

State of Nebraska

Accountability and Disclosure Commission

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Lincoln, Nebraska 68509
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Centre Terrace, 1225 L St. #400
Phone (402) 471-2522
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April 10, 2023

Duane Murdoch
10014 54th Street
Murray, NE 68409

Re: C-2 Potential Conflict of Interest Statement

Dear Mr. Murdoch,

This will acknowledge receipt of a C-2, Potential Conflict of Interest Statement ("Statement"), which you filed with the Nebraska Accountability and Disclosure Commission ("NADC") on April 3, 2023. Prior to your filing this statement, on Friday, March 31st, and subsequently, we spoke with you on the telephone about additional facts relating to the Statement.

In the Statement, you have stated that you are a member of the Cass County Board of Commissioners ("Board"). You have also noted that you are associated with Murdoch Trucking, Inc.

In your Statement, you note that Cass County has approved a 3,000 acre "solar site." By this we understand that there has already been action by the Board with respect to the site. In the Statement, you raise the question of whether you may take part in ongoing discussions and possible voting with respect to the site.

The property which is the subject of the proposed site includes land which your son currently leases and farms. You have advised us that you have no financial interest in your son's lease. You have further advised that you sometimes assist your son with his farming because of your family relationship, but you do not request or receive any financial gain from this assistance.

You further note that you "custom farm" land owned by Larry Englemeier which is located five (5) miles west of the solar site. You note that Mr. Englemeier does own property within the site, but you have no connection with that property. You have added that you are not the owner nor the heir to any property located within the site.

You do not believe that you have a disqualifying conflict of interest with respect to discussing or voting upon matters coming before the Board relating to the site.

Under the terms of Section 49-1499.03 of the Nebraska Political Accountability and Disclosure Act ("NPADA"), you would have a potential conflict of interest in those circumstances where you are: "...required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to [you] or..., a member of [your] immediate family, or a business with which [you..are] associated.."

The term "immediate family member" is defined in Section 49-1424 of the NPADA. The term is defined as follows: "Immediate family shall mean a child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes." As I understand the facts, your son does not fall within the definition of an "immediate family member."

The term "business with which you are associated" is defined in Section 49-1408 of the NPADA. It would mean either a business in which you had a financial interest in the stock of the business or a business in which you are a, "partner, limited liability company member, director, or officer." In speaking with you, it is my understanding that you do not fall into any of those categories.

Based upon the information which you have provided to us in your Statement and in the supplementary telephone calls, we conclude that you do not have a financial interest in the site. Consequently, you may participate in the discussion and the vote with respect to the site.

In preparing this opinion, we are relying upon the accuracy of the facts, as we have expressed them in the letter, and in our subsequent telephone conversations. If our expressed understanding of these facts is incorrect or incomplete, please advise us immediately.

Thank you for your timely filing of the subject Statement. Please contact me directly if you have any questions concerning this opinion.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Neil B. Danberg", with a stylized flourish at the end.

Neil B. Danberg
General Counsel