

# MEMORANDUM

(Open Session Report)

State of Alaska  
Department of Law

to: Board of Agriculture and  
Conservation  
  
Division of Agriculture,  
Department of Natural Resources

DATE: July 1, 2013

FILE NO.: BAC general

TEL. NO.: (907) 269-3039

SUBJECT: AAG report for July  
15, 2013 BAC meeting

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## **PART 1: NON-CONFIDENTIAL MATTERS FOR OPEN MEETING SESSION**

**1. Sale of Mat Maid Property.** On June 5, 2013, the division director and I attended a meeting with the City of Palmer, a representative of the EPA, representatives of the State of Alaska Department of Environmental Conservation (“DEC”), and various Mat Maid block property owners and other interested parties. The purpose of the meeting was to discuss the work plans for environmental testing of the various Mat Maid block properties. The EPA has funding to pay for the testing so there is no charge to the property owners for the initial testing and assessment. The Alaska Department of Environmental Conservation (“DEC”) also has a small amount of funding that can be used for additional testing and site planning although there probably isn’t enough for any clean up that might eventually be required.

The EPA plans to begin drilling holes and taking samples in early September. The EPA also estimates that the Mat Maid block stakeholders could have a draft report of the testing results as early as December 13, 2013. The report will provide information on possible contamination and it will also provide cost estimates and other options for resolving any contamination issues that might come up. A final report should be ready by the end of January, 2014. The DEC will then work with the property owners to resolve the contamination issues (if any), either through clean up or what they call “institutional controls (IC’s).” IC’s are basically just ways of managing contamination which may include action short of actual cleanup. For example, a minor spill might be managed by covering the spill up with asphalt rather than excavating the site. Once the EPA and DEC have the information they need to assess the environmental issues, the City of Palmer should have the information it needs to proceed with the purchase (or non-

purchase) of the property. We think next summer is a realistic time frame for resolving most of these concerns, but we will just have to wait and see what turns up in the report.

**2. Lanser v. Riddle – Right to Farm lawsuit.** There court held oral arguments on the motions for summary judgment on June 10, 2013, but as of the date of this memo, there has been no ruling on those motions. A settlement conference was scheduled for June 28, 2013 but the matter did not settle. Trial is scheduled to begin in the week of July 8, 2013. I expect there will be further developments in the case between the date of this memo and the date of the board meeting and I will try to provide the Board with an update at the meeting.

**PART 2: CONFIDENTIAL MATTERS FOR EXECUTIVE SESSION**

Open Meetings Act – A.S. 44.62.310(b)<sup>1</sup>  
Attorney Client Privilege - Alaska Evidence Code §503(b)<sup>2</sup>  
Board of Agriculture and Conservation Statutes<sup>3</sup>  
ARLF Regulations<sup>4</sup>

**1. Loan status information to be discussed at meeting:** There is no separate loan status report for this meeting.

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<sup>1</sup> 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).

<sup>2</sup> 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...”

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

<sup>4</sup> 11 AAC 39.061 makes most loan information confidential and 11 AAC 39.031(f) authorizes the board to meeting in executive session to consider loan applications.