

August 25, 2022

*Via Electronic Mail*

Mr. Steve Kahl  
Executive Director  
North Dakota Public Service Commission  
600 E. Boulevard, Dept. 408  
Bismarck, ND 58505-0480  
[ndpsc@nd.gov](mailto:ndpsc@nd.gov)

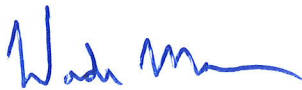
**In re: Clyde Eisenbeis / North American Coal Corp.**  
**Case No. RC-22-339**  
**OAH File No. 20220235**  
**Our File No. 070504-000004**

Dear Mr. Kahl:

Please find enclosed for filing North American Coal Corp.'s Answer to Complaint in the above-referenced matter.

Please feel free to contact me with any questions. Thank you.

Sincerely,



Wade C. Mann

WCM/lh  
Enc.

cc: Clyde Eisenbeis (via email w/enc.)  
Hope L. Hogan (via email w/enc.)  
John Schuch (via email w/enc.)

13 RC-22-339 Filed 08/26/2022 Pages: 5  
North American Coal Corporation's Answer to Complaint  
The North American Coal Corporation  
Wade Mann, Crowley Fleck, PLLP

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission**           )  
**Clyde Eisenbeis**                    )  
**Complaint**                            )  
  )

**Case No. RC-22-339**

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**ANSWER TO COMPLAINT**

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[¶1] The North American Coal Corporation and its subsidiary The Coteau Properties Company (hereinafter collectively referred to as “NACC”), for its answer to Complainant Clyde Eisenbeis’s (“Eisenbeis”) Complaint in the captioned matter, states as follows:

[¶2] Eisenbeis filed a 45-page document entitled “Formal Complaint to PSC Commissioners” (“Complaint”). The initial 40 pages of this document contain general information, background information, references to statutes and regulations, and other documentation to which no formal responsive pleading is required under the applicable statutory provisions set forth in N.D.C.C. Chs. 38-14.1 and 28-32. To the extent a response is necessary to these preliminary sections, NACC denies any factual allegations that are made against NACC or that imply any violations or wrongdoing on the part of NACC.

[¶3] Beginning on page 40 of Eisenbeis’s complaint is a section entitled “Bottom Line Summary” which primarily provides unsupported commentary and a number of rhetorical questions. To the extent it could be read to include accusations against NACC requiring responses, NACC responds to the “Bottom Line Summary” as follows:

[¶4] With respect to the first four lines of the “Bottom Line Summary”, NACC lacks information as to how much time Eisenbeis has spent on the matter. NACC denies that Eisenbeis’s family is being penalized and denies that NACC has damaged any property.

[¶5] “Bottom line #1” presents a hypothetical of a burglary and a general complaint about the Public Service Commission, neither of which require a response. To the extent any factual allegations are made against NACC, they are denied in their entirety.

[¶6] “Bottom line #2” presents hypotheticals not directed at NACC and therefore not requiring a response.

[¶7] With respect to “Bottom line #3”, NACC is without sufficient information to admit or deny the truth of any alleged conversation between Eisenbeis and the Mercer County Sheriff and therefore denies. NACC denies any allegation or implication of any wrongdoing. The interrogatory asking if the Public Service Commission contacted law enforcement is not directed at NACC and therefore no response is required.

[¶8] “Bottom line #4” presents a hypothetical question to which no response is required. To the extent that there is any allegation or implication that NACC violated applicable rules, regulations, laws, or ordinances, NACC fully denies.

[¶9] “Bottom line #5” presents a potential prayer for relief. NACC denies that Eisenbeis is entitled to any relief and to the extent this can be construed as an allegation or accusation of fault on the part of NACC, NACC denies any and all wrongdoing.

[¶10] “Bottom line #6” through “Bottom line #10” are statements directed toward the PSC and therefore no response is required by NACC. To the extent that there are any allegations against or implications of wrongdoing by NACC, they are denied.

[¶11] With respect to “Bottom line #11” and “Bottom line #12”, NACC denies and reasserts that it complied with any and all regulations and permit requirements.

[¶12] Pages 42-45 of the Complaint contain what is entitled “Complaint and Requested Relief.” NACC unequivocally denies that Eisenbeis is entitled to any of the requested relief set forth in “Requested Relief #1” through “Requested Relief #12.”

[¶13] With respect to the allegations in “Complaint #1” through “Complaint #11”, NACC denies.

[¶14] “Complaint #12” does not contain any allegations requiring a response from NACC.

### **AFFIRMATIVE DEFENSES**

[¶15] The Complaint fails to state a claim upon which relief can be granted.

[¶16] The Complaint makes allegations and seeks relief that is outside of the scope of Public Service Commission jurisdiction.

[¶17] Clyde Eisenbeis lacks standing to assert claims and make any allegations on behalf of any persons other than himself. Any allegations in the Complaint alleging violations and damages relating to the property of or requesting relief on behalf of Lucille Sailer, Lyle Eisenbeis, Wayne Eisenbeis, Rodney Weigum, or any individual other than Clyde Eisenbeis should be struck from the Complaint.

[¶18] WHEREFORE, NACC requests that Eisenbeis’s Complaint be dismissed on the merits and that it be granted such other relief as the Commission deems just, equitable and appropriate.

Dated this 25<sup>th</sup> day of August, 2022.

By: /s/ Wade C. Mann  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 25<sup>th</sup> day of August, 2022, a true and correct copy of **ANSWER TO COMPLAINT** was served via electronic mail upon the following:

Clyde Eisenbeis  
[cte677@gmail.com](mailto:cte677@gmail.com)

*/s/ Wade C. Mann*  
WADE C. MANN