

# WEEKLY REPORTS

Checklist  
3/28/2014

Elizabeth Miller/Aly Richards

- ☒ Agency of Commerce and Community Development – Lawrence Miller
- ☐ Health Care Assignment – Lawrence Miller
- ☒ Department of Labor – Annie Noonan
- ☒ Department of Financial Regulation – Susan Donegan
- ☒ Agency of Education – Rebecca Holcombe
- ☐ VT Commission on Lottery – Greg Smith

Louis Porter

- ☒ Agency of Transportation – Brian Searles
- ☒ Agency of Human Services – Doug Racine

Sue Allen

- ☒ Agency of Agriculture – Chuck Ross
- ☒ Agency of Natural Resources – Deb Markowitz
- ☐ Public Service Department – Chris Recchia (**coming later this wknd**)

Sarah London/Carolyn Wesley

- ☒ Department of Public Safety – Keith Flynn
- ☒ Agency of Administration – Jeb Spaulding

Susan Spaulding

- ☒ Boards and Commissions – Susan Spaulding
- ☒ Department of Liquor Control – Mike Hogan

**To:** Governor Peter Shumlin  
**From:** Lucy Leriche, Deputy Secretary - Agency of Commerce and Community Development  
**Date:** March 28, 2014  
**Re:** Weekly Report

---

## LEGISLATIVE ACTIVITY

- **H.220/H736:** The Senate Economic development bill passed the senate with a number of amendments. Lucy is now working with the House as they prepare their changes to **the bill**.
- **H.563 Captives:** bill passed out of Senate Finance in concurrence.
- **H.809:** Senate Economic Development has started taking testimony on H.809 (Growth Center Process Updates). This bill has no controversy so hopefully it will move smoothly.
- **S.676:** Noelle testified in Senate Natural Resources on this bill that provides follow up to Act 138 which required rulemaking for ANR on land use within flood hazard areas. In starting the rule making process ANR realized that there were some areas that needed clarification (i.e. what development municipalities are prohibited from regulating for the purpose of NFIP) and technical corrections to ensure the State complies with NFIP. ACCD has been working with ANR on the rules and on H.676 and provided testimony in support of the bill.
- **Taxing Leased Municipal Parking Lots:** The City of Winooski is concerned about the potential for their parking garages to be taxed because they are leased businesses. Noelle has meetings set up with Mary Peterson, VLCT and Rep. Cross to discuss and understand the issues and see if there is a path that works.
- **H.884:** The Ways and Means Committee voted out the Miscellaneous Tax Bill including shared equity language setting the assessment of homes restricted by housing subsidy covenants at no more than 70% of fair market value. The bill is to be considered by the full House on Thursday and Friday. It also includes an expansion of the downtown tax credits, a technical correction in flood credits for the Latchis Theater and a repeal of the downtown sales tax statute. DHCD supports the first two and not the last.
- **H.239:** The Landlord Education bill with an appropriation of \$32,000 was approved by the House this week.
- **S.186:** The Municipal Tool Box Bill has been referred to the House Government Operations Committee. The bill includes condemnation and Class 4 road language sought by the Department.
- **H.889:** Language directing the Vermont Housing Council to study and recommend alternatives to the renter rebate program was included in the property tax rate bill approved by the Ways and Means Committee. The study language was included in lieu of a provision eliminating the program altogether.
- **Made in Vermont:** Lucy and Nancy testified in Senate Economic Development last week about the draft language from Senator Campbell, proposing an expansion of the Made in Vermont program concept to include products that are designed, engineered or formulated in Vermont as well as those that are manufactured in Vermont. Shared ACCD concerns that expanding the program before it launches could overly stress the limited staff resources (1 part time person) that ACCD/VDTM has allocated to launch the program. Lucy proposed revised language to the committee that ACCD conduct a feasibility study of the

program expansion, rather than implementation, with that study due by September 2015. The Committee adopted the amendment, which is now in S.220.

- Lisa Gosselin and Lucy Leriche, met with Brattleboro Select Board around their concerns that as a hub city, their resource needs are outpacing the tax revenues and that a more equitable system should be in place to benefit hub cities that outlying towns rely on.

## **LUCY LERICHE, DEPUTY SECRETARY**

- **Vermont Chamber and VDTM/View Boost:** Former Secretary of Agriculture Roger Albee and son Doug Albee are unhappy with a process currently rolling out with the Vermont Chamber of Commerce. VDTM entered into an MOU with the Chamber to partner on a new travel planner. The Chamber put out an RFP for a desktop and mobile application that meets the mutual goals of the Chamber and the VDTM. They have not yet announced who will be awarded the contract, but it will be announced soon. The Albee's are not in the running. The Albee's asked for a meeting with Lucy. After being fully briefed by VDTM and John Kessler, it does not appear as though ACCD has any exposure. Lucy will hear them out and keep you apprised of developments.
- **Economic Development Incentives:** Fred Kenney is on it. Lucy has put a team together including Fred, Kiersten and Ken Jones.

## **KIERSTEN BOURGEOIS, SENIOR PROJECTS MANAGER**

### **RECRUITMENT (CONFIDENTIAL)**

- **1366 Technologies:** Conversations are ongoing with the MA-based company and the IBM-VT location is still under consideration for 1366's massive expansion. The Site Team at IBM is in regular contact with the company, as is our team. Next steps for the company is to delve into due diligence on two sites, presumably ours and NYS (Albany). NYS is offering to construct a building for them – according to 1366 – and will offer a suite of incentives/tax breaks. (**JOB POTENTIAL: 300 jobs over 3 years**)
- **Resolute Forest Products:** Next step for this project is to identify any possible employee incentives. We have offered a strong VEGI/VTP, etc. package, but the company really wants something for their employees. I have reached out to Annie to see what her shop can do, if anything. RFP is looking at sites in Burlington, Colchester and Shelburne. (**JOB POTENTIAL: 70 high-paying Sales and Marketing Jobs to start**)
- **Project Ammo (North American Training & Logistics):** FK and KB had a conference call with a CPA regarding the possible expansion of an ammunition manufacturer HQ'd in Exeter, NH. The company presently has about 25 employees and not only makes ammo, but also weapon components. The CPA has been working with the company for some time and let us know that they are also buying companies – so will make introductions to Century Arms as well. They are looking at Springfield as a possible area for this investment.
- **Marie Morin:** The company is restarting its plans for a Vermont project following the principal's involvement in an auto accident. These folks are based in Quebec and are looking at 30K sf in Swanton to produce their frozen dessert products. We have already met with the St. A. Cooperative to ensure that they can provide the cream (they can). FCDIC would build them a building and lease it to them. (**JOB POTENTIAL: 15 to start**)

- **STONE BREWING, INC.:** Provided an excellent response to Stone Brewing, based in Escondido, CA to their widely distributed RFP seeking sites for an East Coast presence. Requested that all interested RDCs submit, but received info from BDCC and the Town of Bennington. It is a bit of a longshot, but a great way to get the RDC team thinking about recruitment and selling their regions.
- **Seldon Technologies:** Still working with SRDC to guide them through the trials and tribulations of the Seldon expansion. There is an offer by a developer to purchase the Goodyear site (this is fantastic) to construct a new facility for Seldon. The new bldg. will be about 60k sf w/ likely expansion potential. Also potential to retain 30 jobs and add another 70. Recall that Seldon is now owned by EcoNet, a telecom company based in Africa.

## **RETENTION/EXPANSION**

- **Vantam:** Working with BDCC w/ a possible buyer for the now-shuttered Vantam, who used to produce building panels in Brattleboro. Possibly could bring back about a dozen mfg. jobs to the region.

## **ConnectVT**

- Preparing for a broadband visit in Putney next week. Participants will include KB, Jim Porter from Public Service, representatives from VTA, Fairpoint and VTel.
- Was asked by Rep. Clarkson if we can do a similar broadband visit to her community.

## **DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Lisa Gosselin, Commissioner**

- Spoke with Dan Smith about VTC challenges and leadership transition. Will set up additional meetings to discuss initiatives in CEDS and roles DED and VT Tech can play and how we can work more closely with businesses.
- Confirmed October 28 as Economic Development Summit date, to be held at UVM, with a tentative focus on Innovation and building Vermont's New Economy.

### **VERMONT TRAINING PROGRAM ♦ Beth Demers, Director**

- **RSG:** Growth is occurring at RSG's two Vermont offices (White River Jct & Burlington). The company has added eleven new positions in this calendar year and plans to add an additional fifteen in the next. There are six targeted growth areas that fall within their existing strength of environmental engineering.
- **Keurig Green Mountain:** The company hopes to add over 200 positions in the next nine months to operationalize the new cold brewing system. The staff will consist of a wide variety of positions including managers, engineers, operators, and maintenance. The company is also developing an early production center from which small batch research and development products can be tested and prepped for full production. This group will utilize existing staff who will need to upgrade their skills to be effective in the new more technical roles.

## **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

### **Commissioner MacKay and Deputy Commissioner Hollar**

#### **Commissioner MacKay**

- **Whistle Pig:** Followed up on a request by the company founder on the status of their Act 250 permit. Right now they are waiting for Act 250 to issue its decision which soon. Looped with sister agencies and Whistle Pig and will continue to stay in contact with folks.

#### **Deputy Commissioner Hollar**

- **HUD Office of the Inspector General:** After three months, the auditors are close to completing their survey of the CDBG-DR program. They were complimentary of not only our Grants Management Director Ann Kroll and the VCDP and GMS teams, but also of the general atmosphere and collegiality of the Department. They have found that the Department was not able to keep up with all reporting requirements while we were staffing up to manage the now \$40 million and are likely to issue a finding related to capacity. At this point, they have no other areas of concern and estimate completing their work within five weeks. Relayed to the Agency of Administration and congressional offices.
- **White House Task Force on Climate Preparedness and Resilience:** With Deputy Secretary Sue Minter, participated in a call with the Council on Environmental Quality and HUD Headquarters. Call was extremely helpful in clarifying the statutory v. regulatory basis for the most challenging aspects of the program. It was both reassuring and gratifying that many of the improvements we would like to see are on the minds of those in DC and others are underway. One example is an interagency effort to develop a uniform federal environmental and historic review for disaster recovery projects. Also joined a call of the Human Health and Community Development Subgroup of the Task Force. Will further refine CDBG-DR recommendations for submission to the Task Force.

#### **CHIEF MARKETING OFFICE ♦Nancy Driscoll, Chief Marketing Officer/Heather Pelham, Marketing Specialist**

- **New State Web Template:** Nancy and Heather attended a “round 1 presentation” of a new web template being developed by state web vendor, VIC. This presentation centered on the first and most basic task in VIC’s scope of work: to develop a template with an upgrade path from the two currently-used versions of the state website template on Drupal 6 (example: DEMHS) and Drupal 7 (example: Historic Sites). That presentation was functional and demonstrated a mobile-responsive design. The group then challenged VIC to make further adjustments to that basic template to create a cleaner, more inspiring design for new websites going forward. We should have a “round 2” presentation in a few weeks. In the meantime, Heather, Nancy and DII Web Services Director Harry Bell have been gathering examples of existing websites that have features and functionality we like and don’t like, and sharing those with VIC.

## Memorandum

To: Governor Peter Shumlin

From: Annie Noonan, Commissioner VDOL

Weekly Report: Week ending March 28, 2014

Unemployment & Wage Division: For the week ending 3/22/14m we took 2453 calls. We processed 422 initial and 453 additional claims. We paid 7,213 claimants during the week ending 03/22/14 compared to 7,345 for the prior week. We processed 64 Mass Claims, primarily for granite companies and Sodexo. We held the following "Rapid Response" Sessions in conjunction with the VDOL Workforce Development and Labor Market Info Divisions: March 19 and 20, 2014 for IBM (about 80 participants), and March 21 for Autumn Harp in Essex Junction (12 participants). On March 25, the UI division updated the claim application Graphics User Interface (GUI) at the Call Center. This was paid for by a USDOL grant and will increase system integrity and reduce errors.

WC & Safety: Passenger Tramway Board met this week, with broad discussion prompted by the Commissioner on Apprenticeship for lift mechanics. Tramway bill, H. 577 passed both House & Senate this week. WC staff members are working on the spring WC Adjusters' Conference, May 29 & 30. DFR has asked for our input on the licensing exam. VOSHA Program Director is working on the rule making package for federal compliance, with anticipation of filing to ICAR next week.

LMI: Press release issued today with UI rate at 3.7%. Mat has been participating in the CEDS process as the Commissioner has been tied up at the statehouse. Orleans Record called LMI for info on NEK unemployment; VTP has asked for occupational wage data.

Workforce Development: We are very tied up with IBM, VY, Plasan, Kennametal, and our regular work at the regional and central office level. We held a meeting with our Youth Case staff today.

### Legislative Issues:

H.57 Unemployment bill:: VDOL, (Dirk Anderson and Tracy Phillips) testified today at 1pm at Senate Finance and seemed interested in Self Employment activities. Senator Lyons was asking about Reach Up. Interestingly, they did not take up the newer version of the UI bill H.646.

H.758 State WARN (notice of potential layoff) Act: I testified on the WARN Act in Senate Economic Development on Thursday. I think the committee is interested in passing something, although Senator Mullin was discussing moving the numbers "up" and Senator Baruth wants them moved "down". They were interested in looking at NY state WARN Act.

H.852: Workforce Development: Has not been scheduled in Senate Economic Development.

H.878: Prevailing Wage: I testified in House Institutions and House General on Wednesday morning, primarily pertaining to the fiscal note and the general process for prevailing wage.

H. 552: Minimum Wage: I testified in House General on the Governor's proposal on Wednesday. I went over the numbers from VDOL LMI and general issues with MW. The committee was reasonable, but did ask if the Governor would consider moving to a higher number or moving to \$10.10 immediately. One question they asked, which was answered by Mat Barewicz, was 'how much will \$10.10 be worth in today's dollars by January of 2017, and the answer was \$9.58.

H.577: Tramway: Passed both chambers. I have submitted my final bill summary.

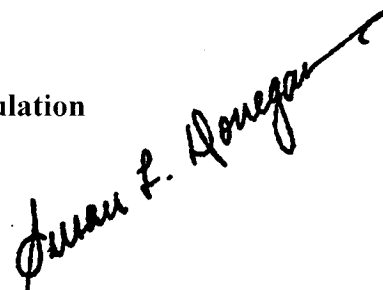
Other: VDOL and ESD have been trying to hammer out the details of ESD's plan to move us out of Reach Up to the ABAWD population.

State of Vermont  
Department of Financial Regulation  
89 Main Street  
Montpelier, VT 05620-3101

For consumer assistance:  
[All Insurance] 800-964-1784  
[Securities] 877-550-3907  
[Banking] 888-568-4547  
[www.dfr.vermont.gov](http://www.dfr.vermont.gov)

## CONFIDENTIAL and PRIVILEGED

To: The Honorable Peter Shumlin, Governor  
From: Susan L. Donegan, Commissioner, Department of Financial Regulation  
Date: March 28, 2014  
Re: Weekly Report



### Captives Division:

Commissioner Susan Donegan and Captives Division staff members attended a two-day Supervisory College for a major globally-significant life insurer that has its largest captive licensed in Vermont. A supervisory college is a world-wide regulatory meeting that examines the operations and risks of a global insurance company group. Regulators from seven U.S. states, Hong Kong, Ireland/EU, South Korea, Chile, Mexico and Japan participated in the meeting and heard a variety of presentations from company executives, including the CEO. Supervisory colleges are confidential events as discussions raise sensitive issues of solvency, proprietary and competitive markers, regulatory oversight and market risks.

H.563, the bill that focuses on technical changes to captive insurance laws, was passed unanimously by the Senate Finance Committee.

### Insurance Division:

The Commissioner and insurance and captive insurance staff are attending the National Association of Insurance Regulators' Spring Meeting.

H. 260 has two parts relating to insurance issues and is in Senate Finance. One part of the bill addresses provisions for allowing credit for reinsurance and a reduction in collateral for alien (international) insurance companies. The Commissioner and members of the industry as are scheduled to testify on that part of the bill on April 4 and is not considered to be controversial. The other part of the bill concerns allowing notices to be transmitted to insurance policy holders via electronic means if the consumer elects to "opt in" and gives permission to do so. This appears to be hitting a snag. The chair of Senate Finance indicated today that the committee will not be taking up that part of the bill. The Commissioner will discuss the committee's concerns with Louis Porter and Senate leadership to see if a resolution can be reached.





219 North Main Street, Suite 402, Barre, VT 05641  
(p) 802-479-1030 | (f) 802-479-1835

## CONFIDENTIAL AND PRIVILEGED MEMORANDUM

TO: Governor Peter Shumlin  
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: March 28, 2014

---

### Legislative Issues/Contacts:

There was a good deal of movement this week in education legislation. The miscellaneous education bill ([H.876](#)) passed the House, but not after several amendments were considered on the floor. [Click here](#) for full details.

Dual enrollment, specifically the funding of dual enrollment for privately funded students, was a topic of much discussion on the House Floor and also in Senate Education. The amendment to allow it was defeated in the House.

Late last week the House Education Committee passed out [H.883](#), the expanded pre-k-12 districts bill; it has been referred to House Ways and Means Committee. On Tuesday, the State Board of Education passed a statement in support of the current legislation. [H.889](#), the Education Property Tax Rate bill from the House Ways and Means Committee, includes significant education funding implications and we have been tracking it closely.

Of significant concern to us is the amendment to H.876 that requires audits of districts only every three years, rather than annually. This would be out of compliance with federal requirements and may, if passed, lead to fines and re-audits, as well as putting federal funds at risk. We strongly objected when this was proposed to the House Education Committee, and will continue to express that concern as H.876 moves into the Senate, and would appreciate support in insuring the Legislature understands the ramifications of this change.

We are also tracking testimony on Student Privacy in schools, currently in Senate Education.



## Significant Events/Meetings:

### *North Country Career Center (NCCC)*

Yesterday I traveled to the North Country Career Center with Senator Collins and met representatives of local business partners that work with the career center, teachers and students. We captured much of this on camera, and hope to get some good footage that shows how career centers play a critical role in the economic development of the State. We will put some of this on our website. NCCC is a good place to visit if the Governor ever wants to visit a career center. He could highlight the role CTE is playing in developing Vermont's most valuable resource—its people-- by helping them gain the skills, technical knowledge, academic foundation and real-world experience they need to prepare for high-skill, high-demand, high-wage careers. The NCCC is also experimenting with retraining opportunities for adults, using the existing facilities and after school hours.

NCCC's director, Eileen Illuzzi, is proactive about aligning the work of the center with career opportunities that will surely be high-demand, high-skill, and high-paying jobs of the future. The Center does an excellent job of taking advantage of dual enrollment to ensure that as many students as possible graduate with some college credits in hand, and students can talk articulately about how this makes college possible for them. Many of the students graduate with nationally recognized certifications, and use these to obtain jobs that support them while they pursue additional post-secondary education. For example, I spoke to:

- A young man in the automotive program who is pursuing a B.A. program in Rhode Island that will provide him with training in both automotive repair and management. His goal is to open and run his own business.
- Students who earned their LNAs, and will work as LNAs to support themselves while attending college to become midwives and work in cardiac rehabilitation.
- A student who will be attending a four-year program to become a mechanical engineer, who spoke about how he really understood the trigonometry he learned in math class after he had to use it to program the 3D printer to make a complicated shape.

Students in career centers have graduation rates of about 94%; this is above the overall state average of about 87%.

### *A-133 Audit*

Wednesday we met with the auditors to review the findings of the A-133 audit. They dropped two of the findings. The rest were primarily attributable to inadequate



documentation specifically, that we didn't write everything down that we needed to have written down. One upshot is that several times they said they were less concerned with how we provide oversight, than that we have a plan for oversight and then follow it. This is more of a problem on the business side than on the program side. We are working to document processes that make sense and then we will work to figure out efficient ways to document compliance.

### ***Vermont Independent Schools Association***

Monday I met again with representatives from the Vermont Independent Schools Association. This continues to be the single group with which I meet that is predictably hostile from the start, but I am working hard on that. They want us to change the timeline on which we set maximum special education tuition rates, so they are set earlier in the year. The group was irate that the current timeline is different than what is in the rules. We are happy to do so. We researched the reason for the difference, and it appears that several years ago, the independent schools asked the State Board of Education to waive the rule so the rates could be set later, after they knew what their actual special education costs would be. We are happy to switch it back, but will advise Mill Moore to make sure all his entities are in the loop and on board.

A trigger for this may be the memo Armando wrote back in October that clarified rate setting and what were allowable expenses for the purpose of special education. Basically, some of the schools were double billing special education students for operating expenses. They included this in the tuition bill and again in the special education bill. When this was disallowed, the independent schools wanted to raise their overall tuition bills. North Bennington reports that after Armando's letter went out, their local SU began challenging their bills as well. We have nothing to do with that; they will have to work that out separately with their SU, as that contract is between those two entities.

The independent schools also don't like the time studies that are required, to ensure billing matches delivery of service. Public schools don't like that either, but if you take federal dollars, you have to play by the federal rules. (See my note on our A-133 audit meeting.) We are working with our Special Education Advisory Council and the public schools to see if we can find flexibility in how schools disburse and document use of funds. Any changes will also benefit the private schools. There are some private school representatives on that Council, and I will use this group to include the privates, as it is a more functional and constructive group than the Vermont Independent Schools Association.



### *Other*

I had many other meetings this week, but will spare you the details. Today I am speaking at the Vermont Virtual Learning Cooperative (VTVLC) Online and Blended Learning Conference. Upcoming meetings for next week include: Consolidated Federal Programs Annual Conference, Hazing and Harassment and Bullying Advisory Council Meeting (plan to reboot the process), Regional Educational Laboratory for the Northeast and Islands (REL-NEI) Governing Board meeting, NESSC chiefs meeting, VSA All Members meeting to discuss the accountability model its relation to teacher evaluation, and the VSA Trustees to discuss how to organize educator quality at the front of discussions about school improvement.

### **Evolving Issues:**

#### *Governance*

To pass, H.883 will have to get through the House Ways and Means, Appropriations and possibly Government Operations committees, then repeat the process in the Senate committees. We are getting the sense from several sources that the only way the bill will get through in the remaining time is if the Governor chooses to offer some support. This might be a nudge, not necessarily a public statement. The House Education committee is pretty exhausted, the Senate Education committee is not focused (though I know Senator McCormack is pretty invested in the child care union issue and that could bring some focus), and someone else may have to step up in the Senate if this is going to continue to move forward.

We've heard from several people that if the bill doesn't get through, it will morph into a study. We want to know if we should spend any time thinking about what we would like a study to look like, and if so, if you have thoughts on how that should be reflected.

#### *Community High School of VT (CHSVT)*

This program continues to be a challenge. Its patrons (George Cross and the House Corrections and Institutions committee) have made it very clear that they feel we should not be doing anything to hold CHSVT accountable/provide any oversight/even follow federal guidelines with respect to CHSVT. As the committee told me directly, they think I should be bending over backwards to do anything the Director (Wilhelmina Picard) wants. Unfortunately or fortunately, our relationship to the Community High School of Vermont is governed by Title 28 V.S.A. § 120. By statute the CHSVT shall comply with the school quality standards provided by 16 V.S.A. § 165, and shall be coordinated with adult education, special education, and technical education. This includes participating in state assessments and accountability, as well as in Agency



monitoring related to Federal IDEA (special education), Title 1 and methods of administration for programs receiving federal monies (including career and technical programs). This involves review of compliance with civil rights laws, Title 6 & 9 as well as ADA and Section 504. For this, the Agency reviews policies, publications, facilities, enrollment trends and any complaints from the Office of Civil Rights.

In addition, by statute, the education program shall offer a minimum course of study, as defined in 16 V.S.A. § 906, and special education programs as required in 16 V.S.A. chapter 101, at each correctional facility and Department service center. The Agency is responsible for Special Education approvals. Here are the problems:

- The CHSVT is not participating in statewide assessments, though this is a requirement for all publicly funded students.
- The director (Wilhelmina Picard) told us she was the director of special education, but does not have the appropriate license for this position.
- The school has not been monitored for Title 1 in anyone's memory, despite the fact that this is a federal requirement.
- The school is only billing about \$8,000 annually for special education to cover what mostly seems to be transportation of staff among sites, although it claims 69% of its students are eligible.
- The person writing many of the IEPs appears to have let their license lapse.
- We have concerns educationally based on reports from a CTE that Wilhelmina Picard has approved GEDs for students. These students later approached their home CTEs about getting training that would give them a skill or certification, but a) these students could not read and b) because they had already "graduated", they were ineligible for funding so had to pay their own way. If she had not granted the GED, the district could have paid.

I have additional concerns based on inconsistencies in how the CHSVT has represented their financial circumstances to us, but we will let those go for now.

I have tried to figure out why the mandatory monitoring has not been done, and the consensus is that George Cross basically intimidated or harassed people out of doing it. Last Tuesday, he spent most of the day trying to add an amendment that would prohibit use of funding for administrators at career and technical centers. Conveniently, this would not affect CHSVT, because it gets its own unique, direct appropriation off the top of the Education Fund. The House Corrections and Institutions committee is convinced that CHSVT is a model for the state. CHSVT wants to add Adult Education



to their menu of programs (and funding sources), but I will fight that until these other issues are addressed.

I have discussed this with Aly, and given the disruption we anticipate the CHSVT supporters to cause, we weighed waiting until after the legislative session to move. However, as the issues accumulate, this becomes more and more untenable.

### **Student Privacy**

I have now heard from 4 sources that there is a growing and pretty misinformed group engaging around the student privacy issue. My big concern is that if some of what is being proposed is enacted, it would effectively freeze Vermont's education information options in what someone here called "a 1970s-like time warp." This is true. A reality is that many schools are moving to cloud-based systems for a variety of good reasons, and a well-protected, cloud-based system is in reality much more safe than some of the "locally housed" systems people seem to want, as well as more economically and technically efficient. Some of what is being floated would also preclude using Google education applications and resources like Khan Academy, and could interfere with some of the online learning initiatives underway. We will need to have a coordinated and aggressive response to this.

I have **attached** some background on a data privacy resolution that passed recently in Calais, which is an example of what advocates seem to be pushing. We believe they are mistaken in assuming that locally hosted solutions are "safer" than cloud-based solutions. This type of language would also cripple all kinds of legitimate school (and state) functions.

---

Rebecca



Some Background on the Data Privacy resolution in Calais, that gives you a sense of where this issue is:

An informal version of the minutes of the Calais Town Meeting was posted by Town Clerk Donna Fitch to 'Front Porch Forum;' and the final item is:

"ARTICLE 31. Approved a resolution strongly urging the Calais and U32 school boards to adopt firm policies requiring that all information about individual students be stored only on local school or district premises and not be shared outside school or district staff with three exceptions."

So it appears that the Article passed as originally warned and without substantial modification (and I have left a message for the Clerk using my non-work email asking for a copy of the minutes).

Calais had 'warned' Article 31 as follows:

"ARTICLE 31. Shall the voters of the Town of Calais adopt the following resolution to protect our children's privacy and control over their own personal information? Whereas

1. Especially in the digital age, a child's personal information cannot easily be retracted once shared or seized; and
2. Existing law and school policy provide that individual student information belongs primarily to each student and his/her parents or guardian; and
3. Without consent or strict legal requirement, transferring student records outside the school offensively mocks and effectively denies students' ownership and privacy interests in their own information; and
4. Protecting our students' ownership and privacy interests in their own records is a solemn public trust that cannot credibly or effectively be fulfilled without direct, exclusive physical control of those records; and
5. Our school officials have publicly stated that local management of student data is technically feasible without significant cost or operational disruption; and
6. Widely reported data theft, information sharing, cyber attacks, and warrantless data collection threaten the security of student records, especially when pooled with millions of others;

Now therefore, be it resolved that the town strongly urges the Calais and U32 school boards to adopt firm policies requiring that all information about individual students be stored only on local school or district premises and not be shared outside school or district staff except

1. By specific vote of the local board for each release, or
2. To the least degree strictly necessary to comply with law, or
3. With the prior written consent of the student/parent/guardian."

For some additional 'local background,' Calais has a subset of parents and community members who are exceedingly militant in their belief that "wifi in schools" represents a huge and unconscionable threat to health and safety; I don't think it's a large number but they have been assertive bordering on obsessive/ ad hominem. I would not be surprised if there is demographic overlap with the current issue.

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

**Executive Privilege**

**TO: Governor Peter Shumlin**

**FROM: Secretary Brian R. Searles**

**DATE: Friday, March 28, 2014**

**SUBJECT: VTrans - Confidential Report to the Governor**

**NOTES FOR GOVERNOR**

**Weather**

Today's effort marks the 93<sup>rd</sup> winter storm with another event coming over the weekend (See staff section). A winter storm by VTrans definition requires a response by at least three districts. We have never recorded as many as 100, 98 is the record, but should blow by that this year with an average April. Our first response of the season was recorded on October 24, 2013 and since then we have set salt and spending records on winter maintenance. If you fold in floods and other fun stuff, I think the entire VTrans record book has been rewritten since you've been Governor. Congratulations!

**CCTA**

The recent offer from the drivers should be the key to settling this or at least getting them back to work. If not, our Public Transit Program is prepared to assist the CCTA Board with the administrative moves necessary to offer some services through other contractors as early as next week. It will be a CCTA Board instigated move if that happens and, of course, there will be extensive discussions with your office prior to doing anything.

**T-Bill Advances**

The Senate Transportation Committee has voted out its version of H.872, the Transportation Bill, and it isn't much different than the House version. There were only two issues that were at all difficult for the committee. The first was the VTrans absorption of the Vermont Local Roads program and they approved that after the Executive Director, David Antone, came to the committee on Friday and insulted the members to the point that Chairman Mazza called a halt to the hearing and cleared the committee room. Steve Jeffrey witnessed this and became our partner in this reorganization. He wrote and presented a revised plan for VTrans to absorb VLR that was acceptable to us and the committee included it in the bill.

The other issue was the removal of \$84,000 the House had included to match a federal earmark for the Cross-Vermont Trail (not to be confused with the Lamoille Valley Rail Trail). They moved the money to Paving believing that they could not support this project while the roads were suffering from the effects of this long winter.

### **GMCR/Keurig Facility in Williston**

We are getting up-to-speed quickly on the record before the Act 250 folks on this matter and what can be done to make this happen. Further, we are engaged in trying to extract the Transportation Improvement District Bill (H.740), formerly known as Fair Share, from the Ways and Means Committee. I will update frequently on this one.

### **Putney Park & Ride**

Recall a few weeks ago a number of calls were coming in regarding the tree cutting occurring under our Park & Ride expansion project. We put a hold on the work until such time was allowed to fully vet a pending appeal via mediation. Last Friday's mediation produced a Partial Settlement Agreement which was signed by the appellant, Daniel Hoviss, and VTrans. The Town of Putney needs to sign the agreement to make it legal. The Select Board is meeting Wednesday, March 26, 2014. If the Town signs it, the "stay" on construction will terminate. The only remaining hang up is lighting. Seems like we will get through this project without any further "noise".

### **Washington Visit**

Deputy Secretary Sue Minter had a successful trip to Washington DC this week, both as a witness to Senator Sanders' Environment and Public Works (EPW) Committee hearing on the federal transportation reauthorization bill, and as a follow up to your EPA meeting on Lake Champlain Clean Up/ TMDL. Her comments to the Senate committee were focused on the critical need for Congress to replenish the Highway Trust Fund expeditiously, as well as the special needs of small rural states and the goal to add measures addressing resilience into the next reauthorization. She was able to meet with EPW staff from both the majority and minority sides, along with AASHTO staff who accompanied her to all these meetings. Sue also had a meeting with legislative staff from all of the Congressional Delegation team, and raised transportation priorities, as well as the TMDL. Although there is no federal program within USDOT that addresses storm water specifically – and *no* hope of adding *new* programs into the next reauthorization – she is strategizing with both the Vermont FHWA staff, and Sen. Sander's staff about potential language to ensure that storm water projects can be an eligible expense for federal reimbursements within federally – funded transportation projects. She will work with DC staff to integrate this language into the bill if at all possible.

### **NOTES FOR STAFF**

#### **Weather This Weekend**

This weekend a potentially problematic storm described as "moisture laden" will affect all of Vermont. There will likely be 1-2 inches of rain in southern sections and 6-10 inches of snow in northern sections and the line between the two is vague at this point. The potential for winter driving conditions, power outages and flooding exists and a



Winter Storm Watch is in effect beginning at 8:00 PM on Saturday through 2:00 PM on Sunday.

### **Railyard Enterprise Project**

This is the project that is a side-by-side to the Champlain Parkway and designed to provide relief to the King/Maple St. historic low-income neighborhood in Burlington. Against our advice, the City of Burlington decided to rewrite the “Purpose and Need” statement limiting the alternatives to be considered as part of the environmental review since one of them would have to be the northern terminus of the Champlain Parkway in that neighborhood. Our position, along with local FHWA, was that it was unlikely that alternative would be selected in the new process and to leave it out would jeopardize the project.

We learned yesterday that the City approach has been rejected by the FHWA in Washington by both the Legal and Program reviewers and we are back to the beginning. We are meeting with FHWA on Monday to get a better understanding of how to proceed, but this information once revealed to the City will not be well-received and could result in a lawsuit against FHWA, putting the State in a very precarious position. More to come after Monday’s meeting with the Feds.

### **Cady’s Falls Water Coop (Morrisville)**

Donald and Carol Ostler of Morrisville contacted the Governor’s office by email on 2/24/14 to suggest that the Morristown Alternative Truck Route project would potentially contaminate their water source. The Ostlers have suggested that there has already been an incident that jeopardized their system but there are no facts to support this and no other evidence that the Source Protection Area (SPA) has been put at risk by the project. The project, of course, went through a rigorous permitting process. The Ostlers have also suggested that they are concerned about future development in the wake of the completion of the road.

The answer that they seem to want is to have the water cooperative join the Morrisville Water & Light Co. system but the cost of that is \$240,000. We, along with ANR, have pledged to work with the cooperative to evaluate any data they may have now or into the future that demonstrates any degradation to the water system as that would put the project in play as a possible funding strategy.

### **Champlain Parkway**

In another unexpected setback for the Champlain Parkway, the Chittenden Civil Division denied a motion for summary judgment filed by the City, the Burlington Community Economic Development Corporation (BCDC), and VTrans in the Morton litigation. The Court advised the parties that the case will be set for trial after June 1. I expect the Court will arrange a status conference in the near future to schedule a trial date.

In this case, the City and BCBC filed a declaratory judgment action against past and current owners of the parcels to the north and south of Lakeside Avenue to establish that none of the defendants have any interests in right-of-way agreements that the City and

State entered into with General Electric with regard to the former Southern Connector many years ago. GE owned the parking lot to the south of Lakeside Avenue and the buildings and parking lot to the north of Lakeside Avenue at the time. As part of the agreements, VTrans and the City promised to construct mitigation parking for GE on the Morton parcel, which is adjacent to the southern parking area, and then transfer the Morton parcel to GE. VTrans acquired the Morton parcel and transferred it to the City for this purpose. Because of delays in the project, the City and the State never carried out their obligations under the agreements. In recent years, the City transferred the Morton parcel to BCDC for development as a transit center without realizing that the City had been holding the Morton parcel for right-of-way mitigation. VTrans authorized the City to initiate this litigation to resolve disputed right-of-way issues, including rightful title to the Morton parcel. At the request of the defendants, VTrans subsequently intervened in the case as a plaintiff.

When the Southern Connector was under development, the State acquired right of way from GE and made various written promises in return, including improvements to the GE parking lot to the south of Lakeside Avenue, sound monitoring and any necessary sound improvements to the GE buildings to the north of Lakeside Avenue, and mitigation parking for GE on the Morton parcel adjacent to the southern parking lot. At the time, the proposed Southern Connector would have been a limited-access four-lane highway that would have run across Lakeside Avenue over the GE parking lot and in close proximity to the GE buildings and then through the Pine Street Barge Canal to Battery Street. Under the current project, known as the Champlain Parkway, the Parkway will be a two-lane boulevard that will terminate at Lakeside Avenue. Traffic will then proceed to downtown Burlington by way of Lakeside Avenue and Pine Street, which will be restriped, signalized, and paved and benefit from a new shared-use path and pedestrian crossings.

GE sold its property and after a series of real estate transactions, the Miller Trust now owns the parking lot to the south of Lakeside Avenue, and Fortieth Burlington and its associated company Lost Tree Village own the building and parking areas to the north. The plaintiffs moved for summary judgment, arguing that GE waived its rights under these agreements when it sold its properties and that none of the subsequent owners have any rights under these agreements because under well-settled law, subsequent owners purchase condemned property subject to the taking, and condemnation awards therefore do not run with the land. As a result of prior motions by the plaintiffs or settlement agreements, all defendants in the case, including GE, have been dismissed from the case, except for Fortieth and Lost Tree.

The Court denied summary judgment in a very brief entry order, stating that Fortieth and Lost Tree are the only defendants left and have new counsel and that the Court needs to make inferences from the legally operative documents at issue that may raise questions of fact that would make a one-day trial advisable. Although the plaintiffs have lost on summary judgment, they have not lost the case. If the plaintiffs eventually do lose the case, that will not have any effect on the Champlain Parkway. Rather, the plaintiffs will need to compensate Fortieth and Lost Tree in some fashion. It is not clear what compensation would look like because the right of way for the Champlain Parkway does

not extend into any property that Fortieth or Lost Tree own. Thus, Fortieth and Lost Tree would normally not be entitled to any compensation.

**Privileged and Confidential**  
**Memorandum**

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** March 28, 2014

---

**Vermont Department of Health (VDH)**

**2014 County Health Rankings Measure Health Inequalities Among Vermonters:**

Vermont is consistently ranked among the healthiest states in the nation, but Vermonters are not equally healthy, as detailed again this year in the 2014 *County Health Rankings* released on March 26. Chittenden County is ranked the healthiest, as measured by length of life, quality of life, health behaviors, clinical care and the physical environment. Essex and Orleans are ranked the least healthy counties.

**North Adams (MA) Regional Hospital Closure – Emergency Medical Services:**

With the closure of North Adams Regional Hospital (NARH), the Health Department does not anticipate significant changes in response patterns for Vermont-based EMS agencies. Since January 2013, patients have been transported by Vermont EMS agencies to NARH only 43 times, an average of under 3 times per month. We anticipate that most of these patients will now be transported to Southwestern Vermont Medical Center (SVMC). We have communicated with SVMC and all the Vermont EMS agencies to inform them of the change and offer any assistance they might require. SVMC anticipates a modest increase in the number of patients requesting service through their system.

**Pesticide Investigation Update:**

EPA has been authorized to clean the remaining five houses in the chlorpyrifos-pesticide investigation.

**Department of Mental Health (DMH)**

**Green Mountain Psychiatric Care Center (GMPCC):**

The Centers for Medicare and Medicaid Services (CMS) have approved the certification for GMPCC.

**Senate Health & Welfare:**

Senate Health and Welfare is taking up substance abuse from the perspective of mapping out the system. They are reviewing funding, coverage, holes and overlaps. Senator Ayer is scheduling the Health Department, ADAP, DVHA and DMH to testify on these issues in the next couple of weeks.

**Middlesex Therapeutic Community Residence:**

The secure residential residence in Middlesex had a resident elopement on March 26, 2014 during a trip to Burlington. The resident was close to discharge and not considered dangerous. Authorities were informed and have been searching for him.

#### Patient Placements

Issues relating to Emergency Rooms and Corrections continue to escalate. Length of stays are the biggest concern. A patient at Porter hospital had the longest ER wait and was on top of the list. That patient was moved to FAHC on March 27<sup>th</sup>. At a Court hearing on the 24<sup>th</sup>, Jose Pazos was ordered to inpatient. He is scheduled for the next available GMPCC bed.

DMH Care Managers continue to work diligently to move patients as quickly as possible. DMH added an additional oversight team to review patients near ready for discharge to identify and break down any barriers.

#### **Department of Disabilities, Aging and Independent Living (DAIL)**

##### AFSCME negotiations continue

Union leaders for independent support workers rejected the state's proposal (\$10.50 and 2% beginning in 1/15) and continue to (mis)represent that promises are being made outside the negotiation room (by Governor's office). When challenged, lead negotiator acknowledged her information was "second-hand". Negotiations resume April 8th.

##### Gov. Shumlin receives high marks from DD Council

The Governor met with members of the Developmental Disabilities Council this week to address some of their fears concerning health reform. By all accounts members felt heard and appreciated the Governor's willingness to listen to their personal stories. DS Director Camille George attended with the Governor.

##### OMB extends funding for Blueprint and SASH

OMB approved CMS's request to extend the MAPCP demonstrations so Medicare funding for the Blueprint/CHTs/SASH will continue to December 31, 2014. Nancy Eldridge of Cathedral Square is shifting lobbying pressure to ensure state will agree to fund multi-year project beginning in Jan, 2015. Enjoys support from Senator Snelling and Craig Jones. DAIL would like to see more data but agrees early indicators are promising.

##### H.555, The traumatic brain injury bill, passed in House with 50K Appropriation added

The House accepted the Department's (DAIL's) assessment of the need to conduct a meaningful study of what exactly is needed to address person with traumatic brain injury (TBI) and allocated funds for that purpose. We hope to slow down the timetable in the Senate to prevent premature adoption of a solution to a poorly defined problem.

##### Missing Middlesex Therapeutic Community (TCR) resident safe

The TCR resident reported missing on Wednesday found his own way to Brattleboro and presented to the hospital asking for assistance. He is currently being evaluated by the mental health crisis team. An investigation into the circumstances of his unplanned absence (aka elopement) is under investigation by DAIL's Division of Licensing and Protection.

## **Department of Corrections (DOC)**

### **Inmate Death:**

Inmate Shayn Turner, 43, recently convicted of four counts of aggravated sexual assault on a child under the age of ten and sentenced to forty years to life, passed away early on Tuesday at the Northwest State Correctional Facility in St Albans. VSP was called on site and there does not appear to be any foul play involved. Cause of death will not be known until a coroner's report and toxicology report are complete. Preliminary estimates are that these reports may take six to eight weeks to complete. At the time of death, Mr. Turner was housed in Alpha Unit, which is used for a mixed population, including mental health cases, and includes fifteen minute checks. A review of the incident log indicates that the checks preceding the incident were performed on time. This has generated media interest.

### **Dr. Burroughs Biron:**

Dr. Dee Burroughs-Biron has been asked to serve as part of a panel of correctional leaders at the Community Oriented Correctional Health Services (COCHS) sponsored conference entitled *Health Reform and Criminal Justice: Advancing New Opportunities*. Dr. Dee will participate in a panel discussion entitled *Breaking Down Silos*, during which she will present the key points from Governor Shumlin's 2014 State of the State address. The Conference will take place in DC on 4/2-3.

On 4/4 Dr. Dee will serve on another panel in Wilmington, Delaware entitled *Health Reform and Criminal Justice: Building Connectivity*. This conference will be hosted by COCHS and Connections Community Support Programs the new provider of inmate health services for the state of Delaware.

Dr. Dee has also been asked to participate in 2 segments of a six part series of panel discussions on *Health Care Reform and Criminal Justice Involved Persons*, sponsored by the NIC. Dr. Dee's segments are entitled: *What is ACA and what does it mean?* and *System-Wide Linkages to Care*. Both segments will be nationally broadcasted.

### **Vermont Day:**

The Vermont Dept. of Corrections Honor Guard has been invited by the Boston Red Sox to the annual Vermont Day event at Fenway, April 24<sup>th</sup>. It is a Red Sox and Yankees game. The DOC Honor Guard would present the colors for the singing of the National Anthem.

### **Population Report**

The department's incarcerated population averaged 2,144 for the previous week. The department's incarcerated male population averaged 1,984 with 377 being presentenced inmates. The female population averaged 160 with 39 being presentenced inmates.

## **Department for Children and Families (DCF)**

### **Intent to Revoke Licensure of Butterfly Beginnings Daycare, Newbury VT:**

In October 2013, owner Lorna Renfrew contacted Senator Jane Kitchel to request help in opening her child care program. Despite technical assistance from Child Development Division (CDD) staff and assistance from the Agency of Natural Resources' (ANR) staff for wastewater system approval, Ms. Renfrew did not meet the requirements necessary to serve the number of children in her original business plan. She was allowed to open with a limited license serving 18 children at any one time.

Recently, CDD received a complaint call from a staff person at Butterfly Beginnings citing staffing practices and child safety issues. CDD site visits revealed a concerning number of violations including: caring for more than 18 children; non-compliance with safety regulations, such as fire drill evacuations, failing to inform the department of 911 calls to the program; and transporting children without car seats. In the course of the subsequent investigation, it was determined by the department that false information was provided to licensors by the program. Site visit reports requiring corrective action were issued; however, there is no immediate concern regarding safety of the children in care.

Given the number and nature of the violations observed and the pattern of behavior on the part of the owner to circumvent regulation compliance, CDD has issued an "Intent to Revoke" licensure effective April 24, 2014. The provider may remain open during the revocation period having the opportunity to correct violations. She may also appeal the violations and the Intent to Revoke to DCF and the Human Services Board.

All legislators representing this community have been informed of the situation, as is our practice in handling significant licensing actions.

#### Appealing Licensing Violations at the Peanut Gallery, Rutland:

The Peanut Gallery in Rutland received several violations in a recent unannounced site visit. None were major violations requiring parental notification. Other than requiring corrective action, no further licensing action was taken. Jesse St. Pierre, one of the teachers in the program and the daughter of the program's owner, has filed an appeal of the violations. The appeal is currently under administrative review. Currently, Ms. St. Pierre is copying other providers in all of her interactions with the Division and is posting a running commentary on her experiences with the Division on the program's website. State staff continues with customary professionalism.

#### **Department of Vermont Health Access (DVHA)**

##### Vermont Health Connect Update:

##### *Extended call center hours:*

Saturday 8 a.m. – 5 p.m.

Sunday 11 a.m.– 5 p.m.

Monday, Regular hours 8 a.m. – 8 p.m.

*Change of Circumstance:* Vermont Health Connect (VHD) continues to work with a large number of Vermonters who have requested changes in their health plan application; over 5000 households have made a request.

VHC is working with BC/BS to agree on a process for resolving requests for changes by customers who have been effectuated into a health plan. Strategies are being identified to improve the efficiency of the manual process and increase the number of cases that can be resolved on a daily basis.

Brattleboro Retreat:

DVHA has presented a settlement agreement to the Brattleboro Retreat with regard to a dispute regarding inpatient claims from 2012 to 2014. DVHA has extended its full federal authority in this agreement and has agreed to pay \$200k to the Retreat in return for a release of all claims regarding medical services provided.



116 STATE STREET  
MONTPELIER, VERMONT 05620



OFFICE OF THE SECRETARY  
TEL: (802) 828-1619  
FAX: (802) 828-2361

Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
DATE: March 28<sup>th</sup>, 2014

**Secretary's Top Issues**

**Manure Spreading Ban**

The Agency will be releasing information to farmers regarding appropriate measures to take if choosing to spread manure on snow covered ground next week. The winter spreading ban ends on April 1<sup>st</sup> which will allow farms to begin spreading manure. The Agency is providing guidance on ways to reduce manure losses to water if the decision is made to begin spreading next week.

**Porcine Epidemic Diarrhea virus (PEDv)**

State Veterinarians have been working this week with a farm in Rutland County to prevent disease spread after being notified that the farm has pigs infected with Porcine Epidemic Diarrhea virus (PEDv). PEDv is a newly emerging disease in the US and was only first identified one year ago. This VT case represents the first confirmed positive in VT and in New England, so this is a significant finding. The farm is currently under quarantine, and the owners have been cooperative with the epidemiologic investigation thus far.

**H. 112 GE GMO Senate Judiciary- Deputy Secretary Diane Bothfeld testified**

- The administration and VAAFM support the consumers' right to know, support the premise of a trigger mechanism, and share the concern to legal challenges to the bill.
- The committee pushed the Agency to state how removing the exemption for dairy would affect the chance of a lawsuit, and the effect on the dairy industry. The Agency commented that the committee had heard reports from legislative counsel concerning the exemption of meat and dairy products from this law.
- The Agency was asked to return with following information:
- Provide legal opinion on:
  - Having dairy exempt from the bill
  - Having dairy not be exempt from this bill
- Deputy Secretary Bothfeld stated that the Agency's legal counsel is provided by the attorney general's office and we will work together on the answers.
- Provide the Agency's opinion on – exempt or not exempt and effect on the dairy industry - on a FDA CVM report that states that GMO feed may cause toxic or unknown issues with milk and meat – Leg Counsel O'Grady has this report.
- The potential for our ag lab to do GMO testing.
  - Equipment needs and cost
  - Any staffing needs
  - Any estimate of sample volume
- Senate Judiciary wants to vote this out next Thursday – I believe the Agency's deadline to respond is Tuesday, April 1.

116 STATE STREET  
MONTPELIER, VERMONT 05620



OFFICE OF THE SECRETARY  
TEL: (802) 828-1619  
FAX: (802) 828-2361

Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
DATE: March 28<sup>th</sup>, 2014

**Status of Governor's Priorities:**

**Legislative Activities and Issues**

- John Roberts testified with House Fish and Wildlife regarding his field activities in Franklin County and his efforts at outreach to small farms in that area. This testimony provided some real field experience for the committee regarding the challenges facing the Agency in managing water quality efforts on small farms.

**Committee Bill – House Ag – AAFM emergency authority Monitored by Jeff Comstock and Diane Zamos.**

- Wednesday, David Englander, VDH General Counsel, testified in support. Geo Honigford, Hurricane Flats Farm, Andrea Stander, Rural Vermont, David Rogers, NOFA, George Gross, Dog River Farm, each testified in general support, but want more clarification on: VDH vs. AAFM authority, subrogation clause, and the process for challenging the Secretary's determination of "adulterated." Each believe the determination needs farmer input and an appeal process.
- For AAFM, Diane Zamos emphasized on-going coordination with VDH re: emergencies and food safety on farms, unknowns in anticipation of FSMA, and primary purpose of legislation was proactive/preparedness by plugging an existing statutory gap to ensure farm to plate continuum appropriately and efficiently regulated by "the state" and in particular when FSMA lands. Jeff Comstock explained the FDA/AAFM interplay related to the concept of "raw agricultural products." Jeff will be invited back to testify in more detail about Irene, AAFM's role in pushing FDA to accept risk-based system for determining adulteration of animal feed crops.
- Committee questions primarily focused on subrogation, determination of adulterated, and jurisdictional lines between VDH, AAFM and FDA. Drafter O'Grady had not yet done a walk through. Due to schedule conflict, no monitoring Thursday of O'Grady's or other witness testimony. Committee expected

March 25, 2014

**H. 329 Current Use Bill- Senate Agriculture- Stephanie Smith (Monitoring)**

Peter Griffin, Legislative Counsel provided revisions to three different sections of the law addressing three different policy issues.

- Creation of a third category of land enrollment- called "open conservation land." This would enable individuals to enroll their land if it "is to remain open as conserved wildness or open space." Open conserved land (as contained in the proposed language) means land, excluding any housesite, not developed and predominantly in its natural, scenic, or open condition, or used for wildlife or open space use, or for public recreation.
- Expansion of the definition of farm buildings to include off site farm labor housing
- Revising the definition of "Development" to include any subdivision of land regardless of the size of the resulting parcel.
- The committee also discussed the "parking" of land in current use prior to development.

**H. 799 Untreated Firewood Bill - Senate Natural Resources Tim Schmalz**

Tim Schmalz from VAAFM provided testimony specifically on whether the Agency thought the amendment allowing Commissioner of FPR to provide a waiver to the rule, in situations when the public interest could be

served but allow movement of untreated firewood when risk was low could undermine the intent of the law/rule. Mr. Schmalz testified that it would depend on the nature of the waiver, and how it would be implemented in the rules, but that it could undermine the rule in theory and in practice. It could equally be implemented with adequate oversight and management to accomplish both the intent of reducing importation of invasive pests and serve to allow movement of firewood in times of dire need.

The committee also inquired about pests other than emerald ash borer in firewood. Responded that there was Asian long-horned beetle in maple, and other pests in other firewood species, all of which we are very concerned about.

March 26, 2014

**Farm Health Task Force -Both Senate Agriculture and House Agriculture and Forestry Products Louise Waterman**

Mission and activities of this group as presented in attached slide presentation.

**H. 112 GE GMO Senate Judiciary- Deputy Secretary Diane Bothfeld testified**

- The administration and VAAFM support the consumers' right to know, support the premise of a trigger mechanism, and share the concern to legal challenges to the bill.
- The committee pushed the Agency to state how removing the exemption for dairy would affect the chance of a lawsuit, and the effect on the dairy industry. The Agency commented that the committee had heard reports from legislative counsel concerning the exemption of meat and dairy products from this law.
- The Agency was asked to return with following information:
- Provide legal opinion on:
  - Having dairy exempt from the bill
  - Having dairy not be exempt from this bill
- Deputy Secretary Bothfeld stated that the Agency's legal counsel is provided by the attorney general's office and we will work together on the answers.
- Provide the Agency's opinion on – exempt or not exempt and effect on the dairy industry - on a FDA CVM report that states that GMO feed may cause toxic or unknown issues with milk and meat – Leg Counsel O'Grady has this report.
- The potential for our ag lab to do GMO testing.
  - Equipment needs and cost
  - Any staffing needs
  - Any estimate of sample volume
- Senate Judiciary wants to vote this out next Thursday – I believe the Agency's deadline to respond is Tuesday, April 1.

**H. 329 Current Use Bill- Senate Agriculture- Stephanie Smith (Monitoring)**

Jamey Fidel, Vermont Natural Resources Council, testified. He stated (as stated by others before him) that the current use program has an image problem. Mr. Fidel spoke out against the "Cap" as presented in the Senate version of H. 329 and spoke for an increase in the land use change tax instead because a cap will affect individuals enrolled in the program who otherwise want to keep their land in production and could force individuals to get out of the program. An increase in the land use change tax affects those who are getting out after they have received the benefits provided by the program. He also made clear that enrolled land provides Vermonters with the same functions and values, no matter where a parcel is located (whether in towns with high or low land values).

Discussion followed concerning

- the lien and the affect it has on land owners trying to get loans
- creating fair and consistent assessment practices across the state for land under a conservation easement
- If the penalties are increase, do in a way that limits those who can opt out because this could cause a sudden decrease in re
- venues in the following years

### **Significant Events/Meetings:**

- This week the dairy section met with CAI on the adoption of USA Food Safety as our database for dairy. It has exciting potential for assisting our burgeoning dairy processing industry while protecting public health in an effective and more efficient manner. It is already being used in Pennsylvania so the adaptation for Vermont should be straightforward.
- The Vermont Pesticide Advisory Council met this week and discussed a number of items. Substantial discussion revolved around the Brandon, Leicester, Salisbury, Goshen Insect control District and their use of pesticides for adult mosquito control. One landowner complained of inappropriate application, not observing no-spray zones etc. The council recommended that these issues be resolved at the local level if at all possible. The Council also discussed revised pesticide rules and the golf course permitting program.
- The Compost Working Group met this week. The discussion centered on herbicides in compost and how to best manage the compost and the messaging to the public. It was decided to attempt a multi-pronged effort aimed at horse owners, pesticide applicators and the public. The group also wishes to inquire with Dow Inc. as to potential financial support for continued bioassay work at UVM.

### **Evolving Issues:**

- Agency staff continue to meet regularly with BGS staff regarding the replacement laboratory. A team has been established internally to for RFP and RFQ reviews and recommendations. The current goal is to obtain the services of an outside contractor to provide recommendations for site selection and some very preliminary design work; primarily as to required building size etc.
- The Agency will be releasing information to farmers regarding appropriate measures to take if choosing to spread manure on snow covered ground next week. The winter spreading ban ends on April 1<sup>st</sup> which will allow farms to begin spreading manure. The Agency is providing guidance on ways to reduce manure losses to water if the decision is made to begin spreading next week.

### **Summary of Key agency Department Activity**

#### **Agricultural Development:**

- Johanna Herron, Ag Development Coordinator leading the Agency's Farm to School Program, was asked by the Governor's office to join staff from the Agencies of Education and Human Services to attend the National Governors Association Childhood Hunger Summit. We learned about the breadth and depth of childhood hunger issues and federal programs that aim to address them. Various states shared their successful and innovative strategies in addressing gaps in their states. We worked with our state cross-cutting agency team that has programmatic overlap in vulnerable populations within Vermont. We were given time to discuss ways to work together and other organizations in Vermont leading efforts in addressing childhood hunger. Our next steps include working with Hunger Free Vermont to find ways to effectively share what we learned with appropriate policy makers in Vermont.
- The Vermont Agency of Agriculture sponsored, and attended the 7<sup>th</sup> annual Jr. Iron Chef event. There were 64 teams representing over 270 middle and high school kids. Agency staff led an activity for over 100 students to make carrot seed tape to take home and plant over the summer.

### **Food Safety and Animal health and Consumer Protection:**

#### **Consumer Protection:**

Consumer Protection staff attended three days of training this week at our lab in Berlin, provided by Ken Butcher of the National Institute of Standards and Technology (NIST). The training concentrated on checking the weight and volume of packages at retail locations.

#### **Animal Health:**

State Veterinarians have been working this week with a farm in Rutland County to prevent disease spread after being notified that the farm has pigs infected with Porcine Epidemic Diarrhea virus (PEDv). PEDv is a newly emerging disease in the US and was only first identified one year ago. This VT case represents the first confirmed positive in VT and in New England, so this is a significant finding. The farm is currently under quarantine, and the owners have been cooperative with the epidemiologic investigation thus far. The route of infection for this farm is undetermined at this point. There are three contact premises located in NH that have also been quarantined by the NH State Veterinarian. Practicing Vermont veterinarians have been notified by us of this development and are being asked to share information with their swine-owning clientele so that adequate biosecurity practices can be established, if not already being used, on

the farms. A press release on this issue has been drafted and is expected to be disseminated to media outlets today, pending approval from the Governor's office. Information will also be disseminated through the Vermont Animal Agriculture Alert Network.

### **Dairy:**

- Two NOVs were issued to a processing plant
- One AOD was reached with a farm on drug residue violations
- The Williamstown farm that burned out last week has found a new location and we will be inspecting the facility they moved to on Friday.

### **Agricultural Resource Management:**

Agency staff worked with Department of Health staff this week to design an agenda for a meeting on the status of EEE in Franklin County to be held in Swanton in April. This meeting is being held in light of the EEE positive horse cases in the county last year.

### **Medium Farm Operation (MFO) and Large Farm Operation (LFO) Programs:**

- Staff met with a LFO in Addison County and their Technical Service Provider (TSP) to discuss the farm's enforcement action as well as their application for a permit amendment.
- Staff visited four MFOs are transitioning to the LFO program to discuss the transition, answer questions and complete paper work. Two farms were in Addison County, one in Grand Isle County and the other was in Franklin County.
- Staff are processing applications and information for several MFOs that are increasing in size and we are working to transition the farms into the LFO program. Information is being compiled and permits are being drafted for these farms and this will be a major focus of the team for the coming month.
- Staff are working on compiling information related to several LFOs that require permit amendments.
- Staff have met with Technical Service Providers and NRCS to discuss MFO and LFO permitting and amendments and related information.
- Staff met with CAI , and VAAFM's IT and USAFoodSafety database project manager to conduct the GAP analysis for the water quality portion of the database project.

### **Conservation Reserve Enhancement Program (CREP):**

- Ben Gabos caught a bat in the building that swooped down from the ceiling in his office space and landed on the floor. The bat was safely and quickly placed in a box where it awaited a ride to Milton. It now lives indoors in Milton where it will reside until weather conditions and temperatures are favorable for return to the wild.
- Continued mapping/planning work for several ongoing potential CREP projects.
- Working with partners and discussing cover cropping sign-up and workload with NRCS.

### **Secretary's Comments:**

#### **PRESS:**

- **WCAX, Jack Thurston, Montpelier:** interviewed about dairy industry in Vermont – pricing, future outlook and importance to VT
- **Rural Media/RFDTV, Janet Adkison reporter, Washington DC:** after speaking at listening session at USDA, interviewed about the state of agriculture in Vermont

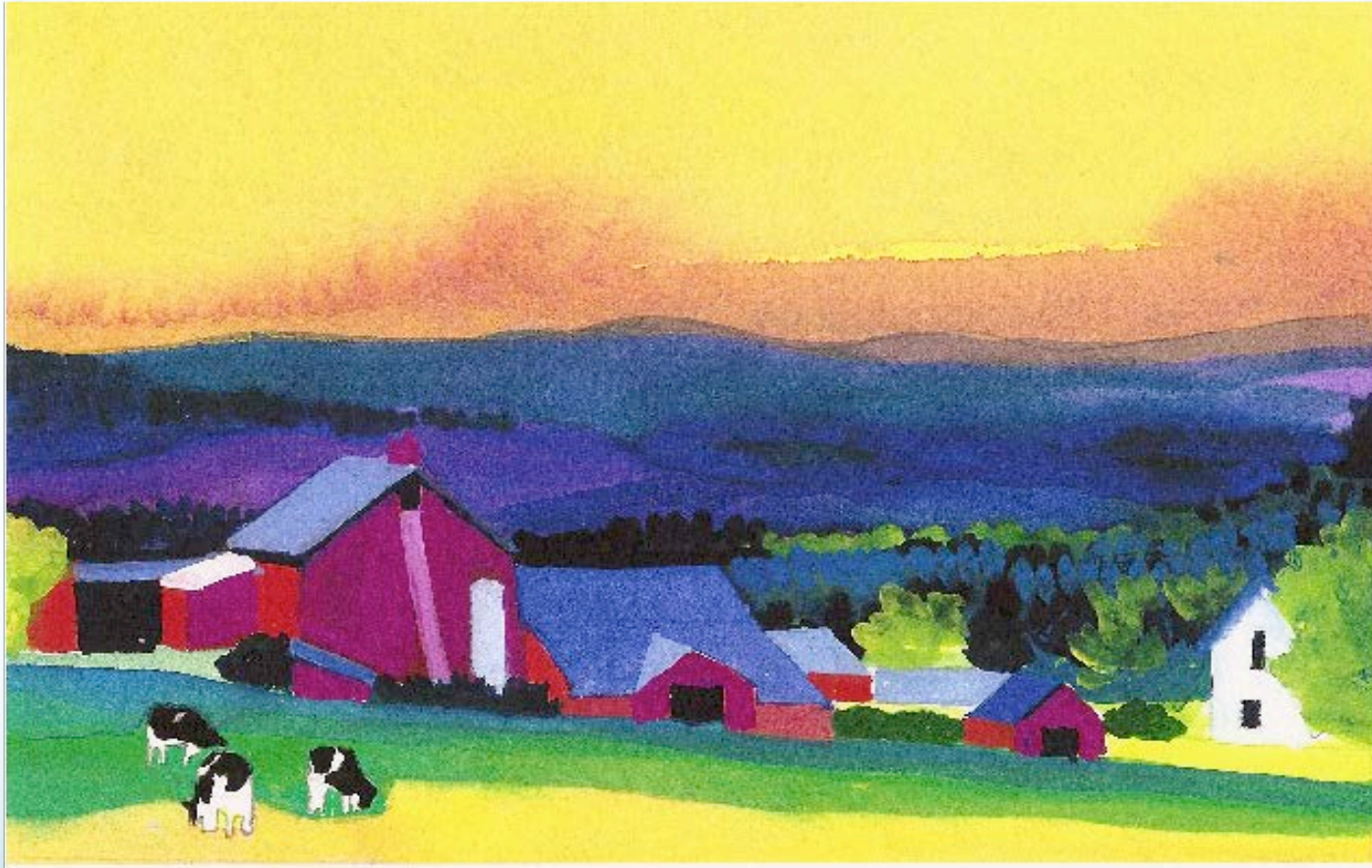
#### **MEETINGS:**

- **USDA, Washington DC:** met with staff regarding water quality resources and rural and agricultural development resources at USDA through the Rural Development and NRCS programs. Two 250 million dollar funds were identified along with many other complimentary programs that could address water quality, rural development and comprehensive energy initiatives.
- **Brian Baenig, Vilsack COS, USDA, DC:** Met with Mr. Baenig (friend and former Leahy colleague) regarding Regional Conservation Partnership Program and Secretary Vilsack's pending selection of 8 national conservation areas and the viability of the Lake Champlain as a designee or applicant for other RCPP programs. May require Governor to call eventually.

- **USDA Listening Session, Dairy, DC:** Attended and spoke at listening session. Emphasized importance of a robust margin insurance program and the need for the USDA to work with state ag leaders while they write the rules.
- **Middlebury Biogas Project, VAAFM Office:** Middlebury College Carbon Free Campus collaboration with local farms - Facilitated meeting of players working to build a manure digester operation to generate biomethane gas to be piped via the VT Gas pipeline to Middlebury College to replace #6 fuel oil and dramatically lower their carbon footprint. Outline business relationships and funding going forward so all partners and players understand how to get to a successful built project. Included NRCS, Farmer Ernie Goodrich and entrepreneur Dan Smith and VAAFM.
- **Higher Education Food System Consortium, VCRD office Montpelier:** met with leadership from 7 participating institutions, reviewed how to launch a joint certificate program, raise funds and market their collaboration.
- **VHCB, Montpelier:** discussed how to incorporate water quality in the decision making for VHCB.
- **VEDA, Monthly Board Meeting, Conference call:** participated in board conference call of monthly meeting.



# Vermont Farm Health Task Force



Creating *Common Ground* Solutions  
for Farm Health and Safety

# Agriculture



- Ranked as the **most dangerous industry** in the country;
- **High risk** for non-fatal and fatal injuries;
- **Family members** also at risk for both injuries and death;
- **Workers** of all ages routinely **lose work time** due to injuries that lead to permanent disabilities.



# Access to Services

- Continuing **lack of** sufficient **Dental, Primary Care, Medical Specialists** and **Behavioral Health** services in rural areas.
- **Lack of** trained practitioners knowledgeable about **Agricultural Medicine and Occupational Safety**.
- **Many** farmers and farm families will still **not** be **enrolled** in the state health care system.

# Rural Health vs. Agricultural Health

**Rural Health** - focused on development and support of accessible and appropriate health care services for all rural residents.

# Agricultural Health and Safety – a practice field focused on reducing occupational injuries and illnesses in agricultural populations.

**"It's a no-brainer."**

— Dan Brouhard, Hilder Vine Farm, Hilder Vine nursery owner

**Retrofit your tractor with rollover protection.**

80% of deaths caused by rollovers happen to experienced farmers. Without a roll bar, it could happen to you.

Rollover protective structures (ROPS) are 99% effective in preventing rollover deaths and serious injury. Invest in a ROPS today and we'll cover 70% of the entire cost of installing your tractor. We will also help you find the right model and dealer.

**70% off**  
Save up to \$765 on costs to retrofit your tractor  
NEW AVAILABLE IN VT AND NY

**CALL 1-877-ROPS-R4U | WWW.ROPSR4U.COM**  
(1-877-767-7748)

ROPS is the standard on tractors and other equipment manufactured after 1972. ROPS is required on new tractors and other equipment manufactured after 1972. ROPS is required on new tractors and other equipment manufactured after 1972. ROPS is required on new tractors and other equipment manufactured after 1972.

# Agricultural Medicine

- **Specialty area** of occupational and environmental medicine, and public health.
- **Multidisciplinary** approach
- **Research base** for core curriculum



# Specific Illnesses/Conditions

- Respiratory Conditions
- Skin Diseases
- Cancers
- Pesticide-Related Illnesses
- Musculoskeletal Diseases
- Environmental Health Hazards
- Zoonotic Diseases
- Physical Factors (Heat, Cold, Noise, Vibrations)

# Special Risk Populations

- Children/Teens
- Older Farmers
- Migrant Farm Workers

# Children

**Children** living on farms are at great **risk of injuries and death** due to:

- Lack of **environmental controls**

Fencing

Safe play areas

- Large **animals**
- Dangerous farm **machinery**
- Inadequate **Supervision**



# All Farm Youth

## 2012 NATIONAL DATA

### FATALITIES

**2.5 million children** living / working / visiting hazardous agricultural workplaces.

**Major fatality causes:** **Farm vehicles (17%)** Machinery (25%) Drownings 16%)

**Work-related fatality rate** for young agricultural workers was **3.6 times higher** than young workers in all industries.

### INJURIES

An estimated 7,780 youth living on farms were injured in 2012.

**Major injury causes:** **falls** from structures/surfaces, large **animals, farm vehicles**.

**Overall injuries** declined substantially, *except among children under 10*, and **ATV injuries** have **increased 150%** among 0-17 year old farm youth .



# Older Farmers

- Vermont farm owners/operators have an **average age of 57**
- **Normal aging impacts** on hearing, vision, smell, dexterity, balance, respiratory capacity and general reaction time
- 56% of US farmers older than 55 use **medications** documented to result in **heightened accident rates**





# Migrant/Immigrant Farm Workers

- Linguistic, economic and cultural **isolation**
- **Limited access** to medical and mental health care
- **Lack immunizations** and/or medical **records**
- **Not familiar** with causes/symptoms of Lyme Disease and other agricultural diseases
- Unfamiliar with basic **first aid** or farm **emergency procedures**



# FARM HEALTH TASK FORCE



# Mission

- Maintain vital and diverse **statewide organization** to sustain a **healthy, stable farm workforce** in Vermont.
- Use ***common ground*** approach focused on the shared health and safety needs of farmers, farm workers and family members living and working on Vermont farms.
- Work to advance state and organizational policies and programs to **improve the lives** of all members of the farm community.

# Organization

- Statewide membership organization
- Four standing workgroups:

**Farm Safety**

**Practitioner Education**

**Migrant/Immigrant Farm Worker Health**

**Outreach and Education**

- Steering Committee
- Quarterly Meetings



# Membership

- Farmers
- Medical Practitioners and Administrators
- Agricultural Professionals
- Public Health Specialists
- Mental Health Clinicians
- Pharmacists
- Migrant Worker Services Staff, and Advocates
- Vermont Congressional Staff
- University of Vermont: Faculty and Staff
- Department of Health, Department of Labor,  
Agency of Agriculture: Policy and Program staff



# Task Force Activities

1. Create **partnerships** and **funding** to develop **services** for state's agricultural workforce.
2. **Educate** farm families, health practitioners, agricultural professionals and general public about **unique health and safety needs** of the agricultural communities.



# Activities

3. Run **Health and Wellness Booths** at Annual Farm Show and Addison County Field Days
4. Provide **Farm First Aid** and Emergency Training for Migrant Farm Workers on Dairy Farms
5. Offer 50-hour **Agricultural Medicine and Occupational Safety Trainings** every two years.
6. **Pilot model** for county-based agricultural medicine collaborative service delivery.

# Other Collaborative Projects

- State **Barn Fire** Initiative
- InvestEAP- **Farm First** Program for dairy farmers
- Project with Departments of Health and Labor to improve **formaldehyde safety practices** on dairy farms;
- UVM Extension's Tractor **Roll Over Protective Systems** Program (ROPS).





# Planning for the Future

*Use **Addison County Pilot Projects** as next steps in developing new working model for multidisciplinary, interagency Agricultural Medicine services.*



Addison County Pilot Projects

**AGRICULTURAL MEDICINE  
COLLABORATIVE**

**AGRICULTURAL MEDICINE  
TEACHING DAY**

# County Agricultural Medicine Collaboratives

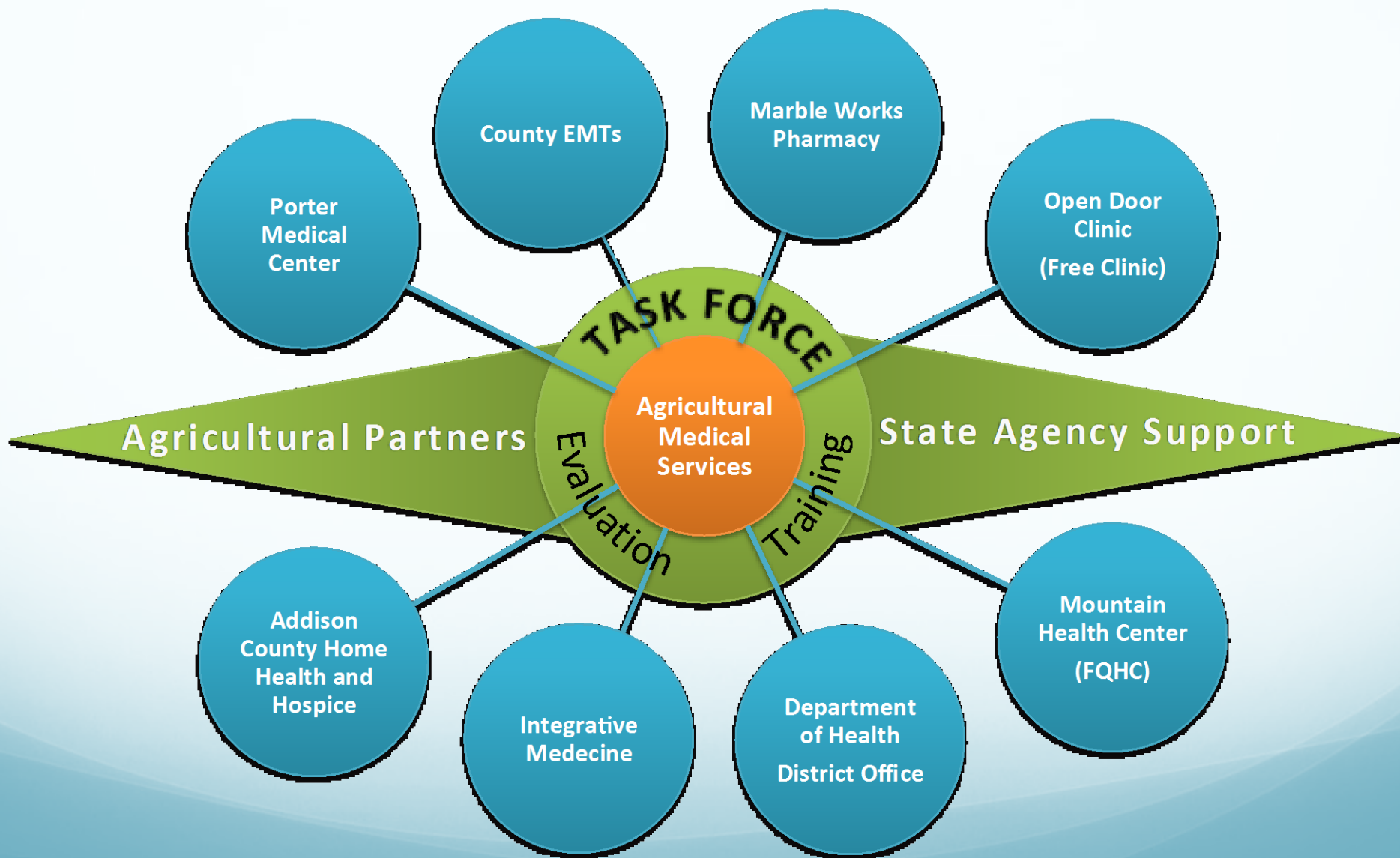
Develop and support **county coalitions** of trained, certified rural health practitioners who can:

1. Recognize, diagnose, refer and/or treat agricultural illnesses and conditions;
2. Imbed in practice settings new Agricultural Medicine protocols for: health histories; screening and diagnostic procedures; specialist referrals; and, managing farm medical emergencies;
3. Develop sustainable local health service delivery systems for farm patients.

# Addison County Pilot Collaborative

- Create and **test model** for county-wide shared service delivery system during the next two to three years.
- **Increase** individual organizations' and the network's **expertise** and **service capacity**.
- Prepare for a December, 2014 application for a **HRSA Rural Health Planning Grant** and other foundation funding.

# Addison County Pilot



# Expand Agricultural Medicine Training Options

- Current **50-hour** comprehensive multidisciplinary **training** offered every 2 years.
- **Pilot** a 1-day *Introduction to Agricultural Medicine Teaching Day* for staff of Collaborative agencies.
- If successful, plan **annual Teaching Days** for Vermont and New England medical and agricultural professionals for preliminary education and as a recruitment tool for full Agricultural Medicine Training.

# Agricultural Medicine Teaching Day

## ***INTRODUCTION TO AGRICULTURAL MEDICINE***

Wednesday, June 18, 2014

8:00 A.M. – 4:30 P.M.

The Inn at Baldwin Creek, Bristol, Vermont





# WHAT WE NEED

Help to...

- **Improve access to health care in rural areas** (primary care, dental, behavioral health, medical specialists).
- **Increase Health Connect enrollment** outreach in the farm community.
- **Update 2006 statewide farm health surveys** for owner/operators and farm workers.
- Support the **continued delivery** of Task Force **Agricultural Medicine training**.



# THANK YOU!



# FOR MORE INFORMATION

Jean McCandless, MSW  
Program Director  
Vermont Farm Health Task Force  
[vtfarmhealth@gmail.com](mailto:vtfarmhealth@gmail.com)  
(802) 373-6996



# Resources

- Donham, Kelley and Thelin, Anders. Agricultural Medicine: Occupational and Environmental Health for the Health Professions (2006) Blackwell, Iowa, USA
- S. Wright, B. Marlenga, B. Lee. Childhood Agricultural Injuries: An Update for Clinicians. Current Problems in Pediatric Adolescent Health Care 2013; 43:20-44.
- National Agricultural Statistics Service, 2007 and preliminary 2012 information.
- National Children's Center for Rural and Agricultural Health and Safety, National Farm Medicine Center, Marshfield, Wisconsin, 2012
- Daniel Baker and David Chappelle. (2012) Health Status and Needs of Latino Dairy Farm Workers in Vermont. Journal of Agromedicine 7:3- 277-287
- C. Radel, B. Schmook, S. McCandless. Environment, Transnational Labor Migration and Gender Case Studies from Southern Yucatan, Mexico and Vermont, USA. Population and Environment 2010; 32:177-197

1 National Life Drive  
Davis 2  
Montpelier, VT 05620-3901

Tel: (802) 828-1294  
Fax: (802) 828-1250

[www.anr.state.vt.us](http://www.anr.state.vt.us)



Deborah L. Markowitz  
Agency Secretary

Justin G. Johnson  
Deputy Secretary

**State of Vermont**  
**Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To:** Governor Peter Shumlin

**From:** Deborah Markowitz, Secretary, Agency of Natural Resources

**Date:** March 28, 2014

**Subject:** ANR Weekly Report

**Governor Level Issues:**

**Zero Emission Vehicle Memorandum of Understanding (ZEV MOU):** A draft Multi-State ZEV Action Plan to implement the objectives of the ZEV MOU is undergoing multi-agency review in the signatory states. In Vermont, DEC, PSD, BGS, and VTrans are reviewing the draft. The MOU identifies joint cooperative actions the signatory states will undertake and contemplates that each state will take additional steps to build a robust market for ZEVs. The plan is to submit a near final draft Multi-State ZEV Action Plan to the Governors' office for review by mid-April, with a goal of finalizing the plan by the end of April. We will then shift focus to developing a Vermont-specific ZEV Action Plan.

**Jay Peak Resort Stormwater:** We issued an enforcement order requiring the resort to address existing and new water quality impairments from stormwater runoff. We are working closely with Jay Peak staff to ensure they come into compliance and understand what is required of them.

**VASA Meeting:** Michael Snyder and Justin Johnson met this week with representatives of the Vermont All Terrain Sportsmen's Association (VASA) to discuss the history, status and future possibilities of ATV recreational activity in Vermont. Significant progress has been made related to the 24 recommendations of the Vermont ATV Collaborative presented in 2004. It was a friendly meeting.

## **EVERYTHING ELSE:**

### **Legislative Issues/Testimony:**

We have lots going on this week in the legislature. Louis is fully up to speed. Here are a few highlights.

**Miscellaneous Solid Waste Bill (S.208):** This bill passed the Senate yesterday. The bill would implement most of DEC's recommendations for continued implementation of Act 148's Universal Recycling Law, as well as creating a pilot study of a recycling requirement for construction and demolition debris and mandating that DEC work with stakeholders to develop an infrastructure development plan for recycling and organics processing. The bill would also increase the solid waste franchise fee by \$1/ton.

**Dam Safety Bill (H.590):** This bill creates a new registration requirement for dams under the department's jurisdiction and an associated fee. The goal of the legislation is to increase the resources available to ensure dam safety through inspections. This bill passed the house and is now in the senate.

**Batteries Recycling (H.695):** This bill, reflecting a proposal by manufacturers of primary batteries to establish a primary battery recycling program in Vermont, passed the house and is now in the senate.

**Clean Water State Revolving Fund - Capital Adjustment Bill (H.864):** The Joint Fiscal Office recently inquired about the impact of reallocating a portion of our proposed Clean Water State Revolving Fund match dollars. Any reductions to our budget request would translate to a reduction of five times that in amount in lost federal grant dollars. We would also risk loss of 4% of that amount currently budgeted to cover administrative costs of the program. This is a poor time for the state to be cutting clean water funding given the need to increase both state and federal funds to implement the Lake Champlain TMDL. We will continue to advocate for maintaining the Governor's proposed capital budget adjustments.

**Shoreland Bill (H.526):** House and Senate conferees met to discuss this bill. The House members (Deen, Beyor, and Krebs) have put forth a list of substantive issues they would like to discuss relating to DEC rule-making authority, adoption of a general permit, off-site mitigation and municipal delegation. We have concerns with some of the House proposals and will work with the conferees to help explore options for compromise.

**ANR PILOT:** The Legislature is proposing changes to T. 32 §3708 (a) (1) which would generally limit FY'15 increases to ANR's Payment in Lieu of Taxes program to 2% of last year's payments. Without this change, FY'15 PILOT payments would increase by approximately 30% to nearly \$2.7 million. This increase is largely attributable to Property Valuation and Review's reappraisal of ANR lands. Lands Administration Division staff have been working closely with Property Valuation and Review and ANR's Director of Administrative Services to determine the financial impact of these proposed changes to ANR's PILOT legislation.

**H.799:** This bill regulates the importation of untreated firewood to Vermont. It passed the house and is now in the Senate.

**Joint Resolution:** ANR Lands Administration Director Mike Fraysier met with the House Corrections and Institutions Committee on Tuesday of this week to discuss the Department's proposed Joint Resolution. This resolution would authorize the Commissioner of the Department to enter into two right-of-way exchanges; one at Mt. Mansfield State Forest in Stowe and one at Victory State Forest in Victory.

### **Press Issues/Releases:**

**Ice Shanties Must Be Removed:** Vermont state law requires that ice fishing shanties must be removed from the ice before the ice becomes unsafe or loses its ability to support the shanty out of the water, or before the last Sunday in March (the 30th this year), whichever comes first.

**Deer, Moose Hearings March 25-26-27, Two More to Come in Early May:** Hunters, landowners and anyone else interested in Vermont's deer and moose herds should plan on attending one of three public hearings scheduled for March 25 in Springfield, March 26 in Orleans and March 27 in Middlebury. Two more hearings will be held in central and southwestern Vermont in May.

**2014 Watershed Grants Awarded:** From a dam removal project on the upper Wells River to milfoil reduction in Charleston, fifteen watershed improvement projects will be going forward this spring thanks to funding from Vermont's 2014 Watershed Grant Program. Recipients were chosen from 58 applications received, requesting a total of \$432,700. The size of the individual grants ranged from \$2,500 to \$15,000 and will total the available 2014 funding of \$100,000.

**Vermont Hunters Took More than 14,000 Deer in 2013:** Hunters took 14,107 deer during Vermont's four deer hunting seasons in 2013. The number of legal bucks with at least two points on one antler totaled 8,831, up 8 percent from the year before.

### **Significant Events/Meetings:**

**Quarterly Meeting with Department of Health:** DEC's management team met with Commissioner Chen and his top managers to discuss issues on which we have a shared interest and jurisdiction. Topics included blue-green algae toxicity, tracking and preventing tick-borne disease, groundwater protection strategies, communications regarding mercury in fish, PCB testing in schools, emissions from wood heating devices, Entergy Vermont Yankee decommissioning, and proper disposal of pharmaceuticals. These meetings, started in 2011, have proven to be a terrific opportunity to explore cooperative approaches for addressing shared challenges.

**Cady's Falls Water Cooperative:** This is a public water system located in Morristown with about twenty residences connected. They have concerns about a State road project (the Morrisville village by-pass) adversely affecting their water supply. The water system contends that construction of the by-pass has diverted water away from the three springs which supply the system with water. They are also afraid that contaminants will also get into their water system from water runoff from the by-pass. These residents are willing to connect to the Morristown

**Former Moran Generating Station/Flying A Site Redevelopment (Burlington):** We met with Burlington staff and their advisors to resolve issues involving the redevelopment of these two sites. The primary issue relates to the City's ability to stockpile contaminated soils from the Moran cleanup on the Flying A site. We expect to reach agreement on a plan which will not affect the redevelopment schedule. I have a follow up meeting scheduled with Miro.

**VT Local Roads Workshops:** This week was the first of three joint workshops with Vermont Local Roads and DEC. The workshops will focus on managing street sweeping, catch basin cleanings, and road side ditching material, as well as stream crossing structures and channel stability and evolution. This is the second training in a new Environmental Series, with the goal of presenting regular trainings to road crew personnel around Vermont focused on DEC regulatory issues and programs.

**Killington Meeting:** Department staff met with Killington ski area officials on Friday last week at Killington to discuss upcoming work plans and other ski area matters. Killington completed construction of their "Peak Lodge" near the summit of Killington Peak this past December. This facility includes a cafeteria which is proving extremely popular with skiers and is doing record business. Killington is reporting a strong ski season with ticket sales slightly ahead of last year's sales at this time.

**HWA Mortality:** The results of the annual hemlock woolly adelgid winter mortality study are in and there's some very good news. Samples taken in Vernon, Brattleboro, Townshend, and Jamaica show HWA mortality ranging from 97.8 % to 99.6%. This will give our hemlocks a temporary reprieve.

## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**The Capital Heating Complex:** The Capital Heating Complex is performing initial emissions testing on their new wood fired boilers in Montpelier this week to determine compliance with the federal clean air act.

**Pike (Berlin):** Air Quality & Climate Division issued a final permit to this facility approving use of compressed natural gas at the hot mix asphalt plant.

**PCBs in Schools:** We have recently received sampling reports for two schools, Champlain Elementary in Burlington and Mt. Anthony UHS in Bennington. There were no detections of PCB in air in Bennington. In Burlington, there were four detections (out of 20 samples). All four detections were over the VDH guidance concentration of 15 µg/cu. meter, but in our estimation the levels do not constitute a significant health threat. Similar concentrations and detections were found at Barre Middle and Elementary School, and the recommendations were to examine the lighting fixtures in the affected rooms, and replace any aging units that may contain PCBs; and wet-cleaning of hard surfaces. We are working with the VDH to develop a summary letter and approach for fielding questions and concerns about the results.

### **Fish and Wildlife**

**Fishing:** Ice fishing activity continues with thicker ice later in the season compared to previous years. Fishing pressure, however, has only been moderate due to the high winds and cold temperatures. Large catches of blue gills are being reported on Lake Champlain. Wardens continue spending time documenting the location and owners of fishing shanties in anticipation of some being abandoned as the ice melts.

**Snowmobiling:** Snowmobiling conditions remain excellent throughout the state. Except for a few locations both north and south, ridership levels have been low. Warden Jason Dukette assisted the state police with a serious snowmobile accident in Charleston. The injured was airlifted to a hospital but is expected to survive.

**Water Rescue at Mallets Bay in Colchester:** While handing a fishing violation, Warden Robert Currier observed a woman fall through the ice and into the water. He immediately ran to her location and was able to pull her back onto the ice.

**Frequent Violator Encountered Again in St. Albans Bay:** Wardens Thiel and Snyder encountered a (20x) Fish and wildlife violator again fishing while his license was suspended. In addition to his continued fish and wildlife violations he also had an active arrest warrant for him. He was then arrested, transported off the ice and with the assistance of the Franklin County Sheriff's department and transported to jail.

**Healthy Bears:** Staff continues doing den checks on black bears collared as part of the Deerfield Wind Black Bear Study. Den dates are dependent on weather and staff availability. During this work period three dens were visited including two males and one female. All had increased their weights as expected following a good beech nut year.

**Wildlife Depredation at Airports:** Staff met to discuss developing a strategy for working with the state's regional airports when they request wildlife depredation permits. Airports generally seek broad authority to kill every animal in order to protect public safety. Airports have not always taken measures that reduce the likelihood of wildlife being on an airport, and sometimes have inadvertently created attractants (e.g., pooling of water during shorebird migrations).



## **Forest, Parks and Recreation**

**Leases and Licenses:** The Department has executed a Special Use Permit (SUP) with Blue Ridge Properties that allows for limited sugaring on the former Bertha parcel in Mendon for this sugaring season in exchange for a fee and a right of first refusal to acquire the timber rights in 2014. This parcel and the adjacent parcel are owned by the State, subject to timber and mineral rights which are now held by Blue Ridge Properties. The SUP provides a framework for reaching a long-term agreement for sugaring these parcels in exchange for timber rights concessions which would provide additional permanent protection to the Long Trail and other natural resource values associated with these lands.



---

**State of Vermont**  
**Department of Public Safety**  
103 South Main Street  
Waterbury, Vermont 05671-2101  
[www.dps.state.vt.us](http://www.dps.state.vt.us)

**To:** The Honorable Peter Shumlin  
**From:** Keith Flynn, Commissioner of Public Safety  
**cc:**  
**Date:** March 28, 2014  
**Subject:** Weekly Report

---

## **Criminal Justice Services**

**Information Sharing** – The office of technology management is in the process of applying for another federal grant to further enhance the user experience by adding functionality to the Justice Information Sharing System. Use of the crime analysis tool is important to get the best effect of its analytical capabilities. The grant is intended to add functionality that was missed in the original build and increase the ability for users to sign on to the DPS system of services with one use ID and password. We are also working with the Vermont Center for Justice Research on a grant application that will focus on increasing the quality of data that is entered into the different databases. Data quality is important in getting the proper information out of the system.

**FirstNet Public Safety Broadband Network Commission** – The next meeting of the Commission is Wednesday April 2<sup>nd</sup>. The Department of Homeland Security will be conducting a training for members on what to expect from the FirstNet State Consultation project that will begin in the next few months. This consultation will be the basis of the Vermont State Plan that will have to go to the Governor for acceptance of the broadband build out. FirstNet continues to develop their staff capabilities and therefore is starting provide more guidance and direction to the states.

**Marijuana Program** – Sam Hemingway is doing research for an article on the dispensaries. We are not sure if this will be a positive article or if his focus is going to be negative.

**Firearms Storage Standards and Guidelines** – We are complying with the request to develop standards and guidelines as outlined in H. 735. We are circulating the draft amongst the State Police for review. We will also be utilizing the CALEA standards for safe keeping of firearms as a basis for the standards associated with storage of firearms. CALEA is a national law enforcement accreditation organization.

## **Emergency Management/Homeland Security**

Issues/Updates:

A sub-grant will be executed this week to provide funding to the Vermont Agency of Natural Resources to purchase two CBRNE multi-purpose response vehicles.

DEMHS staff have begun the application planning and development for the FFY '14 State Emergency Management Performance Grant (EMPG) application process. Vermont will be awarded \$3.06Mil in DHS funding.

Vermont will be awarded \$3.7Mil in DHS funding and is applying for additional funding for the Vermont Operation Stonegarden Program.

Hazard Mitigation activities this week including finalizing and submitting Ryegate's Hazard Mitigation Plan in advance of March 29, 2014 deadline; responding to additional FEMA HMGP RFIs; requesting FEMA participation in HM Plan training for RPC and municipal planners; and agreed to re-appraise a particularly difficult buy-out in Northfield. To date, 67 HMGP buy-outs have been "closed" out of 99 approved by FEMA.

Brattleboro Reformer carried a positive story about HMGP buy-out demolition contracts being awarded: [http://www.reformer.com/localnews/ci\\_25412191/demos-set-newfane-irene-buyouts](http://www.reformer.com/localnews/ci_25412191/demos-set-newfane-irene-buyouts).

Legislative Contact:

DEMHS staff received a request from former Senator Illuzzi to obtain a copy of the Local Emergency Operations Plan for the town of Calais, VT. After consulting DPS legal counsel and the Calais town clerk, Senator Illuzzi was advised to refer to the Calais town web site, where the plan is located.

Responded to inquiry from Congressman Welch's office regarding status of HMGP projects in Brandon.

## **Fire Safety**

Issues / Updates:

The Division received \$18,000.000.00 in new plan review construction valuation collecting \$102,000.00 in permit fee revenue.

On March 17 and 18, Division of Fire Safety Assistant Fire Marshals inspected all St. Michaels College existing townhouses as a result of the recent fire. 12 townhouses were identified as having undersized windows in the sleeping areas. Other common items found included improper handrails, inadequate clearance to combustibles to heaters, smoke alarms not installed on each floor level, some GFCI wiring issues, labeling of breakers, candle use and improper disposal of smoking materials.

## **Administration/Finance**

FY15 Budget: The House has approved HAC's version of the Appropriations Bill and it is on to the Senate. The HAC version contains the following changes from the Governor's recommended budget:

- Appropriates an additional \$1.6M to DPS for new vehicles in FY14
- Reduces the CJS general funds base budget by \$490k
- Adds a \$572k one-time appropriation to DPS for information technology software and equipment in FY14
- Adds \$1.6M to DPS budget for vehicles in FY14
- Adds a new special fund and a \$75k appropriation to DPS for the Firearms Storage Loan Program
- Makes a one-time scoop of \$3.2M from Fire Safety Division Special Fund #21901 (Licensing and Inspection fund) to the General Fund in FY14

David Beatty, who spoke with Steve Klein and Maria Belliveau of JFO, advises that the CJS base cut and one time appropriation of \$572k was part of HAC's plan to balance the FY15 budget. David mentioned to Steve and Maria that this leaves DPS with a hole for FY16...they acknowledged that and said it would have to be dealt with in FY16 budget process.



**State of Vermont**  
**Agency of Administration**  
**Office of the Secretary**  
Pavilion Office Building  
109 State Street  
Montpelier, VT 05609-0201  
[www.adm.state.vt.us](http://www.adm.state.vt.us)

[phone] 802-828-3322  
[fax] 802-828-3320

*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Jeb Spaulding**  
**DATE: March 28, 2014**  
**SUBJECT: Confidential Report to the Governor**

---

**BUILDINGS AND GENERAL RESOURCES**

**Status of Governor's Priorities:**

Final stages of consideration of the Capital Adjustment Bill in Senate Institutions committee; trying to protect executive prerogatives regarding decision making as it relates to the AG/ANR Lab.

**Legislative Issues/Contacts:**

- Brief weekly meeting with Speaker Smith to discuss his future and mini Davis-Bacon bill passage
- Met with Senator Flory to discuss administration adds and to the Capital Adjustment bill
- Met with Rep. Stevens to discuss a multitude of Waterbury related issues, including Hunger Mountain
- Met with Chairs of HCIC & SIC – regular communication/discussion and focus on not bringing the Capital Adjustment Bill to a committee of conference.

**Testimony:**

Senate Institutions: Continued work/discussion/testimony on H. 864 – working on executive prerogative issue

House Commerce: Testifying tomorrow, along with Deb Damore on H. 736, Sec. 12, software development and rights

House Corrections: H. 878 (Mini Bacon Davis) – JFO presented the Fiscal Note; with proposal ultimately referred to House Appropriations to be considered next week

**Significant Events/Meetings:**

- 195 Colchester Avenue - met with Secretary, Jeff Lively representatives from Fletcher Allen and UVM about the future of the property
- WSOC privacy meeting scheduled with Michael Clasen, Bill Duchac, Mike Stevens, Wanda Minoli and Paul Rousseau to discuss risk analysis of violation of HIPPA regulations
- Cemetery Advisory Board – Met with the Board to discuss the master plan for the cemetery
- Waterbury Press/PR Assistance Meeting with Secretary Spaulding; Secretary approves the arrangement to cooperate with VTRANS public information efforts

**Evolving Issues:**

St. Albans/Mylan Status: Mylan has been preparing for a wire transfer of \$5.5m to SOV by end of month (Monday 3/31). Outstanding items as we understand them now include execution of the Elman agreement and a fully negotiated and agreed to PSA for 20 Houghton. For the PSA, BGS is waiting to hear back on proposed language regarding a sublease in the event of a holdover and review of environmental language. If those items can be resolved today, it appears that a 3/31 deposit is still feasible.

Rutland Garage: reminded folks that the agreement is with the City and not the operator; interpretation of contract language meeting scheduled

AG/ANR Lab: meeting held to urge AG/ANR to downsize the lab as much as possible

**FINANCE AND MANAGEMENT**

**Issues Update:**

The House Appropriations Committee voted the FY 2015 Budget Bill out of committee and the Bill is currently being read for the second time on the House floor. The budget office is working on a response letter to the Senate Appropriations Committee to highlight the Administration's concerns.

**HEALTH CARE REFORM**

**Status of Governor's Priorities:**

Financing: The financing work is picking up considerable speed. Michael Costa's update is organized by the four basic questions that need to be answered by the 2015 finance plan.

- Who Pays Now? Michael and the JFO are drafting a joint RFP for economic modeling services. These services would help us answer the question of how much businesses and individuals pay now for health care, creating a benchmark for future proposals. JFO is late handing back the

draft, but the Agency of Administration should expect to have a copy to review next week. The other question is whether we can get some data to help us tell the story of the current finance system in the short-term. Michael devised a survey that VBSR might be able to use to gather data from its members. Also, Michael and consultants have devised a way to optimize the Department of Labor fringe benefit survey to better collect health care data. Michael is working to identify the best option to proceed.

In the absence of hard data, Michael is designing representative taxpayers that demonstrate the inanity of the current finance system. In short, the current system treats people with the same job, income, and family size radically different depending on their employer. We would like to highlight that basic equity problem. The model taxpayers are with our consultants for review.

- How Much Will Green Mountain Care Cost? Our consultants from UMASS and Wakely were on site last week to engage in work planning for 2015, present their 2013 work to the three Partners for Health Care Reform workgroups, and meet with the Green Mountain Care Board members and staff around price variation/delivery system reform. The consultants acquitted themselves well, demonstrating a mastery of the issues before these provider level work groups. Overall, my sense, as manager of the finance project, is that we are in a good position to begin crunching the numbers of how much GMC will cost and using these provider level groups as advisory boards to gain input on our models. I keep pushing a target completion date of December 15th, so the Administration has a full month between the end of the report and publication of the finance plan.

While the process news is good, GMC's price tag has gone up during the past week. The FMAP estimates are out, and they indicate that Vermont should expect to receive less federal support for Medicaid. Emily Byrne and I will crunch the numbers, and I will report back next week.

We are making good progress in devising a method to potentially retain the tax preferred status of employer contributions to an individual employee's health care in a publicly financed system. My target would be to explain this concept to Administration staff in April and engage the IRS in informal conversations about the concept prior to the end of April. The ultimate goal, as I envision it, would be a Private Letter Ruling from the IRS declaring whatever mechanism we propose compliant with IRC 106, which allows employer contributions to an employee's health care coverage to be excluded from gross income.

- How Do We Pay for Green Mountain Care? Michael is refining four specific options, each described by their primary finance mechanism. (1) Payroll model. (2) Business Premium option, which works like a fee. (3) Public Premium option. (4) ACA based model, which you can think of as Plan B if a fully publicly financed system is not immediately attainable. A specific transition is being designed for each approach. While we didn't produce options publicly this Spring, the silver lining is that a tremendous amount of work has been done on this question. The bigger question, requiring clarity from above, is whether to continue pursuing tax reform models, including income tax and a consumption tax reforms. Future tax reform modeling will require significant staff time. It would be helpful to understand the interest level in these concepts.

- What Will be the Economic Impact of Green Mountain Care? Our goal would be to use the same economic consultant for both the health care cost side work and economic impact work. This work will not likely begin until the Summer or early Fall.

Single Payer Planning: Tom Boyd, Deputy at DVHA, has suggested a 30 day process to pull together cross-IT project information and development as the first step on the GMC operations plan. This is going to the HSE Executive Committee for approval Friday. We are also looking at a GMC operations retreat to increase understanding of the Governor's vision and level-setting across the full project teams, many of whom have been educated about GMC, but may not have totally absorbed the information. We have also formed teams to work on different aspects of ops planning and DVHA is working on staffing and project management for the teams.

SIM Grant: The State Innovation Models Grant team formally submitted the Medicaid Shared Savings ACO Program State Plan Amendment materials to CMS for approval and are beginning conversations with CMS about that submission. The Core Team concluded its review of Sub-Grant Program applications and will announce the first round awardees on April 2<sup>nd</sup>. The project continues to add stakeholders to its work groups and is expanding the information and resources available on its website.

### **Legislative Issues/Contacts:**

S.252 is on the floor Thursday and Friday. There are amendments expected. We are working on suggestions for when the bill moves to the House.

3/26 Ken Thorpe; House Health Care- Thorpe has been promoting expansion of the Blueprint and suggested that you can get to the goals of the Act 48 through expanding on the ACA.

### **Press/Media Notes:**

Anna Boarini, Manchester Journal on Browning request – Robin spoke to Ms. Boarini to explain what was released and the purpose of executive privilege. She requested and we sent copies of the records released.

### **Significant Events/Meetings:**

March 20-21:

Consultants from UMass & Wakely spent two days on site where they (1) worked with staff develop a basic outline of the 2015 financing report and accompanying work plan, (2) presented their work to a combined meeting of our three workgroups with Partners for Health Care Reform, and (3) met with members and staff of the Green Mountain Care Board to discuss their price variation work. We expect a detailed draft outline and work plan during the next two weeks, including plans on how to optimize the stakeholder process with Partners for Health Care Reform and align the financing work with the Green Mountain Care Board's work.

March 25:

Meet with Karen Hein on benefits – Devon and Robin updated Karen Hein on the work to date on GMC benefits. We will continue to inform board members of the progress.

March 26:

Governor's Consumer Advisory Council – The first Governor's Consumer Advisory Council was held. This was primarily an organizational meeting where we introduced the members to the concept of an advisory council, discussed the scope, and began establishing priorities. The council is interested in learning more about GMC benefits and also discussion how to more widely educate Vermonters about GMC.

## **HUMAN RESOURCES**

### **Legislative Issues/Contacts:**

After House Government Operations passed out the Pay Act on a party line vote, Commissioner Duffy testified before House Appropriations, which amended the bill to correct minor errors and then passed out the bill favorably. The bill faces a floor fight, and Commissioner Duffy testified on one proposed amendment to prohibit pay increases to exempt employees.

Commissioner Duffy testified before Senate Finance and Economic on Act 48. She testified that as she understands the Act, state employees are in Green Mountain Care but can negotiate for supplemental benefits. Several Senators expressed their belief that the package under Green Mountain Care should be the ceiling, not the floor, of the benefits provided. Several Senators expressed displeasure with the lack of information available on Act 48, and Senator Mullin characterized Commissioner Duffy's testimony as "disappointing."

### **Press Contacts:**

Commissioner Duffy spoke with Peter Hirschfeld about the whistleblower protection bill.

General Counsel Collier has communicated with Mike Donoghue and Lesley Engle regarding the plea of a DOC employee to charges of obstruction of justice. The original charges were four felony counts of sexual assault. Commissioner Duffy will reach out to Tris Coffin to discuss ways to improve communication with federal prosecutors to permit early dismissal of employees who are indicted for criminal conduct.

### **Significant Events/Meetings:**

Commissioner Duffy met with Deputies from AHS to discuss pending legislation, union issues and other areas of concern. The meeting was productive, and Commissioner Duffy hopes to meet with the group periodically to improve communications with the Agency.

DHR is crafting a side letter of agreement to permit the payment of bonuses to employees in DCF and DVHA working overtime to get Vermont Health Connect applications processed.

Secretary Spaulding and Commissioner Duffy met with Treasurer Pearce to discuss how best to address disability retirement issues, particularly efforts to conduct income verification.

### **Evolving Issues:**



Efforts to ensure adequate staffing for the new Green Mountain Psychiatric facility are continuing and good progress has been made to fill existing vacancies. At present, over 70 tax compliance verifications are being processed.

## **INFORMATION AND INNOVATION**

Nothing to report.

## **LIBRARIES**

### **Significant Meetings/Events:**

Wallace Nolen Includes 3 VTLIB Employees in Law Suit: Nolen has included three of our employees (me, Asst. State Librarian Christine Friese, and Law Librarian Paul Donovan) in a suit against the State for inequity of access to State Library services, with a focus on the lack of easily accessible handicapped parking for the public. David Groff (AG's Office) has met with us individually and we have submitted copies of all related emails/documents. Trial dates are tentatively set for May 8-9 and will be confirmed after jury selection on April 2.

This week Nolen and Mike Charron (VT Center for Independent Living) stopped by the State Library to discuss access issues that Nolen has cited and to talk about available handicapped parking. It was a cordial conversation and we discussed a number of areas where we can make improvements for disabled library visitors.

CEDS Workshop (ACCD): Marty Reid attended the latest meeting of the working groups on the CEDS (Comprehensive Economic Development plan) where we reviewed the various proposed initiatives to prioritize those which will have the greatest impact and move the "needle" to reach project goals. Libraries intersect with these initiatives in discussions about the creative economy and cultural institutions, health and vitality of local communities and downtowns, and the expansion of digital literacy skills training for citizens.

Federal e-Rate Program (Universal Service Fund) and Broadband: Marty (accompanied by Michael Roche, our e-rate coordinator, and Sheila Kearns, our IT Librarian) met with Christa Shute at VTA to discuss the new FCC proposals for changes in the federal e-rate program for schools and libraries and their call for "demonstration projects" for FCC funding. The VTA is one of 1,000 entities that registered interest in submitting a demonstration project. The FCC is asking for comments to be filed by April 7 and she is working on a draft of comments she will file. There will be an opportunity for us to file responses to demonstration projects later in April. I participated this week in a call with a representative from the American Library Association's Office of Information and Technology Policy (as a member of the COSLA/Chief Officers of State Library Agencies Board); they are planning to submit a demonstration project that would ask for FCC funding for personnel and premise equipment for public libraries that are involved in high-speed broadband projects. The State of Vermont has spent \$200,000+ on personnel and equipment for the 43 public libraries in the FiberConnect project. These costs were not covered in the federal grant to VTA.

## **TAXES**

### **Legislative Update:**

## Ed Finance:

### *As Passed W&M*

- **Base Case:** This year's rates were 1.44 (non-res), .94 (res), 1.8%, \$9141 base ed amt. By statute (the revised Dec. letter) the rates would be \$1.51, 1.01, 1.84% and \$9382 base amount.
- **W&M Rates:** Rates: \$1.515 (.075 increase year over year non-res), .98 (.04 increase), 1.90% and \$9382. Komline voted against.

### *Other Provisions:*

- **Income Sensitivity:** Next year's income sensitivity rate set at 1.94%. Extends the slope for those claiming partial income sensitivity to about \$125,000 income (by allowing claims on homestead value up to \$250,000). Caps income sensitivity at 6000, but exempts the over 65 (cap remains at 8000). Added a section allowing income sensitivity for part of the year even when rented for the rest (if Senate retains, the language needs fix).
- **Renter Rebate:** Reduces renter rebate to 19% of rent (from 21%). Study on alternatives led by Vermont Housing Council.
- **Equalized Pupils:** Eliminates hold harmless for fast growing districts, but struck provision that would have trued up students for small schools starting in 2019.
- **Small School Grants:** Phases out small schools grants starting in 2019, except for geographic necessity. Dictates the form of the budget question to include the amount per pupil, and the amount it is higher/lower than the previous year.
- **Spending Penalty:** Anchors spending penalty provision at 2014 average spending, indexed for inflation going forward. Penalty triggered at 121% (from 123%). (Also gives back money to Thetford, which mistakenly paid penalty this year).
- **Valuation Appeals Study:** Study to look at costs to town of defending grand list and the level of reimbursement for education taxes.
- **Vernon:** Currently pay only a percentage of the rates, full rates phased in through 2018.
- **Municipal Beach Exemptions:** Deals with Hardwick, Thetford beach exemptions - again.
- **Surplus:** Re-designed surplus provision, with 1/3 going to Teacher's Retirement, 1/3 directly to the Education Fund, and 1/3 added to base of the General Fund Transfer under convoluted formula.
- **Intent to Reform:** Intent to pass legislation in 2015/16 to change to a fixed, lower property tax rate and an income tax adjusted for local spending that would be withheld from paychecks.
- **How They Got There:** They dipped further into the reserve, so it is just barely above the 3.5% minimum, and they use \$6M of the supplemental property tax relief fund. All told, the estimate is that they used \$13M of one-time money (versus \$17M in the current year by their math). Some money could be saved right off the bat in the Senate by stripping out the slope provision, or at least putting it off a year (costs about \$7M). The bill purports to apply the new/increased adjustments to property tax bills starting this summer, however property tax adjustment claims are due April 15. Rep. Ancel realizes it would be impractical for the Department to advertise and accept new claims authorized by the bill, but didn't want to discuss it in Committee.

## Miscellaneous Tax Bill:

### *As Passed by W&M*

- **Technical Provisions** (Sections 1-12,28): Technical provisions originally proposed by the Department.
- **Covenant Restricted Housing** (Section 13): Valuation cannot exceed 70% of FMV. Housing and Community Development supported.
- **Solar** (Sections 14-18): Exempts solar facilities up to 50kW from all taxes; 50kW and over subject to state capacity tax and municipal tax with a statutory process for municipalities to determine FMV.
- **Wood Product Manufacturer's Credit** (Sections 19-20): Reenacts credit through 2016 with an ACCD and Tax study.
- **Downtown Tax Credits** (Section 21): Increases program by \$500,000 as proposed by Administration.
- **Downtown Sales Tax Exemption on Construction Materials** (Section 22): ACCD's proposed rules to give force to a fifteen year old statutory exemption was referred to Ways & Means, which instead repealed the provision on grounds that it would be costly.
- **Latchis Theater** (Section 23): Allows non-profit to access Irene credits.
- **R&D Credit** (Section 24): Reduces the credit to 24% of the federal amount (currently 30), and requires the Tax Department to disclose the taxpayers. 24% is actually more typical for our piggyback credits, however the Committee did not have a good justification for the reduction at this time (there was no evidence that IRS interpretation of the credit would impact VT taxpayers). Although VEPC approved credits are disclosed, and other states disclose credits, transparency is outweighed here by the privacy of the small number of taxpayers who can access the credit in VT. There likely would be negative publicity around these companies, particularly where there is no context around the tax paid or jobs created.
- **Revenue** (Section 25-26): Taxes e-cigs as "other tobacco products" at 92% of wholesale for \$500,000 and taxes snuff on par with cigarettes for \$700,000. Debate on the floor over whether there was enough information to know whether e-cigs were a smoking cessation tool or a gateway drug (Rep. Komline curiously exhorted that e-cigs were marketed to kids). The Committee "found" a bit more for Appropriations, for example, by booking the 20% GF share of the Department's enhanced revenue through modernization. The Committee eliminated the Administration's increase in the health claims assessment tax.
- **Propane Canisters** (Sections 29-30): Clears up some confusion from a change last year – canisters subject to sales tax, not fuel gross receipts.
- **Public Safety Dispatch** (Section 31): Commissioner of DPS to report fee schedule to Committee.

Cloud: Reps. Ralston and Scheurmann proposed a "clarifying" provision in the economic development bill, which would be a statement in session law that services accessed remotely are not subject to tax. This is truly a clarification; we do not tax services unless specifically enumerated. Since the heart of the cloud issue is what is a service versus software, the Commissioner suggested to the Reps that they could settle the question further by listing examples of services, including information services; database access; website hosting; data security, storage and recovery. Not entirely without controversy, since some (including within the Department) argue that information services and database access are software. However, this is an aggressive interpretation for sure; it appears only one state has gone this far (and is in court). It would be preferable for the legislature to settle the question, and provide clearer guidance for businesses. However, apparently the Speaker does not want any cloud in the bill.

Winooski Parking Garage: During the course of the Auditor's Office TIF audits, the Attorney General provided an opinion that the Winooski parking garage was not exempt where 95% of the spaces were under lease to private companies. Under VT law, even a municipally owned property must be kept open for a public purpose in order to qualify for exemption (municipal exemptions come up surprisingly often in various contexts, ranging from utility lines, gravel pits, skating rinks, beaches – the latter subject in the Misc. Bill two years running). Given this context, and specific history with the Auditor Office and AG, Winooski's best course might be to seek a specific statutory exemption. Hard to know what Finance will do, fresh from their property tax exemption study – and their exercise to assign a purpose to every tax expenditure.

Current Use: Senate Ag took more testimony on everything from appraisals to liens; aiming for bill next week.

**Operation:**

Returns Processing: We continue running ahead of returns over last year, but are staying caught up daily, except for the greater number of refunds under review due to fraud markers.

---

---

## CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN

---

---

From: Susan Spaulding  
Date: March 28, 2014  
RE: Boards and Commissions Update

---

### UPDATE:

**Vermont State Housing Authority:** John Mabie has declined. Choice #2 was **Catherine Eakins** but before asking her I received info from Richard Williams, VSHA exec, that Catherine Eakins is with Peoples United Bank and you have already appointed a banker to the board. Mary Miller suggested asking **Toby Young**. OR, during our discussion we didn't make it down the list to **J. Chris Callahan** but he has expressed interest in serving which means he may make a great board member. Is Springfield far enough south?

Feinberg	Caryn	Shelburne	State Housing Authority	3/26/2001	2/28/2018	Assisted by VSHA
Hover	Caprice	Rutland	State Housing Authority	10/16/2001	2/28/2016	
Miller	Mary	Waterbury Ctr	State Housing Authority	1/1/1998	2/28/2015	
Vacancy			State Housing Authority			
Richardson	Cory	E Montpelier	State Housing Authority	10/9/2007	2/28/2018	
Ryan REAPPT	Linda	St. Albans	State Housing Authority	12/31/2011	2/28/2014	
Troiano	Jo Ann	Montpelier	State Housing Authority	3/1/1982	2/28/2017	

**Housing & Conservation Board:** Cheryl Rivers sends her best but unfortunately has to decline appointment. She said she is "living the dream" in Aiken, SC all winter with her horses. Right now it looks like she will qualify for the World Driving Championships in a couple of weeks. Cheryl recommended asking **Jessie Haas** from Putney. Said you know who she is. Would you like me to follow through with that recommendation?

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Michael J. Hogan, Commissioner of Liquor Control**  
**Date: March 28, 2014**  
**Re: Weekly Report**

**Status of Governor's Priorities:** House marking up Budget- no issues with DLC.

**Legislative Issues/Contacts/Updates:**

- S299: would allow for licensees to serve flights of various products for comparison purposes. The bill was passed out of Senate and is in House General. No additional House Testimony Scheduled this week.
- S260: Allows for licensees that have had their applications approved on the local level but don't have the state's approval (DLC) due to other requirements to have a wholesale dealer deliver product to them to sample and prepare menus for actual opening of the business. No additional House Testimony Scheduled this week.
- H585: Law Enforcement Study: Passed by the House- This is a duplication of what was done during the Douglas Administration. A very expensive study was done at that time and a MOU was the result. A centralized agency for public safety might not be the best approach of dealing with Vermont's overall public safety issues. I hope there is some input from all the law enforcement agencies involved.

**Press Issues/Releases/Contacts:** Nothing now.

**Significant Events/Meetings:** Next Board Meeting 04/04/2014 - Enforcement Hearings.

**Evolving Issues:**

- ERP/POS Project Contract signed this week. Kick off meeting in April.
- Preliminary review of department processes for potential licensing and enforcement system.
- Performance Audit underway. Report hopefully in April.

---

**Summary of Key Department Activity:**

- March sales still looking good.

**Commissioner's Commentary:** Have a great weekend.