

# WEEKLY REPORTS

Checklist  
4/12/2013

Elizabeth Miller/Aly Richards

- Agency of Commerce and Community Development – Lawrence Miller
- Department of Labor – Annie Noonan
- Department of Financial Regulation – Susan Donegan
- Agency of Education – Armando Vilaseca
- VT Commission on Lottery – Greg Smith

Louis Porter/Drusilla Roessle

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

Sue Allen/Leigh Appleby

- Agency of Agriculture – Chuck Ross
- Agency of Natural Resources – Deb Markowitz
- Public Service Department – Chris Recchia

Sarah London/Carolyn Wesley

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

Susan Spaulding

- Boards and Commissions
- Department of Liquor Control

Other

- Irene Recovery Office

**To:** Governor Peter Shumlin  
**From:** Lawrence Miller, Secretary - Agency of Commerce and Community Development  
**Date:** April 12, 2013  
**Re:** Weekly Report

---

**Working Lands Enterprise Board (WLEB)** – The board met on April 11<sup>th</sup> and voted on a block of 20 applications to receive funding. The board decided to fund six forestry applications, which amounts to roughly 28% of the applications funded. The plan is to announce the grantees on May 2nd at a press conference with Governor Shumlin in attendance. Alex will be providing technical assistance to the forestry applicants once they have received word of funding.

**AOT Connections:** Continue to partner on two exciting AOT-led projects that intersect with our community development work. First is the “last one in” project that is looking to find ways to move away from the developer that tips the scales pays for the infrastructure upgrades. Second is Smart Growth America’s project looking at AOT policies and practices against a smart growth lens. The second stakeholder meeting was held this week. Third, Noelle, along with Lucy L and Sue Minter and Joe Segale from AOT will be meeting with SGA staff while they are here to discuss how they may be able to provide assistance for analysis of needs in the NEK to support the EB-5 and secondary growth.

**PSD Connections:** Noelle joined Lawrence and HP staffers Judith and Scott in a meeting with PSD Commissioner Recchia and staff to discuss progress on Act 165, the FERC MOU. HP, PSD and ANR staff have been working on the issues and have a path forward.

**Housing and Resilience:** Appeared before the House Fish & Wildlife Committee to describe the department’s efforts related to the resilience of the state’s housing stock to natural disasters. Discussed housing lost in Irene and work on buyouts, mobile home study, Melrose Terrace and how our VCDP application process encourages municipalities to adopt fluvial erosion hazard bylaws. The testimony was requested by the committee as it considers H.365, a bill that would expand Act 250 jurisdiction over development in flood hazard areas and river corridors.

**H.377 voted out of Senate Committee:** The bill was voted out of the Senate Committee on Economic Development, Housing and General Affairs with strong support. A new section (unrelated to the designation programs) was attached to the bill from H.417 (The House-passed Miscellaneous Tax Bill) that allows communities to exempt from municipal taxes the value of improvements made to housing stock certified as blighted which we support.

**ERP:** We are working to ensure we have internet connectivity at the State-owned historic sites where staff will be required to enter information into timesheets and expense reports. Several sites require improved computer equipment, internet connections or both. **The new administrative issues around bringing on seasonal staff are significant.** Implications include all seasonal staff needing state email addresses while we are short on Outlook Server capacity is one. Getting them all in the system on time is another. This is a lot of work being devolved from DHR to the agencies that we did not expect.

**EV charging stations in Vermont State Parks:** Deputy Commissioner Cook organized a meeting with Director of State Parks Craig Whipple and David Roberts of VEIC to discuss the potential of implementing electric vehicle charging stations in Vermont State Parks.

## Memorandum

To: Honorable Governor Peter Shumlin

From: Commissioner Annie Noonan

Re: Weekly Report - Week Ending April 12, 2013

**Legislative issues** UI debate in the statehouse will continue to be a divisive issue. The business community is upset about Rep. Dave Sharpe's 'equity' bill, premised on the fact that there needs to be changes to the UI reforms that will benefit the workforce. The legislature can spend only \$12M before they adversely impact the fund and reforms. We estimate the UI Disaster recovery bill will cost \$8.5M, which leaves \$3.5M for any other changes the legislature may want to enact. It seems apparent to me that House Commerce will not recommend any benefit increases for the workforce; however, they recognize that the Senate may tack many issues onto the UI Disaster recovery bill now in the Senate. I also believe the UI Newspaper Carriers issue will find its way onto the disaster bill. Workers Comp bills are also in play and the Presumptive Disability bill (FF and EMT) may wind up getting things tacked onto it. It appears that a WC study committee will be assigned to VDOL this summer, which I support since the system needs a thorough review, including the issue of independent contractors. I am concerned that the House Commerce may attempt to carve out certain occupations this year from the statutory provisions for UI or WC, and this will set labor into a tailspin as they will see it as the first attempt to dismantle the law. VDOL's wage payment bill is moving forward. S.7 - privacy of social media - looks to now be a study committee under VDOL. We are also working with Sarah Kenney and Chris Curtis on changes in the DV/SA UI language.

**Unemployment Comp & Wage:** Call Center Stats: For the week ending 04/06/13 we took 3,198 calls. This is an increase of 254 calls from the week ending 03/30/13. We processed 613 initial and 578 additional claims. This is an increase of 108 initial claims and an increase of 107 additional claims from the week ending 03/30/13. 7 claimants exhausted all tiers of benefits with the week ending 04/06/13 compared to 7 claimants who exhausted all tiers of benefits during the week ending 03/30/13. We paid 8,324 claimants during the week ending 04/06/13 compared to 8,518 for the week ending 03/30/13.

**Public Outreach:** VDOL staff Mat Barewicz (LMI) and Cindy Robillard (Workforce Development assigned to the NEK project), did an interview to Fox44 regarding the Jay Peak project. LMI gave a presentation about VDOL Career Resources to graduate students at UVM. LMI gave a presentation to thirty high school students at Johnson State College. The topic was employment and education/training opportunities in Vermont. VDOL Workplace Safety Awards ceremony (Friday) and VDOL State Electrical and Plumbing Apprenticeship Graduation (Saturday) welcomed the Governor as a speaker. The VDOL set up the Omega Electrical/UI rate press conference held this past Wednesday. VDOL will soon begin our 2013 fringe benefit survey of employers.

VDOL Fiscal Director Chad Wawrznyak participated in a conference call on President Obama's budget hosted by USDOL. He reports that the proposed budget will essentially eliminate the effect of sequestration on all FY 14 funds. *"There will be some shifting around of some programs' focus. As an example, MSHA will be focusing on enforcement and not training, and the OSHA district offices will be consolidated (Boston OSHA will combine with New York). But most DOL program funding streams will be INCREASED over FY 13 levels. While the total increases aren't a real big jump, they are still an increase."*

Report from Cindy Robillard, VDOL, regarding NEK project work: At a press briefing at the Bogner campus on 4/11/13. Bill Stenger introduced Ike Lee, CEO of AncBio and Todd Bachelder, CEO of Menck Window. Both men spoke briefly about their companies, their commitment to working to train and hire local workers and updated timelines. Mr. Lee spoke at length about a relationship with UVM to work collaboratively with their research departments and provide learning opportunities for their students. They hope to hire many UVM grads and Mr. Stenger referred to UVM as their "home team". Talks of this nature

have also occurred with Dartmouth and McGill. To date, Mr. Lee and his team have been focused on design of the facility and other start up tasks. We were advised that they would be back in the region in 2-3 weeks and would be available to provide details on jobs and skills needed. Mr. Bachelder shared his enthusiasm to be working for Menck which uses high tech manufacturing processes to produce high quality, high efficiency windows. He feels that since there is a long history of wood product manufacturing in the region, it will be a natural transition to train the workforce on the Menck systems. The Workforce Development Team has a meeting with Mr. Bachelder on Tuesday, 4/16 to drill down on jobs and skills needed. Update on timelines indicate that renovation on the Menck section of the Bogner facility will start this summer with operation startup of early 2014. AncBio construction will start in the fall of 2013 with operation start up by the end of 2014. Both companies and the developer are working closely with the City of Newport and NVDA to navigate the permitting process. Development partner, Ariel Quiros announced that a light aircraft manufacturer will be part of the airport development. He indicated that he would be able to name the company sometime in May. The WD team held a work session on 4/11 to outline our report/product related to the Tourism/Hospitality sector. Each member has items to work on and we are researching a resource for lay-out and design of this report. We hope to have pieces of it to share on Monday afternoons conference call.



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: Governor Peter Shumlin  
 From: Susan L. Donegan, Commissioner, Department of Financial Regulation  
 Date: April 12, 2013  
 Re: Weekly Report

*Susan L. Donegan*

**Insurance Division:**

The department is ready to launch a new secure and easy online method for consumers to make inquiries and file complaints to the department's Insurance Division. The new system will allow people to upload photos and documents to support their claims and it will provide an instant automated e-mail response confirming receipt of the complaint. It will also allow them to track the status of their complaint online. The entire process will be completely confidential and will permit the consumer services staff to reply electronically to more than 90 percent of submitted concerns, thereby increasing efficiency and cutting response times.

**Banking Division:**

The Banking Division reports that Lake Sunapee Bank of Newport, N.H., has begun the process of acquiring Randolph National Bank. Randolph National Bank is a nationally chartered bank and the third smallest in Vermont, with assets of \$170 million. It is also one of the last family operated financial institutions in the state and is widely praised for its community involvement. Lake Sunapee Bank is federally chartered and has 19 branches in New Hampshire and a presence in five Vermont towns. Shareholders in the Randolph bank will receive \$14.4 million worth of stock in Lake Sunapee Bank's parent corporation, New Hampshire Thrift Bancshares.

**Captive Insurance Division:**

Alliance of Nonprofits for Insurance, Risk Retention Group (ANI-RRG), a Vermont risk retention group, won its case against the state of Nevada. Nevada had prohibited ANI-RRG from writing coverage in Nevada, which is in violation of the federal risk retention act. This was an important victory for the captive/risk retention group industry as a whole because it clearly



Banking  
802-828-3307

Insurance  
802-828-3301

Captive Insurance  
802-828-3304

Securities  
802-828-3420

defined the rights of risk retention groups to operate in states that are anti-risk retention groups, particularly California and Washington.

Dan Petterson, director of financial examinations for the Captives Division, has been named a Senior Professional in Insurance Regulation by the National Association of Insurance Commissioners. He is the first in Vermont to earn this distinction after completing more than two years of study and examinations.



120 State Street, Montpelier VT 05620-2501  
(p) 802-828-3135 | (f) 802-828-3140

**CONFIDENTIAL AND PRIVILEGED: NO SHARING  
MEMORANDUM**

TO: Governor Shumlin  
FROM: Armando Vilaseca, Secretary  
SUBJECT: Agency of Education (AOE)  
DATE: April 12, 2013

---

**Legislative Update:** We continue to follow several education related bills this week. Two have received significant attention – H.521, the miscellaneous education bill, and H.270, the PreK expansion bill. I am concerned about the additional staff needed at AOE to carry out the monitoring portion of H.270. I was informed that if I said I needed extra staff it would go down, so I offered to shuffle around positions to avoid this, however, we are really thin and certainly once this bill is fully implemented there will be additional staff needed here.

**Department of Public Safety:** On Wednesday, I met with Deputy Commissioner Flynn to discuss a School Crisis Conference that members of the Statewide School Crisis Planning team are working on for this fall. Since both AOE and DPS have staff involved with this planning team, we needed to discuss guidelines, limitations and funding for this conference. Between AOE and DPS, we will probably need a dedicated person to oversee school safety.

**School Safety:** On Thursday, I participated in a conference call with John White, US ED Deputy Assistant for Rural Outreach, David Esquith, US ED Director of the Office of Safe and Healthy Students, and the National Rural Education Association (NREA) to address rural school emergency management. This fits very well with our work with DPS.

**Meeting with Lt. Governor Scott:** Lt. Governor Scott and I met today to discuss how he can help support our efforts around education reform, particularly around career-technology, school-to-work initiatives, nutrition, and PE and health related issues. I assume that your office is ok with me working with the Lt. Governor.

**Outright VT:** Today, following their meeting with you, about thirty LGBTQ students trekked across the street to meet with me. They were eager to share their experiences regarding the results of the stronger anti-harassment law, their overall experience as LGBTQ students in VT schools, and the impact that Outright VT has had in helping their schools becoming more welcoming and safe places to learn. Last year the AOE gave Outright VT a small grant to support their anti-harassment work in schools; this was a great opportunity for me to have a personal meeting with this group and learn

more about what they were able to do with our support. They are asking for more money and I will have to wait until next FY because those funds are depleted.

**Nellie Mae Education Foundation (NMEF):** Thank you very much for agreeing to meet with the folks from NMEF. Shana has been in contact with our office and it looks like we will be able to meet later in June.

**State Board of Education:** The Board meets on Tuesday, April 16 at the Capitol Plaza, beginning at 9:00 a.m. The morning will be devoted to a work session focused on developing Education Quality Standards, facilitated by Project Manager Jill Remick. The SBE will also be voting on proposed revisions to Parts B and C of the special education rules, a collaborative effort between the AOE and DCF's Child Development Division. Chair Morse will also be appointing a secretary search committee.



**Executive Privilege**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Brian R. Searles  
**DATE:** Friday, April 12, 2013  
**SUBJECT:** VTrans - Confidential Report to the Governor

**SUMMARY OF ISSUES FOR GOVERNOR**

**Transportation Bill**

Senate Transportation discussed the bill on Wednesday and were scheduled to vote it out today (Thursday) but the committee did not meet. There are a growing number of differences in the House and Senate versions making a Conference Committee more likely. The early enactment date is also in jeopardy as more time goes by, putting \$1.6 million under the Senate proposal and \$1.8 million in the House proposal in jeopardy. We are putting a contingency plan together for that possibility.

**State Plane**

The Cessna 182 will be moved to Highgate on Saturday, April 13, where our FBO *Border Air* will perform the FAA required Annual Inspection to include a complete factory rebuild from the firewall forward (engine and prop replacement). They will repair all deficiencies that are found during the inspection. The entire process is expected to take 45 days and they have agreed to begin immediately.

**EB-5 Project at Stowe-Morrisville State Airport**

Brent Raymond of ACCD has introduced the idea of a new terminal and hangar at this airport, a project of interest to a team of investors who want to locate jet aircraft for charter flights. This interest coincides with an upcoming FAA funded project to reconstruct the runway and upgrade lighting systems.

**CCTA Burlington Transit Center Project**

CCTA and the Federal Transit Administration are objecting to conditions put on the project by our Historic Preservation Officer here at VTrans that the Cathedral Church, built in the 1970s be designated as an historic resource. They are taking their case directly to the Acting State Historic Preservation Officer, Judith Ehrlich, at ACCD. I find myself in the awkward position of disagreeing with VTrans staff on this one but unable to

influence the process due to our programmatic agreement with FTA, which is much more important than one project.

### **I-89 Ledge Project Richmond**

This project has stalled because of the failure of the contractor, Janod of Quebec to mobilize, apparently due to the inability to obtain necessary financing and/or bonding. We have selected a new contractor, GeoStabilization International of Grand Junction, CO. As I said last week, there is a very small universe of these specialized companies. Weather permitting, they will start work next week. Rock falls have been more common than usual this year with at least four reported in the last couple of months, including the latest on Route 30 near the Townshend Dam.

### **OTHER ISSUES FOR STAFF INFORMATION**

#### **Pending Issues with Quebec**

We have begun the process of determining scope of work for the A-35 traffic study and in discussions with MTQ about this project learned that the opening of the largest phase, 17 miles from St. Jean to the south, has been pushed back from Fall, 2013 to sometime in 2014.

The Transportation Border Working Group (TBWG) is scheduled to meet on April 23/24 in Dearborn, MI to discuss freight and passenger rail issues. We will be participating and have heard that there is still a problem getting Transport Canada's rail department fully engaged. Our Federal Rail Administration is working on this problem.

The Eastern Border Transportation Coalition (EBTC) and the above-mentioned TBWG will meet at the Hilton in Burlington on September 17.

I am still looking forward to a meeting with MTQ leadership in late June in Newport, VT.

#### **Champlain Parkway**

On April 5 the applicants (City of Burlington and VTrans) filed their pre-filed direct testimony and exhibits in the Act 250 appeal of the Champlain Parkway. This process is moving along while we are negotiating with Vermont Rail Systems concerning giving up rights to the so-called "Grocery Spur" and Pine St. Lead, an unused section of track along and across Pine St. The City would like us to partner with them in securing legal rights to the "spur". This would provide more pressure on David Wulfson et al and will likely make him a bit angry in the process.

I have decided, after consultation with our legal team, to go along with the City's wishes in an effort to secure these rights and move the project along.

#### **Luck Brothers, Inc. v. AOT**

Luck was the contractor on the Barre Main St. project and has alleged breach of contract, negligent misrepresentation, breach of implied warranty and violations of the Vermont Prompt Pay Act through their attorneys, the Fead Construction Law Firm of South

Burlington, a company that has filed numerous actions in the last year or so. The issue was a \$640,000 cost overrun on the \$10.6 million dollar project.

Judge Robert Bent granted VTrans' motion to dismiss, agreeing with VTrans, through our attorney Toni Clithero, that Luck Brothers had failed to exhaust its administrative remedies. This decision was important in that it upheld the legality of the VTrans construction claims process which begins with our Director of Program Development and is appealable to the Transportation Board.

It is clear through these actions that the Fead firm has as its goal the moving of these kinds of cases into the courts where significant costs will be added to transportation project development. This is another in a line of solid wins for our staff of Assistant Attorneys General.

### **Construction Season**

Slow to start compared to last year but several projects are just about to get underway and those related to the opening of hot mix plants will be going soon. Most producers are scheduled to be ready for our inspection in the first two weeks of May. One plant, Vermont Blacktop of Colchester, is scheduled to open on April 22 and Pike has said that they will have at least five of our paving projects underway by the third week in May.

### **Electric Vehicle Public Charging Stations**

There are now 18 stations available statewide, with another 7 coming soon. This coincides with news this week that the number of electric vehicles in Vermont is growing rapidly.

### **President Obama's Transportation Budget**

I participated in a briefing by FHWA Administrator Victor Mendez on Wednesday and there is a lot to like in this proposal, including a \$50 billion "Fix-it-First" stimulus proposal for the existing infrastructure that has highway, rail, ports-of-entry, airports and cross-border components. It also fully funds MAP-21, the latest federal FHWA/FTA Authorization. I won't go into any more detail because it doesn't have a chance of passage.

### **Legislative Updates**

As previously stated, the T-Bill is moving and has nearly all the elements of interest to the Agency in the 25 or so sections not related to revenue.

The DMVMiscellaneous bill is moving along and may become a vehicle for several other bills in the House; namely, H.17 (Increased penalties for texting while driving), H.161 (Prohibits use of portable electronic devices in work zones), H.238 (Motorboat registration periods), H.288/S.76 (Prohibiting unnecessary idling of motor vehicles).

Another issue that has come up in the context of this bill and the T-Bill is the practice by trucking companies of registering their trailers in Maine for the purpose of taking advantage of lower and multi-year registration fees. What is surprising about this is the

scope of the practice and that they also avoid paying P&U fees in Vermont. There are more than a million trailers registered in the State of Maine.

### **National Life Moves**

The 3rd Floor move happened over the weekend and has not been without challenges. Some individual space and filing needs were not accommodated as anticipated and we have had to purchase new (and specialized) filing cabinets and several staff do not have adequate space at this time. There are also hallways that do not meet ADA codes which we are trying to address. There are several employees on this floor who have been negative about the move over the past few months and their energy is festering with others. We try to remain positive and are certain this is temporary, and that most staff will come around to the positives of the change in time.

We are preparing for the next move to 4th floor (from swing space) and are very concerned by report this week that the team rooms will not be ready on time, which means that employees will be trying to work while construction is ongoing and without space for their files. We would request that if this cannot be addressed, that the move be delayed until the space is fully ready. The affect on employee morale and productivity is palpable.

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** April 12, 2013

---

**Vermont Department of Health (VDH)**

Eastern equine encephalitis (EEE):

- The VDH is asking residents of Brandon, Whiting and Sudbury to volunteer for a study about Eastern equine encephalitis. The purpose of this study is to see if people who live in those communities have been infected with the virus but have not gotten ill.

Eligible individuals will be asked to complete a brief survey and give a small blood sample. A trained nurse or phlebotomist will collect the blood, which will only be tested for antibodies to Eastern equine encephalitis virus. In order to be eligible for the study, residents from Brandon, Whiting and Sudbury must have lived at their current address since at least June 1, 2012 and be 12 years of age or older.

**Department of Mental Health (DMH)**

Legislative Activity:

- Next week, Commissioner Moulton anticipates testifying on S. 128, relative to judiciary process for involuntary care, now primarily amended to:
  - Summer study committee to review Title 18 as it relates to involuntary treatment and to provide recommendations for change to legislature.
  - Inclusion of mental health ombudsman, codifying a Memorandum of Understanding (MOU) that was established last year between the DMH and Disability Rights Vermont.
  - Consideration by DMH of referrals from Corrections for admission to the secure residential for individuals who have met their minimums and also meet criteria for continued psychiatric treatment through a court order. This is a very small population and testimony will accentuate the limited resources available.

### Administrative Rules:

- We anticipate that the recently drafted regulations for the secure residential will be brought before House Human Services for review next week. DAIL has just completed a draft of these regulations and an emergency rule will be filed subsequently to allow the secure residential to open during the first or second week of May.
- We have completed review of the public testimony offered on the Emergency Involuntary Procedure for designated hospitals. We are incorporating comments into the rule and the Commissioner will be making final decisions on a revision that will then be submitted to LCAR for further testimony. This rule will be controversial as either advocates or hospitals have not agreed on major points. There is no meeting in the middle in some of these areas.

### Facilities:

- Secure residential in Middlesex is nearing completion with the exception of the yard, which has drainage problems. Parking issues are still outstanding, as well. Paving of a parking area is on hold until the appeal from the neighbor is settled; however, there is sufficient parking area available for anticipated staff. Construction completion date within the next week or two.
- Berlin psychiatric hospital – Anticipated construction finalization has now been moved to May 2014 from April 2014.
- We have initiated discussions with Windham Center regarding provision of one bed for Level I transition of any person held in an emergency room awaiting an involuntary placement. Windham has beds open within its hospital 65% of the time and we are encouraging them to “staff up” to accept a transfer of a patient temporarily to ease emergency room waits. They are receptive to this innovation. VT does not have specialized psychiatric emergency rooms and, therefore, we are trying to use our available resources in as creative a fashion as possible. We are optimistic regarding this possibility.

### Commissioner Search:

- Progress made this week on interviews. I will interview the final candidates with recommendations being made to the Governor’s Office in the near future.

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

I did not receive a report from Commissioner Wehry this week.

## Department of Corrections (DOC)

### *Legislative Issues/Contacts:*

#### Senate Judiciary Committee (SJC):

- Detention Study

The SJC has agreed on language to be included in the Budget Bill which directs the Corrections Oversight Committee to work with the Commissioner of Corrections on the recent detention numbers. This work will unfold over the summer and will result in a report to the General Assembly. The hope is that this report will include some action items to stem the increase in detention.

- Capital Bill Language

The SJC had significant issues with the recent language included in the Capital Bill by the House Corrections and Institutions Committee. This language directed the DOC and BGS to study the conditions of correctional facilities and programs. The SJC feels that the Corrections Oversight Committee is already working on these issues.

### *Population:*

- The out of state population is 486, the female population has remained in the 140 person range and the male population has remained in the 1,940 person range.

The department's overall incarcerated population has grown over the last week to near 2,100; the out of state population is at 486 and the female population is in the high 140's. The presentenced population remains at or above the 400 person mark for the week with 28% of the female population being presentenced and 19% of the male population being presentenced.

## Department for Children and Families (DCF)

### *Legislative Issues:*

#### Bills of Interest to DCF - Expecting Movement This Session:

- S.156 – an act relating to creating home visiting standards – DCF and VDH are involved in testimony; passed out of Senate and currently sitting in House Human Services.

- S.77 - possession of marijuana - as a civil offense; House Judiciary and Senate Judiciary are working on parallel bills.
- H. 85 – an act relating to eligibility for Medicaid equivalent benefits to U Visa holders – House Human Services committee plans to work on this.
- H. 293 – an act relating to creating a special fund in AHS for SerVermont – House Human Services plans to move this one this session.
- S. 52 – child care collective bargaining – revised in Senate Education committee – will be assigned a new bill number as a committee bill
- H. 520 – thermal efficiency – includes changes to weatherization and LIHEAP programs; passed out of house and in Senate Natural Resources committee.
- H.270 – Pre-K bill – first reading on House floor on April 4<sup>th</sup>.

This list does not include the Big Bill which has the big areas we are most concerned with: Reach Up and General Assistance Housing Program.

*Evolving Issues:*

- Bennington-Rutland Opportunity Council (BROC) Community Action of Southwestern Vermont: From “At Risk” to “Excellence”

BROC Weatherization was recently the Office of Economic Opportunity’s (OEO) “at risk” agency due to problems with their work. Through monitoring and training on OEO’s part and more importantly, significant training and hard work on BROC’s part, this agency has turned their program around dramatically. They provide excellent quality and efficient Weatherization work as well as excellent customer service. They are an example of how monitoring, technical assistance and training, and clear program standards and expectations bring success to our program and especially our clients.

- Reach Up Proposal Survey of State Agencies and Community Partners

In late March of 2013 DCF met with Senators Campbell and Kitchel to discuss the Governor’s Reach Up proposal. They were aware of the house testimony but Senator Campbell was interested in what the direct service employees had to say. During the meeting it was agreed to reach out and get their feedback using an online survey. This survey was sent to all reach up staff including VocRehab and the Vermont Department of Labor, as well as our community partners (Parent Child Center, Vermont Association of Business, Industry, and Rehabilitation, Vermont Adult Learning, VVRP, and the Association of Africans Living in Vermont). A total of 110 employees responded; below are highlights of the results:

- 87% think there should be time limits.
- 76% felt there should be a 5 year limit on Reach Up Benefits.
- 93% felt if they had lower caseloads they could provide more intensive services.
- 90% felt with a lower caseload they could conciliate and sanction more effectively.

- 77% supported full family sanctions.
- 79% felt when full family sanctions happen, at the fourth month of sanction, the family should be off for 6 months.
- 58% felt we did not have adequate Reach Up services for our consumers and some of the items they listed were Child Care, Mental Health Treatment, Substance Abuse Services, Transportation as well as several more.

## Department of Vermont Health Access (DVHA)

### *Status of Governor's Priorities:*

Exchange Financing plan: The legislature has still not acted on an Exchange financing plan.

### *Legislative Issues/Contacts:*

Health Insurance Exchange Testimony: Commissioner Larson presented to House Appropriations on Thursday regarding the Exchange funding projections.

H. 107 - An act relating to health insurance, Medicaid, and the Vermont Health Benefit Exchange: Commissioner Larson testified in Senate Health and Welfare on Friday regarding H.107.

### *Significant Events/Meetings:*

#### Dual Eligible Project:

- Dual Eligible Project Plan Application receives CMS Deficiency Notice and responds with proposed cures.

In March, DVHA submitted its CMS application to become the Managed Care Entity "Plan" for the Dual Eligible initiative. DVHA received CMS's list of Plan deficiencies last week.

The deficiency process occurs for all managed care organizations (MCOs) applying to become Medicare Advantage Plans which is the standard being used for the Duals Demonstrations.

On a positive note, DVHA's Model of Care submitted with the Project Plan received no deficiencies and earned a three-year approval from the National Committee for Quality Assurance.

#### Navigator Organization Application Released:

- On April 10<sup>th</sup>, Vermont Health Connect announced an open, competitive grant application for our in-person assistance program.

DVHA is looking for organizations and partnerships interested in overseeing individuals who will be trained and certified as “Navigators.” Applicants will identify their capacity to provide in-person outreach, education, and enrollment assistance across the State and for specific populations most in need of specialized assistance. They will also identify their resource needs and budget. A total of \$2 million in grants will be announced in late May. Navigators will receive training and begin outreach work in July. In-person enrollment assistance will start this October. Applications can be found online and are due by close of business on April 29<sup>th</sup>.

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:** April 12, 2013

---

**Secretary's Top Issues:**

The Working Lands Enterprise Board made their 1<sup>st</sup> set of funding decisions in the Enterprise Investment Area. Total of 191 grant applications requesting \$2,136,143.00 in funds, 34 from the forestry/forest products sector and 157 applications from the ag sector. Final awards are being made to 14 Ag enterprises for \$160,871 (73% of funds awarded) and 6 to Forestry & Forest Products enterprises for \$59,035 (27% of funds awarded) for a total of 20 funded projects and \$219,906 in funds.

The new policy from Food Safety and Consumer Protection Division resulted from field reports that Shaw's stores are not preventing meat from being provided to pig producers, which is against the law. All staff in the store must understand why they can't toss out of date meat products into food set aside for pick up by swine producers. Shaw's and the Agency are working together on education practices. Important to Shaw's to be able to continue their organic waste pickup program due to their zero waste program.

The Animal Health section issued a quarantine this week on a grass fed beef operation that acquired animals from a quarantined dairy farm in East Hardwick. The East Hardwick dairy farm is under quarantine for TB suspects on the property, and by allegedly shipping calves from the dairy farm to the beef operation, they violated the quarantine. This is a serious matter and the AH section is issuing written follow-up to the dairy farm, which will be followed by a Notice of Violation for ignoring the quarantine.

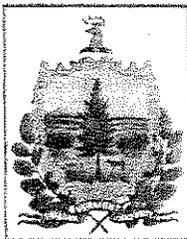
Late last week, emerald ash borer (EAB) was discovered and confirmed infesting an ash tree outside Concord, New Hampshire. With this detection, the pest is now on all four borders of Vermont (NY, MA, NH and Canada), but remains undiscovered in Vermont.

In re: Goldberg/Highland Crossing. 97-7-12Vtec. Work continued on the Act 250 de novo appeal. The case involves whether 12.88 acres in S. Burlington meets the definition of "primary agricultural soils" in Criterion 9(B) and if so, whether "appropriate circumstances" exist to permit the payment of an off-site mitigation fee rather than permit application denial because there is not enough area to preserve on-site.

The Agency working with VTDEC issued approval for the construction of a hoop house at the Montpelier High School/Center for Sustainable Systems. The hoop house is to be located in the floodplain and will be used to grow food that is then used to prepare lunches at the school.

The Weights and Measures lab is seeing a dramatic increase in the number of service companies from around the Northeast bringing their weight to us for testing and certification. Fee for Service!

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: April 12, 2013

---

**Status of Governor's Priorities:**

**Jobs in Agriculture**

**Press**

Henry Marckres, Chief of Consumer Protection, was interviewed on Monday by Chris Braithwithe of the Barton Chronicle on the maple season.

**Legislative Issues**

1. H.515 – Senate Ag – April 10<sup>th</sup> – Dan Scruton, Kristin Haas and Randy Quenneville provided testimony on the bill. The portions of the bill concentrating on areas other than slaughter were well received by the committee. Senator Starr asked for some follow up information related to temperature compensation, and that was provided by Henry Marckres on April 11<sup>th</sup>. The language in H.515 pertaining to the definition of itinerant slaughterer garnered significant attention, and the committee also took testimony from individuals who have been regulated by VAAF in the past on this issue and individuals who desire greater allowances pertaining to slaughter of animals on farms. There was significant discussion surrounding the religious slaughter practices and how they dovetail, or don't, with existing state and federal laws/regulations. There was discussion alluding to the possibility of establishing a maximum number of animals, which if slaughtered on-farm, would be exempt from the sanitary facility requirements that exist under the custom exemption in the CFR. VAAF informed the committee that the Federal Meat Inspection Act does not currently recognize an exemption for number of livestock slaughtered the same way the analogous poultry federal regs do. The committee will continue to discuss this issue and try to identify compromise language that would be allowable under state and federal laws/regs.
2. S.70 – House Ag – April 11<sup>th</sup> – Dr. Haas provided testimony on this bill as part of a hearing held from 9 to 11 AM. Inspection and disease testing statistics compiled by VAAF to date for raw milk producers was communicated. The concern surrounding distribution of raw milk at farmers markets was also discussed, in light of the widespread noncompliance with existing statute and requirements at the farm level. At the request of the committee, information was provided on the types of pathogens that can normally be found in raw milk. Also at the request of the committee, information on the current animal disease testing requirements was provided, including confirmation that it is important to maintain the requirements for TB and Brucellosis testing, and that there could be consideration given to amending the current Brucellosis testing requirements (intervals; types of tests utilized) in order to achieve the same goal but to be less "cumbersome" on some raw milk producers. Finally, Dr. Haas corrected inaccurate testimony provided by other witnesses earlier in the hearing, including the fact that VAAF does not

enforce criminal law and that the proposed licensing program referenced in S.70 would likely not be retrofitted into the current commercial dairy inspection program administered by the Agency. Henry Marckres, Chief, Consumer Protection, provided requested information on Temperature Compensation to Senator Starr, Chair of Senate Ag.

**Significant Events/Meetings:**

The state version of the Public Health Information System went live this week, but we are still working out "bugs" in the system.

Drs. Hass and Mehlenbacher and AHS Darryl Kuehne held a meeting with the owners and staff of Addison County Commission Sale (ACCS) to review animal handling and identification protocols. The Agency periodically meets with ACCS to review the facilities procedures. At this meeting, the Agency reviewed some recent calf issues, unrelated to ACCS, that led to the shut-down of some out of state slaughter facilities to ensure that the same problems were not happening at ACCS. ACCS is the only livestock sale barn in the state and essentially serves as the gold standard. It is open to the public and there are often people who stop by to see a 'real livestock sale' who have never experienced one in the past. ACCS understands the public scrutiny they are under and have protocols in place to ensure proper animal handling. Not all of their protocols are in writing; ACCS recognizes the value of having the protocols written and are in the process of doing so. Also discussed was the pickup of livestock at the farms - young animals and ill animals. It was recommended that haulers not pick up animals that may become downers and very young calves. The value of calves at sales has increased and even more so for calves that are sold at 2-3 days of age versus newly born; many are being fed out instead of going direct to slaughter. ACCS trucking staff encourage farmers to hold on to their calves a few days, feed them colostrum, and then ship them to get more value. ACCS and Agency staff brainstormed on ways to get that information out to farmers.

Dr. Mehlenbacher and USDA Animal Health Technician Leslie Michaud met with the food safety and recycling directors at the Colchester Shaw's to walk through the recycling program and the methods Shaw's currently has in place to prevent prohibited waste being provided to farmers. The new policy put out by the Food Safety and Consumer Protection Division resulted from field reports that Shaw's stores are not preventing meat from being provided to pig producers, which is against the law. This is really a matter of education and outreach to make sure that people understand the statute and the disease concerns behind it. To ensure compliance, all staff in the store must understand why they can't toss out of date meat products into food set aside for pick up by swine producers. Shaw's and the Agency are working together on education practices. We learned that Shaw's requires farmers that pick up waste to sign a form that says they will not eat the waste or provide it as food to other people. We were also provided with a list of farmers that pick up waste from the stores and Leslie will plan to visit the farmers to help with education. It is very important to Shaw's to be able to continue their organic waste pickup program because without it, their zero waste program will be greatly impacted. It was very interesting to learn that even a small number of farmers who pick up can make that much of a difference.

Henry Marckres, Chief of Consumer Protection, has been dealing with the issue of maple producers purchasing isopropyl alcohol for sanitizing tubing. This is not a registered product, and does not appear to be suitable for the intended use. Contact with all international maple organizations and maple producing states has been accomplished. Thanks to Annie Macmillan for her expertise and guidance!

Deputy Secretary Bothfeld attended the Agri-Mark Cooperative Annual Meeting in Springfield, MA. Agri-Mark is a major exporter of dried whey products from their Middlebury, VT plant. These products are exclusively going to Asian Market and add significant funds to their bottom line. This is the six consecutive year that Agri-Mark has made more than \$10 million in profits that are distributed to dairy farms including those in VT.

## Evolving Issues:

---

AH is working with a quarantined farm so they are able to ship cull animals to slaughter. The process involves an Animal Health Specialist going to the farm on the days of shipment to fill out official movement permit paperwork, verify the identification of the animals going on to the truck, and seal the truck. VAAFMEAT inspection personnel unseal the truck at the slaughter establishment and verify they are the same animals by checking identification. The process will continue for another month and is a great example of inter-section collaboration.

AH staff continues to participate in national and regional conference calls on the implementation of the federal Animal Disease Traceability Rule. Implementation is requiring continued communication with dealers, veterinarians, and other states. Dr. Mehlenbacher met with a representative of Vermont Fresh Network who is interested in getting the word out to their members and was provided with information on the Rule. The more difficult stakeholder to get the word out to, primarily because of a lack of contact information, are individual farmers who may be shipping animals across state lines for either slaughter or sale/show.

## Summary of Key Agency Department Activity:

---

### Administration

In re: Gervais Family Farm. PSB#7312. With technical input from staff in the ARM Division, Counsel filed the Agency's comments in support of the farm's proposed importation of off-farm substrate for its digester.

In re: Windylea Farm/Philip O'Neill #2013-03-05 SF. Counsel represented the ARM Division in an administrative hearing on a Request for a Cease and Desist Order from the Secretary for violations of the AAP's for stacking manure in wetland. The farm disagrees that the area is considered a wetland. A Decision is pending. During the Hearing, the farm owner also requested that the Agency to arrange for ANR/DEC to visit the farm for a wetlands delineation.

In re: Goldberg/Highland Crossing. 97-7-12Vtec. Work continued on the Act 250 de novo appeal. At the request of the Court, counsel contacted the Agency's witnesses and filed "unavailable" dates for the expected three day trial. Counsel also made arrangements for and served Notices for two more depositions to occur next week. The case involves whether 12.88 acres in S. Burlington meets the definition of "primary agricultural soils" in Criterion 9(B) and if so, whether "appropriate circumstances" exist to permit the payment of an off-site mitigation fee rather than permit application denial because there is not enough area to preserve on-site.

In re: VT Gas Systems PSB#7970. VT Gas Systems filed a responsive pleading to the Agency's and easement co-holders' Motions to Intervene indicating VT Gas Systems is not opposed. John Dillon and Counsel traded telephone calls but did not get to speak about a piece he is doing on the number of interveners in this case. Counsel also met with representatives of ANR and easement co-holders VHCB and VLT early in the week on issues of common concern. Counsel was invited by ANR and will attend the ANR/VT Gas Systems meeting on Friday 4/12. Discovery deadlines are looming in this case.

In re: Claire Solar PSB #8003. This is a proposed solar facility on 21 of 37 acres of long-time active agricultural land in South Burlington, part of which was planted in corn last year. Counsel filed a Motion to Intervene and began preparing written discovery requests. The site also contains a large class II wetland which has been continuously hayed for years that will lose its exemption from the ANR Wetland Rules by the change of use to solar and will likely never be farmed again.

Agency continues to build its Incident Command Structure to be prepared for future disasters. Plan to have a table top and field exercise in the summer.

### Agricultural Development

Working Lands Enterprise Initiative

The Working Lands Enterprise Board made their first set of funding decisions on 04/10/13 in the Enterprise Investment Area. In this investment area there were a total of 191 grant applications requesting \$2,136,143.00 in funds, thirty-four of the applications were from the forestry/forest products sector and 157 applications were from the agriculture sector. Final awards are being made to 14 Agricultural enterprises for \$160,871 (73% of funds awarded) and 6 to Forestry & Forest Products enterprises for \$59,035 (27% of funds awarded) for a total of 20 funded projects and \$219,906 in funds. The ratio of funded agricultural and forestry projects is equivalent to that of the total number of applicants from each sector. There are a variety of projects being funded from ten different counties in Vermont. A public announcement of the funded enterprises is tentatively scheduled for Thursday, May 2. Time and location TBD.

### **Food Safety and Animal Health and Consumer Protection**

---

Dr. Haas spoke to Vermont Hunter-Jumper Association members in Charlotte last weekend on the topic of equine facility and event biosecurity. Association members were interested in learning ways to improve practices on the farm and at horse shows in order to lessen the chance of disease spread. This conversation was the result of the VAAFAM AH office sending out educational materials and reminders to equine industry members about Vermont's importation requirements for horses.

Agency staff completed dairy surveys Franklin County and the St. Albans, Swanton and Morrisville areas.

Jim Cameron is meeting with Agency staff to hand off the Fair Stipend program.

AHS investigated the following cases:

- Report of an unlicensed livestock dealer in Franklin County
- Livestock dealer transporting cull cows without proper identification or owner/shipper statement with proper information
- Horse owner transporting horse into Vermont for a riding lesson without valid Certificate of Veterinary Inspection. Owner did have a proper Coggins test report.
- Animal welfare complaint in Ira; assisted Constable and Dr. Janet Carini

Farmed cervid facilities will be visited by AH staff in the next few months to complete compliance inspections. Herd owners out of compliance with VT Captive Cervid Rules will receive letters post-inspection indicating what they are required to do and a timeline.

This first bird swap of the season is this Sunday, April 14<sup>th</sup> at the Tractor Supply in Rutland. The next scheduled swap after that is April 28<sup>th</sup> at the Tractor Supply in Shelburne. AH staff will be on-site for bird testing for Avian Influenza and Pullorum. This activity is supported by a grant we have with the USDA.

The Weights and Measures lab is seeing a dramatic increase in the number of service companies from around the Northeast bringing their weight to us for testing and certification. Marc Paquette, Weights and Measures Specialist, has reported thousands of pounds of test weights being certified already in 2013.

#### **Meat Inspection**

Chief of Meat Inspection Randy Quenneville, State Veterinarian Dr. Kristin Haas, and Deputy Secretary Diane Bothfeld met with Senate Ag to discuss H. 515 and seems to be an issue with language under itinerant slaughterers and facility requirements.

#### **Agricultural Resource Management**

Late last week, emerald ash borer (EAB) was discovered and confirmed infesting an ash tree outside Concord, New Hampshire. This Federally-regulated pest of ash has now been confirmed in 19 states across the northeastern US and southern Canada, and poses a serious threat to the survival of all ash species in North America. With this detection, the pest is now on all four borders of Vermont (NY, MA, NH and Canada), but

remains undiscovered in Vermont. As a result of the confirmation of EAB in New Hampshire, the NH Departments of Agriculture and Forestry have issued an emergency quarantine, prohibiting movement of all untreated ash material, and all species of hardwood firewood from Merrimack County, NH. Within 90 days, they will announce permanent rules, coordinated with the USDA Plant Protection and Quarantine division, which will include the same restrictions on movement of ash, and may expand the boundaries of the quarantined zone. We expect some consequences to Vermont's forest products industry as a result of the recent EAB detections in NY, MA and now NH, but the final impact(s) remains to be seen. Trade in live ash (seedlings and larger nursery stock) has already all but shut down as a result of the movement of EAB across the landscape, except for local markets, so we do not anticipate the economic consequences to the nursery and landscape industries in Vermont to be too significant.

On related notes, on Wednesday, Emilie Inoue sat before the Vermont Rural Economic Development Working Group, along with representatives from VT Forests and Parks and UVM Extension to discuss the EAB and its impacts to Forestry and Nursery activities in Vermont, what the regulatory consequences of the detection in NH, and probable detections in Vermont in the future will be. Her input on survey, identification, and educational activities was well received.

Also, Rhonda Mace, the Plant Industry Forest Pest Outreach and Survey Program Coordinator was recognized nationally by USDA PPQ for her efforts producing an EAB game using one of the purple traps (the 'sticky purple boxes' hanging in trees every summer). This game is being used to engage younger Vermonters (Elementary school) in activities stressing the importance of invasive pest awareness and how everybody has a part to play in preventing their introduction and spread, as well as the value of citizen participation in early detection and rapid response. Needless to say, the game is played with a purple trap WITHOUT the sticky goo. Kudos to you Rhonda!

#### Water Quality Enforcement

A pre-hearing settlement conference was held with a Large Farm that received a Notice of Violation for violations of its individual LFO permit and the LFO Rules to include inadequate record keeping and the application of manure within the 25 required setback to surface water. Resolution was reached and an Assurance of Discontinuance will be drawn up. No hearing is required.

A hearing was conducted in connection with the issuance of a Cease and Desist Order (CDO) for a horse farm in Bennington. The Agency has worked with the Farm since 2007 to assist them in managing their manure so there is no runoff of waste to surface water and wetlands. The Farm continues to stack manure in areas that violate the requirements of the Accepted Agricultural Practices Regulations, and received their first enforcement action – a corrective action letter (CAL)- in 2009. In January of this year, they were found to be stacking their manure in a wetland area. The farmer has requested assistance from the VTDEC Wetlands Section in delineating the wetlands on his property. The Agency has referred this case to VTDEC.

Four medium farms will be receiving notices of violation for failing to submit their Notice of Intent to Comply (NOIC) with the renewed Medium Farm Operations General Permit.

A medium farm in Ferrisburg received a Notice of Violation for violations of the MFO General Permit to include discharges from the production area (mortality compost pile and calf hutch area) and lack of 25 foot vegetative buffers on fields inspected for compliance with the Farm's nutrient management plan.

A medium farm in Addison received a Notice of Violation for violations of the MFO General Permit to include multiple discharges of waste from the production area resulting from a general lack of good housekeeping, and discharges of silage leachate and runoff from heavy use and barnyard areas to surface water.

#### Zoning

The Agency issued approval for the construction of a hoop house at the Montpelier High School/Center for Sustainable Systems. The hoop house is to be located in the floodplain, so review of the project was coordinated with the Floodplain Management Section of VTDEC. The hoop house will be used to grow food that is then used to prepare lunches at the school.

A variance to local building setbacks has been requested for the construction of a cheese making building on the grounds of an existing medium farm operation in Bridport. The Notice of Variance Request has been sent to the Town for posting.

A variance to local building setbacks has been requested for the construction of a dairy goat barn in Randolph. The Notice of Variance Request has been sent to the Town for posting.

Agricultural Working Group met this week, a final meeting before the field season. We discussed possible revisions to the AAPs including erosion, nutrient management, certification, and floodplain concepts. We also discussed the draft reasonable assurances concepts that the State is currently working on in preparation for a meeting with EPA on the 17th of this month. It was evident that more discussion is needed on floodplains as there are many complicating issues in a one size fits all approach of regulation or even incentives. We intend to meet again in mid June to follow up on the reasonable assurances, development of incentive programs such as "Certainty" and "Nutrient Trading" and bigger picture needs including paradigm shifts in how agricultural improvements are handled. For example, making sure we have programs that allow farms to transition from dairy to another form of agriculture, the business planning, financial support or incentives to make it through the transition phase, and educational programs to ensure the change is successful.

Project Rock: We are meeting with partners this week to discuss how to go into the implementation phase of project rock. UVM did the assessment work and of the 9 willing participating farms, the total estimated costs of improvements is \$667,000. We will meet to discuss using various funding sources, NRCS, LCBP and VAAFMM to accomplish implementing these identified projects. We will also discuss how to bring the 3 unwilling farmers into the project as they collectively own more than half of the annual cropland, which could seriously flaw the project water quality monitoring results if left unimproved.

CAC: Met with the citizen advisory committee this past Monday to review the CAFO Permit that is out for public comment. The committee had a lot of questions, but in general seemed pleased with the program.

### Secretary's Comments

#### **PRESS and Related**

Nina Keck, VPT, Whistle Pig - interviewed about the issues relating to Whistle Pig. Explained I could not speak specific issues being contested nor to potential future projected applications but did recognize that Whistle Pig makes great product and is representative of the emerging business opportunities coming from our farms and the challenges the state faces with respect to regulatory and policy pathways to guide and support the kind of rural landscape and enterprises we want.

Comcast Newsmaker, Tuck Waterman et al - interviewed about state of agriculture and emerging local food systems in VT.

Tom Weaver, UVM Quarterly - interviewed me as to my background and the role of the Agency in support of the local food movement in VT

UVM Seminar Series, Future of Agriculture in VT - participated in panel discussion recorded by UVM about the future of ag in VT. Took questions from audience.

### **MEETINGS**

Michaeleen Crowell and David Weinstein, Senator Sanders office - met Crowell for first time in her new role as Chief of Staff, discussed state of ag in VT

NASDA Conference call - Discussed compiling comments from around country on Food Safety Modernization Act draft rules

Ron Shems, Michael Zahner and Peter Van Oot - interpretation of prime ag soils policies relative to Act 250, past and prospective applications, refused to tie adjust interpretation to Exit 4 proposal

Senator Starr - discussed Agency budget and his instruction to find monies, we explained the budget was very tight and there was very little new general fund monies besides mosquitos, pay act adjustments and working landscape monies but we would comb the budet one more time - proposal pending approval from Jim Reardon

Stuart Comstock Gay, Vt Community Foundation - will meet to discuss how to leverage VCF's interests and the Working Landscape Fund to draw more money into the elements of the working landscape where there is common interest like Farm to School and certain rural enterprises

Higher Education and Food System - will meet with leaders from 6 different institutions to begin to outline how they can work together to make VT the epicenter for community based food system education and all the spin off benefits of doing so

VT Beef Producers Annual Meeting - will make some opening remarks on Saturday

Honors Day At UVM for College of Ag and Life Sciences - will speak at ceremony on Saturday night

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: April 12, 2013**

**Subject: ANR Weekly Report**

---

**Governor Level Issues:**

**Moretown Landfill:** MLI is doing a publicity campaign – getting folks to write to us. Not sure what their goal is since the decision is completed and is now under appeal. They continue to put out misinformation. We worked with the Attorney general’s office on our response since we want to be careful not to impact the appeal. Staff are working on a records request for documents dating back to 2009. Interest continues from solid waste districts, the public and media regarding the eventual outcome and options for trash disposal.

**EAB Found in New Hampshire:** With the new detection of the emerald ash borer (EAB) in Concord, New Hampshire, Vermont now has known infestations in isolated sites on all four sides of the state. The Forest, Parks and Recreation Department continues to work closely with our federal partners, the USFS and APHIS, as well as the University of Vermont and the Agency of Agriculture, Food and Markets to prepare for the inevitable detection of EAB in Vermont. The partners have developed an action plan that spells out the roles, responsibilities and actions to reduce the spread of this destructive invasive pest once it becomes established. To slow the spread of EAB, it is critical to not move infested material. “Don’t Move Firewood” and “Look Up Vermont” are two of the public involvement campaigns to increase awareness. Experience from other states suggests that most resources are redirected to apply a rapid response in determining the extent of the infestation. This will mean a reduction in other department programs and services. Federal funds are unavailable for this work.

**New On-Site Loan Program:** Progress is being made on advancing this new loan program with the goal of providing loans this construction season. Facilities Engineering Division staff are meeting with financial institutions operating in the State of Vermont to discuss the feasibility of a private/public partnership. If this approach appears feasible the program will issue an RFP for

financial and lending services. Finally, the concept of establishing the program as a deferment program was discussed. This option would allow the program to make loans to repair failed systems but the borrower would not be required to repay the loan until the property is sold. This approach warrants further consideration.

---

## **EVERYTHING ELSE:**

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

**Capital Bill:** The capital bill was passed by the House but did not include a provision that is in the Governor's proposal that would give ANR increased flexibility to shift funds from projects experiencing delays or under-runs to projects ready to proceed or active projects that need additional funds. Staff will testify before Senate Institutions on this. Staff will also appear before Senate Institutions to request that funds currently directed addressing dam safety issues at the Wolcott Dam to the Dufresne Pond Dam removal project. This change was necessitated by the unexpected decision by Federal Highway Administration to deny funding. We are coordinating with VTrans on this project which also includes work on a railroad bridge downstream of the dam.

**H.134 Stormwater Program:** Staff testified before the House Fish & Wildlife Committee regarding H.134 (stormwater permits for telecommunication facilities). Padraic Monks, who heads our stormwater regulation program testified that the existing statutory requirement to expedite these permits, and the proposed legislation to terminate this requirement, have no significant impact on Program operations.

**H.262 Paint Stewardship:** The paint stewardship bill was voted out of House. DEC objects to the fee mechanism in the bill, which puts the extended producer responsibility burden on retailers and consumers, rather than manufacturers. The Governor has indicated his intention to veto the bill if the fee mechanism is not fixed in the Senate. We have proposed changes and the House Ways and Means Committee Chair supports the change.

**H. 526 Shoreland Protection:** The Senate Natural Resources and Energy Committee has taken up H.526 and is holding hearings this week and next. Early indications from the committee reflect support for refining the bill to include interim standards and minimum standards for municipalities. A concerted effort from ANR leadership and cabinet partners will be crucial to passage of this bill.

**H. 365 Flood Resilience and Land Use:** H.365 was introduced in the House and would expand Act 250 jurisdiction for protection of floodplains and river corridors. It is being considered by the House Fish, Wildlife and Water Resources Committee. David testified along with NRB Chair Ron Shems that we support the goals of the legislation but would like to engage in a dialogue with stakeholders over the summer before being ready to support a specific proposal.

**H.288 Idling Reduction:** H.288 is being taken up by House Transportation. If the committee approves the bill, it will likely be added to the miscellaneous DMV bill.

**H. 520 Zero Emission Vehicles:** Auto dealers appear poised to fight the technical fix in H.520, which will be taken up by the Senate Energy and Natural Resources Committee. We are scheduling a meeting for Justin with this group to explain the state's reasons for requesting this change.

**H.101 Omnibus Fish and Wildlife Bill:** The current version of the omnibus fish and wildlife bill incorporates H.101, H.102, H.110, and H.129 into a single draft of H.101. The bill was voted out of the House Fish, Wildlife, and Water Resources Committee on Feb 28. Again on April 5 a unanimous voice vote, even though the bill was amended on the floor to prohibit shooting across a road and increased the distance to shoot from the road to 25 ft. The bill was sent to the Senate and we are working on getting it out of the rules committee since it did not make crossover. We do not anticipate a problem with this.

**Joint Resolution:** Commissioner Michael Snyder and ANR Lands Administration Director Mike Fraysier will provide testimony to the House Corrections and Institutions Committee on the Department's proposed land exchange Joint Resolution.

**H.329:** The Current Use bill was sent to Senate Agriculture where it did not receive a warm welcome from the chair. We are looking for other vehicles for the Westman fix and for the formulae tweak that were part of that bill.

#### Press Issues/Releases:

**Enbridge Pipeline Reversal:** David has been contacted by Montreal media outlets including La Press and CBC Radio about the department's filing with the Canadian National Energy Board expressing concerns about the potential for increased air pollution in Vermont from the expected increase in oil refining associated with the use of the Enbridge pipeline to transport tar sands oil to Montreal.

**Missisquoi Basin Plan:** The final Missisquoi Basin Plan was released. Media coverage focused on municipal infrastructure deficiencies identified by the illicit discharge detection (IDDE) work discussed in the Plan.

**Canada Lynx in Vermont's Northeast Kingdom:** Canada lynx are appearing in Vermont's Northeast Kingdom according to the Vermont Fish & Wildlife Department. Although only four confirmed sightings occurred in the state from the late 1700s to the early 2000s, lynx sightings have been on the increase every year since 2003. The department is conducting surveys to determine the full extent and distribution of lynx in Vermont.

**Watershed Grants Awarded for 2013:** Waterways across the state will see improvements in 2013 thanks to Vermont's Watershed Grant Program, which has awarded a dozen watershed improvement projects a total of \$120,000. According to an announcement today from the

Vermont Fish & Wildlife Department, the applicants each received individual grants ranging from \$3,500 to \$15,000.

**F&W License Services Move to Montpelier:** The Vermont Fish & Wildlife Department announced that their license services unit has moved into a spacious and welcoming new office in the Dewey Building adjacent to the National Life Building. Since the Irene flood, Vermont Fish & Wildlife personnel formerly located in Waterbury have been temporarily stationed in several communities.

**The Vermont Fish & Wildlife Department is co-sponsoring several events specifically for young hunters and their families this spring:** The first is the inaugural Youth Hunting Celebration on Saturday, April 20 at Kehoe Conservation Camp in Castleton. The daylong celebration will be filled with fun and informative demonstrations and skill challenges for young hunters and their families. Admission is free and a calendar of the day can be found at [www.vtfishandwildlife.com](http://www.vtfishandwildlife.com). The next event is the Governor's Youth Turkey Hunt luncheon on Sunday, April 21, at the Waterbury Fish & Game Club. Governor Peter Shumlin is scheduled to lead a discussion on the importance of the hunting tradition in Vermont before having lunch with the young hunters and their families.

**Test Waters Designation for Jobs and Martins Ponds Now in Effect:** A special Test Waters designation intended to enhance fishing for large, wild brook trout at Jobs Pond in Westmore and Martins Pond in Peacham goes into effect with the start of trout season on April 13. Jobs and Martins Ponds are two of just a handful of ponds in Vermont that have significant numbers of wild brook trout, and they are the only two ponds in the state that consistently produce wild brook trout longer than 15 inches.

**Lake Elmore Access Area to be renamed after Morrisville Native:** Boaters and anglers on Lake Elmore will see a new name on the access area sign starting in May. The Lake Elmore – Vaughn M. Douglass Access Area will be renamed in honor of the Morrisville native and Lake Elmore camp owner who passed away in September.

**Emerald Ash Borer:** A press release about the discovery of emerald ash borer (EAB) in New Hampshire went out this week, and Commissioner Snyder appeared on Channel 3 News to comment on the discovery. Below is more information from the Forestry Division about this issue.

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

**Stowe Residuals Management:** DEC is holding a public information meeting in Stowe about the draft solid waste certification recertifying Stowe's biosolids (sewage sludge) land application program.

**VT Organics Summit (VORS):** DEC co-hosted the 7<sup>th</sup> VORS with the Composting Association of VT on March 28. It was well attended (160+ people) and the keynote speaker, Dr. Sally Brown from the University of Washington, was very engaging. There were breakout

sessions in both the morning and afternoon, including topics on infrastructure, heat recovery, compost quality, and climate change. Overall, the workshop was a great success.

**Hydropower Compliance/Enforcement:** DEC staff met with DFW staff to discuss establishing an enhanced, coordinated approach to evaluating and responding to Section 401 water quality certification violations at hydroelectric projects. Work continues, with the goal of getting an enhanced, coordinated system in place in the next couple of months.

**Forest Fire:** Lars Lund, Forest Fire Supervisor, responded to a 22-acre forest fire in Pittsford on Sunday. This is the eighth reported fire this spring. Dry and windy conditions last week have raised the fire danger throughout New England. We have implemented a change in the way Town Fire Wardens report fires and request assistance, with the initial request now going to Vermont Emergency Management and our two key Fire Response Coordinators, Lars Lund in the south and Dan Dillner in the north.

---

## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**VTC Agricultural Methane Digester GHG Evaluation:** Alex DePillis of the Department of Ag asked for our assistance in reviewing a GHG emission analysis submitted on behalf of Vermont Technical College for their proposed methane digester project. We agreed that the analysis submitted was inadequate for coming to any conclusions regarding the GHG benefits of the proposed facility. We also agreed that for future applications for renewable energy projects we need to develop some kind of guidance for applicants on how to perform these studies

**Troy/Jay Sewer:** Last week Facilities Engineering staff sent our comments to the consultant raising fundamental questions about the design of the sewer interceptor that will be owned by the Town of Troy and serve the Jay Peak resort. We now have a meeting scheduled with the project consultant to discuss our concerns with the design.

**Draft report on bottle bill/recycling:** We received 16 sets of comments regarding DSM's (our contract consultant) draft report evaluating the cost and effectiveness of the beverage container redemption program and single stream recycling. This draft report has sparked interest within Vermont and also with national organizations, such as Alcoa, Owens-Illinois (glass manufacturer), Napcor (PET containers), and others. The next step is to work with our consultant on the revisions that should be made to the evaluation.

**AST Spills:** It has been a busy week for aboveground storage tanks spills. Over the past week 4 large volume AST releases occurred. This included a 160 gallon release in Newport, a 100 gallon release in Rockingham, a 75 gallon release in Alburgh and a 250 gallon release in Bridport. The Alburgh release resulted in fuel oil migrating into Lake Champlain.

**McRea Salvage Yard Administrative Order:** We published an Administrative Order against the McRea salvage yard in Milton. Mr. McRea contacted his Lieutenant Governor Scott and Senator Mazza to seek an exemption for his type of business.

### Fish and Wildlife

**Deer vs. Vehicle:** A number of deer vs. vehicle deaths this last week. The number of nuisance animal calls was also on the rise this past week.

**Ball Mountain Dam:** Staff attended a meeting with the Army Corps of Engineers, DEC (Brian Fitzgerald), and Eagle Creek, in regards to a proposed dive at Ball Mountain Dam. Eagle Creek is proposing to inspect the gates, and take measurements at Ball Mountain as part of the hydroelectric development. For safety reasons, the Corps will not allow the gates to remain open during the inspection. Alternatives are being explored, as the Agency of Natural Resources, is not in support of dewatering the West River for the hour that the divers will be down. Other concerns include timing, ramping rates, and duration of the dive. A conference call is scheduled for this week to discuss alternative solutions.

**Smelt Spawning:** Staff hiked in to Silver Lake to monitor smelt spawning activity. The inlet stream was dry so there was no spawning habitat available. Staff contacted Brian Fitzgerald (VTDEC) and Rod Wentworth (VTDFW) to see if dewatering the stream by the Silver Lake hydroelectric project had been allowed. Flow had been diverted from Silver Lake because the turbine at Lake Dunmore had failed. Staff worked with GMP and Brian to get flow back into the inlet stream which serves as the major spawning location for smelt in Silver Lake.

**Walleye Sampling on Connecticut River:** Staff scouted the Connecticut River from Dodge Falls Dam down to Bradford in order to evaluate water conditions and boat launching possibilities in preparation for next week's walleye sampling. Walleye have never been systematically sampled in this stretch of river, where they support a popular fishery. Sampling of fish populations enables evaluation of fisheries management.

### Forest, Parks and Recreation

**Peak Park Operating Season Is Near:** The Parks Division Management Team meets this week to discuss a variety of issues mostly related to the upcoming peak operating season. Jamaica State Park begins full operation on April 26 and Wilgus State Park on April 29. The full workforce of key staff will begin in early May. The balance of staff will join throughout May and June.

**Staying Healthy in The Parks:** Discussions are taking place with the Department of Health related to coordinating public outreach messages for the summer to ensure consistency in representing our mutual interests to protect human health while enjoying the values of outdoor recreation.

**Gates Closing for the Season:** After an extended winter snowmobile season this year, the gates on sensitive roads in the southeast district are being closed, with other portions of the state starting to close gates as well.

**Envirothon Updates:** Envirothon training day went really well, with over 80 high school students in attendance. Conservation Education staff covered tree physiology, forest sampling, tree measurements and plant taxonomy in fifty-minute blocks. Planning is underway for the Envirothon Forestry exam.

### **Business Office**

**ERP:** The VTHR/ERP Agency-wide Readiness Team continues to meet weekly working to prioritize our activities for "go-live". There is still much to do especially in preparing staff for these big changes. We are ramping up our involvement in the expense reporting portion where much is still being finalized and we still have to develop and provide training for staff. We plan to keep our main focus on making sure that the 1st payroll in the new system gets processed and then we will turn more attention to employee expense processing.

We will be processing one last payroll at Waitsfield just before the move to National Life. We will move and set-up the payroll computers for the last old-system payroll to be processed before "go-live" in the new system, hoping for no hiccups along the way.

**Fish & Wildlife Finances:** Steve Chadwick is still working with DFW Business Office to clean up old financial issues. The VTHR/ERP work is really slowing our progress. We have prepared a year-end close "checklist" to minimize the chances of things falling through the cracks. Posting to permanently fill the Financial Manager position closes near the end of the month.

**Central Office:** Steve is still exploring potential options to resolve the potential budget shortfall in the ANR Central Office budget. This shortfall is due to a surprise increase in lease payments for our Rutland Regional office.



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:** April 12, 2013  
**SUBJECT:** Confidential Report to the Governor

---

**BUILDINGS AND GENERAL RESOURCES**

**Legislative Issues/Contacts:**

Met with Sens. Flory and Westman regarding GY14 budget submission and positions. Submitted answers to their position questions.

- Met with Sen. Hartwell regarding the electric vehicle sections of H.520.
- Testified to SIC about the Veterans Home mold problem, availability of federal matching funds and proposed program.
- SIC involved in markup of H.533, capital construction bill, and expects to vote out bill by 4/17.
- S.144, the St. Albans-20 Houghton Street bill, is on the Senate notice calendar today with House proposal of amendment.
- H.531, the Building 617 warranty deed bill, is on the Senate notice calendar today.

**Significant Events/Meetings:**

- Held meeting to bring departmental focus to mold remediation efforts at the Bennington Veterans Home.

## FINANCE AND MANAGEMENT

### Issue Updates

FY 2014 Governor's Recommended Budget: Commissioner Reardon and Secretary Spaulding are preparing the Administration's response to H.530, the House-passed plan for the FY 2014 budget. They are also working with the Senate Appropriations Committee to ensure that the Senate plan more closely aligns with the Governor's fiscal priorities.

## HEALTH CARE REFORM

### Legislative initiatives:

- Employer assessment – no movement yet
- Exchange financing source – no movement yet; discussed strategy for moving
- H.107 – health care “clean up” bill – SHW is taking this up this week. We have a few suggested changes, many of which are driven by recent policy changes from the feds.

ERISA: We are finalizing draft language to send to Sanders office and preparing for Congressional meetings next week.

Exchange: Robin reiterated the “not biz as usual” message through a memo to the full Exchange team and began going to Winooski in person this week. We also instituted the rapid response meetings, which seem to be kicking things into gear.

### Legislative Issues/Contacts:

April 10 – House Health Care & Senate Health and Welfare: Joint meeting about hospital pricing and open meeting law. Robin indicated that we support transparency, but the open meeting law isn't the right way to do it. GMCB process is open & transparent – also a more effective way to get information to consumers who aren't likely to show up to a hospital board meeting. Also discussed hospital pricing and how that works.

### Significant Events/Meetings:

April 4 - HIT with Drs Malek and Kelley: Anya and Robin met with two doctors on how to improve health information technology in the provider community. Dr. Kelley works for the Veterans Administration and spoke to the VA HIT system (which is free for others to use). We discussed options for moving Vermont to a single HIT system in the future.

Meet with Sanders' Staff: DC Chief of Staff stopped by to say hello. Robin spoke with them about health care reform generally & specifically how we are proceeding on single payer.

California Dept of Health and Human Services: Explained ERISA issue and asked if they were interested – they will get back to us about whether it is a priority for their Governor.

April 8 (working from Winooski): In person executive steering committee meeting – reiterated message re: all hands on deck. Reviewed Exchange issues and risks and how to mitigate.

Exchange Outreach: Robin is working with the outreach team to get a close handle on the roll out of the information. They expect to have mock ups of public service announcements this week or early next, which Robin will share.

Mental Health Integration and Designated Agencies: DMH and David Reynolds are working with the designated agencies to move to a more integrated mental health system, including determining how to better integrate mental health with the Blueprint for Health. They expect to have concrete recommendations in the next month or so.

## **HUMAN RESOURCES**

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

Commissioner Duffy testified before House Government Operations on a proposed amendment to raise the base salary for the Secretary of Education to a level consistent with other Secretaries in state government.

### **Pending Legislation:**

H.99: An Act relating to equal pay: DHR has worked to make the bill consistent with existing Second Circuit law and will continue to monitor to ensure the bill remains workable and promotes equality for women.

H.136: An Act relating to Cost Sharing for Preventative Services: DHR is tracking to assess the potential impact on the State Employee health plans and potential increased costs.

H.370: An Act relating to collective bargaining rights for Deputy State's Attorneys: Bill will permit unionization of staff of State's Attorneys. The bill is being tracked to ensure that staff is not defined as state employees and there will be no impact on benefits or other state processes.

S.7: An Act Relating to Social Networking Privacy Protections: DHR worked in the Senate to create a study committee to address social networking privacy issues, which are complex, and to some extent, governed by federal law. DHR will continue to monitor to ensure the bill remains a study or that the state will be able to access the information conduct appropriate background checks of law enforcement applicants and employee investigations when necessary.

S.14: An Act relating to payment of agency fees by teachers, school administrators and municipal employees: This bill would eliminate agency fee as a mandatory subject of bargaining and impose the fee by statute. Despite its name, the bill impacts some state employees who have been grandfathered under the current collective bargaining agreement and are not required to pay agency fee. In light of a recent U.S. Supreme Court case, any bill that is enacted to impose the fee is subject to a possible court challenge.

S.52: (to become a committee bill)-An Act relating to child care providers: Would permit child care providers to unionize and bargain with the state over several issues, primarily subsidy rates.

S.59: An Act relating to independent direct support providers: Would permit independent direct support providers to unionize and bargain collectively with the state.

S.88: An Act relating to telemedicine services delivered outside a health care facility: The bill is being tracked to assess the impact on the state employee health plan.

**Significant Events/Meetings:**

Commissioner Duffy and General Counsel Collier met with Karen Richards, the new Executive Director for the Human Rights' Commission. The meeting was cordial, and began a conversation about efforts that can be made to work cooperatively, particularly in the area of training.

Secretary Spaulding, Deputy Secretary Clasen, Commissioners Reardon and Duffy and staff reviewed the positions approved in the House Appropriation's budget bill to assess whether additional positions can be eliminated to achieve additional budget savings. Follow up work will continue to assess additional position reductions.

**Evolving Issues:**

DHR continues to work with VTA on negotiating a successor collective bargaining agreement.

**INFORMATION AND INNOVATION**

**Status of Governor's Priorities:**

PeopleSoft/VISION/ERP: The overall PeopleSoft Implementation is green at this time. We are planning "go-live" for Mother's Day weekend in May (May 11/12). We started UAT (User Acceptance Testing) this week. The biggest issue is security. Cherry Road is taking a more lead role in resolving the security issues as the functional person was overwhelmed. Other than security – everything is looking really good. Even though security is an issue, it is being managed.

**Legislative Issues/Contacts:**

Richard Boes met with Senator Westman and Steve Klein to go through the status of all IT activities over \$100K logged with DII. Senator Westman was primarily concerned with projects that have not yet reached a contract and required significant general fund dollars. This narrowed the list of 166 projects down to 30-40 and Senator Westman felt he could work with Steve Klein to narrow it further. At that point he said it was his expectation that the short list of projects would be discussed at Senate Approps as potential targets for cost savings. Richard encouraged caution as the full rationale for why a project was on the list could not be represented in one row of a spreadsheet. The good news was that he was appreciative of the information provided by DII and F&M and no longer seems to be looking at DII specifically.

## Evolving Issues:

### Web:

- Work Continues on finalizing the Web Portal Project Contract with VIC. Although we are very close to a contract that is acceptable to both VIC and the State, we need to extend the VIC contract one more time, but expect to have a contract by the end of April.

## **LIBRARIES**

Nothing to report.

## **TAXES**

### Legislative Update:

#### H. 295 Technical Tax Changes – As Passed House:

Our letter to Finance requested that they add provisions to address the instruction error on qualified dividends, and eliminating a certification requirement for securities brokers. The Commissioner discussed with Sen. Ashe amending last year's solar tax to add property tax exemptions, he was amenable. Other provisions that may need a home include repeal of the parking provision for current use and extension of the date to file homestead declarations permanently to October 15 (from September). We may want to consider asking that the regulatory pieces regarding break open tickets be imported to this bill (which would also be a hook for the taxation piece).

#### Revenue Changes:

##### Administration Proposals:

- *EITC/Childcare*
- *Breakopen Tickets/LIHEAP, Thermal Efficiency, CEDF Cloud*

#### H. 528 Ways & Means Proposals (alternatives in original Finance draft noted):

- *Blighted Property*
- *Income Tax: deduction cap/pull-up lowest bracket/eliminate 8.8 bracket (Finance draft alternative below)*
- *Cig Tax (Finance draft increases to \$1.50)*
- *Vending Machine Meals Tax (Finance draft eliminates)*
- *Temporary Meals Tax Increase (Finance draft eliminates)*
- *Sales Tax: Candy, Soft Drinks, Bottled Water (Finance draft retains only water; Sen. Ashe on record in favor of all)*
- *Fuel Gross Receipts (in Finance Draft)*
- *Home Health Agencies Provider Tax (in Finance Draft, but apparently looking at alternatives)*
- *Eliminate Employer Health Care Contribution (not in Finance Draft, although Sen. Ashe told Commissioner they were considering alternatives to retain contribution for just some employers)*

### Senate Finance First Draft New Provisions:

- *Income Tax:* Proposal to eliminate the last bracket, but kick in at lower income for revenue neutrality. Pick up significant revenue in FY 14 with a minimum 3% AMT on AGI starting at \$75,000. For FY15, the impact of the AMT is reduced with a provision to limit mortgage interest deduction to \$10,000, which itself generates significant revenue.
- *Spirituuous Liquors:* Raise brackets for tax. Westman Bill (S. 115)
- *Bottle Deposits:* Unclaimed deposits to the GF. DLC and advocates testified against.
- *Tax Expenditures:* Study Committee.
- *Property Tax Exemptions:* Owners would report insurance values to listers, rebuttable presumption to enter on grand list
- *VT Higher Ed Investment Tax Credit:* Eliminates.
- *Property Tax Adjustments:* Sen. Galbraith provision to allow taxpayers who miss the deadline for filing in one year to claim partial refunds in subsequent years. We estimate conservatively that there were 650 filers who were too late last year, and may have paid approximately \$950,000 more on the property rate than they would have on the income rate (on average, about \$1400 more). If claims were allowed for return of part of this money in subsequent years, education taxes would have to be raised to cover this new expense. Aside from that, this would be a forecasting, accounting and administration disaster.  
The Taxpayer Advocate and Commissioner entertained 82 “extraordinary relief” requests related to missed tax adjustments/renter rebates – 19 were granted, primarily due to serious illness. Frankly, the rest, aside from out of state tax preparer errors, were just plain misses.
- *H. 329 Current Use:* In Senate Ag. See Miscellaneous above – parking provision would need to be repealed presuming this is dead again.
- *H. 511 Zappers:* Passed the Senate, will have to go to Conference since the Senate added a safe harbor for taxpayers who already may have zappers.
- *H. 514 H2A Amnesty:* Passed House, in Senate rules.
- *H. 242 Vermont Strong Scholars:* House Appropriations got hung up partly on the federal taxability of a repayment program.
- *Finance: TIF:* Should pass out as separate Finance bill on Friday. Currently tracking pretty close to Administration proposal.
- *Finance: Estate Tax:* Held hearing, but hampered by fact that practitioners are busy filing taxes. Andy Maclean is trying to represent that the Department is joining in a proposal, Michael Costa was clear that we only agree that the present scheme is complex and confusing, and there might be a simpler construct.

### Operations:

Tax Season: We are still running 4-5% behind last year on the total Personal Income Tax returns processed. As of last Saturday we have processed 221,725 returns (85% electronic). We are having a strong week (historically, last year in the last week we received 34,000 returns, or almost 10% of total returns). We do expect higher than usual requests for extensions – the IRS delayed some forms and examiners report heavy inquiries. One reason cited is late broker reports. Finally, in March we fielded over 14,000 calls – and over 1/10 involved renter rebates. In general, we believe about 85% of our calls relate to property tax adjustments and renter rebates – not income tax at all.

**CONFIDENTIAL and PRIVILEGED**

**To:** Governor Peter Shumlin  
**From:** Michael J. Hogan, Commissioner of Liquor Control  
**Date:** April 12, 2013  
**Re:** Weekly Report

**Status of Governor's Priorities:** Break open tickets- Spoke with Jeb yesterday. Hopefully we can find a way to make this happen.

**Legislative Issues/Contacts:**

- S.61 has been voted out of the Senate. I am speaking to the House Committee on General Affairs next Tuesday to offer some changes.
- Spoke in Senate Finance Wednesday about bottle deposits. The committee is looking at various proposals to raise revenue, one being to retain all unclaimed deposits and send it to the General Fund. That's not a good idea! The department has been administering the bottle bill in relation to redeeming liquor bottles and picking them up at certified redemption centers for many years. It costs us more to administer the law than what we retain in unclaimed deposits. We are talking about \$131,748 as in FY12 in non refunded monies. Expenses were estimated to be \$320,022, giving us a loss of (\$188,274). The exception in law needs to stay for my department.

**Press Issues/Releases/Contacts:** 2013 is the 80<sup>th</sup> year celebration of the Repeal of Prohibition. Some information out of our national association newsletter:

Eighty years ago today (4/10), an historic and rare state convention was held in Lansing, Mich., where delegates approved by a 99-1 vote ratification of the 21<sup>st</sup> Amendment to the U.S. Constitution, making it the first of 36 states to do so, ultimately ending Prohibition and repealing the 18<sup>th</sup> Amendment.

"The 21<sup>st</sup> Amendment paved the way for the creation of the modern three-tier beverage alcohol regulatory system that today delivers the widest variety of products available to consumers anywhere in the world in a manner that is safe, well-regulated, and ensures reliable revenue streams for state and federal government," WSWA President and CEO Craig Wolf said.

On this day in 1933, Michigan became the first state to take action on an historic Constitutional amendment-the only amendment to repeal another amendment, and the only amendment ratified by the state convention process. Vermont eventually ratified the 21<sup>st</sup> amendment on September 23, 1933, with Utah being the last state on December 5.

**Significant Events/Meetings:** None

**Evolving Issues:**

Other than the Miss Tax bill and the break open tickets, no evolving issues.

---

**Summary of Key Department Activity:**

Business is great +4.5% over last year. I am going to send you a copy of our new price guide- 802 Spirits. I hope you enjoy it. It's mostly paid for by the companies we do business with and who want there new products advertised. We also get to showcase Vermont Manufacturers as we did in this issue. Let me know what you think!

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

**Irene Recovery Situation Report**  
**04/12/2013**

**IRENE RECOVERY OFFICE**

**WSOC-VSH**

- The JFO is still awaiting guidance from FEMA HQ regarding the Sandy Legislation pilot program; PW's will not be finalized until after this guidance is available. A "waiver" from headquarters is the fallback position.
- FEMA has been provided background regarding floodwall designs and flood event duration in Vermont, asking that they consider the adequacy of the floodwall designs used to develop cost estimates in the base PWs for buildings being removed.
- We are aware of a potential gap in funding because FEMA is identifying up to \$10M of work that "should be" covered by insurance. In response, Micaela Tucker is providing information to FEMA legal counsel regarding a 9<sup>th</sup> Circuit court decision from 2001, Hawaii vs. FEMA, which found in the applicant's favor in an analogous situation.

**FEMA PA**

- HMGP:
  1. First draft of State Hazard Mitigation Plan to be submitted to FEMA by May 10<sup>th</sup>;
  2. Submitted RFI information to FEMA R1 for HMGP rounds 3 and 4;
  3. Facilitated discussion with DEC on brownfield clean-up issues & HMGP.
- Public Assistance federal funds obligated to date remain unchanged from last week at \$143.9M.
- Phone conference held on 4/09 with FEMA JFO Mark Landry regarding follow-up on the Townshend Dam Road culvert decision. The upshot is that on 4/17 we will "compare lists" with FEMA of PW's that will be re-worked to incorporate 406 hazard mitigation funding for upgrades.
- Target date of new JFO location opening is 4/24

**Individual Recovery**

- Disaster Case Management Program (DCMP) March Updates:
  - 266 cases remain open
  - 24 cases closed in March; 8 new cases opened in March, attributed to survivors who have recently discovered the extent of damage for the first time or who did not believe they would require help. Although Long Term Recovery Committees have all established soft deadlines for opening new

cases (as of April 15<sup>th</sup> or earlier), LTRCs remain flexible to open cases as needed.

- Updated survey results of all open cases conducted in February by DCMP Case Managers confirm that of the existing open cases:
  - 19 are Priority 1 (categorized as most complex)
  - 52 are Priority 2 (categorized as high needs cases that will be met with existing funding but much work remains)
  - 102 are Priority 3 (categorized as intermediate needs that will be met with existing resources and 2<sup>nd</sup> anniversary deadline)
  - 26 are Priority 4 (categorized as not yet assessed or no current priority assigned)
  - 46 are without priority
  - Currently, 21 cases on existing caseload are participating in HMGP buyout program

### **HMGP**

- **Current Status of Buyout Properties:**

HMGP Purchased (75% HMGP, 25% CDBG)	4
HMGP Approved	84
HMGP Pending	21
Appealing/RFI HMGP Determination	6
HMGP Ineligible	4
Round 4	5
CDBG-DR Only	5
Grand Total	129

Link to Map: <http://www.trorc.org/buyouts.html>