Illegal actions by North American Coal and some North Dakota State Employees

PSC Commissioners: Brian Kroshus, Julie Fedorchak, Randy Christmann, Sheri Haugen Hoffart

Mercer County State Attorney: Todd Schwarz

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See website **Beulah.FoxPing.com** for details.

In 2011 and 2014, a North American Coal (NAC) pond overflowed and damaged the Esther Eisenbeis' farmland, which is adjacent to NAC land. There was no financial compensation for the damage.

After the overflows, NAC --- dug ditches on the Eisenbeis farmland --- deepened the road ditch so the farmland is no longer accessible with a grain truck --- and pond water was discharged into the farmland creek, which flooded the SW corner of the farmland.

This was done by NAC without authorization, which violates the North Dakota Century Code. Specifically, no land can be disturbed without a permit.

In 2011 and 2014, an NAC employee contacted Eisenbeis' son who had Power of Attorney, because Eisenbeis had Alzheimer's. The son's response, to that NAC employee, was to dig the ditch on NAC land.

Her son was not told that NAC road ditch digging would block access to the farmland. And he was not told the SW corner of the farmland was being flooded.

All of this illegal action was discovered when her son retired and moved back to ND in 2015.

Eisenbeis' son met with the PSC to describe the damage. At that meeting, he discovered that the PSC had photos of the 2011 and 2014 farmland damage.

He explained:

1) Eisenbeis was not compensated for the crop loss from the pond water overflow.

2) The quarter mile long approach, that had been there for more than 100 years, had been destroyed by NAC.

3) The discharge of the pond water, into the farmland creek, flooded the SW corner of the farmland. Over a span of more than 100 years, that farmland had

never been flooded before (rain had never flooded that farmland). That area of farmland now has very low crop yields.

He asked why the NAC damage was allowed? The PSC response was that a Formal Complaint had to be filed.

After filing a Formal Complaint, the PSC renamed it to an Informal Complaint. Then the PSC decided that it was not related to coal mining. The fundamental questions are:

1) Why did the NAC pond exist if it is not related to coal mining?

2) Why was the PSC at the farmland and wrote a report, after the pond overflowed in 2011 and 2014, if it was not related to coal mining?

3) Why did the PSC take photos if it was not related to coal mining?

A Formal Complaint was filed, again, in 2019. This led to a hearing adjudicated by the PSC Commissioners.

At that hearing, an NAC employee made false statements in a letter to PSC. After some statements were identified as outright lies, that NAC employee was not charged with perjury.

In addition, that NAC letter contained a statement that Eisenbeis had verbally approved the ditch digging. It is illegal to ask for decisions like this from someone who has Alzheimer's. In addition, all land disturbance actions require written approval.

The PSC final decision letter includes, "… *the reconstruction of the diversion is a private matter* …." This contradicts the NDCC.

This would be like an arsonist burning down your Mom's house then stating your Mom approved of burning down her house. The arsonist also states that this is a private matter.

This PSC decision was reported to the ND Judicial Conduct Committee. The ND Judicial Conduct Committee stated this is not their responsibility.

And it was reported this to the ND Ethics Commission, who had the same response.

Bottom line: The PSC can make their own rules, even if their rules contradict the NDCC.

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The NAC damaging farmland and blocking access to the farmland was reported to the Mercer County State Attorney as a crime. His first response was that this land is under an easement.
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After he was unable to find an easement, he changed to "*This is not a crime* …." This contradicts the NDCC which protects people and their property.

In addition, if this were under an easement, the land would need to be restored to its original condition.

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It appears that NAC is bribing and threatening ND state employees who are elected. This includes the PSC Commissioners, and the Mercer County State Attorney.

It appears that if any elected state employee decides against NAC, NAC will find an opponent, fund their campaign, and bribe them (such as new cars).

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ND Legislators could enact new legislation:

1) The ND Judicial Conduct Committee is required to review all PSC decisions.

2) The PSC is not allowed to contradict the NDCC. All prior PSC decisions, that contradicted the NDCC, are overturned.

3) The property, and adjacent property, must be repaired and returned to its original condition by the offending company.

4) The victims must be financially compensated by the offending company.

There are many in ND who would support this!!!

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