

IN THE SUPREME COURT OF THE STATE OF ALASKA

ROBERT RIDDLE, dba)	
FAIRBANKS PUMPING and THAWING,)	Supreme Court No. S-15780
)	
Appellant,)	
)	
vs.)	
)	
ERIC LANSER,)	Trial Court No. 4FA-11-03117 CI
)	
Appellee.)	
_____)	

APPEAL FROM THE SUPERIOR COURT,
FOURTH JUDICIAL DISTRICT AT FAIRBANKS
THE HONORABLE BETHANY S. HARBISON

APPELLANT'S EXCERPT OF RECORD

WILLIAM R. SATTERBERG, JR. (7610126)
709 Fourth Avenue
Fairbanks, Alaska 99701
(907) 452-4454
Attorney for Appellants

Filed in the Supreme Court
of the State of Alaska, this
th day of August, 2015.

Marilyn May, Clerk

By: _____
Deputy Clerk

TABLE OF CONTENTS

TABLE OF CONTENTS i

Farm Conservation Plan, February 24, 1986 000001

Solid Waste Disposal Permit, April 12, 2007 000007

DEC, Decision Document, April 2007 000012

Fairbanks North Star Borough, conditional use approval . .000018

Farm Conservation Plans, April 13, 2011 000020

Complaint for Injunctive Relief, December 20, 2011000044

Defendant Robert Riddle's Answer to Complaint,
March 20, 2012 000088

Order Denying Plaintiff's Motion for Preliminary Injunction and
Order Denying Defendant Robert Riddle's Motion to Dismiss
for Failure to State a Claim, May 22, 2012 000148

Order Granting Motion for Summary Judgment in Part and Denying
Motion for Summary Judgment in Part and Granting Cross-
Motion for Summary Judgment in Part and Denying Cross-
Motion for Summary Judgment in Part, July 1, 2013 000163

Order, November 7, 2013 000182

Order, April 4, 2014000205

Amended Final Judgment, April 1, 2015 000208

Order Re: Attorney's Fees, April 27, 2015 000212

Cost Bill, Clerk's Ruling on Cost Bill, July 20, 2015 000231

Amended Final Judgment, redistributed July 30, 2015 000234

Defendant's Exhibit CP, Sales Receipt, August 23, 2008 000238

Defendant's Exhibit CQ, Invoice, January 1, 2007000239

Defendant's Exhibit CS, Camp Li-Wa receipt letter, September 1,
2008 000240

Defendant's Exhibit DN,	000241
Defendant's Exhibit DM,	000242
Defendant's Exhibit DL,	000243
Defendant's Exhibit DK,	000244
Defendant's Exhibit DJ,	000245
Defendant's Exhibit DR,	000246
Defendant's Exhibit DY,	000247
Defendant's Exhibit DQ,	000248
Defendant's Exhibit DW,	000249
Defendant's Exhibit DU,	000250
Defendant's Exhibit DV,	000251
Defendant's Exhibit DI,	000252
Defendant's Exhibit DO,	000253
Defendant's Exhibit DH,	000254
Defendant's Exhibit DP,	000255
Defendant's Exhibit DS,	000256
Defendant's Exhibit DX,	000257
Defendant's Exhibit DZ,	000258
Defendant's Exhibit EH,	000259
Defendant's Exhibit EI,	000260
Defendant's Exhibit EJ,	000261
Defendant's Exhibit EM,	000262
Defendant's Exhibit EN,	000263
Defendant's Exhibit EO,	000264

Transcript of Trial Proceedings, July 9, 2013, pp. 6, 10-16

Transcript of Trial Proceedings, July 18, 2013, p. 1870

Transcript of Trial Proceedings, September 13, 2013, pp. 2537-39

February 24, 1986

Ralph Van Reenan
3943 Richardson Hwy
North Pole, AK 99705

Dear Mr Van Reenan.


Enclosed is a copy of your Farm Conservation Plan. It has been received by the local Soil and Water Conservation District and this office and approved.

The original has been sent to the Contract Administration section of the Division of Land and Water Management for inclusion in your land purchase contract.

Please be reminded that this plan is in effect forever or until some modification is approved through the same process as this present plan. Employees of this division will be doing periodic inspections of all farm units to determine compliance with the approved plans.

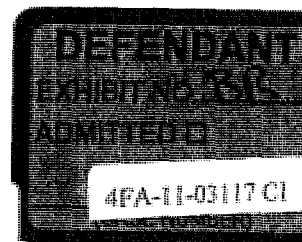
Any questions or modifications relating to the Farm Conservation Plan should be directed to this office in the future.

Sincerely,


Dan Allison
Natural Resource Manager

Enclosure

000001



STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE

RECEIVED

FEB 18 1986

FARM CONSERVATION PLAN
Pursuant to AS 38 and 11 AAC

Division of Agriculture

Please Print:

ADL 408481

NAME RALPH VAN REEMAN
ADDRESS 3943 RICHARDSON WAY
NORTH POLE, AK 99705
PHONE Home None Other None

This Farm Conservation Plan contains covenants which the Purchaser agrees to and is required to perform pursuant to AS 38 and 11 AAC and the Contract for Sale of Agricultural Interest in State Land entered into between the Purchaser and the State of Alaska as Grantor. These covenants shall run with the land and any Patent which may be issued by the State to the Purchaser. The requirements of this document may be enforced by those methods set forth in the Contract, a Patent, the procedures set forth in 11 AAC, and any legal or equitable remedies.

Local Soil & Water Conservation District FAIRBANKS
Legal Description SEC 5, T-3S, R-3E, E.M

COVENANTS:

1. The purchaser is required to separately submit and keep on file a Soil and Water Conservation Plan with the local Soil and Water Conservation District. The Soil and Water Conservation Plan is not a part of the State Farm Conservation Plan or the State Farm Development Plan. Recommendations in the Soil and Water Conservation Plan are not contract items and compliance is voluntary.

Donald M. Miller 2-10-86
Chairman, Soil & Water Conservation District Date Reviewed

2. Purchaser is required to use management practices reasonably designed to prevent pollution of water and to prevent soil erosion greater than applicable soil loss tolerances estimated by Soil Conservation Service guidelines.

3. The purchaser agrees to develop the farm and operate according to the data in the sale brochure for this parcel. The development map may be modified upon request of the Grantee by the same administrative process that is required for approval of the original plan.

SUMMARY of data required to be shown on attached Farm Conservation Plan Map (legend attached).

Farm Conservation Plan Map:
map scale 4" = 1 Mi
total acres 640
farmed acres 5
cleared acres _____
pasture acres _____
access roads _____
legal easements _____

Real Property Improvements:
Map # Improvement Type Size
1. HOUSE GARAGE SHED 3000 sq ft
2. GENERATOR SHED 200 sq ft
3. POTATO WAREHOUSE 3000 sq ft
4. (PROPOSED) _____ sq ft
5. OWNERS HOME 1000 sq ft
6. PROPOSED 000002 sq ft

Ralph Van Reeman
Purchaser/Grantee
Bill L. Heine
Director, Division of Agriculture

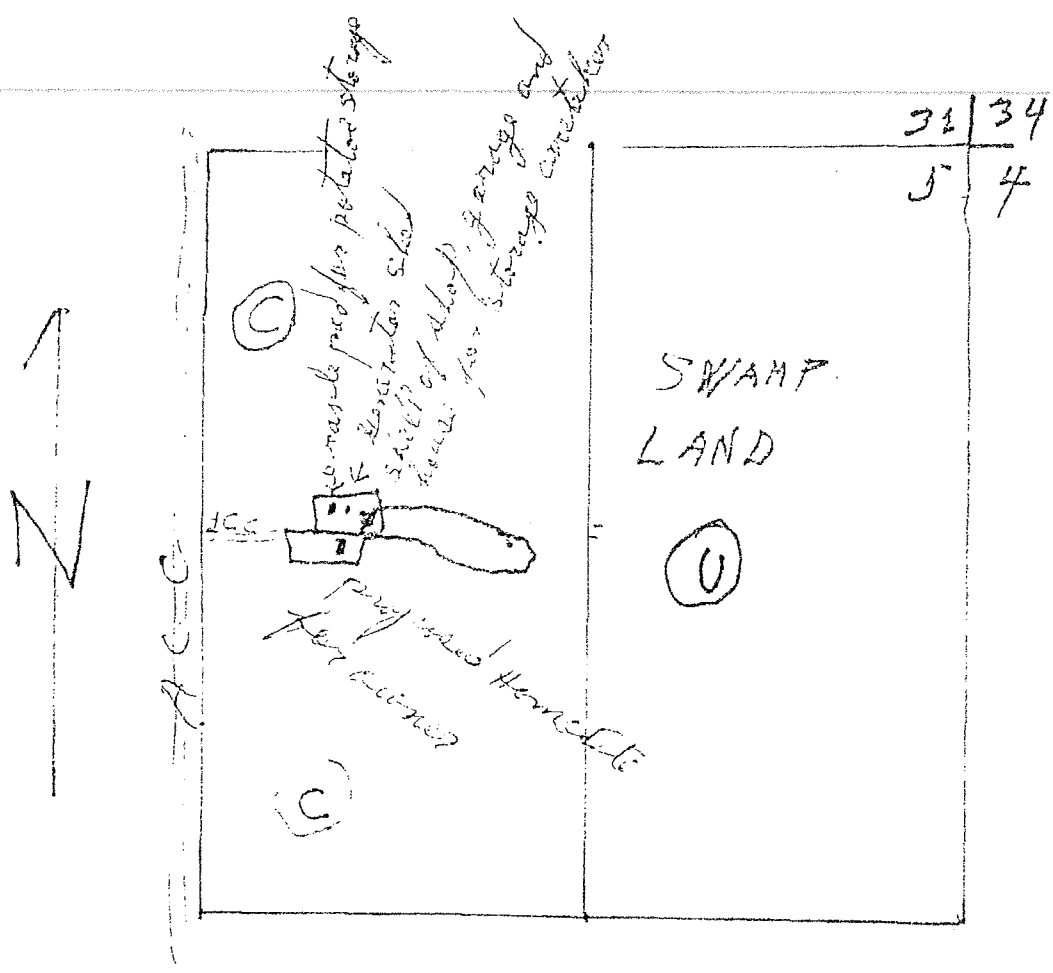
12/3/85
Date Agreed
3/19/85
Date Approved

RECEIVED

JAN 14 1986

Owner RALPH VAN REENAN Plan no. 7008 Date 12/23/85
 Operator SALT Section _____ Ac 1840/10
FIRBANKS NORTH STAR BOROUGH, AK
 photo no. SILSON

Location--***** SEC. 5, T-22, R-3E, N.M.
 HOMESTEAD REVISION REQUEST FOR THE ABOVE.



000003 RECEIVED

JAN 1 1986

Agriculture -- ARLF-M

RECEIVED

JAN 14 1986

Agriculture--ARLF-M

Homesite # 1 was swamp as shown on map. I was not allowed on the place for 14 months. There was no corner monument or section lines. Site # 2 after two years trying to develop this site it was given up on in favor of the lake site because of the close proximity of gravel there in mid-summer. There is no gravel here and two test wells to 50 feet indicate insufficient water to run a storage facility.

Site # 3 two houses are planned here because for health reasons I can't care for a storage facility in the winter. Two gravel pads are completed as is the outside shell of a house and shop along with a generator shed. Potatoe storage is to be built on the other pad.

In view of the above, I fail to see where our living here in a trailer, still on it's wheels, while we look for a place that can be built on, is a breach of contract, especially to the extent of not paying my clearing contractor and rescinding my last years payment mortorium. Please make all correspondence by certified letter as stated in my contract. We are still waiting for the letter of default mailed by Allison in late November.

Two hundred acres have been cleared, 55 test holes been dug and 3 exploratory wells to 50 feet. Instead of a uniform layer of gravel, blue frozen silt was found at 3 to 4 feet at most all locations. The wells would indicate it is probably the same to bedrock.

The soil survey report the state goes by does not show 403 acres of class II and III soils. Apparently someone got the figures reversed. The more promising land to the west is just a continuation of the 2000 acre swamp on the map.

All available weather data and our own experience shows that it is also 10 to 30 degrees colder for the entire Eielson agriculture land than Fairbanks. If true it leaves less than 40 frost free days per season. We are looking for professional advice on what if anything can be grown here.

000004

Until that time all clearing is on hold as is all new construction.

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE

FARM CONSERVATION PLAN
Pursuant to AS 38 and 11 AAC

Please Print:

ADL 408481

NAME RALPH VAN REENAN

ADDRESS 3943 RICHARDSON Hwy
NORTH POLE, AK 99705

PHONE Home NONE Other NONE

This Farm Conservation Plan contains covenants which the Purchaser agrees to and is required to perform pursuant to AS 38 and 11 AAC and the Contract for Sale of Agricultural Interest in State Land entered into between the Purchaser and the State of Alaska as Grantor. These covenants shall run with the land and any Patent which may be issued by the State to the Purchaser. The requirements of this document may be enforced by those methods set forth in the Contract, a Patent, the procedures set forth in 11 AAC, and any legal or equitable remedies.

Local Soil & Water Conservation District FAIRBANKS

Legal Description SEC 5, T-3S, R-3E, F.M

COVENANTS:

1. The purchaser is required to separately submit and keep on file a Soil and Water Conservation Plan with the local Soil and Water Conservation District. The Soil and Water Conservation Plan is not a part of the State Farm Conservation Plan or the State Farm Development Plan. Recommendations in the Soil and Water Conservation Plan are not contract items and compliance is voluntary.

Donald W. McKee
Chairman, Soil & Water Conservation District

2-10-86
Date Reviewed

2. Purchaser is required to use management practices reasonably designed to prevent pollution of water and to prevent soil erosion greater than applicable soil loss tolerances estimated by Soil Conservation Service guidelines.
3. The purchaser agrees to develop the farm and operate according to the data in the sale brochure for this parcel. The development map may be modified upon request of the Grantee by the same administrative process that is required for approval of the original plan.

SUMMARY of data required to be shown on attached Farm Conservation Plan Map (legend attached).

Farm Conservation Plan Map:

map scale 4" = 1 Mi
total acres 640
farmstead acres 5
cleared acres _____
pasture acres _____
access roads _____
legal easements _____

Real Property Improvements:

Map #	Improvement Type	Size
1.	HOUSE GARAGE SHOP	3000 sq ft
2.	GENERATOR SHED	200 sq ft
3.	POTATOE WAREHOUSE	3000 sq ft
4.	(PROPOSED)	sq ft
5.	OWNERS HOME	1000 sq ft
6.	PROPOSED	sq ft

Ralph Van Reenan
Purchaser/Grantee

12/22/85
Date Agreed 000005

RECEIVED

Director, Division of Agriculture

Date Approved

JAN 14 1986

Owner RALPH VAN REENAN Plan no. 7009 Date 12/23/75

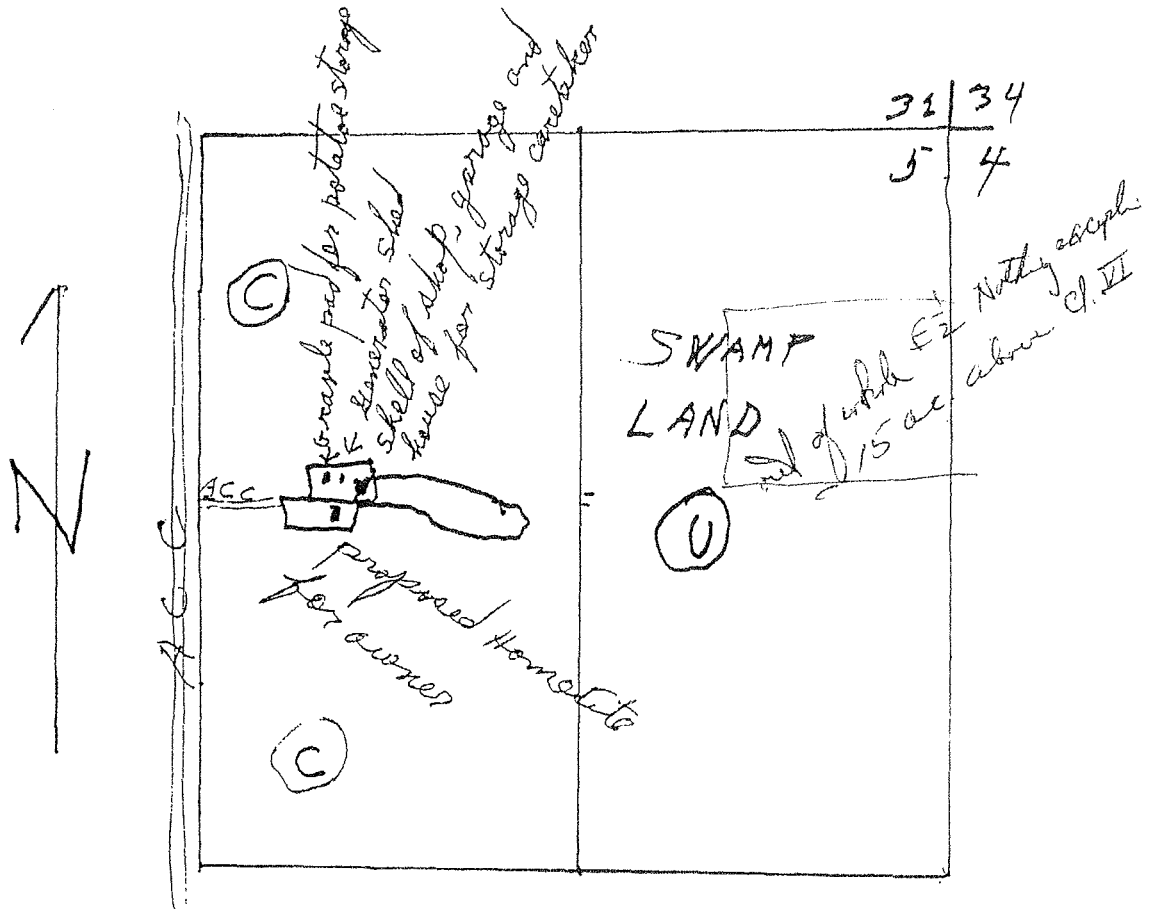
Operator SAME Scale _____ Acres 0.640

FAIRBANKS NORTH STAR BOROUGH, AK

photo no. ELSON

Location--***** SEC. 5. T-38. R-3E. F.M.

HOMESITE REVISION REQUEST FOR THE ABOVE.



RECEIVED

000006

JAN 1 - 1986

Agriculture - ARLF-M

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
610 University Avenue
Fairbanks, AK 99709

SOLID WASTE DISPOSAL PERMIT

Permit No. SWZA047-12

Date Issued: April 12, 2007
Date Expires: April 12, 2012

The Alaska Department of Environmental Conservation (ADEC), under authority of AS 46.03 and 18 AAC 60, issues a permit for the land application of biosolids to:

**Robert Riddle
1948 Badger Road
North Pole, AK 99705**

and designated representatives for the land application of domestic septage from private septic tanks and sludge from the Golden Heart Utilities Sewage Treatment Plant. The septage and sludge will be used as a source of nitrogen for turf and feed crops of bromegrass, barley, oats, wheat, canola, and timothy/alfalfa mix.

To reduce pathogens in sludge, the methods of (1) windrow composting, (2) lime stabilization, or (3) air drying may be used. Allowable vector attraction reduction methods include (1) injection into the soil or (2) incorporation into the soil (discing) within 6 hours of application.

To reduce pathogens in septage, two methods may be used: (1) raising the pH and employing crop harvesting restrictions, or (2) employing crop harvesting restrictions, grazing restrictions, and site restrictions. Note that Method #1 also fulfills the vector attraction reduction requirement. When using pathogen reduction method #2, allowable vector attraction reduction methods are (1) injection into the soil or (2) incorporation into the soil within 6 hours of application.

The involved lands comprise 760 acres near Moose Creek, Alaska off the Eielson Farm Road. They are located within Township 3 South, Range 3 East, Fairbanks Meridian and are described specifically as follows: the southwest quarter and the east half of the northwest quarter of Section 4; the south half of the south half of Section 5; the east half of Section 6; and the north quarter of the northeast quarter of Section 8.

The permit holder shall manage and operate the facility in accordance with 18 AAC 60 and the permit application materials. In addition, the following conditions and stipulations are required:

General Conditions

1. Access and inspection - The Permittee shall allow the Commissioner or his representative access to the permitted facilities at reasonable times to conduct scheduled or unscheduled inspections or tests to determine compliance with this permit, State laws, and regulations.

000007

2. Information access - Except for information relating to confidential processes or methods of manufacture, all records and reports submitted in accordance with the terms of this permit shall be available for public inspection at the State of Alaska, Department of Environmental Conservation, 610 University Avenue, Fairbanks, Alaska 99709
3. Civil and criminal liability - Nothing in this permit shall relieve the Permittee from civil or criminal penalties for noncompliance, whether or not such noncompliance is due to factors beyond his control, including, but not limited to, accidents, equipment breakdowns, or labor disputes.
4. Availability - The Permittee shall post or maintain a copy of this permit available to the public at the disposal facility.
5. Adverse impact - The Permittee shall take all necessary means to minimize any adverse impacts to the receiving waters or lands resulting from noncompliance with any limitation specified in this permit, including any additional monitoring needed to determine the nature and impact of the noncomplying activity. The Permittee shall clean up and restore all areas adversely impacted by the noncompliance.
6. Cultural or paleontological resources - Should cultural or paleontological resources be discovered as a result of this activity, work which would disturb such resources is to be stopped, and the State Historic Preservation Office, Division of Parks and Outdoor Recreation, Department of Natural Resources, is to be notified immediately (907-269-8721).
7. Applications for renewal - In accordance with 18 AAC 15.100(d), applications for renewal or amendment of this permit must be made no later than 30 days before the expiration date of the permit or the planned effective date of the amendment.
8. Other legal obligations - The requirements, duties, and obligations set forth in this permit are in addition to any requirements, duties, or obligations contained in any permit that the Alaska Department of Environmental Conservation or the U.S. Environmental Protection Agency has issued or may issue to the Permittee. This permit does not relieve the Permittee from the duty to obtain any and all necessary permits and to comply with the requirements contained in any such permit or with applicable state and federal laws and regulations. All activities conducted by the Permittee pursuant to the terms of this permit and all plans implemented by the Permittee pursuant to the terms of this permit shall comply with all applicable state and federal laws and regulations.
9. Pollution prevention - In order to prevent and minimize present and future pollution, when making management decisions that affect waste generation, the Permittee shall consider the following order of priority options: waste source reduction; recycling of waste; waste treatment; and waste disposal.

Specific Conditions

1. The permittee, as both preparer and applier, shall maintain all records associated with the Cumulative Pollutant Loading Rate (CPLR) for sludge required by Title 40, Part 503 of the Code of Federal Regulations (40 CFR 503). These requirements are shown in Table 2-8 in *A Plain English Guide to the EPA Part 503 Biosolids Rule* (EPA/832/R-93/003, September 1994). The first record, pollutant concentrations, will be handled as follows. Once per quarter the permittee shall obtain a chemical analysis of the sludge from Golden Heart Utilities to ensure that the ceiling limits of metals

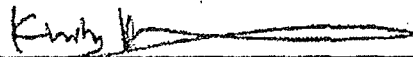
- listed in 40 CFR 503.13 Table 1 are not exceeded and that the sludge passes the TCLP test for metals. If any of these limits is exceeded, the permittee shall notify the Department immediately and shall accept no more sludge until such time as the limit is met. The permittee shall submit a copy of each quarterly analysis to the Department by January 31 each year. The annual amount per hectare of each pollutant (metal) applied to a site will be based on the average concentrations of these metals as shown in the 4th quarter analysis provided by Golden Heart Utilities.
2. Each time sludge is applied to a site, the permittee must sign a certification statement that all requirements for land application have been met. The certification is found in *A Plain English Guide to the EPA Part 503 Biosolids Rule*, Figure 2-10. The signed certification must be kept in the facility records.
 3. Regardless of the pathogen reduction and vector attraction reduction methods employed for treating sludge, certain additional crop harvesting restrictions, grazing restrictions, and site restrictions are required. The feed crops listed in the application materials shall not be harvested until 30 days after biosolids application, turf shall not be harvested until one year after biosolids application, animals shall not graze on the land until 30 days after biosolids application, and public access shall be restricted until 30 days after biosolids application. Should food crops be planted on land where sludge has been applied, more stringent harvesting restrictions may be required in accordance with 40 C.F.R. 503.
 4. When domestic septage is applied to a site, the record keeping requirements of 40 C.F.R. 503 must be kept. These requirements are found in Figure 1 of the EPA's *Domestic Septage Regulatory Guidance* (EPA 832-B-92-005, September 1993). A copy of the certification shown in Figure 7 of this publication must be signed each time domestic septage is applied and the signed certifications must be kept in the facility records.
 5. The permittee shall not apply sludge or domestic septage to a site if that application will cause the nitrogen concentration in the soil to exceed the agronomic rate for the particular crop to be planted (as per the amounts shown in the application materials).
 6. Biosolids may not be land applied in a designated wetland without prior authorization from the U.S. Army Corps of Engineers.
 7. Biosolids may not be land applied within 33 feet of any waters of the state or within 100 feet of a well that supplies drinking water.

Stipulations

1. The contents of septic tanks associated with restaurant grease traps or industrial sources are not considered domestic septage and are prohibited from being land applied under this permit.
2. Sewage sludge obtained from sources other than Golden Heart Utilities may not be land applied without a modification to this permit.
3. Warning signs that clearly forbid public access to land application sites shall be posted along the boundaries of those sites throughout the 30-day access restriction periods required under Specific Condition #3.

4. The height of containment berms around any lagoons and other facilities used to store or treat biosolids must be higher than the anticipated level of a 100-year flood in the Eielson Farm Road area.
5. Any on-site worker handling biosolids must wear appropriate protective clothing and follow appropriate hygienic practices to minimize the risk of exposure to any pathogens within the biosolids.

This permit expires on April 12, 2012 and may be revoked or amended in accordance with 18 AAC 60.260. The permit can be renewed if the facility will operate beyond this date. To avoid expiration of this permit, a renewal application must be submitted to ADEC at least 30 days before the expiration date, as set forth in 18 AAC 15.110.



Kimberly K. Stricklan, P.E.

0000010

000011

**Department of Environmental Conservation
Division of Environmental Health**

**Robert Riddle
Permit Application for
Land Application of Biosolids
Riddle Eielson Farm**

**Decision Document
April 2007**

000012

000012

Exhibit B
Page 1 of 6
000186

Alaska Department of Environmental Conservation
Decision Document
Robert Riddle Permit for Land Application of Biosolids
Riddle Eielson Farm
April 2007

I. Background

A. Land application of biosolids is the process of enriching soils by adding either septage from domestic septic tanks or sewage sludge from a wastewater treatment plant. The process is an accepted method of adding nutrients (primarily nitrogen) to soil and is of minimal risk when done in compliance with federal and state regulations. These regulations require that the material be treated to reduce pathogens and vector attraction prior to application and that the applied quantity does not exceed the loading rate for metals in the soil or the agronomic rate for nitrogen for the crop to be grown. In 1995, 54% of the sewage sludge generated in the United States was applied to land.

B. The Environmental Protection Agency (EPA) encourages land application of biosolids and has promulgated regulations governing the practice. These regulations are found in Title 40 Part 503 of the Code of Federal Regulations (40 CFR 503). Parts of the "503 regulations" are adopted by reference in the state solid waste regulations in Title 18 Chapter 60 of the Alaska Administrative Code (18 AAC 60.500-60.510). Among other things, the state regulations require land appliers of biosolids to obtain a permit from the Alaska Department of Environmental Conservation (ADEC) Solid Waste Program.

C. Robert Riddle first applied for a land application of biosolids permit in April 2006, but the ADEC ruled that the application was incomplete because of insufficient and/or conflicting information. During the ensuing months Mr. Riddle met with ADEC staff, revised his application, and on February 1, 2007, submitted an application that ADEC deemed acceptable. A public notice was placed in the *Fairbanks Daily News-Miner* on February 6 and 7, 2007 announcing a public comment period to end on March 9, 2007.

D. The treatment procedures described in the permit application will yield a product that the federal regulations classify as "Class B" biosolids. This classification of biosolids is acceptable for land application under specified site access and grazing restrictions.

II. Summary of Comments

A. A total of eleven individuals responded to the public notice. Of these, seven objected to ADEC issuing the permit, one was neutral, and three were in favor of granting the permit. The comments in favor of issuing the permit were based on the opinion that land application is:

- a good solution to sludge disposal;
- odor free when done correctly;
- good nutrient management; and
- of great benefit to crops.

0000013

Exhibit B
Page 2 of 6
000187

It is noted that only one of the individuals offering positive comments about the permit lives near Mr. Riddle's farm.

B. Overall, a total of 25 different points were raised within the comments received in objection to issuing the permit. These points fall into three categories:

- the applicant's financial stability and past practices;
- increased traffic on Eielson Farm Road; and
- concerns regarding human health and the environment.

C. Many of the comments objecting to the permit included concerns about the applicant's financial stability and past practices. In response, it is noted that under the solid waste regulations, proof of financial responsibility is only required for applications for landfill permits. Since Mr. Riddle is not applying for a landfill permit, financial responsibility cannot figure into the decision on this permit application. With regard to the applicant's past practices, the solid waste regulations (18 AAC 60.215) allow denial of a permit based on an applicant's compliance history only if that history "demonstrates the applicant's unwillingness or inability to achieve or maintain compliance with provisions of this chapter." Although Mr. Riddle is the direct subject of three complaint records in the ADEC files, all of those complaints have been resolved to the department's satisfaction. As such, the applicant's compliance history does not show an unwillingness or inability to achieve compliance and the permit cannot be denied based on past practices.

D. Several comments were received expressing concerns that the increased traffic of heavily-laden trucks would degrade the condition of Eielson Farm Road. Although this may be a valid concern, impact to roadways is not an issue the ADEC can use in deciding to approve or deny a land application of biosolids permit.

E. The greatest diversity of objections to issuing the permit fell within the category of human health and the environment. The issues and concerns within this category are addressed in Section III and include the following:

- surface water would not be protected;
- some application sites may be considered wetlands;
- groundwater is very shallow and could be contaminated;
- wildlife cannot be kept from application sites during the restricted period;
- the public will not effectively be kept from the application sites;
- the air quality needs to be monitored;
- housing is close enough that odors could be problematic;
- there is no analytical testing of septage; and
- the reliability of self-testing is doubtful.

Of the items in this list, the issue of greatest concern was the potential contamination of the shallow groundwater and the consequent adverse impact to drinking water wells.

0000014

Exhibit B
Page 3 of 6

000188

III. Discussion of Objectors' Concerns

A. Surface water. Surface water is present on the Riddle Eielson Farm property in the form of sloughs and ponds. In the state solid waste regulations, ADEC has adopted 40 CFR 503.14(C), which prohibits the application of sewage sludge within 10 meters (33 feet) of waters of the United States. Based on the dynamics of pathogens in soil, both EPA and ADEC accept this setback distance as being protective of surface waters under normal conditions. Concerns about surface water quality during floods are valid since the area along Eielson Farm Road is within the 100-year flood plain and the likelihood exists that the land application sites on Mr. Riddle's property could be inundated. The severity of that impact depends on how soon flooding occurs after biosolids are applied to the land. However, septic systems, farm yards and other similar surface features pose an equal risk to water quality during floods. Furthermore, the washout of storage areas or lagoons in which biosolids are temporarily stored can be prevented by building surrounding berms higher than the anticipated flood level. Building berms to such a height will be a condition of the ADEC permit.

B. Wetlands. Although much of the area along Eielson Farm Road is classified as wetlands, according to a U. S. Army Corps of Engineers (USACE) wetlands determination, only a small portion of the Riddle Eielson Farm is considered wetlands. It is the applicant's responsibility to obtain a permit from the USACE under section 404 of the Clean Water Act before applying biosolids to wetland areas. As such, the ADEC permit will not allow the land application of biosolids in any wetland areas.

C. Groundwater. Many comments included concerns about impacts to groundwater, which can be as shallow as 5 feet below the surface in the Eielson Farm Road area. In response, the ADEC notes that septic systems are common in the Eielson Farm Road area and that a minimum separation of 4 feet is required between the seasonally high groundwater table and the bottom of a leach field. This distance is considered protective of groundwater based on the dynamics of pathogens in soil. According to information in the *ADEC Installers Manual for Conventional Onsite Domestic Wastewater Treatment and Disposal Systems*, a 99.995% reduction in fecal coliform bacteria occurs within 2 feet of the bottom of the leach field in a domestic septic system. Since biosolids are applied at or a few inches below the ground surface, it is likely that any pathogens in the biosolids are further from the groundwater than are pathogens introduced into the subsurface via leach fields.

The minimum allowable distance between a drinking water well and a leach field is 100 feet. Thus, should any coliform bacteria make it to groundwater, they must survive long enough to travel the minimum separation distance of 100 feet to reach a drinking water well. One comment received mentioned a well that is approximately 300 feet from the boundary of the Riddle Eielson Farm. Given that land application cannot occur within 50 feet of a property boundary, the minimum potential distance to this water well would be 350 feet, more than three times the required distance between the well and a septic system. On this basis, drinking water wells in the area may be at greater risk of contamination from on-site septic systems than the land application of biosolids on Mr. Riddle's farm.

D. Wildlife. Although grazing restrictions apply when Class B biosolids are applied to land, several comments raised the concern that wildlife and waterfowl are not subject to those restrictions and hunters could be contaminated through handling the carcasses of animals that had recently been on Mr. Riddle's fields. In response, the ADEC notes that the intent of the grazing restrictions is not to prevent physical contact between the animals and the biosolids but to prevent ingestion of bacteria that could then be passed to humans through animal products (i.e. meat, milk, and cheese). Contaminated milk and cheese are not an issue with harvested wildlife and waterfowl, but contaminated meat certainly is. However, as with chicken and pork, pathogens in the meat (primarily *helminth* ova) are readily killed by proper cooking. The only other pathway of exposure to pathogens is through direct physical contact with pathogens that an animal or bird may have on its skin, feet, or feathers. The ADEC notes that the risk of exposure through this pathway is significantly reduced by normal hygienic practices, such as washing with soap and water and changing bloody clothing after handling the carcass.

E. Public Access. Since there are no fences around the Riddle property, the concern was raised that the public, particularly children, could easily access the property. The Eielson Farm Road area is sparsely populated with widely separated homes and can be considered "country." As such, Mr. Riddle's farm qualifies as a remote site with low potential for public contact. In such locations, the regulations require only that the applicator warn the public that biosolids have been spread and make notification that access is prohibited. This can be accomplished by placing appropriate warning signs around the application sites. Requiring further measures to prevent public access to Mr. Riddle's farm is not commensurate with the risk.

F. Air Quality. Some comments raised the concern that pathogens could become airborne and infect surrounding areas. The EPA document *Control of Pathogens and Vector Attraction in Sewage Sludge (EPA/625/R-92/013)* references research showing that aerosolization of helminthes and protozoans is unlikely, but that there is a chance for bacteria to become airborne. However, to do so, the product the bacteria are in must be very dry. Class B biosolids are almost never that dry, and septage never is. Furthermore, the regulations require that biosolids be tilled under the same day they are applied, so the biosolids are not likely to dry out on the surface. The EPA document *further* shows that aerosolized bacteria will fall back to earth within a very short distance. As such, there is a slight risk to workers who apply the biosolids and very little risk to the general public. Workers applying the biosolids should wear protective clothing such as gloves and masks.

G. Odors. There was some concern in the comments that neighboring houses were close enough that odor would be a problem. On the other hand, one person who commented said he had once lived next to a farm where land application was occurring and never experienced odors from the operation. Under the solid waste regulations, Mr. Riddle is obligated to ensure that odors do not become a nuisance and Mr. Riddle has stated he will use commercial products to stop odors if they do become a problem. Although the permit cannot be denied due to the potential for odors, ADEC can revoke the permit if odors become a nuisance and the nuisance is not abated.

0000016

H. Testing of Septage. One comment raised the concern that the raw septage would not be subject to chemical analysis. EPA has analyzed the contents of domestic septage and found that

it contains lower concentrations of metals and nitrogen than does sewage sludge, as waste treatment processes tend to concentrate those elements in the sludge. As such, the federal regulations do not require analytical testing of domestic septage. Instead, the regulations allow land appliers of domestic septage to calculate the concentration of metals and nitrogen they are adding to the soil using a very simple formula and assumed concentrations of metals and available nitrogen.

I. Self-testing. A couple of comments expressed concern that the applicant will be taking all pH and temperature readings himself and that those readings may not be accurate. While this is true, ADEC has to rely on the integrity of the permit holder for most monitoring required by solid waste permits. Monitoring of groundwater is usually handled by a contractor who sends samples to an independent laboratory, but visual monitoring and methane gas monitoring are usually done in-house. Regular inspections by ADEC staff help to reduce instances of falsified monitoring information.

IV. Conclusion

After evaluating the information contained in the permit application, the comments received from the public, and available literature, ADEC has determined that there is no sufficient reason for denying this permit. ADEC concurs with the points made by the individuals who agreed with granting the permit and holds the opinion that the federal and state regulations and available scientific data sufficiently address the legitimate concerns raised in objection to the permit. The land application of biosolids is a process with a proven history throughout the United States and it is working successfully at other interior Alaska locations. However, on the basis of the comments received, ADEC will include the following stipulations in the permit:

- warning signs must be posted at the boundaries of application sites for the required time periods;
- biosolids will not be applied within 33 feet of waters of the United States and 100 feet from a drinking water well;
- workers must wear protective clothing when handling biosolids;
- the height of berms around lagoons and other storage facilities must be higher than the level of a 100-year flood; and
- biosolids cannot be spread in a designated wetland areas without first obtaining a permit from the USACE.

0000017

Exhibit B
Page 6 of 6

000191



Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907/459-1000

www.co.fairbanks.ak.us

September 19, 2007

Robert Riddle
1948 Badger Road
North Pole, Alaska 99705

RE: CU2008-005

Dear Mr. Riddle:

At its regular meeting of September 18, 2007, the Planning Commission of the Fairbanks North Star Borough considered your request for conditional use approval for beneficial application of biosolids to TL 601 T. 3S, R. 3E, section 06, D & I Farmstead Lots 3-5, Coben Farmstead Lots 2-4, Sebaugh Subdivision Lot 01 and Blockcolsky Property Lot A in the General Use 1 zone. (located east of Eielson Farm Road, north of Jolene Avenue)

The Commission voted nine in favor, zero opposed, to approve your request.

Please read the attached conditions carefully as they must be adhered to for this approval to be valid. Please sign and return the enclosed agreement within fifteen (15) days from the date of the decision of the administrative body.

This decision may be appealed within fifteen (15) days from the date of the decision to the Fairbanks North Star Borough Board of Adjustments.

Also, public notice signs must be returned within 10 days. Upon receipt, in good condition, we will promptly initiate a refund of the sign deposit.

If you have any questions regarding this matter, please feel free to contact the Department of Community Planning, Division of Planning and Zoning, 809 Pioneer Road, or call 459-1260.

Sincerely,

Doug Braddock, Deputy Planning Director
Department of Community Planning

Enclosure

DTB/rs

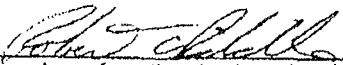
0000018

Exhibit C
Page 1 of 2


000192

CONDITIONS OF APPROVAL:

1. As long as biosolids are being applied to the property the principal use of the property must be agricultural in nature, with the beneficial application of biosolids remaining a conditionally-approved accessory use in support of the agricultural use. The disposal of biosolids cannot become the principal use of the property.
2. All state and federal standards contained in 40 CFR Part 503 and 18 AAC 60.500 et seq are part of this conditional use approval.
3. The stipulations contained in ADEC Solid Waste Permit No. SWZA047-12 are part of this conditional use approval.



Signature of applicant acknowledging and
agreeing to abide by the conditions listed above.



Signature of property owner acknowledging and
agreeing to abide by the conditions listed above.

CU2008-005 A request by Robert Riddle for conditional use approval for beneficial application of biosolids to TL 601 T. 3S, R. 3E, section 06, D & I Farmstead Lots 3-5, Coben Farmstead Lots 2-4, Sebaugh Subdivision Lot 01 and Blockcolsky Property Lot A in the General Use 1 zone. (located east of Eielson Farm Road, north of Jolene Avenue)

0000019

Exhibit C
Page 2 of 2
000193

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE
STATE FARM CONSERVATION PLAN
Pursuant to AS 38 and 11 AAC

ADL# Lot 5 D & I Farmstead Subd.

NAME Robert Riddle

ADDRESS 1948 Badger Road North Pole, AK 99705

PHONE Home: (907) 488-6844 Other: _____

Local Soil and Water Conservation District Fairbanks

This State Farm Conservation Plan (Plan), authorized under AS 38 and required pursuant to 11 AAC 67.177 and conditions within the Contract, summarizes purchaser's/owner's commitment to proper agricultural land use and conservation practices, which are represented graphically on the attached parcel map and supplementary written narrative. When approved, this plan and its covenants remain with the property title as approved currently or in a subsequent amendment.

Covenants:

- 1) Purchaser of this parcel classified by the State of Alaska for agricultural purposes agrees to inform himself or herself of the governing statute (AS 38.05.321), regulations (11 AAC 67.177 and .180), and associated conditions of sale (see brochure and contract), and to abide by all relevant covenants and restrictions of those statutes, regulations and conditions of sale.
- 2) In compliance with AS 38.05.321; 11 AAC 67.177 and the conditions of sale, purchaser agrees, to the extent development is planned, to develop and maintain this parcel in accordance with the Plan, with primary emphasis upon permanent soil conservation measures, that, when possible, will be in compliance with the appropriate practices and procedures identified in the current USDA/NRCS manual.

When complete, this Plan should address such permanent conservation objectives as: a) protection of wetland, streams and related water resources of the land, and b) protection of highly erodible land, farmsteads, animal rest areas, etc. with conservation practices such as effective wind barriers (natural or planted wind breaks), permanent cover crops, and proper location of **0000020** covenants.

ADL SFCP
Rev 2/7/2003

must be shown on the scale plan map. Of equal importance are the purchaser's/owner's land-development decisions. The proper matching of cropping intentions and methods with suitable soil types and topographical features is essential.

The parcel map should identify: a) map scale, b) non-cropland areas such as wetland, steep slopes, etc. c) clearing configuration (proposed or existing) and acreage; d) real property improvement locations and types (houses, barns, fences, etc.); e) access roads, legal easements and existing physical features such as water bodies.

Map scale <u>1 in. = 400 ft.</u>	Map # of Improvement	Improvement Type (house, barn, etc.)	Size
Total parcel acres <u>120</u>			
Total cropland acres <u>MAPA</u>	1.	_____	_____
Cleared acres <u>~100</u>	2.	_____	_____
Cropped acres _____	3.	_____	_____
Pasture acres _____	4.	_____	_____

Robert Riddle
Purchaser/Owner

March 09, 2011
Date Agreed To

<i>Soil and Water Conservation District Comments and/or Recommendations:</i> <i>(Attach Separate Sheet if Necessary)</i>	
<u>See Attached</u>	
Reviewed by the <u>Fairbanks</u> Soil and Water Conservation District on <u>4/13/11</u>	
<u>[Signature]</u> Chair	<u>4/13/11</u> Date Reviewed

Director, Division of Agriculture

Date Approved

0000021

ADL SFCP
Rev 2/7/2003



STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE

FARM CONSERVATION PLAN

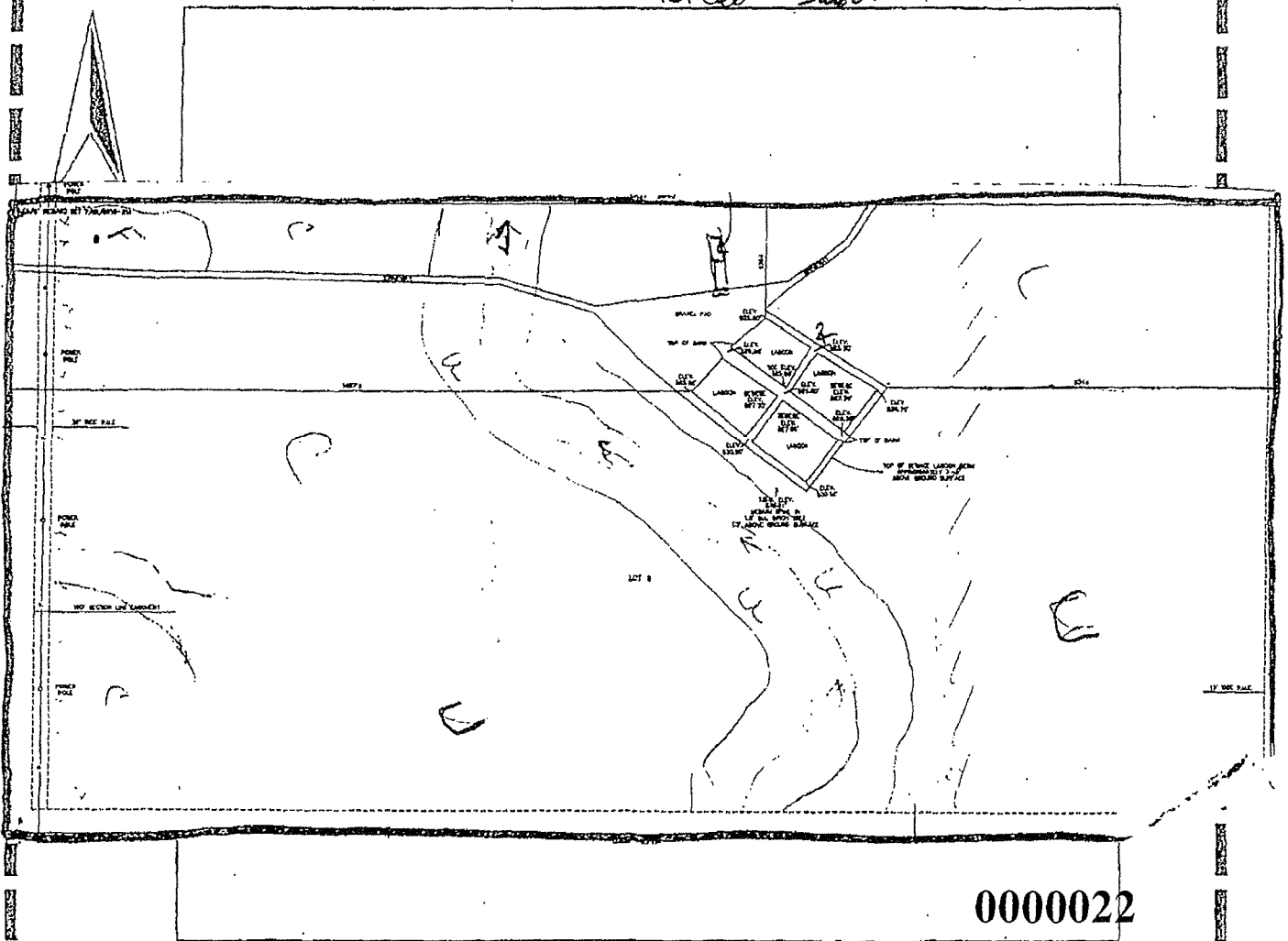
Pursuant to A.S. 38.05.020, A.S. 38.05.069, A.S. 38.05.321, and 11AAC 67 160-192

Owner Robert Riddle Conservation District No FSWCD Date March 09, 2011
 Operator Robert Riddle Scale 1 = 400' Acres 120
 Approx. Approx.
Fairbanks North Star Borough Alaska Phone No. (907)488-6844
 County State

Location (Community, watershed, road & distance, etc.)

N

Lot 5 D & I Farmstead Subd.



0000022

ADL SFCP
Rev 2/7/2003



CONSERVATION DISTRICT

The Fairbanks SWCD approves of the clearing/development activities stated on the attached Alaska Farm Conservation Plan (ADL# Lot 5 D&I Farmstead Sub.) to maintain the lands agricultural purpose. All activities must be in accordance with local, state, and federal laws. The Fairbanks SWCD strongly urges the landowner to complete and maintain a Conservation Plan with Fairbanks SWCD or NRCS to identify and address any natural resource concerns and implement best management practices.

Board of Supervisors Signatures

Name *D. Lee* Date 4/12/11 Notes: _____

Name *Christy Schopfberg* Date 4/12/11 Notes: _____

Name *Dodd Boyce* Date 4/13/11 Notes: Adequate buffer should be provided from slough.

Name *[Signature]* Date 4/13/11 Notes: _____

Name _____ Date _____ Notes: _____

590 University Avenue, Suite 2 • Fairbanks, Alaska 99709
Phone: (907) 479-1213 • Fax: (907) 479-6998 • E-mail: fswcd@gci.net

0000023

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE
STATE FARM CONSERVATION PLAN
Pursuant to AS 38 and 11 AAC

ADL# Lot 4 Coben Farmstead Subd.

NAME Robert Riddle

ADDRESS 1948 Badger Road North Pole, AK 99705

PHONE Home: (907)488-6844 Other: _____

Local Soil and Water Conservation District Fairbanks

This State Farm Conservation Plan (Plan), authorized under AS 38 and required pursuant to 11 AAC 67.177 and conditions within the Contract, summarizes purchaser's/owner's commitment to proper agricultural land use and conservation practices, which are represented graphically on the attached parcel map and supplementary written narrative. When approved, this plan and its covenants remain with the property title as approved currently or in a subsequent amendment.

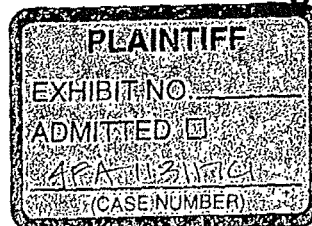
Covenants:

- 1) Purchaser of this parcel classified by the State of Alaska for agricultural purposes agrees to inform himself or herself of the governing statute (AS 38.05.321), regulations (11 AAC 67.177 and .180), and associated conditions of sale (see brochure and contract), and to abide by all relevant covenants and restrictions of those statutes, regulations and conditions of sale.
- 2) In compliance with AS 38.05.321, 11 AAC 67.177 and the conditions of sale, purchaser agrees, to the extent development is planned, to develop and maintain this parcel in accordance with the Plan, with primary emphasis upon permanent soil conservation measures, that, when possible, will be in compliance with the appropriate practices and procedures identified in the current USDA/NRCS manual.

When complete, this Plan should address such permanent conservation objectives as: a) protection of wetland, streams and related water resources of the land, and b) protection of highly erodible land, farmsteads, animal rest areas, etc. with conservation practices such as effective wind barriers (natural or planted wind breaks), permanent cover crops, and proper location of improvements

ADL SFCP
Rev 2/7/2003

Page 1 of 4



002961

must be shown on the scale plan map. Of equal importance are the purchaser's/owner's land-development decisions. The proper matching of cropping intentions and methods with suitable soil types and topographical features is essential.

The parcel map should identify: a) map scale. b) non-cropland areas such as wetland, steep slopes, etc. c) clearing configuration (proposed or existing) and acreage: d) real property improvement locations and types (houses, barns, fences, etc.); e) access roads, legal easements and existing physical features such as water bodies.

Map scale	<u>1 = 1/4" = 0</u>	Map # of Improvement	Improvement Type (house, barn, etc.)	Size
Total parcel acres	<u>80</u>			
Total cropland acres	<u>80</u>	1.	_____	_____
Cleared acres	<u>~ 20</u>	2.	_____	_____
Cropped acres	_____	3.	_____	_____
Pasture acres	_____	4.	_____	_____

Robert Riddle	March 09, 2011
Purchaser/Owner	Date Agreed To

Soil and Water Conservation District Comments and/or Recommendations:
(Attach Separate Sheet if Necessary)

See Attached

Reviewed by the Fairbanks Soil and Water Conservation District on 4/13/11.

[Signature] 4/13/11
 Chair Date Reviewed

Director, Division of Agriculture	Date Approved
-----------------------------------	---------------

0000025



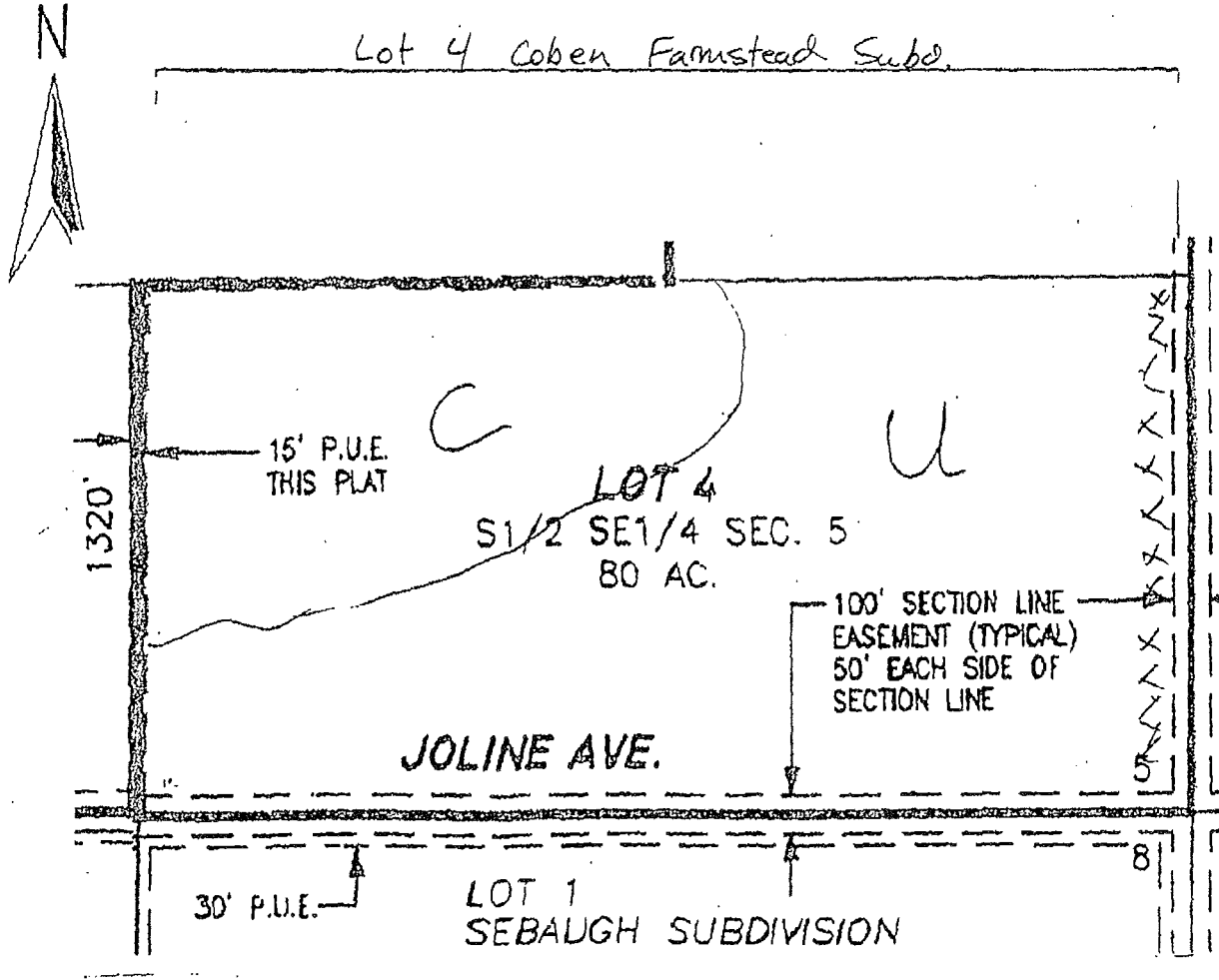
STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE

FARM CONSERVATION PLAN

Pursuant to A.S. 38.05.020, A.S. 38.05.069, A.S. 38.05.321, and 11AAC 67 160-192

Owner Robert Riddle Conservation District No FSWCD Date Mar 09, 2011
 Operator Robert Riddle Scale _____ Acres 80
 Fairbanks North Star Borough Alaska Phone No. (907)488-6844
 County State Approx. Approx.

Location (Community, watershed, road & distance, etc.)



0000026



FAIRBANKS SOUTH WESTERN
CONSERVATION DISTRICT

The Fairbanks SWCD approves of the clearing/development activities stated on the attached Alaska Farm Conservation Plan (ADL# lot 4 Coben Farmstead Subd.) to maintain the lands agricultural purpose. All activities must be in accordance with local, state, and federal laws. The Fairbanks SWCD strongly urges the landowner to complete and maintain a Conservation Plan with Fairbanks SWCD or NRCS to identify and address any natural resource concerns and implement best management practices.

Board of Supervisors Signatures

[Signature] 4/12/11
Name _____ Date _____ Notes: _____

[Signature] 4/12/11
Name _____ Date _____ Notes: _____

[Signature] 4/13/2011
Name _____ Date _____ Notes: _____

[Signature]
Name _____ Date _____ Notes: _____

Name _____ Date _____ Notes: _____

590 University Avenue, Suite 2 • Fairbanks, Alaska 99709
Phone: (907) 479-1213 • Fax: (907) 479-6998 • E-mail: fswcd@pci.net

0000027

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE
STATE FARM CONSERVATION PLAN
Pursuant to AS 38 and 11 AAC

ADL# Lot 3 Coben Farmstead Subd.

NAME Robert Riddle

ADDRESS 1948 Badger Road North Pole, AK 99705

PHONE Home: (907) 488-6844 Other: _____

Local Soil and Water Conservation District Fairbanks

This State Farm Conservation Plan (Plan), authorized under AS 38 and required pursuant to 11 AAC 67.177 and conditions within the Contract, summarizes purchaser's/owner's commitment to proper agricultural land use and conservation practices, which are represented graphically on the attached parcel map and supplementary written narrative. When approved, this plan and its covenants remain with the property title as approved currently or in a subsequent amendment.

Covenants:

- 1) Purchaser of this parcel classified by the State of Alaska for agricultural purposes agrees to inform himself or herself of the governing statute (AS 38.05.321), regulations (11 AAC 67.177 and .180), and associated conditions of sale (see brochure and contract), and to abide by all relevant covenants and restrictions of those statutes, regulations and conditions of sale.
- 2) In compliance with AS 38.05.321, 11 AAC 67.177 and the conditions of sale, purchaser agrees, to the extent development is planned, to develop and maintain this parcel in accordance with the Plan, with primary emphasis upon permanent soil conservation measures, that, when possible, will be in compliance with the appropriate practices and procedures identified in the current USDA/NRCS manual.

When complete, this Plan should address such permanent conservation objectives as: a) protection of wetland, streams and related water resources of the land, and b) protection of highly erodible land, farmsteads, animal rest areas, etc. with conservation practices such as effective wind barriers (natural or planted wind breaks), permanent cover crops, and proper location of **0000028**.

ADL SFCP
Rev 2/7/2003



must be shown on the scale plan map. Of equal importance are the purchaser's/owner's land-development decisions. The proper matching of cropping intentions and methods with suitable soil types and topographical features is essential.

The parcel map should identify: a) map scale, b) non-cropland areas such as wetland, steep slopes, etc. c) clearing configuration (proposed or existing) and acreage; d) real property improvement locations and types (houses, barns, fences, etc.); e) access roads, legal easements and existing physical features such as water bodies.

Map scale	<u>1-29C</u>	Map # of	Improvement Type	Size
Total parcel acres	<u>40</u>	Improvement	(house, barn, etc.)	
Total cropland acres	<u>40</u>	1.	_____	_____
Cleared acres	_____	2.	_____	_____
Cropped acres	<u>30</u>	3.	_____	_____
Pasture acres	_____	4.	_____	_____

Robert Riddle
Purchaser/Owner

March 09, 2011

Date Agreed To

Soil and Water Conservation District Comments and/or Recommendations:
(Attach Separate Sheet if Necessary)

See Attached

Reviewed by the Fairbanks Soil and Water Conservation District on 4/13/11

[Signature]
Chair

4/13/11
Date Reviewed

Director, Division of Agriculture

Date Approved

0000029

ADL SFCP
Rev 2/7/2003



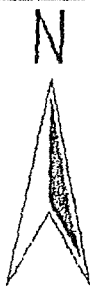
STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE

FARM CONSERVATION PLAN

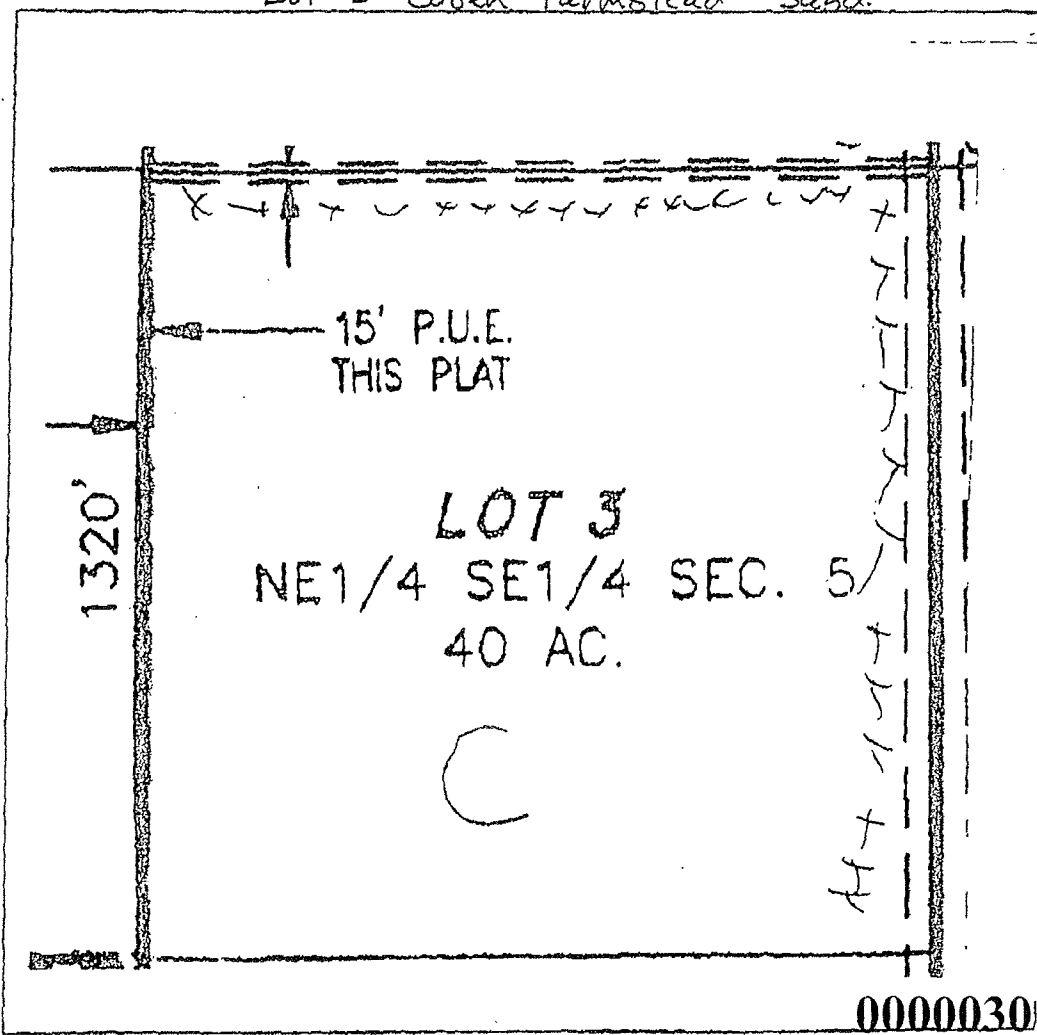
Pursuant to A.S. 38.05.020, A.S. 38.05.069, A.S. 38.05.321, and 11AAC 67 160-192

Owner Robert Riddle Conservation District No. FSWCD Date March 9, 2011
 Operator Robert Riddle Scale Approx. Acres 40 Approx.
Fairbanks North Star Borough Alaska Phone No. (907) 488-6844
 County State

Location (Community, watershed, road & distance, etc.)






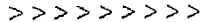
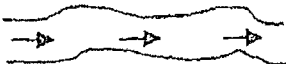





Lot 3 Cohen Farmstead Subd.



ADL SFCP
Rev 2/7/2003

FARM CONSERVATION PLAN MAP LEGEND

North arrow (needed for orientation)	
Parcel Boundary	
Field or land use boundary	
Existing access (roads or trails)	
Proposed access (roads or trails)	
Irrigation or drainage ditch	
Streams	
Building with map identification number	
Farmstead	
Field to be cleared and cultivated	C
Pasture	P
Undeveloped Area (woodlands)	U
Windbreak, leave strip, etc. (width?)	*****
Well	
Water reservoir including ponds	R
Fence	XXXXXXXXXXXX
Others used	

0000031



FAIRBANKS SOIL & WATER
CONSERVATION DISTRICT

The Fairbanks SWCD approves of the clearing/development activities stated on the attached Alaska Farm Conservation Plan (ADL# Lot 3 Coben Farmstead Subd.) to maintain the lands agricultural purpose. All activities must be in accordance with local, state, and federal laws. The Fairbanks SWCD strongly urges the landowner to complete and maintain a Conservation Plan with Fairbanks SWCD or NRCS to identify and address any natural resource concerns and implement best management practices.

Board of Supervisors Signatures

<i>[Signature]</i>	<i>4/12/11</i>	
Name	Date	Notes:
<i>Randolf Schurferberg</i>	<i>4/12/11</i>	
Name	Date	Notes:
<i>Dodd Boyce</i>	<i>4/13/2011</i>	
Name	Date	Notes:
<i>[Signature]</i>	<i>4/13/2011</i>	
Name	Date	Notes:
Name	Date	Notes:

590 University Avenue, Suite 2 • Fairbanks, Alaska 99709 **0000032**
Phone: (907) 479-1213 • Fax: (907) 479-6998 • E-mail: fswed@gci.net

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE
STATE FARM CONSERVATION PLAN
Pursuant to AS 38 and 11 AAC

ADL# Lot 4 D&I Farmstead Sub.

NAME Robert Riddle

ADDRESS 1948 Badger Road North Pole, AK 99705

PHONE Home: (907)488-6844 Other: _____

Local Soil and Water Conservation District Fairbanks ...

This State Farm Conservation Plan (Plan), authorized under AS 38 and required pursuant to 11 AAC 67.177 and conditions within the Contract, summarizes purchaser's/owner's commitment to proper agricultural land use and conservation practices, which are represented graphically on the attached parcel map and supplementary written narrative. When approved, this plan and its covenants remain with the property title as approved currently or in a subsequent amendment.

Covenants:

- 1) Purchaser of this parcel classified by the State of Alaska for agricultural purposes agrees to inform himself or herself of the governing statute (AS 38.05.321), regulations (11 AAC 67.177 and .180), and associated conditions of sale (see brochure and contract), and to abide by all relevant covenants and restrictions of those statutes, regulations and conditions of sale.
- 2) In compliance with AS 38.05.321, 11 AAC 67.177 and the conditions of sale, purchaser agrees, to the extent development is planned, to develop and maintain this parcel in accordance with the Plan, with primary emphasis upon permanent soil conservation measures, that, when possible, will be in compliance with the appropriate practices and procedures identified in the current USDA/NRCS manual.

When complete, this Plan should address such permanent conservation objectives as: a) protection of wetland, streams and related water resources of the land, and b) protection of highly erodible land, farmsteads, animal rest areas, etc. with conservation practices such as effective wind barriers (natural or planted wind breaks), permanent cover crops, and proper location of **0000033** improvements.

ADL SFCP
Rev 2/7/2003

must be shown on the scale plan map. Of equal importance are the purchaser's/owner's land-development decisions. The proper matching of cropping intentions and methods with suitable soil types and topographical features is essential.

The parcel map should identify: a) map scale, b) non-cropland areas such as wetland, steep slopes, etc. c) clearing configuration (proposed or existing) and acreage; d) real property improvement locations and types (houses, barns, fences, etc.); e) access roads, legal easements and existing physical features such as water bodies.

Map scale <u>1:400</u>	Map # of Improvement	Improvement Type (house, barn, etc.)	Size
Total parcel acres <u>120</u>			
Total cropland acres _____	1.	<u>BARN</u>	<u>30+100</u>
Cleared acres <u>~80</u>	2.	_____	_____
Cropped acres _____	3.	_____	_____
Pasture acres _____	4.	_____	_____

Robert Riddle
Purchaser/Owner

Date Agreed To

Soil and Water Conservation District Comments and/or Recommendations:
(Attach Separate Sheet if Necessary)

See Attached

Reviewed by the Fairbanks Soil and Water Conservation District on 4/13/11

[Signature] 4/13/11
Chair Date Reviewed

Director, Division of Agriculture

Date Approved

0000034

ADL SFCP
Rev 2/7/2003



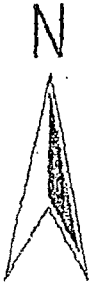
STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE

FARM CONSERVATION PLAN

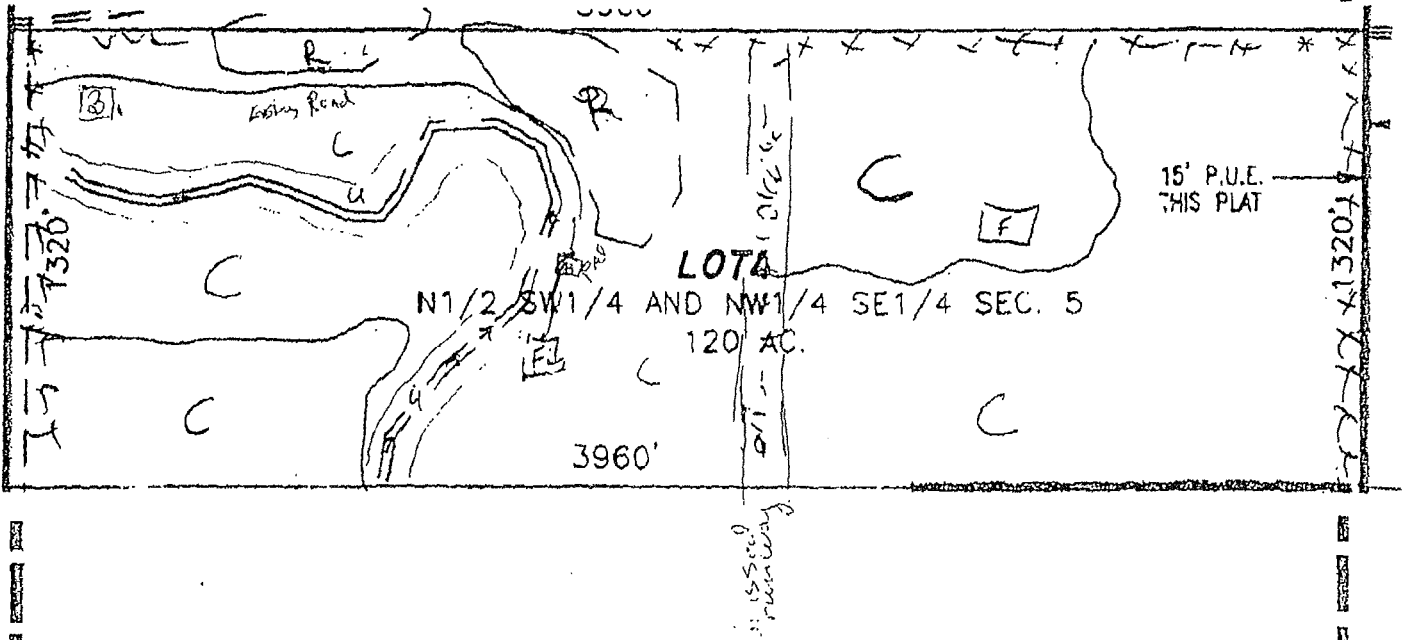
Pursuant to A.S. 38.05.020, A.S. 38.05.069, A.S. 38.05.321, and 11AAC 67 160-192

Conservation District
 Owner Robert Riddle No FSWCD Date Mar 9, 2011
 Operator Robert Riddle Scale _____ Acres 120
 Fairbanks North Star Borough Alaska Phone No. (907)488-6844
 County, State Approx. Approx.

Location (Community, watershed, road & distance, etc.)








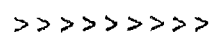
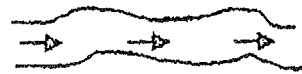



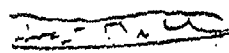
Lot 4 D & I Farmstead Sub.



0000035

ADL SFCP
Rev 2/1/2003

FARM CONSERVATION PLAN MAP LEGEND

North arrow (needed for orientation)	
Parcel Boundary	
Field or land use boundary	
Existing access (roads or trails)	
Proposed access (roads or trails)	
Irrigation or drainage ditch	
Streams	
Building with map identification number	
Farmstead	
Field to be cleared and cultivated	C
Pasture	P
Undeveloped Area (woodlands)	U
Windbreak, leave strip, etc. (width?)	*****
Well	
Water reservoir including ponds	R
Fence	XXXXXXXXXXXX
Others used <i>See strip forms</i>	

0000036



CONSERVATION DISTRICT

The Fairbanks SWCD approves of the clearing/development activities stated on the attached Alaska Farm Conservation Plan (ADL# Lot 4 D&I Farmstead Sub) to maintain the lands agricultural purpose. All activities must be in accordance with local, state, and federal laws. The Fairbanks SWCD strongly urges the landowner to complete and maintain a Conservation Plan with Fairbanks SWCD or NRCS to identify and address any natural resource concerns and implement best management practices.

Board of Supervisors Signatures

Name [Signature] Date 4/12/11 Notes:

Name [Signature] Date 4/12/11 Notes:

Name Jodd Boyce Date 4/13/11 Notes: Adequate buffer should be provided along slough

Name [Signature] Date 4/13/11 Notes:

Name _____ Date _____ Notes: _____

590 University Avenue, Suite 2 • Fairbanks, Alaska 99709
Phone: (907) 479-1213 • Fax: (907) 479-6998 • E-mail: fswod@afsc.net



STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE
STATE FARM CONSERVATION PLAN
Pursuant to AS 38 and 11 AAC

ADL# Lot 1 Sebaugh Farm

NAME Robert Riddle

ADDRESS 1948 Badger Road North Pole, AK 99705

PHONE Home: (907)488-6844 Other: _____

Local Soil and Water Conservation District Fairbanks

This State Farm Conservation Plan (Plan), authorized under AS 38 and required pursuant to 11 AAC 67.177 and conditions within the Contract, summarizes purchaser's/owner's commitment to proper agricultural land use and conservation practices, which are represented graphically on the attached parcel map and supplementary written narrative. When approved, this plan and its covenants remain with the property title as approved currently or in a subsequent amendment.

Covenants:

- 1) Purchaser of this parcel classified by the State of Alaska for agricultural purposes agrees to inform himself or herself of the governing statute (AS 38.05.321), regulations (11 AAC 67.177 and .180), and associated conditions of sale (see brochure and contract), and to abide by all relevant covenants and restrictions of those statutes, regulations and conditions of sale.
- 2) In compliance with AS 38.05.321, 11 AAC 67.177 and the conditions of sale, purchaser agrees, to the extent development is planned, to develop and maintain this parcel in accordance with the Plan, with primary emphasis upon permanent soil conservation measures, that, when possible, will be in compliance with the appropriate practices and procedures identified in the current USDA/NRCS manual.

When complete, this Plan should address such permanent conservation objectives as: a) protection of wetland, streams and related water resources of the land, and b) protection of highly erodible land, farmsteads, animal rest areas, etc. with conservation practices such as effective wind barriers (natural or planted wind breaks), permanent cover crops, and proper location of **0000038**.

ADL SFCP
Rev 2/7/2003

Page 1 of 4



002975

must be shown on the scale plan map. Of equal importance are the purchaser's/owner's land-development decisions. The proper matching of cropping intentions and methods with suitable soil types and topographical features is essential.

The parcel map should identify: a) map scale, b) non-cropland areas such as wetland, steep slopes, etc. c) clearing configuration (proposed or existing) and acreage; d) real property improvement locations and types (houses, barns, fences, etc.); e) access roads, legal easements and existing physical features such as water bodies.

Map scale	<u>1" = 100'</u>	Map # of Improvement	Improvement Type (house, barn, etc.)	Size
Total parcel acres	<u>40</u>			
Total cropland acres	<u> </u>	1.	<u>Road</u>	<u>~ 400 ft</u>
Cleared acres	<u>~ 35</u>	2.	<u>Pool</u>	<u> </u>
Cropped acres	<u> </u>	3.	<u>Farmstead</u>	<u> </u>
Pasture acres	<u> </u>	4.	<u> </u>	<u> </u>

Robert Riddle
Purchaser/Owner Date Agreed To

Soil and Water Conservation District Comments and/or Recommendations:
(Attach Separate Sheet if Necessary)

See Attached

Reviewed by the Fairbanks Soil and Water Conservation District on 4/13/11

[Signature] 4/13/11
Chair Date Reviewed

Director, Division of Agriculture Date Approved

0000039



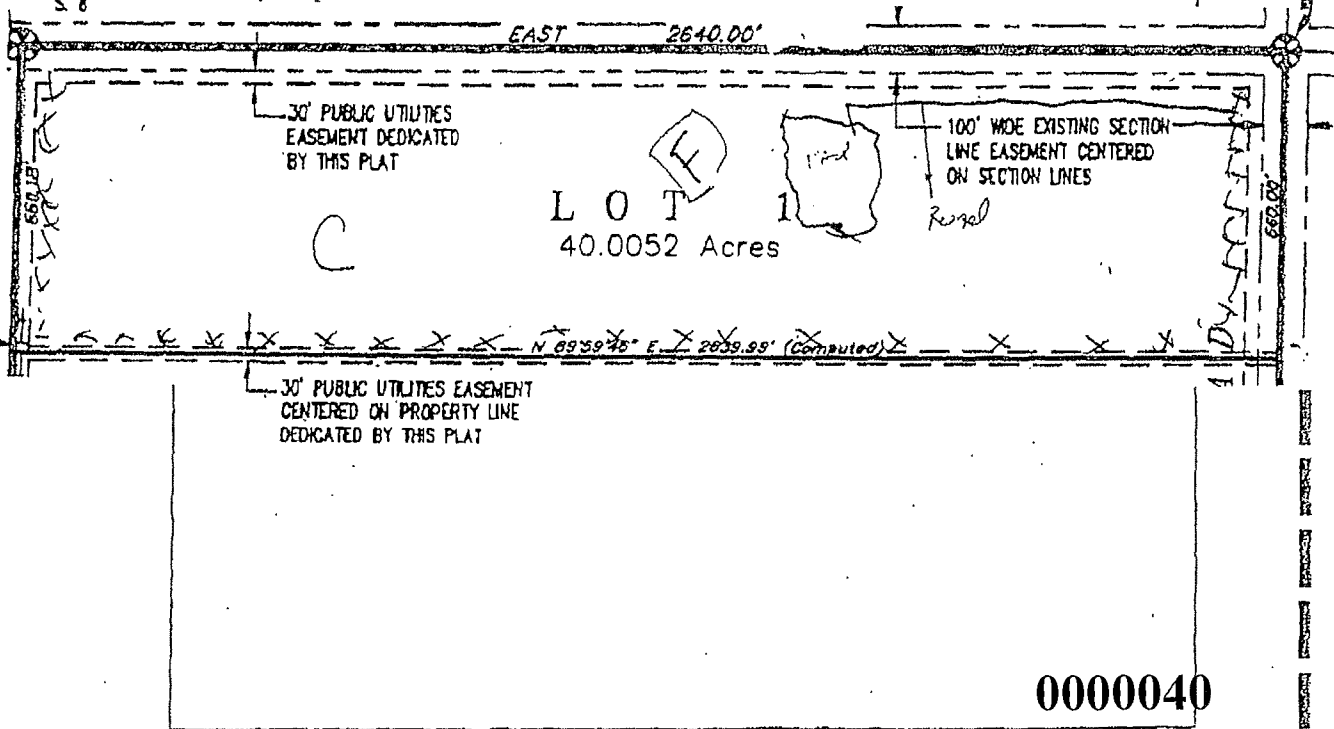
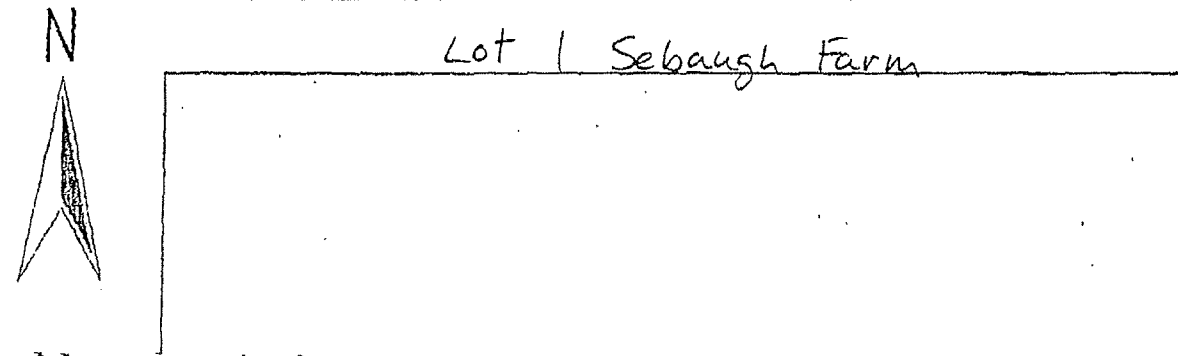
STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE

FARM CONSERVATION PLAN

Pursuant to A.S. 38.05.020, A.S. 38.05.069, A.S. 38.05.321, and 11AAC 67 160-192




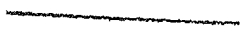
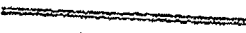
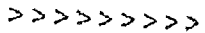



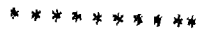

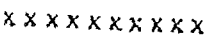
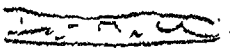
Owner Robert Riddle Conservation District No FSWCD Date Mar. 9, 2011
 Operator Robert Riddle Scale _____ Acres 40
Fairbanks North Star Borough Alaska Phone No. (907)488-6844
 County State Approx. Approx.

Location (Community, watershed, road & distance, etc.)



ADL SFCP
Rev 2/7/2003

FARM CONSERVATION PLAN MAP LEGEND

North arrow (needed for orientation)	
Parcel Boundary	
Field or land use boundary	
Existing access (roads or trails)	
Proposed access (roads or trails)	
Irrigation or drainage ditch	
Streams	
Building with map identification number	
Farmstead	
Field to be cleared and cultivated	C
Pasture	P
Undeveloped Area (woodlands)	U
Windbreak, leave strip, etc. (width?)	
Well	
Water reservoir including ponds	R
Fence	
Others used <i>the 5 strip 5' m s</i>	

0000041



FAIRBANKS SWCD
CONSERVATION DISTRICT

The Fairbanks SWCD approves of the clearing/development activities stated on the attached Alaska Farm Conservation Plan (ADL# Lot 1 Sebaugh Farm) to maintain the lands agricultural purpose. All activities must be in accordance with local, state, and federal laws. The Fairbanks SWCD strongly urges the landowner to complete and maintain a Conservation Plan with Fairbanks SWCD or NRCS to identify and address any natural resource concerns and implement best management practices.

Board of Supervisors Signatures

Name	<i>Don Ross</i>	Date	<i>4/12/11</i>	Notes:
Name	<i>Thomas Schopfberg</i>	Date	<i>4/12/11</i>	Notes:
Name	<i>Judd Boyce</i>	Date	<i>4/13/11</i>	Notes:
Name	<i>Gregory [unclear]</i>	Date	<i>4/13/11</i>	Notes:
Name		Date		Notes:

590 University Avenue, Suite 2 • Fairbanks, Alaska 99709
Phone: (907) 479-1213 • Fax: (907) 479-6998 • E-mail: fswcd@agci.net

0000042

Filed for Record at Request of:
Yukon Title Company, Inc.

AFTER RECORDING MAIL TO:

Name Robert C. Riddle
Address 1948 Badger Road
City, State Zip North Pole, AK 99705
Escrow Number: Y44121E

Statutory Warranty Deed

~~THE GRANTOR~~ Party D. Sebaugh Revocable Living Trust Agreement dated May 25, 1999,
as to an undivided 1/2 interest and The Margaret A. Sebaugh Revocable Living
Trust Agreement dated May 25, 1999 as to an undivided 1/2 interest.
Address: 3221 Chaumont Road; Park City, KY 42160
for and in consideration of
TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION
in hand paid, conveys and warrants to
Robert C. Riddle

0000043

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FOURTH JUDICIAL DISTRICT AT FAIRBANKS

ERIC LANSER,)
)
 Plaintiff,)
)
 vs.)
)
 ROBERT RIDDLE, dba)
 FAIRBANKS PUMPING & THAWING,)
 AND ALASKA DEPARTMENT OF)
 ENVIRONMENTAL CONSERVATION)
)
 Defendant.)

**FILED in the Trial Courts
State of Alaska Fourth District**

DEC 20 2011

By _____ Deputy

Case No. 4FA-11- 0311741

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

COMES NOW, Plaintiff Eric Lanser, through undersigned counsel, and for his Complaint against the Defendant, Robert Riddle, dba Fairbanks Pumping & Thawing, states and alleges as follows:

1. Plaintiff Lanser is a resident of the State of Alaska residing in the Fourth Judicial District, at or near Salcha, Alaska.
2. Upon information and belief, Defendant Robert Riddle (hereinafter "Riddle") is a resident of the State of Alaska residing in the Fourth Judicial District. Riddle does business as Fairbanks Pumping and Thawing, with principal offices located at 1948 Badger Road in North Pole, Alaska. Fairbanks Pumping and Thawing accepts domestic septage, or raw sewage, into lagoons located on property off of Eielson Farm Road in the Fourth Judicial District, at or near Salcha, Alaska.
3. Defendant Alaska Department of Environmental Conservation (hereinafter "ADEC") is a governmental entity with offices in the Fourth Judicial District at Fairbanks.

0000044

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Lanser v. Riddle dba Fairbanks Pumping & Thawing, ADEC

Case No.: 4FA-11-

Page 1 of 18

ORAVEC LAW GROUP, LLC

330 Wendell Street, Suite E
Fairbanks, AK 99701
TEL 907.458.8844
FAX 907.458.8845

002983

4. The conduct giving rise to claims for relief occurred in the Fourth Judicial District of the State of Alaska, at or near Salcha, Alaska.

5. Jurisdiction and venue are proper and appropriate in this Court.

PARTIES

6. Plaintiff is a homeowner, landowner, and business owner in the Arctic Fox Subdivision, which is adjacent to Defendant's waste operation on Eielson Farm Road.

7. Defendant Riddle stores raw sewage in lagoons for extended periods of time. On at least two occasions, Defendant has spread the sewage onto agricultural fields. There are strong, unpleasant raw sewage odors associated with these storage lagoons.

8. Defendant ADEC Solid Waste Division protects public health and the environment through ensuring effective solid waste management, which includes landfills, treatment systems, and solid waste storage facilities such as that operated by Defendant Riddle.

FACTS

9. Since spring 2010, Plaintiff and neighbors in the Arctic Fox Subdivision have encountered pungent raw sewage smells that waft from Defendant's waste operation.

10. Since July 2010, Plaintiff and other Arctic Fox Subdivision neighbors have complained about the odor to Defendants Riddle and ADEC.

11. Despite the complaints, and contact by ADEC, Riddle has not remediated the smells emanating from his operation.

12. Despite the continuing complaints, ADEC has failed and continues to fail to address the smells emanating from Defendant's operation.

0000045

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Lanser v. Riddle dba Fairbanks Pumping & Thawing, ADEC

Case No.: 4FA-11-

Page 2 of 18

002984

13. Plaintiff brings this case to effectuate strong public policies that protect human health and safety and the right to be free from substantial and unreasonable interference with the use or enjoyment of property.

14. Numerous people in Lanser's neighborhood will benefit from this lawsuit.

15. ADEC has acknowledged that there are strong odors resulting from Defendant's operation, but has refused and/or failed to address the concern. Therefore, only a private party could be expected to bring the suit.

BACKGROUND COMMON TO ALL CLAIMS

ADEC Permit

16. On February 1, 2007, Riddle submitted an application to ADEC for a permit to apply raw sewage to his property on Eielson Farm Road. After the required public notice and comment period, DEC distributed a Decision Document approving Riddle's application.¹

17. The Decision Document also noted a concern that neighboring houses were close enough that odor would be a problem. However, the Decision Document stated that "under the solid waste regulations, Mr. Riddle is obligated to ensure that odors do not become a nuisance and Mr. Riddle has stated that he will use commercial products to stop odors if they do become a problem. Although the permit cannot be denied due to the potential for odors, ADEC can revoke the permit if odors become a nuisance and the nuisance is not abated."²

18. On or about April 12, 2007, ADEC issued Solid Waste Permit No. SWZA047-12 to Defendant Riddle for the explicit purpose of "land application of domestic septage from private septic tanks and sludge from the Golden Heart Utilities Sewage Treatment Plant."

0000046

¹ Exhibit 1 - April 2007 Decision Document.

² Exhibit 1 at 5.

19. On information and belief, Defendant receives domestic septage from private septic tanks, but has never received sludge from the Golden Heart Utilities Sewage Treatment Plant.

20. The permit required that septage be applied only to support agricultural endeavors and was not granted for the purpose of septage storage.

21. The ADEC permit demands compliance with the requirements and duties set forth in the permit,³ and any requirements and duties set forth in applicable state and federal laws and regulations,⁴ including methods for meeting sludge and domestic septage pathogen reduction and vector attraction reduction requirements.⁵

22. The ADEC permit expires April 12, 2012.

Fairbanks North Star Borough Permit

23. On or about September 18, 2007, Defendant Riddle also received a conditional use permit for his solid waste operation from the Fairbanks North Star Borough.⁶

24. The Borough permit approval was conditioned upon the following:

i. As long as biosolids are being applied to the property the principle use of the property must be agricultural in nature, with the beneficial application of biosolids remaining

³ See Exhibit 2 - ADEC Solid Waste Permit #SWZA047-12 at 2 ("The permit holder shall manage and operate the facility in accordance with 18 AAC 60 and the permit application materials. In addition, the following conditions and stipulations are required . . .")(emphasis added).

⁴ See Exhibit 2 at 3 ("The requirements, duties, and obligations set forth in this permit are in addition to any requirements, duties, or obligations contained in any permit that the Alaska Department of Environmental Conservation or the U.S. Environmental Protection Agency has issued or may issue to the Permittee.").

⁵ See Exhibit 2 at 4, Specific Conditions 2 & 4. See also Attachment - A Plain English Guide to the EPA Part 503 Biosolids Rule, Figure 2-10 (EPA 832-R-93-03, September 1994); Attachment at 5 - A Guide To The Federal EPA Rule For Land Application Of Domestic Septage To Non-Public Contact Sites, Figure 1 (EPA 832-B-92-005, September 1993).

⁶ See Exhibit 3 - September 19, 2007 Letter from FNSB's Doug Braddock to Riddle.

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Lanser v. Riddle dba Fairbanks Pumping & Thawing, ADEC

Case No.: 4FA-11-

Page 4 of 18

a conditionally-approved accessory use in support of the agricultural use. The disposal of biosolids cannot become the principal use of the property.⁷

ii. All state and federal standards contained in 40 C.F.R. Part 503 and 18 AAC 60.500 *et seq.* are part of the conditional use approval.

iii. The stipulations contained in ADEC Solid Waste Permit No. SWZA047-12 are part of this conditional use approval.⁸

25. Like ADEC's solid waste permit, the conditional use permit provides that the source of the biosolids will include domestic septage from residential septic tanks and sewage sludge from Golden Heart Utilities.

26. The Borough conditional use permit specifically states that Fairbanks Pumping & Thawing, owned by Defendant Riddle, will collect the domestic septage.⁹

27. The Borough conditional use permit obligates Defendant to ensure that odors do not become a nuisance.¹⁰

28. The Borough conditional use permit can be revoked if odor becomes a nuisance and the nuisance is not abated.¹¹

29. The Borough conditional use permit requires the creation and maintenance of certain records to ensure that the use of biosolids is not a risk to health and safety pursuant to 40 C.F.R. 503. These requirements include the following:

⁷ See Exhibit 4 – EPA's Process Design Manual for the Land Application of Sewage Sludge and Domestic Septage, at 168-69 (EPA/625/R-95/001, September 1995)(If sewage sludge remains on land for longer than 2 years, it is considered an active sewage sludge unit used for final disposal of biosolids).

⁸ See Exhibit 2 - ADEC Solid Waste Permit; Exhibit 5 – Department of Community Planning Staff Report on CU2008-005.

⁹ Exhibit 4.

¹⁰ Exhibit 4.

¹¹ Exhibit 4 at 5.

0000048

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Lanser v. Riddle dba Fairbanks Pumping & Thawing, ADEC

Case No.: 4FA-11-

Page 5 of 18

- i. Creation and retention of records reflecting the location of the site where domestic septage is applied, either the street address, or the longitude and latitude of the site (available from U.S. Geological Survey maps).
- ii. Creation and retention of records reflecting the number of acres to which domestic septage is applied at each site.
- iii. Creation and retention of records reflecting the date and time of each domestic septage application.
- iv. Creation and retention of records reflecting the nitrogen requirement for the crop or vegetation grown on each site during the year.
- v. Creation and retention of records reflecting the gallons of septage that are applied to the site during the specified 365-day period.
- vi. A land applier with employees must assure that his/her employees are qualified. These employees must be capable of gathering the needed information and ensuring pathogen and vector attraction reduction requirements are met.
- vii. Creation and retention of a description of how the pathogen and vector requirements are met for each batch of domestic septage that is land applied.

30. Compliance with these federal requirements is mandatory under state law. Failure to comply can result in the termination of the permit pursuant to AS 46.03.120 and 18 AAC 60.260.

0000049

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Lanser v. Riddle dba Fairbanks Pumping & Thawing, ADEC

Case No.: 4FA-11-

Page 6 of 18

002988

FACTS SPECIFIC TO DEFENDANT ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

31. In July 2010, Defendant ADEC began receiving both written and verbal complaints about raw sewage odors emanating from the sewage lagoons that support Defendant Riddle's solid waste operation:

i. On July 10, 2010, Plaintiff emailed ADEC complaining about the smell: "the smell has be[en] so bad it has been equivalent to working in a portajohn."

ii. On July 22, 201, ADEC received a telephone call from a neighbor, John Brunsberg, indicating that the smells were frequent during the last three months.

iii. On July 25, 2010, ADEC received an email from neighbor, John Brunsberg: "As I sit here now on my deck I can again detect this odor. In my opinion he [Riddle] is doing nothing in regards to controlling the odor based on the frequency of it affecting our quality of life."

iv. On July 27, 2010, ADEC received an email from John Brunsberg: "I will not tolerate the current conditions for my family and I am 100 percent certain it is coming from his activity. Nothing else smells that bad."

v. On August 4, 2010, ADEC received an email from Plaintiff: "Just for your records, the last two days we have been receiving brief wafts of sewage smells while working."

vi. On August 12, 2010, ADEC received a telephone call from neighbor Scott Paden voicing his concern about Defendant Riddle's lagoons.

ORAVEC LAW GROUP, LLC

330 Wendell Street, Suite E
Fairbanks, AK 99701
TEL 907.458.8844
FAX 907.458.8845

0000050

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Lanser v. Riddle dba Fairbanks Pumping & Thawing, ADEC

Case No.: 4FA-11-

Page 7 of 18

002989

vii. On August 13, 2010, ADEC received an email from neighbor John Brunsberg: "the smell is present today. I also have someone installing a water softener at the moment and he too can verify the odor."

viii. On August 21, 2010, ADEC received an email from neighbor John Brunsberg: "1:15 pm, smell very apparent . . . We r held hostage in our home on a beautiful day!"

ix. On August 23, 2010, ADEC received an email from neighbor John Brunsberg: "Again yesterday as the day progressed the odor intensified. Saturday was absolutely horrible."

x. On August 23, 2010, ADEC received an email from neighbor Dean Lawson: "I was working outside last night around 6 PM with a helper doing some yardwork [sic] and he asked what the smell was that he noticed. I informed him that it was from the sewage lagoons and we smell it quite frequently . . . At my house, it's off-and-on through the day, a few days a week."

xi. On September 6, 2010, ADEC received an email from neighbor John Brunsberg: "Another long weekend dealing with smell. Friday night very strong smell for 1-2 hrs. Today starting to get strong smells now, slight breeze coming from that direction . . . Again, it's hard to put into words how frustrating this is. We have people coming over in a hr and it will be the same old thing, trying to explain why we have to deal with such horrific smells."

xii. On September 10, 2010, ADEC received an email from John Brunsberg: "Smell was horrible again yesterday. Call the guys at lou's tv and they can verify the existence of smell for a good two hours. Really strong, tried calling you [Ken Spiers of ADEC] around 4:15."

0000051

xiii. On September 18, 2010, ADEC received an email from John Brunsberg:
“Just got home from work, strong smell present . . . it smells awful.”

xiv. On September 21, 2010, ADEC received an email from John Brunsberg:
“Again, strong smell drifting in and out . . . It smells horrendous right now. Please help, we are extremely frustrated.”

xv. On September 21, 2010, ADEC received a telephone call from Plaintiff reporting strong intermittent odor coming from Defendant Riddle’s lagoons.

xvi. On September 28, 2010, ADEC received an email from John Brunsberg:
“I noticed the smell Thurs, Fri, and Sat . . . It seems to always be strongest when I hear the trucks back there.”

xvii. On September 29, 2010, ADEC received an email from John Brunsberg:
“At 5:30 tonight I went outside and noticed a smell that was just horrendous.”

xviii. On October 5, 2010, ADEC received an email from John Brunsberg:
“Today at 4:30 I got home from work and noticed the horrible smell again.”

xix. On October 6, 2010, ADEC received an email from Plaintiff: “I would like to see a moratorium on his [Riddle’s] dumping until he can present a good plan to the neighbors where they will approve it to try again.”

xx. On October 15, 2010, ADEC received a telephone call from neighbor Stori Thompson. The notes of the conversation provide that Ms. Thompson reported that the smells have gotten out of hand. She also reported that ravens have been at the lagoons, particularly in the winter, and had found sanitary napkins dumped on her property as well as dead ravens.

000052

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Lanser v. Riddle dba Fairbanks Pumping & Thawing, ADEC

Case No.: 4FA-11-

Page 9 of 18

xxi. On October 18, 2010, ADEC received an email from neighbor Diane Long: "have been greatly troubled by the tremendously foul stench that permeates the air these days. We first noticed it early in the summer, early to mid June, and continue to be haunted by it from time to time. What a terrible thing to have 'a bit of heaven amongst all of nature' and be tormented by that foulness and not be able to open our windows or sit out on our large deck because the smell is just nauseating."¹²

FACTS COMMON TO BOTH DEFENDANTS

32. On July 15, 2010, ADEC inspected Defendant's operation, and found that Defendant Riddle's operation was violating the following requirements:

- i. Defendant failed to obtain a reasonable estimate of field acreage before operations, and failed to monitor the acreage to ensure annual application rate is not exceeded.
- ii. Defendant failed to create or maintain records of the dates septage was applied.
- iii. Defendant failed to create or retain signed certifications for each batch of septage applied.
- iv. Defendant failed to create or retain records reflecting that pathogen reduction requirements were met for each batch of domestic septage, and how they were met.
- v. Defendant failed to create or retain records reflecting how the operation addressed the vector attraction reduction requirement for each batch of septage applied.

33. ADEC demanded that Defendant Riddle submit proof of satisfaction of the foregoing requirements to ADEC by August 10, 2010.

¹² Copies of all of these complaints were received by counsel for Plaintiff pursuant to 0000053 2010 written public records request to ADEC's Ken Spiers for any and all records contained in ADEC's file for Riddle's ADEC permit, including copies of all notes, correspondence, reports, complaints and public comments

34. Defendant failed to submit the required information to ADEC by August 10, 2010.

35. On August 3, 2010, Bill Smyth of ADEC's Division of Water wrote to Defendant Riddle demanding that Defendant Riddle "stop using these unlined storage lagoons until formal engineering plans have been submitted showing that the underlying in-situ material acts as a barrier to protect the shallow ground water. If the underlying material cannot adequately show to be impermeable, then the storage lagoons will be required to have an impermeable liner installed or you will need to apply for a subsurface wastewater discharge permit. Until either of these conditions have been satisfied, the Department [ADEC] considers your unlined system as percolating into the ground which requires both an engineer plan review and a discharge permit."¹³

36. In September 2010, Defendant Riddle retained Nortech, an environmental engineering firm, to assist with the resolution of the odor concerns.¹⁴

37. On October 12, 2010, Defendant ADEC issued a letter to Defendant Riddle stating that whatever mechanism Defendant came up with to control odors must be in place by April 15, 2011. If the department received complaints after that date, it would issue an order to stop using the lagoons.¹⁵

38. On or about February 9, 2011, counsel for Plaintiff sent a letter to ADEC's Solid Waste Program Coordinator, Douglas Buteyn, detailing the requirements of Defendant Riddle's solid waste and conditional use permits, his failure to meet those requirements by August, 2010, as required, and ADEC's failure to address the strong unpleasant odors emanating from

¹³ Exhibit 5 - August 3, 2010 Email from ADEC's Bill Smyth to Defendant Robert Riddle

¹⁴ Exhibit 6 - September 28, 2010 Letter to ADEC's Ken Spiers from NORTECH.

¹⁵ Exhibit 7 - October 12, 2010 Letter from ADEC's Ken Spiers to Robert Riddle.

0000054

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Lanser v. Riddle dba Fairbanks Pumping & Thawing, ADEC

Case No.: 4FA-11-

Page 11 of 18

002993

Defendant Riddle's solid waste operation. The letter also demanded the revocation of Defendant Riddle's ADEC permit.

39. On or about February 9, 2011, a similar letter was sent to Bernardo Hernandez, the Director of the Fairbanks North Star Borough Department of Community Planning informing him that Defendant Riddle's operations were violating the conditions of his state solid waste permit and the Borough's conditional use permit. The letter also demanded that the Borough revoke Defendant Riddle's conditional use permit.

40. On March 11, 2011, Plaintiff received a response from ADEC's Buteyn indicating that Defendant Riddle was currently in compliance with his solid waste permit, but rather than discount the neighbors' odor complaints, ADEC would allow Defendant until April 15, 2011 to install a mechanism to control odors. If this mechanism proved ineffective, as evidenced by complaints, ADEC's Division of Water would address the issue.¹⁶

41. On or about March 11, 2011, the Borough responded that it would wait for ADEC to take action against Defendant Riddle before revoking his conditional use permit.¹⁷

42. Given ADEC's April 15 deadline, on April 29, 2011, Plaintiff sent an inquiry to ADEC requesting proof that a mechanism to control odors at Defendant Riddle's solid waste operation had been put in place by the deadline, or in the event that one had not, asking whether ADEC would be taking enforcement action.

43. On May 2, 2011, ADEC disclosed records which revealed that (1) Defendant Riddle had not met the April 15, 2011 deadline to install a mechanism to control odors; (2) despite the cold spring weather, the operation continued to emit odors and ADEC had received

000055

¹⁶ See Exhibit 8 - March 11, 2011 Letter from ADEC's Douglas Buteyn to Plaintiff's counsel.

¹⁷ See Exhibit 9 - March 11, 2011 Letter from FNSB's Cassandra Tilly to Plaintiff's counsel.

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Lanser v. Riddle dba Fairbanks Pumping & Thawing, ADEC

Case No.: 4FA-11-

Page 12 of 18

002994

odor complaints; and (3) ADEC had not acted to enforce its deadlines or implement statutory and permit requirements for Defendant Riddle's operation nor to revoke his permit.

44. On May 10, Plaintiff sent ADEC's Douglas Buteyn renewing the earlier request that DEC confirm whether it planned to take any enforcement action. A response was requested by May 17, 2011.

45. On May 16, 2011, Plaintiff received information from ADEC confirming that septage odors were emanating from the lagoons on Defendant Riddle's property. When ADEC's Ken Spiers contacted Defendant Riddle about the odors, Defendant Riddle informed Spiers that he would spray a lime slurry on the lagoons right away.¹⁸

46. On May 31, 2011, counsel for Plaintiff sent another letter to ADEC again requesting that Defendant Riddle's permit be revoked on the basis of continuing noncompliance.¹⁹

47. On May 31, 2011, Plaintiff filed a complaint about ADEC with the State of Alaska Ombudsman. The complaint stated the following:

DEC has been non-responsive to two requests that they enforce their order regarding Solid Waste Permit No. SWZA047-12. Since summer 2010, DEC has been receiving odor complaints regarding Robert Riddle's biosolids operation. DEC inspected and noted that the operation also had not filed the required paperwork and certifications. Despite this noncompliance, DEC issued a letter on October 12, 2010 providing that Riddle had until April 15, 2011 to install a mechanism to control odors. DEC continues to receive odor complaints, yet despite repeated requests to enforce their order, DEC is not addressing the complaints or enforcing the permit requirements.

48. On July 6, 2011, Plaintiff contacted Assistant Ombudsman Tom Webster. Mr. Webster stated it "remains to be seen what will happen."

0000056

¹⁸ See Exhibit 10 - May 13, 2011 ADEC's Ken Spiers Note on Odor Verification.

¹⁹ See Exhibit 11 - May 31, 2011 Letter from Plaintiff's counsel to ADEC's Douglas Buteyn.

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Lanser v. Riddle dba Fairbanks Pumping & Thawing, ADEC

Case No.: 4FA-11-

Page 13 of 18

002995

49. On July 18, 2011, counsel for Plaintiff received a response from ADEC indicating that Defendant Riddle would be closing two of his existing lagoons, and that the three remaining lagoons would be lined to protect the shallow groundwater. The letter also indicated that ADEC would require Defendant to establish and follow an Odor Control Plan for the septage lagoons.²⁰

50. Defendant never closed two lagoons, and the three remaining lagoons were never lined to protect the shallow groundwater.

51. Plaintiff has made a good faith effort to exhaust all administrative remedies prior to filing this litigation; however, ADEC's most recent communication of October 25, 2011 confirmed that ADEC would take no further action on this matter.

52. Odors still emanate from Defendant Riddle's lagoons, and ADEC has made no effort to address or require remediation of the condition despite acknowledging its existence.

53. As a result, Plaintiff has sustained great and irreparable injury to property values, use and quiet enjoyment of property, human health and safety, livelihood, and general enjoyment of life.

54. The odors emanating from Defendant Riddle's operation are also the result of Defendants' negligence, which has substantially caused Plaintiff's injuries.

55. Plaintiff cannot be fully compensated in damages, and Plaintiff believes that any remaining administrative remedies are inadequate.

0000057

²⁰ See Exhibit 12 - July 18, 2011 Email from ADEC's Bill Smyth to Plaintiff's counsel.

COUNT 1 – PRELIMINARY AND/OR PERMANENT INJUNCTION

Plaintiff incorporates paragraphs 9 through 55 of the Complaint as if fully stated herein.

56. Defendant Riddle must immediately stop accepting raw sewage in the lagoons until an odor control plan is in place whose effectiveness has been confirmed by Defendant ADEC. This is the only relief that will prevent further damage to Plaintiff and the public.

57. Defendant ADEC must immediately take steps to revoke Defendant Riddle's permit, and work with the Fairbanks North Star Borough for the revocation of Defendant Riddle's permit if no approved odor control plan is in place.

58. Without an appropriate odor control plan in place, Plaintiff and the public will suffer irreparable harm as a result of the odors emanating from Defendant Riddle's solid waste operation, particularly the lagoons storing raw sewage.

59. Any injury to Defendant Riddle as a result of a preliminary injunction would be inconsiderable.

60. The issues raised by Plaintiff are not frivolous and have merit.²¹

COUNT 2 – DECLARATORY RELIEF

Plaintiff incorporates paragraphs 9 through 55 of the Complaint as if fully stated herein.

61. An order declaring that Defendant stop accepting raw sewage into the lagoons and ordering that Defendant work with Plaintiff and other neighbors in the Arctic Fox Subdivision on an odor control plan will clarify and settle legal relations.

62. An order declaring that Defendant stop accepting raw sewage into the lagoons and ordering that Riddle work with Plaintiff and other neighbors in the Arctic Fox Subdivision on an

0000058

²¹ See Alaska Public Utilities Com'n v. Greater Anchorage Area Borough, 534 P.2d 549, 554 (Alaska 1975)(citing A.J. Industries, Inc. v. Alaska Public Service Commission, 470 P.2d 537, 541 (Alaska 1970)).

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Lanser v. Riddle dba Fairbanks Pumping & Thawing, ADEC

Case No.: 4FA-11-

Page 15 of 18

odor control plan will "afford relief from the uncertainty, insecurity, and controversy giving rise to the proceeding."²²

COUNT 3 – PUBLIC NUISANCE

Plaintiff incorporates paragraphs 9 through 55 of the Complaint as if fully stated herein.

63. The odor emanating from Defendant Riddle's operation has created a public nuisance and has caused Plaintiff injury, including interfering with property rights that are common to the general public.

64. The odors caused by Defendant Riddle are intentional and unreasonable, or negligent, or reckless.

65. The odors are a legal cause of significant harm to Plaintiff.

66. The harm to Plaintiff is different in kind than the harm to the general public.

COUNT 4 – PRIVATE NUISANCE

Plaintiff incorporates paragraphs 9 through 55 of the Complaint as if fully stated herein.

67. The odor emanating from Defendant's operation has also created a nuisance with respect to Plaintiff's use or enjoyment of his property.

68. The odors have interfered with Plaintiff's use or enjoyment of his property.

69. The odors cause by Defendant are intentional and unreasonable, negligent, or reckless.

70. The odors are a legal cause of significant harm to Plaintiff.

000059

²² Jefferson v. Asplund, 458 P.2d 995, 997-98 (Alaska 1969).

COUNT 5 – NEGLIGENCE BY DEFENDANT RIDDLE

Plaintiff incorporates paragraphs 9 through 55 of the Complaint as if fully stated herein.

71. Defendant Riddle had a duty to comply with the terms of both the ADEC permit and the Fairbanks North Star Borough conditional use permit.

72. Defendant Riddle failed to do so causing damages to Plaintiff and the general public including, but not limited to, irreparable injury to property values, use and quiet enjoyment of property, human health and safety, livelihood, and general enjoyment of life.

COUNT 6 – NEGLIGENCE BY DEFENDANT ADEC

Plaintiff incorporates paragraphs 9 through 55 of the Complaint as if fully stated herein.

73. Defendant Alaska Department of Environmental Conservation has duties pursuant to A.S. 46.40.020 et seq. including, but not limited to, enforcement of regulations setting standards for the prevention and abatement of all water, land, subsurface land, and air pollution, and other sources or potential sources of pollution of the environment.

74. Defendant ADEC breached these duties by failing to properly investigate and enforce its policies despite acknowledging continuing violations and non-compliance by Defendant Riddle.

75. These violations caused damages to Plaintiff and the general public including, but not limited to, irreparable injury to property values, use and quiet enjoyment of property, human health and safety, livelihood, and general enjoyment of life.

ORAVEC LAW GROUP, LLC

330 Wendell Street, Suite E
Fairbanks, AK 99701
TEL 907.458.8844
FAX 907.458.8845

0000060

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Lanser v. Riddle dba Fairbanks Pumping & Thawing, ADEC

Case No.: 4FA-11-

Page 17 of 18

002999

ORAVEC LAW GROUP, LLC

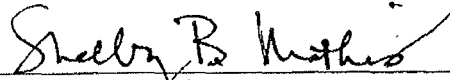
330 Wendell Street, Suite E
Fairbanks, AK 99701
TEL 907.458.8844
FAX 907.458.8845

WHEREFORE, Plaintiff prays for the following relief:

1. An Order enjoining Defendant Riddle from receiving septage in the lagoons at his Eielson Farm Road solid waste operation until an odor control plan approved by ADEC and the adjoining landowners is instituted;
2. An Order requiring the Alaska Department of Environmental Conservation to immediately revoke Defendant Riddle's ADEC permit until an odor abatement plan is put into place;
3. An Order declaring the odors a private and public nuisance and requiring Defendant Riddle to permanently decommission the raw sewage storage lagoons if an odor control plan proves unsuccessful;
4. An Order declaring Defendants Riddle and ADEC negligent and awarding damages to Plaintiff;
5. An Order declaring Plaintiff a public interest litigant and entitled to attorney fees and costs accordingly;
6. In the alternative, an Order awarding Plaintiff costs and attorneys fees;
7. Any other relief this Court deems just and equitable.

DATED at Fairbanks, Alaska this 16th day of December, 2011.

ORAVEC LAW GROUP, LLC
Attorneys for Eric Lanser



Shelby B. Mathis
ABA# 0805023

0000061

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Lanser v. Riddle dba Fairbanks Pumping & Thawing, ADEC

Case No.: 4FA-11-

Page 18 of 18

003000

**Department of Environmental Conservation
Division of Environmental Health**

**Robert Riddle
Permit Application for
Land Application of Biosolids
Riddle Eielson Farm**

**Decision Document
April 2007**

0000062

Exhibit 1
Page 1 of 6
003001

**Alaska Department of Environmental Conservation
Decision Document
Robert Riddle Permit for Land Application of Biosolids
Riddle Eielson Farm
April 2007**

I. Background

A. Land application of biosolids is the process of enriching soils by adding either septage from domestic septic tanks or sewage sludge from a wastewater treatment plant. The process is an accepted method of adding nutrients (primarily nitrogen) to soil and is of minimal risk when done in compliance with federal and state regulations. These regulations require that the material be treated to reduce pathogens and vector attraction prior to application and that the applied quantity does not exceed the loading rate for metals in the soil or the agronomic rate for nitrogen for the crop to be grown. In 1995, 54% of the sewage sludge generated in the United States was applied to land.

B. The Environmental Protection Agency (EPA) encourages land application of biosolids and has promulgated regulations governing the practice. These regulations are found in Title 40 Part 503 of the Code of Federal Regulations (40 CFR 503). Parts of the "503 regulations" are adopted by reference in the state solid waste regulations in Title 18 Chapter 60 of the Alaska Administrative Code (18 AAC 60.500-60.510). Among other things, the state regulations require land applicators of biosolids to obtain a permit from the Alaska Department of Environmental Conservation (ADEC) Solid Waste Program.

C. Robert Riddle first applied for a land application of biosolids permit in April 2006, but the ADEC ruled that the application was incomplete because of insufficient and/or conflicting information. During the ensuing months Mr. Riddle met with ADEC staff, revised his application, and on February 1, 2007, submitted an application that ADEC deemed acceptable. A public notice was placed in the *Fairbanks Daily News-Miner* on February 6 and 7, 2007 announcing a public comment period to end on March 9, 2007.

D. The treatment procedures described in the permit application will yield a product that the federal regulations classify as "Class B" biosolids. This classification of biosolids is acceptable for land application under specified site access and grazing restrictions.

II. Summary of Comments

A. A total of eleven individuals responded to the public notice. Of these, seven objected to ADEC issuing the permit, one was neutral, and three were in favor of granting the permit. The comments in favor of issuing the permit were based on the opinion that land application is:

- a good solution to sludge disposal;
- odor free when done correctly;
- good nutrient management; and
- of great benefit to crops.

0000063

It is noted that only one of the individuals offering positive comments about the permit lives near Mr. Riddle's farm.

B. Overall, a total of 25 different points were raised within the comments received in objection to issuing the permit. These points fall into three categories:

- the applicant's financial stability and past practices;
- increased traffic on Eielson Farm Road; and
- concerns regarding human health and the environment.

C. Many of the comments objecting to the permit included concerns about the applicant's financial stability and past practices. In response, it is noted that under the solid waste regulations, proof of financial responsibility is only required for applications for landfill permits. Since Mr. Riddle is not applying for a landfill permit, financial responsibility cannot figure into the decision on this permit application. With regard to the applicant's past practices, the solid waste regulations (18 AAC 60.215) allow denial of a permit based on an applicant's compliance history only if that history "demonstrates the applicant's unwillingness or inability to achieve or maintain compliance with provisions of this chapter." Although Mr. Riddle is the direct subject of three complaint records in the ADEC files, all of those complaints have been resolved to the department's satisfaction. As such, the applicant's compliance history does not show an unwillingness or inability to achieve compliance and the permit cannot be denied based on past practices.

D. Several comments were received expressing concerns that the increased traffic of heavily-laden trucks would degrade the condition of Eielson Farm Road. Although this may be a valid concern, impact to roadways is not an issue the ADEC can use in deciding to approve or deny a land application of biosolids permit.

E. The greatest diversity of objections to issuing the permit fell within the category of human health and the environment. The issues and concerns within this category are addressed in Section III and include the following:

- surface water would not be protected;
- some application sites may be considered wetlands;
- groundwater is very shallow and could be contaminated;
- wildlife cannot be kept from application sites during the restricted period;
- the public will not effectively be kept from the application sites;
- the air quality needs to be monitored;
- housing is close enough that odors could be problematic;
- there is no analytical testing of septage; and
- the reliability of self-testing is doubtful.

Of the items in this list, the issue of greatest concern was the potential contamination of the shallow groundwater and the consequent adverse impact to drinking water wells.

0000064

Exhibit 1
Page 3036

III. Discussion of Objectors' Concerns

A. Surface water. Surface water is present on the Riddle Eielson Farm property in the form of sloughs and ponds. In the state solid waste regulations, ADEC has adopted 40 CFR 503.14(C), which prohibits the application of sewage sludge within 10 meters (33 feet) of waters of the United States. Based on the dynamics of pathogens in soil, both EPA and ADEC accept this setback distance as being protective of surface waters under normal conditions. Concerns about surface water quality during floods are valid since the area along Eielson Farm Road is within the 100-year flood plain and the likelihood exists that the land application sites on Mr. Riddle's property could be inundated. The severity of that impact depends on how soon flooding occurs after biosolids are applied to the land. However, septic systems, farm yards and other similar surface features pose an equal risk to water quality during floods. Furthermore, the washout of storage areas or lagoons in which biosolids are temporarily stored can be prevented by building surrounding berms higher than the anticipated flood level. Building berms to such a height will be a condition of the ADEC permit.

B. Wetlands. Although much of the area along Eielson Farm Road is classified as wetlands, according to a U. S. Army Corps of Engineers (USACE) wetlands determination, only a small portion of the Riddle Eielson Farm is considered wetlands. It is the applicant's responsibility to obtain a permit from the USACE under section 404 of the Clean Water Act before applying biosolids to wetland areas. As such, the ADEC permit will not allow the land application of biosolids in any wetland areas.

C. Groundwater. Many comments included concerns about impacts to groundwater, which can be as shallow as 5 feet below the surface in the Eielson Farm Road area. In response, the ADEC notes that septic systems are common in the Eielson Farm Road area and that a minimum separation of 4 feet is required between the seasonally high groundwater table and the bottom of a leach field. This distance is considered protective of groundwater based on the dynamics of pathogens in soil. According to information in the *ADEC Installers Manual for Conventional Onsite Domestic Wastewater Treatment and Disposal Systems*, a 99.995% reduction in fecal coliform bacteria occurs within 2 feet of the bottom of the leach field in a domestic septic system. Since biosolids are applied at or a few inches below the ground surface, it is likely that any pathogens in the biosolids are further from the groundwater than are pathogens introduced into the subsurface via leach fields.

The minimum allowable distance between a drinking water well and a leach field is 100 feet. Thus, should any coliform bacteria make it to groundwater, they must survive long enough to travel the minimum separation distance of 100 feet to reach a drinking water well. One comment received mentioned a well that is approximately 300 feet from the boundary of the Riddle Eielson Farm. Given that land application cannot occur within 50 feet of a property boundary, the minimum potential distance to this water well would be 350 feet, more than three times the required distance between the well and a septic system. On this basis, drinking water wells in the area may be at greater risk of contamination from on-site septic systems than they are from the land application of biosolids on Mr. Riddle's farm.

0000065

D. Wildlife. Although grazing restrictions apply when Class B biosolids are applied to land, several comments raised the concern that wildlife and waterfowl are not subject to those restrictions and hunters could be contaminated through handling the carcasses of animals that had recently been on Mr. Riddle's fields. In response, the ADEC notes that the intent of the grazing restrictions is not to prevent physical contact between the animals and the biosolids but to prevent ingestion of bacteria that could then be passed to humans through animal products (i.e. meat, milk, and cheese). Contaminated milk and cheese are not an issue with harvested wildlife and waterfowl, but contaminated meat certainly is. However, as with chicken and pork, pathogens in the meat (primarily *helminth* ova) are readily killed by proper cooking. The only other pathway of exposure to pathogens is through direct physical contact with pathogens that an animal or bird may have on its skin, feet, or feathers. The ADEC notes that the risk of exposure through this pathway is significantly reduced by normal hygienic practices, such as washing with soap and water and changing bloody clothing after handling the carcass.

E. Public Access. Since there are no fences around the Riddle property, the concern was raised that the public, particularly children, could easily access the property. The Eielson Farm Road area is sparsely populated with widely separated homes and can be considered "country." As such, Mr. Riddle's farm qualifies as a remote site with low potential for public contact. In such locations, the regulations require only that the applicator warn the public that biosolids have been spread and make notification that access is prohibited. This can be accomplished by placing appropriate warning signs around the application sites. Requiring further measures to prevent public access to Mr. Riddle's farm is not commensurate with the risk.

F. Air Quality. Some comments raised the concern that pathogens could become airborne and infect surrounding areas. The EPA document *Control of Pathogens and Vector Attraction in Sewage Sludge (EPA/625/R-92/013)* references research showing that aerosolization of helminthes and protozoans is unlikely, but that there is a chance for bacteria to become airborne. However, to do so, the product the bacteria are in must be very dry. Class B biosolids are almost never that dry, and septage never is. Furthermore, the regulations require that biosolids be tilled under the same day they are applied, so the biosolids are not likely to dry out on the surface. The EPA document *further* shows that aerosolized bacteria will fall back to earth within a very short distance. As such, there is a slight risk to workers who apply the biosolids and very little risk to the general public. Workers applying the biosolids should wear protective clothing such as gloves and masks.

G. Odors. There was some concern in the comments that neighboring houses were close enough that odor would be a problem. On the other hand, one person who commented said he had once lived next to a farm where land application was occurring and never experienced odors from the operation. Under the solid waste regulations, Mr. Riddle is obligated to ensure that odors do not become a nuisance and Mr. Riddle has stated he will use commercial products to stop odors if they do become a problem. Although the permit cannot be denied due to the potential for odors, ADEC can revoke the permit if odors become a nuisance and the nuisance is not abated.

H. Testing of Septage. One comment raised the concern that the raw septage would not be subject to chemical analysis. EPA has analyzed the contents of domestic septage and found that

0000066

it contains lower concentrations of metals and nitrogen than does sewage sludge, as waste treatment processes tend to concentrate those elements in the sludge. As such, the federal regulations do not require analytical testing of domestic septage. Instead, the regulations allow land applicers of domestic septage to calculate the concentration of metals and nitrogen they are adding to the soil using a very simple formula and assumed concentrations of metals and available nitrogen.

I. Self-testing. A couple of comments expressed concern that the applicant will be taking all pH and temperature readings himself and that those readings may not be accurate. While this is true, ADEC has to rely on the integrity of the permit holder for most monitoring required by solid waste permits. Monitoring of groundwater is usually handled by a contractor who sends samples to an independent laboratory, but visual monitoring and methane gas monitoring are usually done in-house. Regular inspections by ADEC staff help to reduce instances of falsified monitoring information.

IV. Conclusion

After evaluating the information contained in the permit application, the comments received from the public, and available literature, ADEC has determined that there is no sufficient reason for denying this permit. ADEC concurs with the points made by the individuals who agreed with granting the permit and holds the opinion that the federal and state regulations and available scientific data sufficiently address the legitimate concerns raised in objection to the permit. The land application of biosolids is a process with a proven history throughout the United States and it is working successfully at other interior Alaska locations. However, on the basis of the comments received, ADEC will include the following stipulations in the permit:

- warning signs must be posted at the boundaries of application sites for the required time periods;
- biosolids will not be applied within 33 feet of waters of the United States and 100 feet from a drinking water well;
- workers must wear protective clothing when handling biosolids;
- the height of berms around lagoons and other storage facilities must be higher than the level of a 100-year flood; and
- biosolids cannot be spread in a designated wetland areas without first obtaining a permit from the USACE.

0000067

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
610 University Avenue
Fairbanks, AK 99709

SOLID WASTE DISPOSAL PERMIT

Permit No. **SWZA047-12**

Date Issued: April 12, 2007

Date Expires: April 12, 2012

The Alaska Department of Environmental Conservation (ADEC), under authority of AS 46.03 and 18 AAC 60, issues a permit for the land application of biosolids to:

Robert Riddle
1948 Badger Road
North Pole, AK 99705

and designated representatives for the land application of domestic septage from private septic tanks and sludge from the Golden Heart Utilities Sewage Treatment Plant. The septage and sludge will be used as a source of nitrogen for turf and feed crops of bromegrass, barley, oats, wheat, canola, and timothy/alfalfa mix.

To reduce pathogens in sludge, the methods of (1) windrow composting, (2) lime stabilization, or (3) air drying may be used. Allowable vector attraction reduction methods include (1) injection into the soil or (2) incorporation into the soil (discing) within 6 hours of application.

To reduce pathogens in septage, two methods may be used: (1) raising the pH and employing crop harvesting restrictions, or (2) employing crop harvesting restrictions, grazing restrictions, and site restrictions. Note that Method #1 also fulfills the vector attraction reduction requirement. When using pathogen reduction method #2, allowable vector attraction reduction methods are (1) injection into the soil or (2) incorporation into the soil within 6 hours of application.

The involved lands comprise 760 acres near Moose Creek, Alaska off the Eielson Farm Road. They are located within Township 3 South, Range 3 East, Fairbanks Meridian and are described specifically as follows: the southwest quarter and the east half of the northwest quarter of Section 4; the south half of the south half of Section 5; the east half of Section 6; and the north quarter of the northeast quarter of Section 8.

The permit holder shall manage and operate the facility in accordance with 18 AAC 60 and the permit application materials. In addition, the following conditions and stipulations are required:

General Conditions

1. Access and inspection - The Permittee shall allow the Commissioner or his representative access to the permitted facilities at reasonable times to conduct scheduled or unscheduled inspections or tests to determine compliance with this permit, State laws, and regulations.

0000068

Exhibit 2
Page 0000068 of 3

2. Information access - Except for information relating to confidential processes or methods of manufacture, all records and reports submitted in accordance with the terms of this permit shall be available for public inspection at the State of Alaska, Department of Environmental Conservation, 610 University Avenue, Fairbanks, Alaska 99709
3. Civil and criminal liability - Nothing in this permit shall relieve the Permittee from civil or criminal penalties for noncompliance, whether or not such noncompliance is due to factors beyond his control, including, but not limited to, accidents, equipment breakdowns, or labor disputes.
4. Availability - The Permittee shall post or maintain a copy of this permit available to the public at the disposal facility.
5. Adverse impact - The Permittee shall take all necessary means to minimize any adverse impacts to the receiving waters or lands resulting from noncompliance with any limitation specified in this permit, including any additional monitoring needed to determine the nature and impact of the noncomplying activity. The Permittee shall clean up and restore all areas adversely impacted by the noncompliance.
6. Cultural or paleontological resources - Should cultural or paleontological resources be discovered as a result of this activity, work which would disturb such resources is to be stopped, and the State Historic Preservation Office, Division of Parks and Outdoor Recreation, Department of Natural Resources, is to be notified immediately (907-269-8721).
7. Applications for renewal - In accordance with 18 AAC 15.100(d), applications for renewal or amendment of this permit must be made no later than 30 days before the expiration date of the permit or the planned effective date of the amendment.
8. Other legal obligations - The requirements, duties, and obligations set forth in this permit are in addition to any requirements, duties, or obligations contained in any permit that the Alaska Department of Environmental Conservation or the U.S. Environmental Protection Agency has issued or may issue to the Permittee. This permit does not relieve the Permittee from the duty to obtain any and all necessary permits and to comply with the requirements contained in any such permit or with applicable state and federal laws and regulations. All activities conducted by the Permittee pursuant to the terms of this permit and all plans implemented by the Permittee pursuant to the terms of this permit shall comply with all applicable state and federal laws and regulations.
9. Pollution prevention - In order to prevent and minimize present and future pollution, when making management decisions that affect waste generation, the Permittee shall consider the following order of priority options: waste source reduction; recycling of waste; waste treatment; and waste disposal.

Specific Conditions

1. The permittee, as both preparer and applier, shall maintain all records associated with the Cumulative Pollutant Loading Rate (CPLR) for sludge required by Title 40, Part 503 of the Code of Federal Regulations (40 CFR 503). These requirements are shown in Table 2-8 in *A Plain English Guide to the EPA Part 503 Biosolids Rule* (EPA/832/R-93/003, September 1994). The first record, pollutant concentrations, will be handled as follows. Once per quarter the permittee shall obtain a chemical analysis of the sludge from Golden Heart Utilities to ensure that the ceiling limits

0000069

listed in 40 CFR 503.13 Table 1 are not exceeded and that the sludge passes the TCLP test for metals. If any of these limits is exceeded, the permittee shall notify the Department immediately and shall accept no more sludge until such time as the limit is met. The permittee shall submit a copy of each quarterly analysis to the Department by January 31 each year. The annual amount per hectare of each pollutant (metal) applied to a site will be based on the average concentrations of these metals as shown in the 4th quarter analysis provided by Golden Heart Utilities.

2. Each time sludge is applied to a site, the permittee must sign a certification statement that all requirements for land application have been met. The certification is found in *A Plain English Guide to the EPA Part 503 Biosolids Rule*, Figure 2-10. The signed certification must be kept in the facility records.
3. Regardless of the pathogen reduction and vector attraction reduction methods employed for treating sludge, certain additional crop harvesting restrictions, grazing restrictions, and site restrictions are required. The feed crops listed in the application materials shall not be harvested until 30 days after biosolids application, turf shall not be harvested until one year after biosolids application, animals shall not graze on the land until 30 days after biosolids application, and public access shall be restricted until 30 days after biosolids application. Should food crops be planted on land where sludge has been applied, more stringent harvesting restrictions may be required in accordance with 40 C.F.R. 503.
4. When domestic septage is applied to a site, the record keeping requirements of 40 C.F.R. 503 must be kept. These requirements are found in Figure 1 of the EPA's *Domestic Septage Regulatory Guidance* (EPA 832-B-92-005, September 1993). A copy of the certification shown in Figure 7 of this publication must be signed each time domestic septage is applied and the signed certifications must be kept in the facility records.
5. The permittee shall not apply sludge or domestic septage to a site if that application will cause the nitrogen concentration in the soil to exceed the agronomic rate for the particular crop to be planted (as per the amounts shown in the application materials).
6. Biosolids may not be land applied in a designated wetland without prior authorization from the U.S. Army Corps of Engineers.
7. Biosolids may not be land applied within 33 feet of any waters of the state or within 100 feet of a well that supplies drinking water.

Stipulations

1. The contents of septic tanks associated with restaurant grease traps or industrial sources are not considered domestic septage and are prohibited from being land applied under this permit.
2. Sewage sludge obtained from sources other than Golden Heart Utilities may not be land applied without a modification to this permit.
3. Warning signs that clearly forbid public access to land application sites shall be posted along the boundaries of those sites throughout the 30-day access restriction periods required under Specific Condition #3.

0000070



Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907/459-1000

www.co.fairbanks.ak.us

September 19, 2007

Robert Riddle
1948 Badger Road
North Pole, Alaska 99705

RE: CU2008-005

Dear Mr. Riddle:

At its regular meeting of September 18, 2007, the Planning Commission of the Fairbanks North Star Borough considered your request for conditional use approval for beneficial application of biosolids to TL 601 T, 3S, R, 3E, section 08, D & I Farmstead Lots 3-5, Coben Farmstead Lots 2-4, Sebaugh Subdivision Lot 01 and Blockolsky Property Lot A in the General Use 1 zone. (located east of Eielson Farm Road, north of Jolene Avenue)

The Commission voted nine in favor, zero opposed, to approve your request.

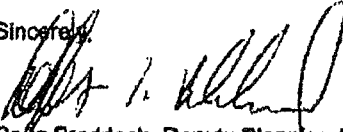
Please read the attached conditions carefully as they must be adhered to for this approval to be valid. Please sign and return the enclosed agreement within fifteen (15) days from the date of the decision of the administrative body.

This decision may be appealed within fifteen (15) days from the date of the decision to the Fairbanks North Star Borough Board of Adjustments.

Also, public notice signs must be returned within 10 days. Upon receipt, in good condition, we will promptly initiate a refund of the sign deposit.

If you have any questions regarding this matter, please feel free to contact the Department of Community Planning, Division of Planning and Zoning, 809 Pioneer Road, or call 459-1260.

Sincerely,



Doug Braddock, Deputy Planning Director
Department of Community Planning

Enclosure


DTB/rs


0000071

Exhibit 3
Page 003010 of 2

CONDITIONS OF APPROVAL:

1. As long as biosolids are being applied to the property the principal use of the property must be agricultural in nature, with the beneficial application of biosolids remaining a conditionally-approved accessory use in support of the agricultural use. The disposal of biosolids cannot become the principal use of the property.
2. All state and federal standards contained in 40 CFR Part 503 and 18 AAC 60.500 et seq are part of this conditional use approval.
3. The stipulations contained in ADEC Solid Waste Permit No. SWZA047-12 are part of this conditional use approval.


Signature of applicant acknowledging and agreeing to abide by the conditions listed above.


Signature of property owner acknowledging and agreeing to abide by the conditions listed above.

CU2008-005 A request by Robert Riddle for conditional use approval for beneficial application of biosolids to TL 601 T. 3S, R. 3E, section 06, D & I Farmstead Lots 3-5, Coben Farmstead Lots 2-4, Sebaugh Subdivision Lot 01 and Blockolsky Property Lot A in the General Use 1 zone. (located east of Eielson Farm Road, north of Jolene Avenue)

0000072
Exhibit 2
Page 2 of 2

rail and barge transport, refer to Chapter 14 in the *Process Design Manual for Sludge Treatment and Disposal* (U.S. EPA, 1979).

14.3 Storage of Sewage Sludge

It is important to note that in the Part 503 regulation, an activity is considered storage if sewage sludge is placed on land for 2 years or less. If sewage sludge remains on land for longer than 2 years for final disposal, this land area is considered an active sewage sludge unit and the surface disposal requirements in Part 503 must be met, unless the sewage sludge preparer can demonstrate that the land on which the sewage sludge remains is not an active sewage sludge unit, as discussed in Part 503.20(b).

14.3.1 Storage Requirements

Sewage sludge storage is necessary to accommodate fluctuations in sewage sludge production rates, breakdowns in equipment, agricultural cropping patterns, and adverse weather conditions which prevent immediate application of sewage sludge to the land. Storage can potentially be provided at either the treatment plant, the land application site(s), or both. Chapter 15 in the *Process Design Manual for Sludge Treatment and Disposal* (U.S. EPA, 1979) presents methods for estimating sewage sludge storage capacity and describes various storage facilities.

14.3.2 Storage Capacity

Storage capacity associated with land application sites is based on the volume and characteristics of the sewage sludge and on climate considerations. In a 1993 study of 10 POTWs, most had extensive sewage sludge storage capacities or other systems in place (Jacobs et al., 1993). For example, a facility in Madison, Wisconsin, has a large storage lagoon system that will soon be replaced with new storage tanks capable of storing 6 months (18 million gallons) of sewage sludge. In Denver, Colorado, the Metro Wastewater Reclamation District (MWRD) currently composts about 10 percent of the sewage sludge it produces; while composting is more expensive than direct land application, the MWRD maintains the composting facilities to enhance the flexibility and reliability of the land application program (Jacobs et al., 1993).

Many states have regulations governing the provision of storage capacity for sewage sludge at land application sites, with requirements varying from state to state. Indiana, for example, requires storage with a minimum of 90-days capacity at land application sites; Michigan requires that field storage be less than 7 days unless the stored sludge is covered and a seepage barrier is provided; in Oklahoma, storage at a land application site is not permitted (U.S. EPA, 1990).

14.3.2.1 Effect of Sewage Sludge Volume and Characteristics on Storage Capacity

Storage capacity is primarily dependent on the amount of sewage sludge needed at the land application site and the volume of sludge received from the treatment works. Storage capacity should be large enough to handle the volume of sludge generated during the longest projected time interval between applications (Elliott et al., 1990) and may need to be larger depending on climatic factors (see below). For agricultural systems, the time period between applications can range from 3 months to a year, whereas time spans between applications to forest land may be greater than 1 year (Elliott et al., 1990).

The characteristics of sewage sludge also affect storage (e.g., liquid sludge might be stored in tanks, while sludge solids may be stockpiled). Sewage sludge characteristics vary with source, type of sewage sludge treatment, and retention time. Data on typical quantities and characteristics of sewage sludge produced from various treatment processes are presented in Chapter 4.

14.3.2.2 Climate Considerations for Evaluating Sewage Sludge Storage

The designer of a land application system should consider the following climatic factors:

- Historical precipitation and temperature records for the application site.
- Regulatory agency requirements pertinent to the land application of sewage sludge on frozen, snow-covered, and/or wet soil.
- Ability of the sewage sludge application equipment being used to operate on wet or frozen soil.
- Drainage characteristics of the application site and associated effects on the time required after precipitation for the soil to dry sufficiently to accommodate equipment.

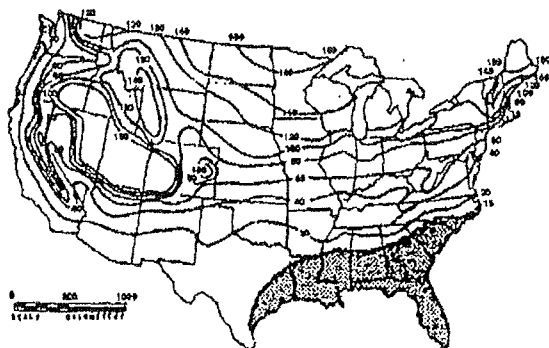
If left uncovered, large volumes of sludge may be exposed to the elements during storage (Elliott et al., 1990). Therefore, precipitation volume (minus evaporation) must be added to the storage area required for sewage sludge. In addition, the Part 503 rule sets restrictions on the land application of certain types of sewage sludge to flooded, frozen, or snow-covered lands (see Chapter 3). Many states also have seasonal limits on land application of sewage sludge, which greatly influence storage requirements at land application sites. These limits generally forbid the application of sewage sludge to saturated ground, ice- or snow-covered ground, or during rainfall (U.S. EPA, 1990).

The effect on wet soils of heavy vehicle traffic transporting sludge from storage to application areas also should

be considered. The weight of vehicles may damage the soil structure, increase the bulk density of soil, and decrease infiltration. These changes in the physical characteristics of soil may increase the potential for soil erosion and surface runoff (Lue-Hing et al., 1992).

The climatic considerations that affect sewage sludge storage capacity are greatly influenced by site-specific factors. A review of land application system designs in the United States indicates that sewage sludge storage capacity ranges from a minimum of 30 days in hot, dry climates up to 200 days in cold, wet climates.

EPA conducted a computer analysis of approximate storage requirements for wastewater-to-land application systems in the United States (Loehr et al., 1979), as shown in Figure 14-4. This information is included in this manual to show general regional variations in storage requirements due to climate. For most sewage sludge land application systems, the actual storage requirement will usually exceed the days shown in Figure 14-4.



BASED ON 0 °C (32 °F)
MEAN TEMPERATURE
1.25 CM/D PRECIPITATION
2.5 CM OF SNOWCOVER

SHADING DENOTES REGIONS WHERE
THE PRINCIPAL CLIMATIC CONSTRAINT
TO APPLICATION OF WASTEWATER
IS PROLONGED WET SPELLS

Figure 14-4. Storage days required as estimated from the use of the EPA-1 computer program for wastewater-to-land systems. Estimated storage based only on climatic factors.

14.3.2.3 Relationship Between Scheduling and Storage

The majority of existing land application systems in the United States are applying sewage sludge to privately owned land. This requires a flexible schedule to conform with local farming practices. Scheduling limitations will result from cropping patterns, and typically the designer will find that much of the agricultural land can only receive sewage sludge during a few months of the year. Applications of sewage sludge should be scheduled to accommodate the growing season of the selected plant species (Lue-Hing et al., 1992). The Madison, Wisconsin, program (Table 14-3), for example, applies over 80 percent of its sewage sludge to farmland during the

6-month period from May through October (Taylor, 1994).

Land application to forest sites should be scheduled to conform with tree grower operations and the annual growth-dormant cycle of the tree species. Land application at reclamation sites must be scheduled to conform with vegetative seeding and growth patterns and also with private landowners' operational schedules. At all of these types of sites, adequate storage capacity must be provided to accommodate the variability in scheduling.

14.3.2.4 Calculation of Sewage Sludge Storage Capacity Required

A simple method for estimating sewage sludge storage capacity required involves estimating the maximum number of days needed to store the volume of sewage sludge generated. The estimate of the maximum number of days is based on climate and scheduling considerations discussed in the previous subsections, as well as a safety factor. Often, the responsible regulatory agency will stipulate the minimum number of days of sewage sludge storage that must be provided. Calculations for this simple approach are shown below:

Assume:

1. Average rate of dry sewage sludge generated by POTW is 589 kg/day (1,300 lb/day).
2. Average sewage sludge contains 5 percent solids.
3. One hundred days storage to be provided.

Solution:

1. $\frac{589 \text{ kg/day}}{0.05} = 11,780 \text{ kg/day}$ (26,000 lb/day) of liquid sewage sludge.
2. $11,780 \text{ kg/day} = 11,780 \text{ L/day}$ (3,116 gal/day) of liquid sewage sludge produced.
3. $11,788 \text{ L/day} \times 100 \text{ days} = 1.2 \text{ million L}$ (312,000 gal) of storage required.

A more sophisticated method for calculating sewage sludge storage requirements is to prepare a mass flow diagram of cumulative generation and projected cumulative application of sewage sludge to the land application site, as shown in Figure 14-5. The figure shows that the minimum sewage sludge storage requirement for this site is approximately 1.2×10^6 gal (4.54×10^6 L), which represents 84 days of sewage sludge storage volume. The project designer should increase the minimum storage requirement by a safety factor of 20 to 50 percent to cover years with unusual weather and other contingencies.

Even more accurate approaches can be used to calculate required sewage sludge storage volume. For example, if open lagoons are used for sewage sludge storage,

0000074
Exhibit 4
Page 2 of 2

From Smyth, William J (DEC) **Date** Tuesday, August 03, 2010 2:21:25 PM
To Robert Riddle (riddler@gci.net)
Cc John Hargeshelmer (john@nortechengr.com); Spiers, James K (DEC); Smyth, William J (DEC)
Subject Septage Lagoons

Robert,

After considering your use of unlined lagoons as part of your septage spreading operation off of Eielson Farm Road, it is requested that you stop using these unlined storage lagoons until formal engineered plans have been submitted showing that the underlying in-situ material acts as a barrier to protect the shallow ground water. If the underlying material cannot adequately show to be impermeable, then the storage lagoons will be required to have an impermeable liner installed or you will need to apply for a subsurface wastewater discharge permit. Until either of these conditions have been satisfied the Department considers your unlined system as percolating into to ground which requiring both an engineer plan review and a discharge permit.

Call me if you have any questions.

Bill Smyth

ADEC - OSDS Section
(907) 451-2177
Fax (907) 451-2188

0000075



ENVIRONMENTAL ENGINEERING, HEALTH & SAFETY
Anch: 3105 Lakeshore Dr, Ste 106A, 99517 907.222.2445 Fax: 222.0915
Fairbanks: 2400 College Road, 99709 907.452.5688 Fax: 452.5694
Juneau: 4402 Thane Road, 99801 907.586.6813 Fax: 586.6819
info@nortechengr.com www.nortechengr.com

September 28, 2010

Sent electronically to: james.spiers@alaska.gov

Alaska Department of Environmental Conservation
University Avenue
Fairbanks, Alaska

ATTN: Ken Spiers

RE: **Septage Lagoon Odor
Eielson Farm Road**

Ken:

This letter is to confirm our recent telephone conversations regarding the intermittent odor concerns you have received that are reported to be originating from Robert Riddle's septage lagoons located on Eielson Farm Road.

It is understood over the past period the Department has begun receiving odor complaints that appear to be originating from the dumping, storage and treatment of septic tank waste at the facility. The facility was approved by the Department in 2007. We further understand that you, as a representative of the Department have made several site visits and have yet to be able to personally confirm odors at the property line or at the complaint locations. Mr. Riddle has retained **NORTECH** to assist with the resolution of these odor concerns with the directive that I am to work with you, the Department and those expressing concerns to find a workable solution.

As you are aware upon receipt of the initial complaints Mr Riddle investigated treatment alternatives and identified one he discussed with you that involved the purchase of a chemical additive that would be mixed with the waste and reportedly address any associated odor. While initial product promotional information indicated promising results, upon closer evaluation the manufacturer confirmed that for successful application the ambient temperature of the waste at the time of the treatment needs to be higher than 60 degrees Fahrenheit. Therefore, considering the inability to meet the manufacturer's required application requirements it was determined that further pursuit of the approach would neither be effective in addressing any odor concern, worthwhile nor a cost effective expenditure to undertake.

As we have discussed it is anticipated that any odors generated by the facility will be significantly reduce and/or eliminated with colder temperatures, especially below zero freezing temperatures, that have begun this past week. As temperatures begin to remain below freezing the stored septage will freeze solid, eliminating storage and providing effective settlement separation treatment of suspended solids and decanting of the liquid for farm land application in the spring. 0000076



F:\00-Jobs\2010\1081 F - FP&T Regulatory Assistance\Correspondence\ADEC Odor Response.Docx

Exhibit 6
Page 1 of 2



September 28, 2010

We propose to use the oncoming winter conditions period, wherein any odor complaints should subside, to further research viable alternatives for controlling odors under Fairbanks sub-arctic conditions. As we have discussed the research effort will involve two elements. The primary focus will be to evaluate available odor treatment approaches. In addition, we will attempt to identify a simple cost effective way to measure or monitor a key odor component, or tracer. The monitoring element will be important in not only confirming the odor and establishing base line conditions, but more importantly evaluating the effectiveness of alternatives undertaken.

While we are currently busy with end of construction season we expect to have alternatives identified by early January 2011 and a determined approach well in advance of the spring thaw. We look forward to your suggestions and recommendations and are prepared to meet with you and/or the involved persons over the interim alternative evaluation period. Feel free to forward a copy of this letter to those involved individuals.

We trust this information is adequate for your needs at the present time. If you have any questions feel free to contact me at your earliest convenience.

Sincerely,
NORTECH

John Hargesheimer, PE, CIH
Principal and CEO

Cc: Riddle
ADEC, Bill Smyth

0000077--



Exhibit 6
Page 0030152

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF ENVIRONMENTAL HEALTH
SOLID WASTE AND PESTICIDES PROGRAM

SEAN PARNELL, GOVERNOR

610 University Avenue
Fairbanks, Alaska 99709
PHONE: (907) 451-2108
FAX: (907) 451-2188
<http://www.dec.state.ak.us/>

October 12, 2010

Certified Mail # 7009 3410 0000 1444 4450
Return Receipt Requested

File Number: 100.15.087

Robert Riddle
1948 Badger Road
North Pole, AK 99705

FILE COPY

**Re: NORTECH Letter to Alaska Department of Environmental Conservation dated
September 28, 2010**

Dear Mr. Riddle:

I reviewed the subject letter in which John Hargesheimer discussed his winter plans for dealing with the odor issue at your Eielson Farm Road property. I look forward to working with him in his effort to find a solution acceptable to all concerned parties.

As you know, there have been numerous complaints from neighbors this year, so a solution must be found to prevent the department from having to withdraw the landspreading permit. The odor generated by the lagoons constitutes a nuisance, which is a violation of Alaska Statute 46.03.810.

Whatever mechanism you come up with to control odors must be in place by April 15, 2011. If the department receives odor complaints after that date to indicate ineffectiveness of the remedy, it will issue an order to stop using the lagoons. The department will work with you in trying different solutions if the first remedy proves ineffective; once complaints are received, however, the trial will cease and you will have to stop using the lagoons until the next trial is in place. If during interim periods unused lagoons continue to generate odors that cannot be abated by some other means, the department will insist the contents be covered with a layer of gravel or soil.

I sincerely hope the initial remedy works, as I understand closing down the lagoons would result in a substantial financial loss to you. It is unfair to the neighbors, however, to expect them to suffer through another summer of objectionable odors while you experiment with


0000078

Exhibit 1
Page 00301702

other remedies. And, the primary reason for the lagoons is supposed to be for support of the landspreading operation, not for making money from the collection of tipping fees or the avoidance of paying them elsewhere.

If you have questions, please contact me at 451-2134 or at james.spiers@alaska.gov.

Sincerely,



Ken Spiers
Environmental Program Specialist
Solid Waste Program

JKS/RA G:EHSW/companies and organizations/Riddle Eielson Farm/lagoons/2010-10-12 letter

c/c John Hargesheimer
 Bill Smyth

0000079

Exhibit 7
063018
Page 2 of 2

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF ENVIRONMENTAL HEALTH
SOLID WASTE AND PESTICIDES PROGRAM

SEAN PARNELL, GOVERNOR



610 University Avenue
Fairbanks, Alaska 99709
PHONE: (907) 451-2108
FAX: (907) 451-2188
<http://www.dec.state.ak.us/>

March 11, 2011

Certified Mail #_7009 3410 0000 1444 0247
Return Receipt Requested

File Number: 100.15.087

Carolyn L. Buckingham
ORAVEC LAW GROUP, LLC
330 Wendell Ave Ste E
Fairbanks, AK 99701-4865

Re: Permit Revocation Request dated February 9, 2011

Dear Ms. Buckingham:

The Alaska Department of Environmental Conservation Solid Waste Program (DEC) received your letter of February 9, 2011 requesting revocation of the land application of biosolids permit #SWZA047-12 held by Mr. Robert Riddle. Your letter contends that Mr. Riddle is out of compliance with his permit on various issues and that his permit should be revoked.

Under Alaska Statute 46.03.120, DEC has the authority to revoke a permit under the following circumstances:

- The permit was procured by misrepresentation of material fact or by failure to fully disclose the facts.
- There has been a violation of the conditions of the permit.
- There has been a material change in the quantity or type of waste disposed.

One issue of non-compliance you cite in your letter is Mr. Riddle's failure to meet administrative requirements of his permit by not maintaining proper records of land application activities. Please note that Mr. Riddle has recently submitted all of the required records to this office and he is now in full compliance with his permit with respect to recordkeeping.

Although Mr. Riddle's permit allows him to accept sewage sludge from the Golden Heart Utilities Water Treatment Plant and apply it to his property, to DEC's knowledge, he has never done this. The material stored on and applied to his property has exclusively been domestic septage. Mr. Riddle and the other septage hauler are well aware of the prohibition in his permit regarding septage from systems with grease traps or industrial waste. Further, it is unclear why Mr. Riddle would violate this prohibition since he separately collects the fats and greases from such systems and uses them as fuel in the boiler for his shop on Badger Road.

The primary reason you give for revoking Mr. Riddle's permit is nuisance odors originating from the lagoons Mr. Riddle is using to store domestic septage. However, permit SWZA047-12 is specific to the land application of biosolids and does not directly apply to the lagoons. The lagoons are regulated by the DEC Division of Water and, because they are "non-discharge" in design, do not require a permit.

Also, the federal regulations allow domestic septage to be stored without a permit for up to two years to accumulate enough material to make land application feasible. As such, permit SWZA047-12 cannot be revoked for odors emanating from the lagoons and revoking permit SWZA047-12 is not the proper avenue for dealing with odors from the lagoons.

Although the DEC accepts that the lagoons may cause odors, please note that despite visiting the site on numerous occasions in response to odor complaints, we have not been able to confirm any of those complaints. Even when we tried last summer to create a discernible odor by arranging for two trucks to simultaneously discharge septage into the lagoons, we were not able to detect any odors on neighboring properties.

However, rather than discount the complaints, the DEC has allowed Mr. Riddle until April 15, 2011 to install a mechanism to control odors. If this mechanism proves ineffective, as evidenced by complaints, we will coordinate with the Division of Water to address the issue. Any response taken by the Division of Water with respect to the lagoons will be taken without revoking the subject permit, as Mr. Riddle could potentially land apply biosolids without the temporary storage afforded by the lagoons.

For the reasons provided above, the department does not have sufficient reason to revoke Mr. Riddle's permit and is denying your request. If you have further questions on this matter, please direct your inquiry to Ms. Jennifer Currie with the Department of Law in Anchorage at 269-5274.

Sincerely,



Douglas Buteyn
Northern/Southeastern Program Coordinator
ADEC Solid Waste Program

cc: Jennifer Currie, Dept. of Law, Anchorage
Bob Blankenburg, DEC, Anchorage
Bill Smyth, DEC Division of Water, Fairbanks

0000081

Exhibit 8
Page 2 of 2



Fairbanks North Star Borough

Department of Law

809 Pioneer Road • PO Box 71267 • Fairbanks, AK 99707 - (907) 459-1318 FAX 459-1155

March 11, 2011

RECEIVED
FEB 11 2011

Carolyn Buckingham
Oravec Law Group, LLC
330 Wendell Street, Suite E
Fairbanks, AK 99701

RE: Conditional Use Permit No. CU2008-005
(Riddle, Robert - Biosolids application)

Dear Ms. Buckingham:

Our office has reviewed Community Planning's files pertaining to Conditional Use Permit No. CU2008-005 pursuant to your February 9, 2011 correspondence to Bernardo Hernandez, Director of Community Planning. We additionally contacted ADEC regarding the underlying ACEC Solid Waste Permit No. SWZA047-12.

Conditional Use Permit CU2008-005 issued by the Fairbanks North Star Borough has three basic conditions:

1. The principal use of the property be agricultural in nature;
2. State/federal standards contained within 40 CFR 503/18 AAC 60.500 apply; and
3. Stipulations contained within ADEC's underlying Solid Waste Permit must be met.

The Fairbanks North Star Borough defers to ADEC in this matter as the regulatory agency administering the underlying ADEC Solid Waste Permit No. SWZA047-12. Recent contact by the undersigned to Ken Spiers of ADEC confirmed that Mr. Riddle is presently in compliance with state/federal standards and the terms of SWZA047-12. A review of ADEC materials in the file indicates ADEC's determination as of fall 2010 that Mr. Riddle's operation was principally agricultural. Based upon the foregoing, at this time there is no apparent basis to revoke Conditional Use Permit No. CU2008-005.

ADEC did note that Mr. Riddle has been given a deadline of April 15, 2011 by their office to have an acceptable odor control/abatement plan in place. Per their October 12, 2010 correspondence, if Mr. Riddle fails to provide an effective plan on or before the April 15, 2011 deadline, ADEC may revoke SWZA047-12.

This office is closing its review of this matter. File materials will be returned to Community Planning for followup with ADEC after April 15, 2011 and handling in the usual course of business.

Sincerely yours,

FAIRBANKS NORTH STAR BOROUGH


CASSANDRA TILLY
ASSISTANT BOROUGH ATTORNEY

0000082

cc: B. Hernandez, Community Planning

Exhibit 9
Page 003081 1

RECEIVED
R. Spiers

Note on Odor Verification

On the afternoon of May 12, 2011, Bill Smyth and I visited the property of John Brunsberg off Eielson Farm Road, near North Pole, AK. The purpose of the visit was to ascertain if septage odors generated on the adjoining property of Robert Riddle could be detected on Mr. Brunsberg's property. As there were fairly strong north to northeast winds, odors from the septage lagoons should have been driven directly to the Brunsberg property. Mr. Brunsberg had registered numerous complaints of odors, but ADEC personnel were never able to verify them.

Mr. Smyth and I arrived at Brunsberg's at about 2:10 p.m. We smelled intermittent sewage odors immediately upon leaving the vehicle. We remained about 15 minutes, fully satisfied that Mr. Brunsberg's complaints had been justified, and returned to ADEC. I notified Mr. Riddle by phone and e-mail of the verification and directed him to implement his plan of spraying a lime slurry onto the septage in the lagoons. He told me he would get it done right away. I said I would visit the lagoons on Monday, May 16th to verify that action had been taken.

Later that evening, Mr. Brunsberg called my home to report strong smells again. I apprised him of my actions earlier in the day and that verification was now official. He did say that the smell was actually a good bit worse at about 9:30 p.m the night before, when there was no apparent wind. He also was happy that Mr. Riddle had been notified and had agreed to take immediate action.


Ken Spiers

5/13/2011

0000083

Exhibit 10
Page 003021 of 1



330 Wendell Street Suite E Fairbanks, Alaska 99701
(907) 458-8844 FAX (907) 458-8845 www.OravecLawGroup.com

May 31, 2011

Mr. Douglas Buteyn
ADEC Solid Waste Program
610 University Avenue
Fairbanks, AK 99709

Re: Failure To Respond To May 10, 2011 Letter;
Permit No. SWZA047-12
Our File No. 369.01

Dear Mr. Buteyn:

During the summer of 2010, DEC received multiple complaints that Mr. Riddle's biosolids operation was emitting odors. DEC inspected and noted that the operation also had not filed the required paperwork and certifications. Despite this obvious noncompliance, DEC issued a letter on October 12, 2010 providing Mr. Riddle until April 15, 2011 to install a mechanism to control odors emanating from his biosolids operation.

DEC's letter used mandatory language. The letter specifically stated that "[i]f the department receives odor complaints after [April 15, 2011] to indicate ineffectiveness of the remedy, it will issue and order to stop using the lagoons." Our office has requested enforcement of this Order, and no response has been forthcoming from your office. See Letter from C. Buckingham, dated April 29, 2011.

As of April 15, 2011, Mr. Riddle had not installed a mechanism to control odors. DEC has not initiated enforcement. After April 15, 2011, DEC received odor complaints from local residents. DEC independently inspected and found that no mechanism has been installed, and confirmed that there are significant odors emitting from the operations. DEC has not initiated enforcement. See Ken Spiers' 5/13/2011 Note on Odor Verification, attached.

On April 29, 2011, we requested DEC confirm whether it will undertake an enforcement action. We received no response to our request. On May 10, 2011, this office again requested that DEC enforce its order. No response to this request has been received to date.

Please accept this letter as our third request that DEC enforce its requirement that a mechanism be installed on the operations. In the meantime, we continue to request that the permit be cancelled on the basis of continuing noncompliance.

Sincerely,
ORAVEC LAW GROUP, LLC


Carolyn L. Buckingham

0000084

Enclosure as stated.

cc: Jennifer Currie, Department of Law, Anchorage
Ken Spiers, DEC, Fairbanks

Exhibit 11
Page 001023 of 1

Subject: RE: Robert Riddle Operation Update

Date: Monday, July 18, 2011 9:07 AM

From: Smyth, William J (DEC) <bill.smyth@alaska.gov>

To: "Carolyn L. Buckingham" <cbuckingham@acsalaska.net>

Cc: "Macinnis, James D (DEC)" <james.macinnis@alaska.gov>, "Smyth, William J (DEC)" <bill.smyth@alaska.gov>, "Spiers, James K (DEC)" <james.spiers@alaska.gov>, "Buteyn, Douglas J (DEC)" <doug.buteyn@alaska.gov>

Ms Buckingham,

Thank you for your interest in our work with Mr. Riddle's biosolids operation and the on-site septage lagoons. A summary of our recent activity is provided as follows:

Lagoon Cell Closure: Mr. Riddle has been directed to decommission two of the existing lagoon cells. These cells are the two closest to the slough bordering the Lanser development. As of (insert date here) Mr. Riddle has removed the liquids from these two cells and will be stabilizing the sludge solids that remain in the bottom. When the sludge has been stabilized in these two cells it will be removed and spread on the fields. These two cells will then be closed and will no longer be used to store septage.

Remaining Lagoon Cells: The three remaining lagoon cells will be lined with a bentonite clay liner to protect the shallow groundwater under the site, even though we currently do not have any indication that the existing lagoons are adversely impacting the groundwater. Mr. Riddle will be required to monitor the groundwater at least twice a year from monitoring wells installed in 2010.

Odor Control: As Doug Buteyn indicated in his letter to you dated July 1, 2011, the Department will continue to seek a balance between Mr. Riddle's neighbor's right to enjoy their property and his rights to conduct a lawful agricultural operation on his property. Certain odors and smells associated with agricultural operations are allowed. However, odors from the septage lagoons must be controlled in a structured and regular process. The Department will require Mr. Riddle establish and follow an Odor Control Plan for the septage lagoons. We will provide a copy of this Plan to you when it has been approved.

If you have any questions, please contact me.

0000085

Bill Smyth
Engineering Support & Plan Review
(907) 451-2177
Fax (907) 451-2188

From: Carolyn L. Buckingham [mailto:cbuckingham@acsalaska.net]
Sent: Wednesday, July 06, 2011 1:12 PM
To: Smyth, William J (DEC)
Subject: Robert Riddle Operation Update

Mr. Smyth,

I received your contact information from Ken Spiers, who indicated that any questions regarding Robert Riddle's septage lagoons on Eielson Farm Road should be addressed to you. As you may know, our office represents Eric Lanser, a developer and local homeowner who has complained on several occasions about odors emanating from Riddle's biosolids facility, and we have been working with DEC Solid Waste to reach a solution to this problem. Because you are now dealing with the issue, I would appreciate it if you would keep me informed as to your response to the various issues associated with Riddle's lagoons. And based on the fact that complaints about the lagoons have been ongoing for a year now, we request that you issue Riddle a letter demanding that he stop receiving solid waste in the lagoons until DEC resolves the odor and compliance issues associated with the lagoons. Please feel free to contact me if you have any questions.

Sincerely,

Carolyn Buckingham

--
Carolyn L. Buckingham
Associate Attorney
Oravec Law Group, LLC
330 Wendell Street, Ste. E
Fairbanks, Alaska 99701
Phone: 907.458.8844

0000086

Page 2 of 3

Exhibit 12
Page 2 of 3

This electronic message transmission contains information belonging to the Oravec Law Group that is solely for the recipient named above and which may be confidential or privileged. THE ORAVEC LAW GROUP EXPRESSLY PRESERVES AND ASSERTS ALL PRIVILEGES AND IMMUNITIES APPLICABLE TO THIS TRANSMISSION. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this communication is STRICTLY PROHIBITED. If you have received this electronic transmission in error, please notify the Oravec Law Group immediately by telephone at 907.458.8844 or by electronic mail. Thank you.

To ensure compliance with Treasury Regulations (31 CFR Part 10, Sec. 10.35), we inform you that any tax advice contained in this correspondence was not intended or written by us to be used, and cannot be used by you or anyone else, for the purpose of avoiding penalties imposed by the Internal Revenue Code.

0000087

Page 3 of 3

Exhibit 12
Page 2 of 3
003026

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
 FOURTH JUDICIAL DISTRICT AT FAIRBANKS

FILED IN THE TRIAL COURT
 STATE OF ALASKA
 FOURTH JUDICIAL DISTRICT
 2012 MAR 20 AM 10:54
 CLERK OF THE COURTS

ERIC LANSER,
 Plaintiff,

vs.

ROBERT RIDDLE, dba
 FAIRBANKS PUMPING AND THAWING,
 And ALASKA DEPARTMENT OF
 ENVIRONMENTAL CONSERVATION,
 Defendants.

BY _____ DEPUTY

Case No. 4FA-11-3117 CI

DEFENDANT ROBERT RIDDLE'S ANSWER TO COMPLAINT

COMES NOW The Law Offices of William R. Satterberg, Jr. on behalf of Defendant, Robert Riddle, dba Fairbanks Pumping and Thawing, and hereby answers Plaintiff's complaint as follows:

1. Admitted.
2. Admitted as to Robert Riddle's residency, that Robert Riddle does business as Fairbanks Pumping and Thawing, and as to Fairbanks Pumping and Thawing's office location. Admitted that Fairbanks Pumping and Thawing accepts domestic septage. Admitted that Fairbanks Pumping and Thawing transfers domestic septage (hereinafter "septage") to evaporative holding ponds (hereinafter "holding ponds") on his agriculturally-zoned farm property off Eielson Farm Road, which is ~~00000088~~ 00000088 izer for the agricultural crops. Denied that Robert Riddle accepts raw sewage. Denied that Robert

LAW OFFICES
 WILLIAM R. SATTERBERG, JR.
 ATTORNEY AT LAW
 709 FOURTH AVENUE
 FAIRBANKS, ALASKA 99701
 (907) 452-4454
 FAX (907) 452-3988

D

LAW OFFICES
WILLIAM R. SATTERBERG, JR.
ATTORNEY AT LAW
709 FOURTH AVENUE
FAIRBANKS, ALASKA 99701
(907) 452-4454
FAX (907) 452-3988

Riddle uses "lagoons." "Lagoon" is a technical term that does not accurately describe the holding ponds utilized by Robert Riddle.

3. Admitted.

4. Denied that any conduct giving rise to any claim for relief occurred.

5. Admitted.

6. Admitted that Plaintiff is a homeowner, landowner, and business owner near Eielson Farm Road. Denied that Robert Riddle maintains a "waste operation" on Eielson Farm Road.

7. Denied that Robert Riddle stores raw sewage in lagoons. Denied that Robert Riddle has spread raw sewage onto agricultural fields. Denied that there are "strong, unpleasant raw sewage odors" associated with Robert Riddle's farm operation. Robert Riddle uses domestic septage, which is the product of sewage that has been partially treated while in a septic tank. While in the septic tank, the sewage is held and dewatered, allowing solids to settle out and the liquid to flow to the septic system drain field. *See* Appendix A, EPA's "A Homeowner's Guide to Septic Systems." While in the tank, the solids undergo partial decomposition. *Id.* This decomposition is a process in which microorganisms breakdown biodegradable material. What is then pumped out of a septic tank is referred to as domestic septage or biosolids. Robert Riddle stores septage in earthen storage basins, referred to as evaporative holding ponds, which are located on the farm. These holding ponds are above-grade, earth-walled structures formed by berming

000089

Lanser v. Riddle, et al. / 4FA-11-3117 CI
Robert Riddle's Answer
Page 2

002923

LAW OFFICES
WILLIAM R. SATTERBERG, JR.
ATTORNEY AT LAW
709 FOURTH AVENUE
FAIRBANKS, ALASKA 99701
(907) 452-4454
FAX (907) 452-3988

soil. The holding ponds allow operations to continue until the conditions of the field are suitable for land application of the septage. The storage area is necessary during periods of wet or frozen ground, when land application of the septage is not appropriate. The holding ponds also act as a transfer point for the unloading of septage before applying the septage to the fields. Septage is applied to land as a fertilizer. This practice "has been subjected to more than 30 years of intensive careful study." See Appendix B, EPA's "Nutrient Management and Fertilizer." The land application of septage in farming is a practice endorsed by the U.S. Department of Agriculture, the Food and Drug Administration, and the EPA. *Id.*

8. Denied that Robert Riddle operates a "solid waste storage facility." Denied for lack of knowledge as to the operations or responsibilities of the Alaska Department of Environmental Conservation (hereinafter "ADEC") Solid Waste Division.

9. Denied.

10. Denied for lack of knowledge as to complaints made to the ADEC. Denied that Robert Riddle received any complaints from Plaintiff. Admitted that Robert Riddle received one complaint from one "other Arctic Fox Subdivision neighbor[]." Denied that Robert Riddle received any other complaints from "Subdivision neighbors." The Arctic Fox Subdivision was developed by Plaintiff after Robert Riddle's farming operation and land application of septage was approved, permitted and underway. Plaintiff and each subsequent purchaser in the subdivision was on notice of Robert Riddle's farm operation.

0000090

Lanser v. Riddle, et al. / 4FA-11-3117 CI
Robert Riddle's Answer
Page 3

002924

LAW OFFICES
WILLIAM R. SATTERBERG, JR.
ATTORNEY AT LAW
709 FOURTH AVENUE
FAIRBANKS, ALASKA 99701
(907) 452-4454
FAX (907) 452-3988

See Alaska Statutes 34.70.050, 34.55.012. Additionally, Plaintiff had actual knowledge of Robert Riddle's ADEC permit for the land application of septage, as well as the Fairbanks North Star Borough (hereinafter "FNSB") conditional use permit, prior to Plaintiff's development of the Arctic Fox Subdivision. Further, Robert Riddle began using septage as a fertilizer, as authorized by the permits, prior to Plaintiff's development of the Arctic Fox Subdivision.

11. Denied. Moreover, according to ADEC records, several (over ten) site visits were made by ADEC personnel in attempts to verify the presence of odors. In 2010 and early 2011, no odors had been detected by ADEC personnel. On May 11, 2011, ADEC stated that, "...despite visiting the site on numerous occasions in response to odor complaints, we have not been able to confirm any of those complaints. Even when we tried last summer to create a discernible odor by arranging for two trucks to simultaneously discharge septage into the lagoons, we were not able to detect any odors on neighboring properties." See Letter from Douglas Buteyn to Carolyn Buckingham with Oravec Law Group, dated May 11, 2011, attached to Plaintiff's Complaint as Exhibit 8, p. 2. On one visit out of more than ten visits, on May 12, 2011, ADEC personnel detected intermittent odors at the property of John Brunsberg, which is the property closest to Robert Riddle's holding ponds. At that time, Robert Riddle was notified by the ADEC that odors had been detected. In response, Robert Riddle

0000091

Lanser v. Riddle, et al. / 4FA-11-3117 CI
Robert Riddle's Answer
Page 4

002925

LAW OFFICES
WILLIAM R. SATTERBERG, JR.
ATTORNEY AT LAW
709 FOURTH AVENUE
FAIRBANKS, ALASKA 99701
(907) 452-4454
FAX (907) 452-3988

voluntarily applied a lime slurry to the holding ponds, which is an EPA approved method of reducing odors.

12. Denied. No regulatory or statutory provision makes the ADEC responsible for the monitoring or regulation of odors from the land application of septage on a farming operation. As such, the ADEC would have no basis for addressing any alleged odors from Robert Riddle's farm, nor would the ADEC have the authority to revoke Robert Riddle's permit for the land application of septage based on complaints of odors. Odors resulting from a farm operation cannot be a nuisance unless operations are improper, illegal, or negligent. *See Alaska's Agricultural Protection Act, AS 09.45.235.* This is true even if the agricultural operation expands or adopts new technology. *Id. See also,* Robert Riddle's Alaska Farm Conservation Plans approved by Fairbanks Soil and Water Conservation District, attached as Appendix C.

13. Denied. After extensive study, the EPA has determined that land application of septage "presents negligible risk to the consumer, to crop production, and to the environment." *See Appendix B.* As to the use or enjoyment of property, Plaintiff and residents of Arctic Fox Subdivision were on notice of Robert Riddle's farm operation at the time their property was developed and/or purchased.

14. Denied.

15. Denied. The ADEC did note intermittent odors from Robert Riddle's farm operation on one of several site visits. However, the ADEC does not have any
0000092

Lanser v. Riddle, et al. / 4FA-11-3117 CI
Robert Riddle's Answer
Page 5

002926

LAW OFFICES
WILLIAM R. SATTERBERG, JR.
ATTORNEY AT LAW
709 FOURTH AVENUE
FAIRBANKS, ALASKA 99701
(907) 452-4454
FAX (907) 452-3988

enforcement or revocation authority on the basis of odor. Similarly, there is no basis for a private party action. Plaintiff was on notice of Robert Riddle's farm operation prior to the development of his subdivision. Furthermore, Plaintiff's action is barred by Alaska's Agricultural Protection Act. *See* AS 09.45.235.

16. Denied. Robert Riddle applied for a permit for the land application of septage in April, 2006. The application was deemed incomplete by the ADEC. As such, the application was revised and resubmitted on February 1, 2007. The revised application was accepted by the ADEC and on April 12, 2007, permit SWZA047-12 for the land application of biosolids was issued.

17. Admitted that the document speaks for itself. Denied that the ADEC can revoke Robert Riddle's permit for odors. Denied that odors from a farm can be a nuisance.

18. Admitted that the permit speaks for itself.

19. Admitted.

20. Denied that the ADEC permit contains limiting language. Domestic septage may be stored on site in order to accumulate enough material to make the land application feasible. The type of on site septage storage being done by Robert Riddle is not regulated by ADEC, any other State regulatory authority, nor by federal regulations.

21. Admitted that the ADEC permit speaks for itself.

22. Admitted that the ADEC permit speaks for itself.

23. Admitted.

0000093

Lanser v. Riddle, et al. / 4FA-11-3117 CI
Robert Riddle's Answer
Page 6

002927

LAW OFFICES
WILLIAM R. SATTERBERG, JR.
ATTORNEY AT LAW
709 FOURTH AVENUE
FAIRBANKS, ALASKA 99701
(907) 452-4454
FAX (907) 452-3988

24. Admitted that the FNSB permit speaks for itself.

25. Denied that either the FNSB permit or the stipulations section of the ADEC permit, which was expressly included in the FNSB permit, provide that the source of the septage will be residential septic tanks. Admitted that the ADEC permit stipulations restrict the land application of sludge (which is different than septage) to that obtained from Golden Heart Utilities only.

26. Denied. The FNSB permit does not state that Fairbanks Pumping and Thawing will collect the septage.

27. Denied. The FNSB permit does not refer to "odors" or "nuisance" nor does it include any equivalent language.

28. Denied. Neither the FNSB permit nor the FNSB code provides that revocation of a conditional use permit is a remedy for any violation of a permit or regulation. *See* FNSBC 18.58.020.

29. Admitted that the FNSB permit states "40 CFR Part 503... are part of this conditional use approval." Denied that 40 C.F.R. 503.17(b)(3) requires the keeping records reflecting the time septage was applied to the land. Denied that Plaintiff's characterization of 40 C.F.R. 503.17(b)(6), as referenced in paragraph 29(vi) of the Complaint, is accurate.

0000094

LAW OFFICES
WILLIAM R. SATTERBERG, JR.
ATTORNEY AT LAW
709 FOURTH AVENUE
FAIRBANKS, ALASKA 99701
(907) 452-4454
FAX (907) 452-3988

30. Admitted that state law requires compliance with certain provisions of 40 C.F.R. 503, including those listed in paragraph 29 of Plaintiff's complaint. Denied that the FNSB permit can be revoked pursuant to AS 46.03.120 and 18 AAC 60.260.

31. Paragraph 31 sets forth several factual allegations against the ADEC for which no answer is required of Robert Riddle. To the extent an answer is necessary, Robert Riddle denies that he uses "sewage lagoons" and that he has a "solid waste operation." All additional allegations are denied for lack of knowledge.

32. Admitted that the ADEC inspected Robert Riddle's property on or about July 15, 2010. Denied that Robert Riddle failed as alleged in paragraphs 32(i) through 32(v). Denied that the ADEC found Robert Riddle to have violated requirements as alleged in paragraphs 32(i) through 32(v).

33. Admitted that the ADEC sought clarification and reformatting of the records as well as a signature on Robert Riddle's records. Denied that the ADEC "demanded... proof of satisfaction."

34. Denied. On March 11, 2011, Douglas Buteyn of the ADEC verified in a letter to Carolyn Buckingham of Oravec Law Group that Robert Riddle was in compliance with his ADEC permit.

35. Admitted that the holding ponds currently in use are not lined with any manufactured impermeable liner. The holding ponds are lined with in-situ impermeable soils. The ADEC inspected the holding ponds and agreed that the septage was not

0000095

Lanser v. Riddle, et al. / 4FA-11-3117 CI
Robert Riddle's Answer
Page 8

002929

LAW OFFICES
WILLIAM R. SATTERBERG, JR.
ATTORNEY AT LAW
709 FOURTH AVENUE
FAIRBANKS, ALASKA 99701
(907) 452-4454
FAX (907) 452-3988

leaching through the in-situ impermeable soils nor affecting the ground water. One holding pond, which is not currently being used, is lined with a manufactured liner. Although not legally required to do so, Robert Riddle voluntarily discontinued using the two holding ponds nearest the Arctic Fox Subdivision in an effort to address his neighbors' concerns.

36. Admitted.

37. Admitted.

38. Denied for lack of knowledge. Denied that Robert Riddle has a "solid waste operation."

39. Denied for lack of knowledge.

40. Denied for lack of knowledge.

41. Denied for lack of knowledge.

42. Denied for lack of knowledge. Denied that Robert Riddle has a "solid waste operation."

43. Denied that Robert Riddle failed to meet any ADEC deadline to control odors. Furthermore, pursuant to Alaska's Agricultural Protection Act, ADEC had no authority to implement any odor abatement of a farm operation. However, in an effort, as a neighbor, to address the expressed concerns, Robert Riddle voluntarily sprayed the holding ponds with a test application of lime slurry prior to April 15, 2011. All other allegations are denied for lack of knowledge.

0000096

Lanser v. Riddle, et al. / 4FA-11-3117 CI
Robert Riddle's Answer
Page 9

002930

LAW OFFICES
WILLIAM R. SATTERBERG, JR.
ATTORNEY AT LAW
709 FOURTH AVENUE
FAIRBANKS, ALASKA 99701
(907) 452-4454
FAX (907) 452-3988

44. Denied for lack of knowledge.

45. Denied for lack of knowledge as to information received by Plaintiff. Admitted that Robert Riddle informed Ken Spiers of the ADEC that lime slurry would be sprayed on the holding ponds. Robert Riddle did, in fact, voluntarily spray the lime slurry on the holding ponds.

46. Denied for lack of knowledge.

47. Denied for lack of knowledge.

48. Denied for lack of knowledge.

49. Denied for lack of knowledge. Robert Riddle did voluntarily close two holding ponds, which were located closest to the neighboring property, in an effort to be a good neighbor. The ADEC verified that no manufactured liner was necessary to prevent liquids from leaching into the ground because the holding ponds were lined with impermeable in-situ soils.

50. Denied. Two evaporative holding ponds were voluntarily closed. At all times that the other evaporative holding pools were in use, each was lined with in-situ impermeable soils.

51. Denied for lack of knowledge.

52. Denied that odors "still emanate" from Robert Riddle's property. During winter months, the holding ponds are frozen. Alleged odors may be intermittent during months

0000097

Lanser v. Riddle, et al. / 4FA-11-3117 CI
Robert Riddle's Answer
Page 10

002931

that the holding ponds are not frozen. Denied for lack of knowledge as to the ADEC's efforts or acknowledgments.

53. Denied. No irreparable injury is caused by the alleged intermittent odors. Neither land application of septage nor the holding ponds injure human health and safety.

54. Denied. Any odors emanating from Robert Riddle's farm are the result of farming operations on his agricultural land.

55. Denied.

56. Denied that the requested relief is appropriate. Denied that Robert Riddle accepts "raw sewage" in "lagoons."

57. Denied that the requested relief is appropriate. Denied that the ADEC and the FNSB may revoke Robert Riddle's respective permits based on the alleged odors.

58. Denied that any irreparable harm will occur to Plaintiff or the public. Denied that Robert Riddle has "lagoons storing raw sewage."

59. Denied. Robert Riddle operates an active farm that provides feed for livestock. Robert Riddle has invested considerable amounts of time, resources, and materials into the farm. The ability to operate the farm, including the use of septage to fertilize the crop, is essential to preventing significant financial loss.

60. Denied. An agricultural operation is not a nuisance, per AS 09.45.235. Plaintiff and all other residential neighbors purchased and developed the land with notice of Robert Riddle's farm operation. AS 34.70.050, 34.55.012.

0000098

Lanser v. Riddle, et al. / 4FA-11-3117 CI
Robert Riddle's Answer
Page 11

LAW OFFICES
WILLIAM R. SATTERBERG, JR.
ATTORNEY AT LAW
709 FOURTH AVENUE
FAIRBANKS, ALASKA 99701
(907) 452-4454
FAX (907) 452-3988

002932

LAW OFFICES
WILLIAM R. SATTERBERG, JR.
ATTORNEY AT LAW
709 FOURTH AVENUE
FAIRBANKS, ALASKA 99701
(907) 452-4454
FAX (907) 452-3988

61. Denied that the requested relief is appropriate. Denied that Robert Riddle accepts "raw sewage" into "lagoons."

62. Denied that the requested relief is appropriate.

63. Denied.

64. Denied

65. Denied.

66. Denied.

67. Denied. A farm operation cannot be a nuisance. AS 09.45.235.

68. Denied.

69. Denied.

70. Denied.

71. Denied.

72. Denied. Furthermore, in a letter dated March 11, 2011, the ADEC notified Plaintiff that Robert Riddle was compliant with the terms of his ADEC permit.

73. Count 6, paragraphs 73 through 75, set forth an alleged claim against Defendant ADEC for which no answer is required of Defendant Robert Riddle. AS 46.40.020, et seq. were repealed as of July 1, 2011.

AFFIRMATIVE DEFENSES

1. Failure to state a claim upon which relief may be granted.
2. Failure to name a necessary party.

0000099

Lanser v. Riddle, et al. / 4FA-11-3117 CI
Robert Riddle's Answer
Page 12

002933

3. Failure to exhaust administrative remedies.
4. Plaintiff lacks standing.
5. Action authorized by permit. AS 09.45.230.
6. An agricultural operation is not a nuisance. AS 09.45.235.
7. Plaintiff purchased and developed residential property with notice of agricultural operation. AS 34.70.050, 34.55.012.
8. Waiver.
9. Estoppel.
10. Failure to mitigate damages.
11. Contrary to public policy.

WHEREFORE, Defendant Robert Riddle, dba Fairbanks Pumping and Thawing, prays that Plaintiff take nothing by way of its complaint and that Defendant furthermore be granted his reasonable costs, interest and attorney's fees occasioned thereby, and any such other relief as this Court may deem just and equitable in the premises.

DATED this 19 day of March, 2012.

THE LAW OFFICES OF WILLIAM R. SATTERBERG, JR.

By: _____

William R. Satterberg, Jr.
Alaska Bar No. 7610126
Attorney for Robert Riddle

CERTIFICATE OF SERVICE

I hereby certify that a 000000100
the above document was mailed to the following:

Orange Law
Group

This 10 day of 3, 20 12

LAW OFFICE OF WILLIAM R. SATTERBERG, JR.

By: Caroli

002934

LAW OFFICES
WILLIAM R. SATTERBERG, JR.
ATTORNEY AT LAW
709 FOURTH AVENUE
FAIRBANKS, ALASKA 99701
(907) 452-4454
FAX (907) 452-3988

:wd

Lanser v. Riddle, et al. / 4FA-11-3117 CI
Robert Riddle's Answer
Page 13