

MEMORANDUM

(Open Session Report)

State of Alaska

Department of Law

to: Board of Agriculture and
Conservation

Division of Agriculture,
Department of Natural Resources

DATE: January 13, 2014

FILE NO.: BAC general

TEL. NO.: (907) 269-3039

SUBJECT: AAG report for
January 23, 2014 BAC
meeting

FROM: Bob McFarlane
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Commercial & Fair Business Section
Anchorage

PART 1: NON-CONFIDENTIAL MATTERS FOR OPEN MEETING SESSION

1. Lanser v. Riddle – Right to Farm Case: Counsel for Mr. Riddle has filed a Petition for Review with the Alaska Supreme Court. Mr. Riddle’s attorney is asking the court to review the Superior Court ruling prior to the final judgment being entered by the Superior Court. Mr. Riddle’s attorney believes the Superior Court erred in its finding that Mr. Riddle was not a “farmer” entitled to protection of the Right to Farm law. I will continue to update the board on this matter as it proceeds through the appeal process.

2. New Legislation: Rep. Tarr filed HB 238 on January 1, 2014. This bill requires the legislative audit division to conduct audits of compliance with the code section that requires municipalities to purchase agricultural products harvested in Alaska if they are priced no more than seven percent above competing products.¹ The bill also raises the seven percent (7%) preference limit to twelve percent (12%). In other words, if the bill passes, municipalities that buy agricultural products will be required to purchase the Alaska agricultural product as long as it is not priced more than 12% above the competing out-of-state product. You can follow the progress of this bill by going to the legislature’s website at: <http://www.legis.state.ak.us/basis/> and typing in the bill number.

2. Mat Maid Property Sale: The EPA has done the drilling and taken water samples from the Mat Maid property, but it has not yet provided John Carnahan at the Alaska Department of Environmental Conservation (“DEC”) with the results of that sampling.

¹ That code section is found at AS 29.71.040

Mr. Carnahan is our State contact with the EPA and he will provide us with updates and a copy of the report as soon as it becomes available. Once the results are known, we can meet with the City of Palmer and its attorney to decide what further action needs to be taken to move the sale along.

PART 2: CONFIDENTIAL MATTERS FOR EXECUTIVE SESSION

Open Meetings Act – A.S. 44.62.310(b)²
Attorney Client Privilege - Alaska Evidence Code §503(b)³
Board of Agriculture and Conservation Statutes⁴
ARLF Regulations⁵

² 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).

³ 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...”

⁴ AS §03.09.040 authorizes the board to classify some loan and marketing information confidential.

⁵ 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.