

MEMORANDUM

(Open Session Report)

State of Alaska
Department of Law

to: Board of Agriculture and
Conservation

Division of Agriculture,
Department of Natural Resources

DATE: December 5, 2013

FILE NO.: BAC general

TEL. NO.: (907) 269-3039

SUBJECT: AAG report for
December 19, 2013 BAC
meeting

FROM: Bob McFarlane
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Anchorage

PART 1: NON-CONFIDENTIAL MATTERS FOR OPEN MEETING SESSION

1. Lanser v. Riddle – Right to Farm lawsuit. On November 7, 2013 Judge Harbison ruled in favor of Mr. Lanser and found that the odors from Mr. Riddle's septage lagoons were a private nuisance. The court determined that Mr. Riddle was actually using the lagoons to treat and dispose of septage rather than to support his limited agricultural operations, and that he was not entitled to the protection of the right to farm law under these circumstances. The order requires Mr. Riddle to abate the nuisance. I believe most of the board members have already received a copy of the decision by email, but if you need a copy please let me know and I will send one to you.

2. Mat Maid Property: There isn't much to report since the last meeting. EPA ground water sampling on the site was suspended for a short time as a result of the federal government "shut down." However, the EPA's contractor just recently resumed sampling, and things are now back on track. The December 31, 2013 date for obtaining a preliminary report on the contamination issues probably won't hold, but I will update the board as additional information becomes available.

3. HB 207: The next legislative session starts on January 21, 2014. Board members can keep track of hearings on HB 207 by visiting <http://www.legis.state.ak.us/basis/start.asp> and clicking the link to sign up for email updates.

PART 2: CONFIDENTIAL MATTERS FOR EXECUTIVE SESSION

Open Meetings Act – A.S. 44.62.310(b)¹
Attorney Client Privilege - Alaska Evidence Code §503(b)²
Board of Agriculture and Conservation Statutes³
ARLF Regulations⁴

1. Loan status information to be discussed at meeting: See separate executive session report.

¹ A motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session. AS §44.62.310(b).

² Section 503(b) of the Alaska Evidence Code states in relevant part: “A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client...”

³ AS §03.09.040 authorizes the board to classify some loan and marketing information confidential.

⁴ ARLF Regulations at 11 AAC 39.061 makes most loan information confidential and 11 AAC 39.031(f) authorizes the board to meet in executive session to consider loan applications.