thanks!

Clyde

Clyde Eisenbeis
2819 Hogan Dr
Bismarck, ND 58503

641-691-0110

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From: Schwarz, Todd <todd.schwarz@nd.gov>  
Date: Wed, May 24, 2023 at 4:07 PM  
Subject: RE: Farmland  
To: Clyde Eisenbeis <cte677@gmail.com>  
Cc: Ternes, Terrance <tternes@nd.gov>

I am sorry this is coming so late. It did not show up in my e-mail inbox until this AM and then I was in court even though I was on my e-mail until about 6 last night. To make this short, the issue you have with the mine is a civil matter that is outside of the scope of my authority as States Attorney or Terry's as Sheriff. What Terry and I thought was that we could assist by sitting down with you and someone from the mine to see if we can help both sides work something out, not necessarily as Sheriff and States Attorney, but more like mediators. As a full time States Attorney I cannot give any member of the public legal advice but can identify general legal principles. Our hope is that we can help facilitate something that will work and avoid the expense and hassle of litigating the matter. If you are interested let Terry or I know.

Todd A. Schwarz  
Mercer County State's Attorney  
410 Van Slyck Ave  
Stanton ND 58571  
(701) 745-3518

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From: Clyde Eisenbeis <cte677@gmail.com>
Date: Thu, May 25, 2023 at 6:26 AM
Subject: Re: Farmland
To: Schwarz, Todd <todd.schwarz@nd.gov>
Cc: Ternes, Terrance <tternes@nd.gov>

Thanks for the prompt response!

Digging ditches on land someone else owns is a crime. Blocking access to someone else's property is also a crime. This is what North American Coal did to my Mom's farmland.

My Mom had Alzheimer's for many years. I, my brother, and my sister, did not know what North American Coal had done until the spring of 2016, after I moved back to ND. My brother lives in Idaho. My sister lives in Washington.

As an example. Suppose a neighbor's above ground swimming pool overflows and floods your Mom's basement.

The neighbor then digs a ditch on your Mom's lawn to ensure his pool will no longer flood her basement. The neighbor also digs a ditch across your Mom's driveway, so your Mom can no longer park in her garage.

The neighbor claims that your Mom said that this was ok, even though he knows your Mom has Alzheimer's. He never pays for the basement damage.

Everything listed here is a crime. The state would take the neighbor to court.

I am not seeking legal advice. I'm reporting multiple crimes.

It is common for the state to take a person, or company, to court for criminal activity. I believe you are the person who takes North American Coal to court.

Thanks!

Clyde

BTW Why didn't I contact you sooner? Because I did not know your position existed. I did contact the office of the ND Attorney General Wayne Stenehjem quite a few years ago. I could not get past his staff.

Clyde Eisenbeis
cte677@gmail.com
641-691-0110

From: Schwarz, Todd <todd.schwarz@nd.gov>
Date: Fri, May 26, 2023 at 1:10 PM
Subject: RE: Farmland
To: Clyde Eisenbeis <cte677@gmail.com>
Cc: Ternes, Terrance <tternes@nd.gov>

As the mine has easements across the property their action are not criminal but misuse or the easement is a civil matter that can be sued out with a private attorney. This is not much different as to your example of the overflowing pool, once again that is a civil matter.

Todd A. Schwarz
Mercer County State's Attorney
410 Van Slyck Ave
Stanton ND 58571
(701) 745-3518

From: Clyde Eisenbeis <cte677@gmail.com>
Date: Sun, May 28, 2023 at 5:55 AM
Subject: Re: Farmland
To: Schwarz, Todd <todd.schwarz@nd.gov>
Cc: Ternes, Terrance <tternes@nd.gov>

See NDCC 12.1-21-05 Criminal Mischief => 1 b. "Willfully damages tangible property of another".

Per NDCC, damaging someone else's property is a crime.

See NDCC 24-12 Miscellaneous Provisions - 24-12-01 Injuries to highways => "No person may willfully dig up, remove, displace, break, or otherwise injure or destroy any public highway, right of way, or bridge, or any rest area, picnic area, or tourist camp, or improvements thereon, operated in connection with a public highway, or any private way laid out by authority of law, or any bridge upon such way without first securing permission from the person or governing body having jurisdiction and control thereof."

Per NDCC, blocking access to someone else's property is a crime.

Attached are easement documents for installing a Zap water pipeline on the west side of our farmland in 2017. My cousin, Lyle Eisenbeis, received the same easement documents as the pipeline went through his farmland too.

Email to me the easement documents for digging ditches on my Mom's farmland.

From: Clyde Eisenbeis <cte677@gmail.com>
Sent: Sunday, June 4, 2023 8:38 AM
To: Schwarz, Todd <todd.schwarz@nd.gov>
Cc: Ternes, Terrance <tternes@nd.gov>
Subject: Re: Farmland

Were you able to find easement documents that allowed North American Coal to dig ditches on my Mom's farmland?

For the previous email example, where a neighbor damages your Mom's lawn and driveway, do you claim this to "not" be a crime?

Thanks!

From: Schwarz, Todd <todd.schwarz@nd.gov>
Date: Sun, Jun 4, 2023 at 2:18 PM
Subject: RE: Farmland
To: Clyde Eisenbeis <cte677@gmail.com>
Cc: Ternes, Terrance <tternes@nd.gov>

The mine had easements for all of that area or they would not be there to begin with. Very simply the things that you are addressing are a civil matter between you and the mine.

From: Clyde Eisenbeis <cte677@gmail.com>
Date: Sun, Jun 4, 2023 at 5:53 PM
Subject: Re: Farmland
To: Schwarz, Todd <todd.schwarz@nd.gov>
Cc: Ternes, Terrance <tternes@nd.gov>

Send me the easements.

From: Clyde Eisenbeis <cte677@gmail.com>
Date: Sat, Jun 24, 2023 at 6:35 AM
Subject: Re: Farmland
To: Schwarz, Todd <todd.schwarz@nd.gov>
Cc: Ternes, Terrance <tternes@nd.gov>

I'm waiting for a response. Does the silence mean that what you claimed about an easement is not true?

From: Schwarz, Todd <todd.schwarz@nd.gov>
Date: Wed, Jun 28, 2023 at 12:10 PM

Subject: RE: Farmland
To: Clyde Eisenbeis <cte677@gmail.com>
Cc: Ternes, Terrance <tternes@nd.gov>

You told both Terry and I that the mine had operation on that land so there would be easements. This is a civil matter that I cannot prosecute with the facts presented

From: Clyde Eisenbeis <cte677@gmail.com>
Date: Wed, Jun 28, 2023 at 12:13 PM
Subject: Re: Farmland
To: Schwarz, Todd <todd.schwarz@nd.gov>
Cc: Ternes, Terrance <tternes@nd.gov>

If an easement exists, send it to me.

From: Clyde Eisenbeis <cte677@gmail.com>
Date: Wed, Jun 28, 2023 at 12:21 PM
Subject: Re: Farmland
To: Schwarz, Todd <todd.schwarz@nd.gov>
Cc: Ternes, Terrance <tternes@nd.gov>

Also, note that NAC did not have operations on the Esther Eisenbeis farmland. NAC had operations on the adjacent land, east of the Esther Eisenbeis farmland. NAC is not allowed to dig ditches on land NAC does not own.

From: Clyde Eisenbeis <cte677@gmail.com>
Date: Fri, Jul 28, 2023 at 6:52 AM
Subject: Re: Farmland
To: Schwarz, Todd <todd.schwarz@nd.gov>
Cc: Ternes, Terrance <tternes@nd.gov>

Waiting for a reply. Thanks!

From: Clyde Eisenbeis <cte677@gmail.com>
Date: Wed, Aug 30, 2023 at 10:04 AM
Subject: Re: Farmland
To: Schwarz, Todd <todd.schwarz@nd.gov>
Cc: Ternes, Terrance <tternes@nd.gov>

Is there a legitimate reason for not taking NAC to court for a crime?
You have not provided evidence for an easement.

From: Schwarz, Todd <todd.schwarz@nd.gov>
Date: Wed, Aug 30, 2023 at 2:39 PM
Subject: RE: Farmland
To: Clyde Eisenbeis <cte677@gmail.com>
Cc: Ternes, Terrance <tternes@nd.gov>

This is not a crime as Terry and I have stated multiple times before. This is a civil matter and you need to speak to a private attorney. The answer has not changed.

From: Clyde Eisenbeis <cte677@gmail.com>
Date: Wed, Aug 30, 2023 at 3:02 PM
Subject: Re: Farmland
To: Schwarz, Todd <todd.schwarz@nd.gov>
Cc: Ternes, Terrance <tternes@nd.gov>

What is the reason you are contradicting NDCC?

1) NDCC 12.1-21-05 Criminal Mischief => 1 b. "Willfully damages tangible property of another".

2) NDCC 24-12 Miscellaneous Provisions - 24-12-01 Injuries to highways => "No person may willfully dig up, remove, displace, break, or otherwise injure or destroy any public highway, right of way, or bridge, or any rest area, picnic area, or tourist camp, or improvements thereon, operated in connection with a public highway, or any private way laid out by authority of law, or any bridge upon suchway without first securing permission from the person or governing body having jurisdiction and control thereof."

From: Clyde Eisenbeis <cte677@gmail.com>
Date: Thu, Sep 7, 2023 at 8:59 PM
Subject: Re: Farmland
To: Schwarz, Todd <todd.schwarz@nd.gov>
Cc: Ternes, Terrance <tternes@nd.gov>

What is the reason you are contradicting NDCC?

From: Clyde Eisenbeis <cte677@gmail.com>
Date: Thu, Sep 21, 2023 at 2:35 PM
Subject: Re: Farmland
To: Schwarz, Todd <todd.schwarz@nd.gov>
Cc: Ternes, Terrance <tternes@nd.gov>

Your initial response was that this is not a crime because of

easements. 1) If there were easements, the company would be required to restore the land to its initial condition. 2) You've been unable to find easements.

Why do you claim it is not a crime without any reason, which contradicts the NDCC?

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From: Clyde Eisenbeis <cte677@gmail.com>  
Date: Tue, Oct 17, 2023 at 5:37 PM  
Subject: Re: Farmland  
To: Schwarz, Todd <todd.schwarz@nd.gov>  
Cc: Ternes, Terrance <tternes@nd.gov>

Here is a summary of this string of emails:

1) I met with Mercer County Sheriff Terry Ternes, on 5 May 2023. He was surprised by the farmland damage and asked when this happened. He said that the damage should be repaired by NAC. He asked me what I thought NAC should do for repairs. He said he would bring the state attorney to the farmland on Monday. He also asked me to send him photos which he would give to the state attorney.

2) You responded "The mine had easements for all of that area ....". This is a false statement. There are no easements for this farmland.

3) You stated "You told both Terry and I that the mine had operation on that land .....". This is not true. I did not state that. Plus, Terry had been at the farmland. He knew the mine did not have operations on the farmland. It's obvious that you did not visit the farmland.

4) Why did you not visit the farmland before you made a decision? Looking at the evidence is not important to you?

5) I stated, "NAC is not allowed to dig ditches on land NAC does not own." I included relevant ND laws:

a) NDCC 12.1-21-05 Criminal Mischief => 1 b. "Willfully damages tangible property of another".

b) NDCC 24-12 Miscellaneous Provisions - 24-12-01 Injuries to highways  
=> "No person may willfully dig up, remove, displace, break, or otherwise injure or destroy any public highway, right of way, or bridge, or any rest area, picnic area, or tourist camp, or improvements thereon, operated in connection with a public highway, or any private way laid out by authority of law, or any bridge upon such way without first securing permission from the person or governing body having jurisdiction and control thereof."

6) You stated: "This is not a crime as Terry and I have stated multiple times before." You stated that, not Terry.

7) I asked, "Why do you claim it is not a crime without any reason, which contradicts the NDCC?"

You have not stated the reason for contradicting the NDCC.

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From: **Clyde Eisenbeis** <cte677@gmail.com>  
Date: Sat, Nov 11, 2023 at 8:51 AM  
Subject: Re: Farmland  
To: Schwarz, Todd <todd.schwarz@nd.gov>  
Cc: Ternes, Terrance <tternes@nd.gov>

What is the reason for contradicting the NDCC? Are you unable to answer?

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From: **Clyde Eisenbeis** <cte677@gmail.com>  
Date: Mon, Feb 5, 2024 at 4:24 AM  
Subject: Re: Farmland  
To: Schwarz, Todd <todd.schwarz@nd.gov>  
Cc: Ternes, Terrance <tternes@nd.gov>

New costs because of North American Coal damage to the farmland:

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From: **Jayme Boeshans** <[jaymeboeshans@gmail.com](mailto:jaymeboeshans@gmail.com)>  
Date: Thu, Dec 21, 2023 at 11:31 AM  
Subject: Spring repair expense  
To: Clyde Eisenbeis <[cte677@gmail.com](mailto:cte677@gmail.com)>

Clyde, here is a more detailed list of the extra repair expense on your property. From the water overflow on the drainage diversion and also the damage from the concrete crossing where we need an approach.

2 days of motor grader rental to repair wash outs. \$3000

Discing repair area for a final finish. \$1600

Broken tractor hitch from the concrete crossing. Parts alone where just over \$1000 dollars.

It also cost us 4 days of down time and this is not including travel expenses to run to Devils Lake, ND to purchase the new hitch. We also had to use some scoria in the concrete crossing to get our equipment back out of the field. Scoria cost is not included either.

We have done many repairs to this area over the years. It is not a best practice to continually have to work your soil. It sets us up to have poor soil structure giving chance for compaction. It also disrupts the soil biology each time we have to work it.



The diversion needs to be built up higher to contain spring run off in a few different areas. The concrete crossing needs to be replaced with an approach.

If we can solve these issues it will resolve the burden of extra expense every year. It will also set us on a path to improve the soil health on your property.

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