

State of Nebraska

Accountability and Disclosure Commission

P.O. BOX 95086
Lincoln, Nebraska 68509
nadc.nebraska.gov

May 7, 2025

Joan Ervin
1196 Road West G5 N
Brule, NE 69127



Centre Terrace, 1225 L St. #400
Phone (402) 471-2522
Fax (402) 471-6599

Re: Amended response to C-2 Potential Conflict of Interest Statement

Dear Ms. Ervin,

This will acknowledge receipt of a Potential Conflict of Interest Statement ("Statement"), which you filed with the Nebraska Accountability and Disclosure Commission ("NADC") on Thursday, March 13, 2025. After filing the Statement, you spoke with me on several occasions about the factual situation raised by the Statement. In addition, you sent an e-mail expressing your views with respect to altering the possible response to your Statement. Based upon these communications, we are amending our advice to you as follows.

You are a County Commissioner in Keith County. You have a current lease with a wind energy company known as Nextera. You have leases with them in both Keith and Deuel Counties. In the Statement, you note that Nextera is, "studying the possibilities of renewable energy, specific to wind in an area that could affect Keith, Deuel, and Garden Counties..."

The question which you raise in your Statement is whether you may participate in the development of a Comprehensive Plan for Keith County. The Plan would include issues relating to renewable energy. However, in our communications, you have advised that it would be possible for you to address issues relating to renewable energy in a separate manner. You have further advised that this separation of the renewable energy issues from the remainder of the Comprehensive Plan would permit you to participate in the development of the Comprehensive Plan excepting the renewable energy portion of the Plan.

Section 49-1499.03(1) of the Nebraska Political Accountability and Disclosure Act ("NPADA") has the following requirement:

"An official of a political subdivision designated in section 49-1493 [which includes elected county officials] who would be required to take any action or make any decision in the discharge of his or her would be 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 him or her, a member of his or her immediate family, or a business with which he or she is associated.." [shall take certain prescribed actions].

That Section goes on to state that the person should file the Statement with the person in charge of keeping records for the county, and the person filing the Statement shall deliver a copy to the NADC for an opinion as to whether that person has a conflict of interest.

In reviewing the facts in this case, we draw the following conclusions: (a) Your farm owns property in Keith County; (2) A renewable or wind energy company has already negotiated a lease on property your farm owns in Keith County; (3) Based upon your Statement, we conclude that the Company which has a lease on your farm property may elect to use the property for renewable or wind energy purposes; and (4) Your farm currently receives lease payments from NextEra, and these will continue and possibly increase or decrease depending upon the renewable portion of the Comprehensive Plan adopted by the County Board; (5) The Comprehensive Plan which is being proposed for Keith County would include wind or renewable energy provisions', but those provision could be considered and voted upon separately from the remainder of the Plan.

Based upon the foregoing facts and circumstances, it is our opinion that you would have a conflict of interest under the terms of the NPADA with respect to any action or decision which you would be required to take concerning that portion of the Keith County Comprehensive Plan relating to wind or renewable energy. A decision made with respect to that portion of the Plan may affect your farm's financial interests with respect to the existing lease with Nextera. Accordingly, we conclude that you should recuse yourself with respect to the County's consideration of that portion of the Comprehensive Plan concerning wind or renewable energy.

However, you would still be in a position to participate in developing and voting upon all other portions of the Plan which do not relate to wind or renewable energy.

In reaching this conclusion, we are relying upon our understanding, as we have expressed it in this letter, of the accuracy of information and facts which you have provided in your subject Statement. In particular, we understand, based upon our communications with you, that the renewable energy portion of the Plan may be separately considered and voted upon from the remainder of the Plan. 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 blue ink that reads "Neil B. Danberg". The signature is stylized with a large, sweeping "N" and "D".

Neil B. Danberg, General Counsel

NEBRASKA
ACCOUNTABILITY AND
DISCLOSURE COMMISSION
1225 L St., Suite 400
P.O. Box 95086
Lincoln, NE 68509
(402) 471-2522

BEFORE COMPLETING THIS FORM
READ THE FILING REQUIREMENTS
ON PAGE 3

POTENTIAL CONFLICT OF INTEREST STATEMENT

NADC FORM C-2

POSTMARK
DATE
MICROFILM
NUMBER

3/11/25

OFFICE USE ONLY

RECEIVED

MAR 13 2025

NEBRASKA ACCOUNTABILITY
and
DISCLOSURE COMMISSION

- An official or employee of the executive branch of state government or any other official or employee required to file Statements of Financial Interests must file this form if he or she has a potential conflict of interest.
- Elected officials of school districts and elected officials of villages and cities (except Omaha and Lincoln) should not use this form. Use Potential Conflict of Interest Statement Form C-2A.
- File this Potential Conflict of Interest Statement with the Nebraska Accountability and Disclosure Commission and with your immediate superior (if any) whenever a potential conflict of interest situation arises.
- Persons who fail to disclose a potential conflict of interest or who otherwise do not comply with the law are subject to penalties.

ITEM 1 NAME, ADDRESS AND TELEPHONE NUMBER

Name Ervin Joan B Telephone No. 308-289-4267
Last First Middle
Address 1196 Road West G5 N Brule NE
69127
STREET ADDRESS OR RURAL ROUTE City STATE ZIP CODE

ITEM 2 TITLE, AGENCY, ADDRESS, PHONE AND SUPERIOR

Your Title County Commissioner Agency Keith County
Agency Address 511 North Spruce, Ogallala, NE Agency Phone 308-284-4726
Clerk's
Name of Immediate Superior Elected Title

ITEM 3 DESCRIBE POTENTIAL CONFLICT OF INTEREST IN DETAIL (Use Item 7 Continuation, if necessary)

Date action is to be taken or decision is to be made: For years of 2025

POTENTIAL

Let us look at the potential of the...
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Description of Potential Conflict:

Our farm holds a current lease with Nextera, which is studying the possibilities of renewable energy, specific to wind in an area that could affect Keith, Deuel, and Garden Counties in western Nebraska.

I sit as liaison for the Planning and Zoning Board as well as a Commissioner. Keith County is in the process of updating the Comprehensive Plan. A Contractor has been engaged and the steering committee appointed. Our Administrator, Attorney, Building Inspector and myself, as well as the steering committee will be looking at all aspects of this plan.

As we move forward with the Comprehensive Plan, whether it is tourism, recreation, agriculture, housing development or any of the sections inclusive in developing a plan, would I need to exclude myself from the writing of the plan? Every Commissioner in the State of Nebraska potentially would be able to weigh in on how the plan can change the looks and future of it's county and land use, whether it is in agreement or disagreement of some community members.

With renewable energy such a controversial topic, there will be those that feel that as a Commissioner I have more leverage in my decisions. We are a five board commission. Ervin farms does not have a tower agreement, only the leases on land in Keith and Deuel County which have been in place since 2011.

Revised January 2018

ITEM	PERSONS WHO MAY RECEIVE FINANCIAL BENEFIT OR DETRIMENT
You Member of your Immediate Family: <u>Johnny Ervin</u> NAME Business With Which You Are Associated (See Definitions) <u>Farm : MBC LLC</u> NAME OF BUSINESS	

ITEM 5	NATURE OF FINANCIAL BENEFIT OR DETRIMENT
<i>Farm land that could be in areas of renewable energies' development in the future</i>	

ITEM 6	FOR MEMBERS OF THE LEGISLATURE ONLY
If you will not abstain from acting on a matter state why, despite the potential conflict, you intend to vote or otherwise participate.	
ITEM 7	CONTINUATION

Joan B. Davis

(SIGNATURE)

3-11-25

(DATE)