

# WEEKLY REPORTS

Checklist  
3/29/2013

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

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**To:** Governor Peter Shumlin

**From:** Lawrence Miller, Secretary - Agency of Commerce and Community Development

**Date:** March 29, 2013

**Re:** Weekly Report

**NEK Project:** Lucy has made a connection with a representative from Menck windows, one of the businesses that is participating in this EB5 project. The Kingdom was just approved for its Foreign Trade Zone status. This will provide tax and tariff advantage opportunities to businesses operating within the zone.

**EB5 News:** ACCD terminated an MOU with Dream Fund, LLC. There were misrepresentations that undermined our confidence in the group's ability to complete the project.

**CDBG Disaster Recovery:** The highlight of the week was the news that the Department will receive an additional \$17.9 million CDBG-DR allocation from HUD. HUD will require the funds to be targeted to Windsor County but details are not yet known. Conversations with HUD have begun. Focusing on setting a percentage for Windsor, rest to other unmet needs.

**Historic Preservation Environmental Reviews:** With Ann Kroll, worked with grantees and HUD to understand and find a solution for new information from the agency that requires sign off on environmental reviews before a developer enters into a purchase and sale agreement for a project property. Conducting reviews before site control will have a significant impact on the way we fund projects.

**Downtown Program Reform Bill (H. 377):** The bill passed the house last week and the next stop is Senate Economic Development. Testimony is expected in the next few weeks and the bill is widely supported. However, the Vermont Natural Resources Council (VNRC) objects to House-passed amendments and seeks stronger language to evaluate impacts to natural resources (above and beyond the existing considerations). While we have not seen the specific language, we expect VNRC's amendments will increase the cost and limit flexibility in the areas where communities say they want to grow. Given the goal of the reform is to make housing development easier and more affordable in and around downtowns and villages, the Department and a majority of the stakeholders oppose these amendments.

# Memorandum

To: Honorable Governor Peter Shumlin

From: Commissioner Annie Noonan

Re: Weekly Report - Week Ending March 29, 2013

**Issues of Critical Note:** UI rate again declined (announced today) from 4.7% to 4.4%. The two successive reports (within weeks of each other) occur each year at this time due to federal reconciliation work. VDOL announced the 8 job cuts/RIFs to our Reach Up workers and district offices this week. I have made aware that some of the employees are contacting their legislators. I believe that VDOL will have enough vacancies to help reabsorb some of the staff into other jobs within VDOL. A real challenge will be the displacement and bumping that will keep the Workforce Division in turmoil for months. These RIFs will occur with the payroll paid on 6/29/13. The remaining 6 workers will be cut in June 2014. I had to mediate a massive blow up between VTC and the Apprenticeship Program. Phil Conroy was helpful in corralling his renegade staff member.

**Legislative issues:** I had a rather significant argument today with Rep Dave Sharpe, which was ultimately precipitated by his demand that we find \$6M in employee benefits changes if VDOL pays off the UITF loan by September or November. Louis Porter and I met with Rep Sharpe and Chairman Botzow. I now have Mat Barewicz and Tracy Phillips spending the next few workdays doing calculations to answer Rep Sharpe as well as Mark Perrault from JFO who is assisting Rep Sharpe.

## Unemployment Comp & Wage:

Call Center Stats: For the week ending 03/23/13 we took 2,809 calls. This is a decrease of 190 calls from the week ending 03/16/13. We processed 467 initial and 502 additional claims. This is a decrease of 34 initial claims and a decrease of 108 additional claims from the week ending 03/16/13. Eight (8) claimants exhausted all tiers of benefits with the week ending 03/23/13 compared to 7 claimants who exhausted all tiers of benefits during the week ending 03/16/13. We paid 8,778 claimants during the week ending 03/23/13 compared to 9,083 for the week ending 03/16/13. 20 mass Claims were processed for week ending 03/23/13: (Granite Sheds 3; Mountain Operations 2; Vermont Castings 15

**Workforce Development:** Burlington: The Essex Resort held a job fair at VDOL Burlington office yesterday. VDOL is assisting the Governor's Commission on Successful Aging (next meeting 4/3/13). Burlington and St Albans VDOL staff participated in the Franklin Region Career Expo today. VDOL followed up on a rumor about General Dynamics moving out of state. Their HR person says the company bought a manufacturing plant in Ohio, but has no plans to leave Vermont. Rutland: Aldi's held a job fair at the Hampton Inn on February 25<sup>th</sup>. Bennington: VDOL communicating with US Chamber on Hiring our Heroes event scheduled for May 2. The Town of Bennington select board is debating the establishment of a living wage for workers in their area. Central Vermont: VT Fleece layoffs have been certified under the Federal Trade Act. We will be working to apply the 2011 Trade Adjustment Act services. Two other job fair events were held this week: Hire our Heroes event in WRJ and the Johnson Career Fair (which went very well). Southeast: Rapid in Springfield for Cavendish Game Birds on 3/28. TAA/TRA orientation was held with employees laid off from Hostess. Springfield will host a job fair on 4/10. VDOL staff in Brattleboro has been working with regional development staff and WIB. Recent TAA Certifications: Energizer in St Albans; 197 total affected workers.

## Notes from NEK Project, by Cindy Robillard, VDOL

3/26/13, met with the Pathways to Prosperity group and John Fischer to de-brief our experience at the Harvard conference. The NEK provides an opportunity to "pilot" the Career Pathways work. All agreed that any strategies tried will need the active participation of the business community in the development and support of programs and curriculum and to provide experiential learning opportunities on a career pathway. DOL will need to play a strong role in promoting these ideas to businesses. The conversation

continued around WD models in other states and the need for cross department cooperation and communication, especially among Education, Commerce and Labor. It was also agreed that this work would need to be done by applying an industry sector approach, with statewide industry representation guiding the work. We need to promote and market this activity.

3/28/13, met with Brian Barth, Director of HR and Planning at Jay Peak Resort. He shared the current state of the Jay Peak workforce. This winter they employed nearly 1200 people at their peak. His best guess is that this workforce travels from up to 1 hour from three directions to work. His general comments included that the skills most needed for the majority of his workforce remain soft skills. Jay Peak would be interested in exploring ways to provide experiential learning opportunities to area students at the HS and college levels.

3/28/13, met with Gloria Bruce with Northeast Travel and Tourism Association. She expressed strong concern that some entity needs to provide adaptability training and support to existing hospitality businesses so that they will survive and possibly thrive in the impact of this development activity. She also shared her frustration on the unnecessary duplication of efforts around the state with the Ambassador training. She would like to see a statewide approach with funding attached, with the ability for regions to specialize the content of the program with information unique to their area. She shared that the delivery tool for the Ambassador training, Knowledge Vision, is the way to go for the hospitality industry because of the flexibility when owners, managers and employees can access it rather than missing work time to attend training.

Construction Update: I contacted 3 of the 4 sub-contractors that I learned will be doing some of the work at Jay Peak Condos and Stateside Hotel. 3/26/13: Conrad Construction anticipates starting work in early June, and needs only needs 10-15 new employees (roofers and deck builders). 3/26/13 JA McDonald: Anticipates needing 30-50 people for this season's projects, but has 75 people on layoff, most of which will be returning. Their estimate is that they may need only 10 new laborers. They just secured a contract with DEW on Jay Lodge Town House II (\$2M; and also has AOT projects), and is working with Peak CM for the Burke Project. 3/26/13 Spates Construction: Anticipates starting work at Jay Peak about 6/15, and will need 10 experienced carpenters.



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

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To: Governor Peter Shumlin  
From: Susan L. Donegan, Commissioner, Department of Financial Regulation  
Date: March 29, 2013  
Re: Weekly Report

*Susan L. Donegan*

**Insurance issues:**

1. **Exchange Rates:** DFR is working closely with Robin Lunge and the Green Mountain Care Board concerning major medical rate review for exchange-related filings. As you know, the rates filed by Blue Cross Blue Shield of Vermont and MVP will be posted on the DFR web site Monday, April 1 at 9 a.m. We are directing all media inquiries to Robin Lunge. (Since Monday, we have been contacted by reporters from the Wall Street Journal, Kaiser Health News, Bloomberg News and other national media.)
2. **Proposed CO-OP:** The application from the proposed Vermont Health CO-OP to become a mutual health insurance company is pending. DFR is finishing its analysis of financial projections and viability and legal standards. A public hearing was held on March 1. Commissioner Donegan hopes to have an order issued by mid-April. She is in close consultation with Liz Miller and Robin Lunge on this matter.
3. **Insurance Producer (agents and brokers) Licensing Renewal Status between January 30 and March 28:** To date, 41,394 renewal licenses have been granted, which will contribute \$6,075,959 to the general fund. The renewal activity thus far indicates meeting the projected level of approximately 50,000 renewals, the majority of which are issued to out-of-state producers. Fewer than 1,000 are in-state producers. Insurance agent and broker licenses are required to be renewed every two years, a process that generally ends by the close of the fiscal year although late renewals may spill over into the next fiscal year.



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**Securities Issues:**

1. **Mac Parker fraud case:** The Burlington Free Press has been running a three-part series on the case this week. Yesterday, U.S. Bankruptcy Judge Colleen Brown in Rutland issued an order directing DFR to turn over certain financial and investment documents to the bankruptcy trustee. The bankruptcy proceeding brought against Parker by three major investors in the film is a separate proceeding from pending criminal matters. The trustee is charged with establishing how \$28 million was raised and dispersed.
  
2. **EB5 Program:** Commissioner Donegan was interviewed by a reporter from VTDigger on Tuesday and asked to explain how state and federal securities laws impact EB5 visa projects. The reporter asked about rules concerning marketing or solicitation on web sites – in particular Dream Life EB5's web site. Commissioner Donegan explained general advertising and solicitation restrictions but declined to comment concerning the web site. Liz Miller and Sarah London were informed of this inquiry.



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**CONFIDENTIAL AND PRIVILEGED: NO SHARING  
MEMORANDUM**

TO: Governor Shumlin  
FROM: Armando Vilaseca, Secretary  
SUBJECT: Agency of Education (AOE)  
DATE: March 29, 2013

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**Hunger Free VT:** Monday I greeted state leaders at a policy roundtable to share a few words on the importance of nutrition for student learning. This discussion brought together leaders from the state, business, agriculture, research, education, health, and the non-profit sector to share how we feed children in school, how universal free meals could improve nutrition, health, and learning for Vermont's children, while also dramatically increasing the use of locally produced food in school meal programs.

**Building Bright Futures (BBF):** I attended this month's BBF meeting where we discussed pending discontinuation of ARRA funds and its implications for regional council support and State Advisory Council funding and additional required membership (Higher Education, Criminal Justice/Corrections, and Parent). Also announced were the Governor's Early Childhood Summit and Early Childhood Statewide Blueprint planning sessions. At this same meeting new officers were voted in and I agreed to serve as vice-chair, replacing Secretary Racine.

**SBE:** Thank you taking time from your busy day to meet with the SBE at its meeting on Tuesday. Your comments were important for the Board to hear, especially the chance to reiterate your priorities with three new Board members. Dr. Harry Chen discussed the Health Department's work in support of healthy schools and students and staff; Janette Bombardier and Marian Lawlor from IBM spoke about the need for our students to have a strong academic preparation in math and science to be prepared for opportunities following graduation. Jill Remick and Peter Evans from the EQS Commission engaged the Board in a review of the current draft of the Education Quality Standards. The day's discussions, especially your clarity on the graduation requirements, moved the EQS discussions forward significantly.

**Milton Food Service:** On Wednesday, Steve Marinelli, Milton Town School District Food Service Director, was contacted by First Lady Michele Obama and invited to join her in DC for the White House garden spring planting. She has been watching the amazing progress Steve and his school have made over the last year. Steve will be bringing five of his fifth grade students on this trip.

Students wrote essays about the Vermont farm-to-school movement and then were chosen by random via a lottery. They are now well on their way to raising funds to cover the expenses of this trip. Recent coverage of this event can be found here: <http://goo.gl/aItlo>.

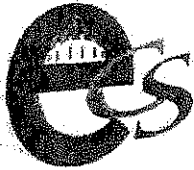
**Education – Join the Conversation:** This month's recording focused on the League of Innovative Schools (LIS). I was accompanied by Meg Powden, ISL Program Consultant, Rob Reardon, Principal, Essex UHSD, Alicia Rominger, Teacher, Williamstown M/H School and Shaylee Martin, Student, Williamstown M/H School. We discussed how the (LIS) is a professional learning community of educators working to improve secondary schools through collaboration, support, and the sharing of best practices. The LIS was organized by the New England Secondary School Consortium (NESSC) to implement and expand transformative practices throughout our region. Maine, New Hampshire, Connecticut, Rhode Island and Vermont are member states and in Vermont we currently have thirteen member schools within our LIS. Any time that you would like to join me for one of these sessions, please just let me know.

**Stand Up! Speak Up!:** On Friday I stopped by UVM to address this group on the importance of creating safe learning environments in our schools. This conference was designed to find authentic ways to end bullying and change school culture. For more information, click here: <http://www.vamle.org/site/default.aspx?PageID=1>

**Attachment:** Yesterday I spoke with Liz Miller about the upcoming National Forum on Education Policy to be held in St. Louis, MO. I have attached the information that we received on this from the Education Commission of the States. Please let me know if you would like me to accompany you.







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March 13, 2013

Dear Education Policy Leader:

You are invited to join the country's most influential state education policymakers in St. Louis for the 48th annual ECS National Forum on Education Policy on June 25-27! Whether you are working on education issues such as leveling the playing field for our students, implementing the Common Core State Standards, assessing teacher effectiveness, investing in early learning, or college readiness, ECS can help.

We cross silos and state lines to bring together over 400 leaders such as governors and their staff, state legislators and their staff, chief state school officers, higher education officials, business leaders, and teachers to tackle the tough problems in education. Last year 48 states, the District of Columbia, and three U.S. territories were represented.

In the words of one participant last year, "Almost every plenary session and the majority of the concurrences had immediate takeaway value for our policy and practice work and for the other state participants."

The National Forum begins with an opening keynote presentation at 3:45 p.m. on Tuesday, June 25. Over the next two days you will hear presentations and breakout sessions that will discuss the same issues you are working on in your own state. Our wide-ranging plenary lineup includes mathematics education expert Bill Schmidt, economist Richard Rothstein, innovative thinker Rick Hess, and a panel led by Nevada Governor Brian Sandoval and Superintendent Jim Guthrie. A detailed program is available on the ECS website at [www.ecs.org/NF2013](http://www.ecs.org/NF2013).

You can register now online at [www.ecs.org/NF2013](http://www.ecs.org/NF2013) (enter code SL2000) or by fax or mail using the downloadable registration form on our website. ECS offers state policy leaders a reduced registration rate of \$300—a savings of \$350! **The early bird registration deadline is Friday, May 31.** After that date, the registration fee will increase to \$400. The website provides information about the hotel and ground transportation options.

The ECS National Forum is the place to discover new solutions, share innovative ideas, and network with leaders from your state and across the country who are dedicated to improving our educational system. This is your meeting and we hope you meet us in St. Louis!

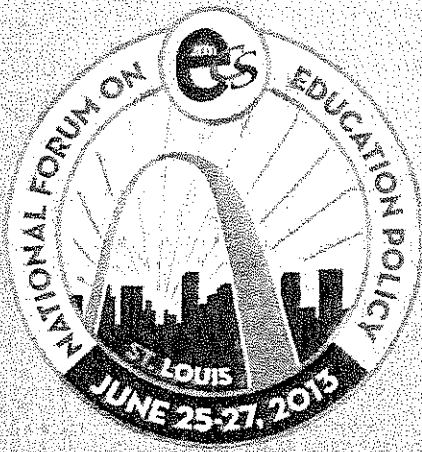
Sincerely,

John Hickenlooper  
Governor, State of Colorado  
2011-13 ECS Chair

Jeremy Anderson  
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# WHY YOU SHOULD ATTEND

ECS—your Compact for Education—has helped you forge relationships with peers from your state and across the country. The ECS National Forum is the place where experts and participants reach across divisions in search of powerful policy solutions that will disrupt the status quo and drive positive change. You'll talk about how Common Core implementation will impact the education sector, whether efficiencies can be found in K-12 budgets, how leadership affects our ability to initiate change, whether early learning and P-3 investments can change outcomes, and how the transition to postsecondary education can become seamless.

## FEATURED SPEAKERS INCLUDE:



**WILLIAM SCHMIDT**

Education Policy Center, Michigan State University  
*Will the Common Core fix the wide disparity in opportunities to learn mathematics?*



**RICHARD ROTHSTEIN**

Economic Policy Institute  
*Making early investments to close the achievement gap*



**RICK HESS**

American Enterprise Institute  
*Identifying and addressing the real obstacles to getting the schools our students deserve*



**URI TREISMAN**

Charles A. Dana Center, University of Texas at Austin  
*Applying lessons learned from postsecondary developmental education to high school college-readiness interventions*



**BRIAN SANDOVAL**

Governor, State of Nevada



**JAMES GUTHRIE**

Superintendent of Public Instruction, Nevada



**CHRIS MINNICH**

Council of Chief State School Officers



**KATE WALSH**

National Council on Teacher Quality

## INVITED SPEAKERS:



**KATHLEEN SEBELIUS**

Secretary, U.S. Department of Health and Human Services



**ARNE DUNCAN**

Secretary, U.S. Department of Education

# WORKING SESSIONS

Improving Student Performance:  
Real Solutions for Real Problems

Kicking the Hornet's Nest: What NCTQ  
Has Learned about Teacher Preparation

Common Core and Deeper Learning:  
A National Case Study

Enhancing STEM Interest and Success  
With Diverse and Female Students

Getting Students College Ready – Before College

Fast-Tracking Without Shortchanging:  
Doing Dropout Recovery Right

Math Benefits Kids for Life

College Counseling: Getting It Right to  
Achieve Postsecondary Goals

State Strategies to Offer Affordable,  
High-Quality College Degrees ... Online

Helping Non-Traditional Students  
Succeed in the Postsecondary World

Closing the Gap in What High Schoolers  
Read and What College Expects

P-20 Data Governance:  
Critical Roles for Success

Leveraging Smart Policy to Improve  
Dual Enrollment Access and Quality

Re-thinking Teaching and Learning:  
Proficiency-based Acceleration

Put the Money Where the Kids Are:  
Early Learning Programs

**AND MORE!**



Gov. Jack Markell and Gov. Brian Sandoval speaking at the 2012 Forum

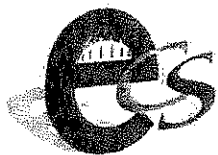


Assemblywoman Barbara Clark (NY), Representative James Roebuck (PA), and Senator Shirley Turner (NJ), members of the ECS Steering Committee, enjoying the 2012 National Forum



ECS Chair Gov. John Hickenlooper with Kelli Wells and Bob Corcoran of the GE Foundation, recipient of the 2012 ECS Corporate Award





Education Commission  
of the States

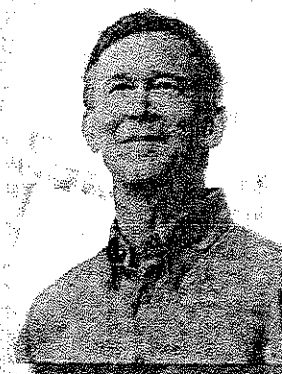
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Colorado Governor John Hickenlooper  
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This year's Forum will be held at:

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To reserve your hotel room, please call  
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**GET ALL THE DETAILS AND REGISTER AT [WWW.ECS.ORG/NF2013](http://WWW.ECS.ORG/NF2013)**

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**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Mar 29, 2013**  
**Re: Weekly Report**

**Status of Governor's Priorities:**

Additional progress on cost control for shipping and labor.

**Legislative Issues/Contacts:**

Appeared before L-CAR committee for rules change to Hot Lotto game starting in mid-May. We are changing the prize structure, with the jackpot becoming a taxes paid \$1M. 15 states offer this game.

**Press Issues/Releases/Contacts:**

n/a

**Significant Events/Meetings:**

n/a

**Evolving Issues:**

n/a

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**Summary of Key Agency Department Activity:**

We met with Champlain Valley Fair about having a presence this summer. Lots of good ideas here and we have to create our plan. We are also planning to be a sponsor and have a presence in Brattleboro in June for Strolling of Heffers; In Barre in July at Gov Cup Race at Thunder Road.

Various training classes for new HR ERP system are occurring.

I expect to know by Wed April 3 about court decision for field sales person that got a DUI. Pretty big HR decision.

We have two different lottery surveys active in the state now. Questions about i-gaming, i-lottery, casino visits, instant tickets prizes, and the Megabucks + game.

The New England State Lotteries issued a joint RFI for designs on new lottery game ideas. It was sent to almost all lottery industry vendors, various universities, gaming industry companies, and other interested parties. We have it on our website as well.

**Executive Director's Commentary:**

I still working on the RFP for our instant ticket vendor contract that expires in Jan 2014.

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

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**Executive Privilege**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Brian R. Searles  
**DATE:** Friday, March 29, 2013  
**SUBJECT:** VTrans - Confidential Report to the Governor

**SUMMARY FOR GOVERNOR**

Winter Maintenance Costs

With the most recent storm we are now up to \$25.6 million for FY-13 winter maintenance including the use of 118,000 tons of salt. For comparison, FY-12 total was \$22.7 million and 82,000 tons of salt. As a rule we plan to spend around one-third of the \$70 million maintenance budget on winter operations. We will manage to the number for the rest of the FY which means less for District leveling prior to July 1. We have also delayed payment of some salt invoices until after July 1, as allowed for in our salt contracts.

Ledge Work I-89 SB, MM 73.6, Richmond

This project, declared an emergency due to falling rock, is under contract to a specialist firm called Janod and work will begin on April 1. Signage and lane closure prep has been done and work will be done on days when the temperature is a minimum of 40 degrees. Pieces of ledge will be removed by hand (scaling) and protective netting installed to prevent future rockfalls into the travel lanes. The project costs are estimated at \$550,000 and the FHWA has agreed to provide 80% of the eligible costs. We anticipate work to be completed by April 30, unless unforeseen conditions exist.

Vermont Gas Systems Pipeline

The Senate will be adding language to the T-Bill at our request that enables the State to charge a fee for the use of the highway right-of-way for utility installation. Although generally applicable, this is aimed at the upcoming proposal to utilize the 11+ miles of Circ. ROW for the gas pipeline headed toward Middlebury, Rutland and New York State. We are also "not opposed" to a potential plan to add a gravel bike/ped path over top of the pipeline. However, we will not support requiring Vermont Gas to build such a path. A path within the alignment has the possibility of significant impacts on both natural resources and the future/existing use of the corridor which cannot be defined without

more information. We would fully support a condition that Vermont Gas allows a future path to be build over their facility.

#### Affirmative Action Follow-Up

The FHWA has extended the period for submittal of the revised AAP until April 17. During this time Deputy Secretary Minter will be working to get an MOU with DHR for regular access to certain recruitment data and an internal agreement between and among staff for a more significant role for our Civil Rights Unit in the recruiting and hiring process. During this time, FHWA Regional Civil Rights Chief Tina Lee will be assisting us in the implementation of measures aimed at increasing the number of women and minority applicants and workplace improvements to see that we retain these workers. It should be noted that the only part of the Agency that is under review is the Maintenance piece of our Operations Division and the problems are essentially in the Districts. We will also be looking at successful initiatives in certain districts and in other states that can be applied across the board in Operations.

#### OTHER ISSUES FOR GOVERNOR'S STAFF

##### Border Issues and Autoroute 35

Work continues on the largest section of A-35 in Quebec and it appears that the 17-mile "middle" piece will be open by the end of this year. The construction of the final segment which connects to Vermont at Highgate will commence next year with a completion date now anticipated in 2018 instead of 2017 due to fiscal constraints in Quebec. Their General Assembly is in session now so it will likely be more clear in a few weeks.

VTrans will begin a traffic impact study in June designed to involve the MTQ, Regional Planners, US and Canadian border officials and others in a document that will inform future decisions about the capacity of checkpoints on either side and other traffic improvements that might be necessary in the future.

##### Transportation Board Role

Our legal staff is becoming increasingly concerned about the evolving role of the Transportation Board in deciding contractor claims against the Agency. The heat has been turned up on this issue by a glut of these claims taken on by one law firm, the Fead Law Firm, of South Burlington.

In a January 24th decision, the T-Board, without any legal authority, adopted the contractor's argument in a culvert replacement project in Ludlow that the VTrans contractor claims process was flawed because the Construction Engineer and the Director of Program Development were biased, and the only way to provide the contractor with procedural due process was for the Board to decide its claims "de novo". This essentially changed the standard of review for the Board and eventually led to the Board reversing itself on March 22nd. They appear to be starting down a hybrid path that would combine on-the-record review of VTrans decisions, while taking additional or supplemental evidence that the T-Board deems fit to admit to satisfy due process requirements. The



issue currently under review involves approximately \$600,000 in additional compensation for the Ludlow culvert project.

#### DMV Counter Performance Beats Targets

The last problematic spot for counter wait times is performing well now as the new South Burlington site completed 1,484 transactions at an average of 12 minutes last month, well within the 30-minute goal. The more than 5,400 counter customers bringing 5,700 transactions were served at a 6-minute average statewide.

#### Construction Project Sampling

Of the 800 or so projects in some stage of development about 75-80 should be under construction this year. Here is a sample of some of them:

A difficult project on Rt. 116 in Bristol involves the replacement of Bridges 8 and 7 and, after more than a decade and years of temporary structures, the project is going to Contract Administration and should be under construction this year.

Further up the same road in South Burlington, the new City Council has agreed to an accelerated process with a full road closure for a large culvert utilizing a local detour. This strategy will reduce costs and project footprint by allowing the replacement structure to be pre-cast.

The Morrisville Alternative Truck Route will continue for the second of 3-4 seasons.

In Maidstone our Landscaping Section is completing plans on the depth of grubblings and topsoil for this year's repair of a 700-foot slope failure and road work near the Connecticut River on Route 102.

In South Hero plans for the Local Motion Ferry project on the recently completed causeway repairs have hit a bump as no bids were received for the building of a new boat. Bid documents will be modified and the project re-advertised in the next couple of weeks.

#### Transportation Bill

I am writing this on Thursday evening as the team will be in Senate Transportation in the morning with the T-Bill. Issues that will be scrutinized include fees for electric vehicles (we will propose this be postponed until the next fee bill), ironclad language on diversion of funds for other purposes (we have language ready), Indexing to CPI (we are ready to propose that this be automatically discussed each time the fee bill comes up if the committee wants to remove it) and the ROW utility fee provision mentioned earlier in this report. The committee is committed to getting this bill out in the minimum time necessary for adequate review due to the early enactment dates for the revenue package.

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** March 29, 2013

---

Several commissioners and I gave our initial FY14 budget presentations in the Senate Appropriations Committee this week. Dave Yacavone had a particularly tough time, with many committee members being highly critical of many DCF programs and proposals. "Brutal" was one description. In my opinion, the questions suggested a lack of understanding of the efforts we are making to bring coordination and accountability to our programs.

I met briefly with Sen. Kitchel this morning. She assured me that she thinks that we are on the right track and that she and her committee are simply frustrated that we do not always know what results we are getting and that so many of our programs seem to lack coordination. We agreed that it is a shared frustration and we will continue to work together.

We ended the conversation on a positive note with her agreeing to talk privately with Dave to assure him that she feels confident that he is moving in the right direction.

**Vermont Department of Health (VDH)**

**National Public Health Week April 1-7:**

- On April 4<sup>th</sup>, from 1-2 P.M., the VDH will hold a briefing and demonstration to publicly launch *Healthy Vermonters 2020*, the *State Health Improvement Plan 2013-2017*, and our new online Performance Dashboard that will track population health indicators and program performance measures as we go.
- Each of our 12 VDH district offices supplied their community media outlets with a news release, based on the 2013 County Health Rankings, and localized with their own quotes, examples of community public health work and data.

Healthy Vermonters 2020 documents the health status of Vermonters at the start of the decade, and the population health indicators and goals that will guide our work through the decade. The State Health Improvement Plan prioritizes our broad 2020 goals to reduce the prevalence of chronic disease, reduce prevalence of substance abuse and mental illness, and improve childhood immunizations. The Healthy Vermonters Toolkit includes our new online performance dashboard to track how we are doing – by county, by district office, and by hospital service area – according to population indicators (such as the prevalence of smoking), performance measures (such as registrations with the Vermont Quit Network), and maps and trends.

### Childhood Vaccination Social Marketing to start in mid-April:

- 'It's OK to Ask: Every Parent Has Questions about Childhood Immunization' is a website and social marketing-centered initiative designed for vaccine-hesitant parents of babies from birth to age 3. The Website, videos, posters, Facebook and Twitter messages will start in mid-April.

The intended audience for this is parents, especially women, age 30 to 35, who are well educated, middle to higher income, and expecting or parents of babies and young children. This is the group who are apt to have the most in-depth questions and concerns about vaccines. We also intend this to reach well beyond the target audience. The website is designed to offer clear, credible and deep information about all aspects and questions about risks and benefits, vaccine schedule, efficacy, normal side effects, safety, and the like. The website features a number of videos of Vermont moms talking with pediatrician Joe Hagan, MD about these issues and the parent-doctor relationships. The website includes questions answered by Vermont doctors and moms, the opportunity to ask a question online, an interactive timeline of vaccine history, and social conversations via Twitter, Facebook and YouTube.

### Tobacco Counter-Marketing:

- Tobacco Counter-Marketing to start April 1<sup>st</sup> using the following tools: Down and Dirty media, Free my Ride and Centers for Disease Control and Prevention (CDC) Tips from Former Smokers (version 2).

Rural Teens have their own new media brand, Down and Dirty, with events, social media, and two supporting TV spots.

Free my Ride will increase awareness and reduce misconceptions among parents and caregivers about the danger of secondhand smoke in cars.

### Department of Mental Health (DMH)

#### Legislative Activity:

- Commissioner Moulton provided testimony before House Human Services regarding Brattleboro Retreat

Commissioner Moulton provided testimony regarding the notification timeline from Brattleboro Retreat to DMH, of a recent Centers for Medicare and Medicaid Services (CMS) visit which resulted in identified deficiencies. These came in the areas of patient rights, compliance to federal and state laws on reporting, and quality review. DMH testimony stressed that all hospitals have CMS surveys and that many result in deficiencies; however, there is opportunity for correction. This survey result does not affect funding streams at this time. Importance of support to Brattleboro Retreat was accentuated, particularly support of staff and patients as

essential changes are made. Brattleboro has up to 28 involuntary patients and 14 of those are Level I, high acuity.

DMH and Brattleboro Retreat worked together on development of a common document which redacted identifiers prior to release. The full report was disclosed to the Committee on March 26<sup>th</sup>, along with a summary. Peter Albert testified summarizing the report and the three areas cited as needing improvement based on patient complaints. Rep. Donahue circulated e-mails to her Committee and Senate Health and Welfare the following day suggesting that Peter Albert had sugar-coated his delivery before the Committee and 12 individuals were involved in complaints per her assessment of the redacted document. The actual number of individuals involved was six. I will convey this to Rep. Donahue to give her an opportunity to correct the record with her Committee. CMS will be back for another survey in coming weeks and Brattleboro will be submitting a plan of correction for each issue cited.

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

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

##### **House Appropriations (HAC):**

- Brief meeting with Rep. Heath to discuss unrealistic targets in Budget Bill

In passing the Governor's recommended budget for Developmental Services (DS), HAC also created a summer workgroup, which includes four lawmakers, whose task it is to identify FY14 savings through systems re-design, rather than any reduction in services. Commissioner Wehry advised Rep. Heath that DAIL does not think this is do-able in FY14 though we would agree we may identify some strategies that could inform the FY15 budget. She is adamant she wants us to try.

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

##### **H. 105 on Adult Protective Services (APS) reporting:**

- Amended bill more do-able; still unnecessary

Commissioner Wehry acknowledged the bill had made some concessions (such as changing the frequency of reporting from monthly to quarterly and dropping the requirement for an external evaluation).

- APS investigators intervene to stop exploitation of senior

The Milton Independent acknowledge the positive role DAIL's APS unit played in bringing a criminal case against a daughter who had financially exploited her mother for years.

- DAIL helping to insure safe transfer of residents as Mount Ascutney announces closure of nursing home beds in September; inpatient rehabilitation program to remain.

Mt. Ascutney Hospital and Health Center, a non-profit community hospital, has decided to close its skilled nursing facility effective September 1, 2013. The combination of recent Medicare cuts and a revenue growth cap set by the Green Mountain Care Board were major factors in the decision. The automatic sequestration cuts will take effect on April 1st, thereby decreasing Medicare payments to the organization by 2%, or approximately \$500,000 per year. This, combined with a 3% revenue growth cap set by the Green Mountain Care Board, reinforces Mt. Ascutney Hospital's obligation to reduce expenses and focus on other service lines such as the improvement of its unique and renowned inpatient rehabilitation program.

### ***Evolving Issues:***

#### Program of All-inclusive Care for the Elderly (PACE):

- PACE last day is March 31<sup>st</sup>

PACE will cease operations this Sunday, March 31<sup>st</sup>. The transition could not have gone more smoothly and PACE and DAIL staffs, our community partners (Home Health and the AAAs) and the leadership of PACE VT and Volunteers of America are all to be commended for their hard work on minimizing the impact of this loss on Vermont elders.

- House Human Services wants the Division of Licensing and Protection (DLP) to testify on Brattleboro Retreat

Following a recent survey, the Retreat was found to have "deficiencies ... of such a serious nature as to substantially limit [the] facility's capacity to render adequate care." In total, 12 patients were found to have been treated in ways that did not meet CMS standards for appropriate care or protection of patient rights. Many involved repeated violations, not single instances of inappropriate care, and there was a deficiency related to "ongoing inappropriate use of restraint and seclusion." The House wants clarification on the levels of violations and implications. No date has been set for the testimony and we will alert Commissioner Moulton when notice is received.

#### Department of Corrections (DOC)

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

#### Trooper Deeghan:

- As notified in last week's report, he has been transferred out of state. Local media is picking this story up and it has been running this week.

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

#### **Mayor Weinberger:**

- Burlington Mayor Weinberger is seeking an additional year of funding for the Burlington Police Department (BPD).

Burlington Mayor Weinberger contacted Commissioner Pallito regarding the one-time grant that the Administration extended to the BPD, at the beginning of SFY 2013. This one-time grant of \$50,000 was targeted towards drug activities in the city of Burlington. A similar grant was extended to the city of Rutland. Mayor Weinberger has asked for one additional year of funding and also mentioned that he would approach Chief of Staff Miller with the request.

#### **Population:**

- The department is witnessing a spike in the female population currently hovering around the 150 person mark; 32% of this population are pre-sentenced individuals. The total pre-sentenced population is currently hovering at or above the 400 person mark making up a total percentage 20% of the overall population.

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

#### ***Evolving Issues:***

#### **Bennington Coalition for the Homeless:**

- Bennington Coalition for the Homeless in financial crisis and may close.

Bennington Coalition for the Homeless was found to be a high risk grantee following financial monitoring conducted by the Office of Economic Opportunity (OEO), per request of the Agency of Human Services (AHS). Since this time a corrective action plan was negotiated and was not acted upon. The Executive Director has now been terminated by the board. OEO has been notified of the imminent financial collapse of the Bennington Coalition due to significant and unsustainable debt, over-extension with properties/leases, exhausted current SFY funding, and federal funding in jeopardy. In order to keep the family shelter open, OEO is using federal discretionary funds to engage consultants for managerial and financial services and to provide the funds needed on an interim basis. Other agencies and organizations are being identified to provide services to these families and to the program. OEO's priority is to maintain the women and children's shelter (6 Bank Street) which includes units for 5 families, having served approximately 25 families in SFY 2012.

## Department of Vermont Health Access (DVHA)

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

#### Provider Tax Appeals Next Steps:

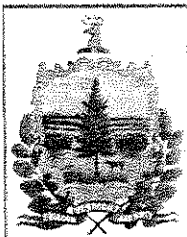
- DVHA has been informed by all hospitals that they will appeal their provider tax assessments and that they plan to file a case in superior court contesting their provider tax.

DVHA has 30 days from March 21<sup>st</sup> to submit the record of the reconsideration hearings to the appropriate courts for each hospital. Within that same time frame the hospitals will submit a statement of questions to be answered. Once the submission of the record and statement of questions is complete (approximately by April 21<sup>st</sup>) it is up to the individual courts to determine how they want to handle further proceedings and the timeline. Typically, an "on the record" review would result in the court setting timelines for the parties to prepare briefs in support of their positions and then hold a hearing on the briefs and issuing a decision.

#### Exchange Readiness:

- The following are contracts in process that are critical for the State reaching the October 1<sup>st</sup> Exchange readiness:
  - 1) Call center contract: DVHA is currently negotiating a contract amendment with Maximus. The hope is to have this contract complete next week.
  - 2) Premium processing contract: DVHA is currently negotiating a contract amendment with CGI that would cover premium billing services through subcontract with Benassance.
  - 3) Hosting: DVHA and DII are currently negotiating a contract amendment with CGI to resolve outstanding issues with hosting for the Exchange solution.
  - 4) Navigator services: A Request for Proposal (RFP) will be released very soon for Navigator services. Vendors will then need to be chosen and contracts negotiated.
  - 5) Access interface: A strategy for development of an interface between the Exchange and Access (AHS's current eligibility/enrollment system) must be chosen and then integrated into a contract amendment.

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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** March 29, 2013

---

**Secretary's Top Issues:**

The recently codified swine garbage feeding policy developed by the FSCP Division in consultation with USDA has garnered a tremendous amount of interest. As follow up to the development of that document, Drs. Haas and Mehlenbacher met with Jim Harrison, Retail Grocers Assn. President on March 28<sup>th</sup>. Jim suggested alternative language to the current policy that would help to ensure retail outlets understand their responsibility to not provide prohibited waste to swine producers. Through multiple conversations with retail owners and managers, swine producers, and Agency inspectors, it has become clear that as a general rule grocery stores are not doing a good job of keeping meat scraps and produce/fruit, the former of which constitutes prohibited waste, separated prior to offering to swine producers as feedstock. A communication and outreach plan for these retailers and others is currently being developed by Animal Health.

Avian Influenza testing performed at a poultry farm in Salisbury so cull laying flock could be sold at a NY live bird market. The testing enables Maple Meadow Farm to get a better price for their cull layers.

Consumer Protection has performed 15 Voluntary Maple Certification inspections for the Vermont Maple Sugarmakers Association. Size of operations range from 2,000 taps to 98,000 taps.

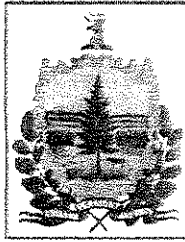
In re VT Gas Systems PSB#7970. Counsel prepared and filed a Motion to Intervene. Counsel also consulted with the lead attorney for ANR and scheduled time for the Agency and its co-holders VHCB and VLT to meet and discuss areas of mutual interest under Section 248 (b)(5)(the natural environment). The Agency co-holds farmland conservation easements on three farms where the pipeline is proposed to cross and other farms in Chittenden and Addison Counties will be impacted by the proposed pipeline. The conserved farms have clay plain forests, streams, and other special treatment areas on them in addition to farmland in active production.

The Scribner Farm in Middlesex, VT continues to struggle with the Corrective Action Letter they received which requires them to bring their manure pit up to meet the 180 days of storage requirement. This week we were told the farm requested mediation of the enforcement action. The Agency does not mediate enforcement actions, however we did meet with the mediation without the farm to explain the enforcement actions taken. The mediator has since worked with the farm to assess their options for compliance. It is possible that the farm may decide not to operate as a dairy and would likely "blame" the Agency for their loss. I understand the farm is dealing with a significant amount of debt that is further exacerbated by the fact that a significant investment will be needed to bring the manure storage up to the regulatory standard.

A quarantine was issued this week for two properties in Hardwick as a result of suspect Tuberculosis (TB) test results in 5 of 23 cattle tested for purposes of export to Turkey. In addition to the suspect results, the accredited veterinarians performing the testing did not do so properly by failing to apply official ID to unidentified animals and record official ID that existed in the Brucellosis and Tuberculosis test charts prior to performing the tests. The opportunity for the producer to export these cattle is now lost. This issue highlights the critical importance of ensuring that all livestock that undergo regulatory disease testing are officially identified before that testing is initiated. Failing to do so can result in a loss of market share and/or quarantine.



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**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** March 29, 2013

---

**Status of Governor's Priorities:**

**Jobs in Agriculture**

**Press**

Henry Marcres, Chief of Consumer Protection, was interviewed on Wednesday by Melody Bodette of VPR on maple issues.

Henry Marcres, Chief of Consumer Protection, was interviewed on Wednesday by Lisa Rathke of AP on maple issues.

**Legislative Issues**

Dr. Haas received today the version of H.50, the "pet merchant" bill as it passed out of the House Agriculture committee yesterday. The current version of the bill again includes the VAAFM animal health section in the list of officials who "may" inspect entities who fall under the local kennel permitting system. The Agency is on record stating that there are really no circumstances when this practice would come to fruition. The current version of the bill also retains the requirement for rescue organizations to obtain non-profit status and register with the Agency. Previous iterations of H.50 had deleted these requirements. The Agency is in favor of mandated registration requirements for rescue organizations.

Deputy Secretary Bothfeld met with Senate Ag to review the Agency's FY14 budget. Committee was generally supportive but requested further information on water quality grants received from federal government and what those funds can be used for as well as an ancient MOU with Fish and Wildlife regarding fish farming and testing requirements – old MOU states that Agriculture will pay for testing but Fish and Wildlife must provide and estimate prior to the budget building process in September. None of these tenants of the MOU have been met but there are still fish farmers in VT.

**Significant Events/Meetings:**

The Animal Health Section will be working with the fairs for the next few months (in addition to the last few months where we have been working with them on the drug testing protocol for horse pulls). We continue to have meetings with horse superintendents to relay the updated and clearly spelled out drug testing protocol. The fair packets will be going out this week. These packet contain the registration forms for horse pulling, animal health and public health information for exhibitors and fairs superintendents, poultry safe handling brochures, hand washing posters, and swine influenza information. AH collaborated with the Dept of Health on the animal disease brochures that are included in the fair packets. The fairs can post the hand washing signs and handout the brochures to fair goers and exhibitors.

The Animal Health Section published volume 2 of its newsletter to veterinarians. This issue contained information on the Animal Disease Traceability rule, equine disease outbreaks ongoing across the US, information on the prohibition of garbage (organic waste) feeding to swine when the waste contains prohibited materials, and an update on the tissue residue enforcement program.

### **Evolving Issues:**

The recently codified swine garbage feeding policy developed by the FSCP Division in consultation with USDA has garnered a tremendous amount of interest. As follow up to the development of that document, Drs. Haas and Mehlenbacher met with Jim Harrison, Retail Grocers Assn. President on March 28<sup>th</sup>. Jim suggested alternative language to the current policy that would help to ensure retail outlets understand their responsibility to not provide prohibited waste to swine producers. Through multiple conversations with retail owners and managers, swine producers, and Agency inspectors, it has become clear that as a general rule grocery stores are not doing a good job of keeping meat scraps and produce/fruit, the former of which constitutes prohibited waste, separated prior to offering to swine producers as feedstock. A communication and outreach plan for these retailers and others is currently being developed by Animal Health.

A quarantine was issued this week for two properties in Hardwick as a result of suspect Tuberculosis (TB) test results in 5 of 23 cattle tested for purposes of export to Turkey. In addition to the suspect results, the accredited veterinarians performing the testing did not do so properly by failing to apply official ID to unidentified animals and record official ID that existed in the Brucellosis and Tuberculosis test charts prior to performing the tests. The opportunity for the producer to export these cattle is now lost. This issue highlights the critical importance of ensuring that all livestock that undergo regulatory disease testing are officially identified before that testing is initiated. Failing to do so can result in a loss of market share and/or quarantine.

### **Summary of Key Agency Department Activity:**

#### **Administration**

In re Claire Solar Partners, LLC PSB #8003. Counsel reviewed the petition and participated in a pre-hearing scheduling conference at the Public Service Board. The petition proposes to construct a 2.0 MW solar electric generating facility on 21+ acres of a 33 acre parcel along Route 116 in S. Burlington. The field has been in agricultural use for many years and contains primary agricultural soils. The petition indicates the area under and around the array will not be mowed during the 25 year expected life but instead allowed to regenerate naturally. This conflicts with the Agency's current position that open agricultural fields used for solar generation must be maintained as open fields so that full agricultural potential exists upon decommissioning.

In re Goldberg/Highland Crossing 97-7-12 Vtec. De novo A250 appeal. Counsel and co-counsel spent additional time this week orchestrating pre-trial deposition scheduling and preparation, including securing a site, getting a court reporter lined up, negotiating times for witnesses with opposing counsel, and issuing Notices of Deposition for two full days next week. Counsel and co-counsel also contacted each of its witnesses, polled and collated the Agency's witness unavailable dates for trial, and filed that information with the Court pursuant to its January 16, pre-trial Order. All pre-trial discovery must be completed by May 1. Pre-trial motions are due in mid-May, and a three-day trial is expected in July, August, or September.

In re: NSSEP PSB#7833. Counsel spent time reviewing pre-filed testimony of the petitioner's and ANR's witnesses related to forest health in preparation for the three-days of hearing that are scheduled for next week in this case. Although the Agency has stipulated with petitioner regarding invasive species, the hearing is far from over and cross-examination next week could raise issues of interest and concern for the Agency.

In re VT Gas Systems PSB#7970. Counsel prepared and filed a Motion to Intervene. Counsel also consulted with the lead attorney for ANR and scheduled time for the Agency and its co-holders VHCB and VLT to meet and discuss areas of mutual interest under Section 248 (b)(5)(the natural environment). The Agency co-holds farmland conservation easements on three farms where the pipeline is proposed to cross and other farms in

Chittenden and Addison Counties will be impacted by the proposed pipeline. The conserved farms have clay plain forests, streams, and other special treatment areas on them in addition to farmland in active production.

The Sustainable Agriculture Council met and discussed research and regulatory needs of small farmers in Vermont. This council exists in statute with direction to incent and complete research to improve sustainability of farms in Vermont.

#### **Agricultural Development**

In re Salvas 170-12-12 Vtec. Counsel participated in three way negotiating, drafting, and filing with the Court a stipulated schedule for this Act 250 de novo appeal. The Natural Resources Board is also involved in this litigation.

Agency staff met with Incident Command Structure consultant to continue forming the Agency's internal ICS structure and planning for table top exercise. Many employees need to take ICS 200 level training.

#### **Working Lands Enterprise Board**

The Board met on Thursday, 03/28/12 and are close to making final decisions on grant awards for the Enterprise Investment Area (one of three investment areas, 190 applications, \$2.1 million in requests). The Board will convene a conference call within the next 1-2 weeks to make final decisions.

- The Board expects to fund approximately \$200,000 - \$250,000 of enterprise applications. The Board also anticipates that approximately 80% of the applications funded will be from the agriculture sector, and 20% from the Forestry and Forest Products sector. This is proportional to the number of agriculture and forestry related applications submitted (155 from agriculture, 35 from forestry).
- The Board is planning an announcement of funded enterprises on Wednesday, May 1, 12:00 p.m. (location TBD---central/Montpelier) for the Governor, legislators, and press.
- The Board will be reviewing and making decisions in April and May for the Service Provider grant applications as well as the Capital & Infrastructure Investment applications.

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

Avian Influenza testing performed at a poultry farm in Salisbury so cull laying flock could be sold at a NY live bird market. The testing enables Maple Meadow Farm to get a better price for their cull layers.

The Section received positive feedback from our USDA Veterinary Services field veterinary regarding the outreach we have done so far with our livestock dealers, markets, and comingling stations on the new federal Animal Disease Traceability Rule. Dr. Mehlenbacher spoke with a Vermont veterinarian who stated that a fair in Syracuse NY is requiring a specific type of ear tag for cattle, which seems to contradict the ADT rule. The veterinarian will contact NY Ag Dept about this and Dr. Mehlenbacher will bring it up on the next New England NY USDA ADT partner call. Per UASDA, the first few months after the publication of the final rule will consist of education and outreach, vs enforcement.

Consumer Protection has performed 15 Voluntary Maple Certification inspections for the Vermont Maple Sugarmakers Association. Size of operations range from 2,000 taps to 98,000 taps.

#### **Meat Inspection**

#### **Agricultural Resource Management**

DEC and VAAFM met this week to begin drafting the Reasonable Assurances document which will be a part of the Lake Champlain TMDL. The reasonable assurances will be the basis for justifying how Vermont believes

our programs and policies are going to lead to meeting the phosphorus budget for the lake. It allows the point sources to rely more on the non-point sources if there are sufficient reasonable assurances that the non-point sources will actually be able to meet the goals. We plan to meet with EPA on April 17th, which is when the first draft is expected to be shared with them.

The St. Pierre Farm in Berkshire, VT held a public informational meeting this week in regards to their LFO permit request to build three barn additions onto existing barns at their main farm production facility. There were roughly 15 people in attendance and all were in favor of the proposed project. The comment period for this will close on Monday April 1st. If there are no comments that suggest otherwise, the Agency will issue a construction permit for the LFO facility.

The Scribner Farm in Middlesex, VT continues to struggle with the Corrective Action Letter they received which requires them to bring their manure pit up to meet the 180 days of storage requirement. This week we were told the farm requested mediation of the enforcement action. The Agency does not mediate enforcement actions, however we did meet with the mediation without the farm to explain the enforcement actions taken. The mediator has since worked with the farm to assess their options for compliance. It is possible that the farm may decide not to operate as a dairy and would likely "blame" the Agency for their loss. I understand the farm is dealing with a significant amount of debt that is further exacerbated by the fact that a significant investment will be needed to bring the manure storage up to the regulatory standard.

The Agricultural Working Group met again this week. We discussed compliance and enforcement of agricultural water quality rules, development of a certification program for all farms, and possible revisions to the Accepted Agricultural Practices. The number one thing coming out of this group of farmers is that the Agency needs more resources to implement the current regulations as just that compliance can go a long way to meeting water quality goals and the image of the agricultural community on water quality issues. Farmers are also ready to do more but they get discouraged if there Agency will not have additional resources to implement the programs or oversight needed to do more. This issue of the lack of resources is not being prompted by the Agency but it is an obvious gap in moving forward by all involved.

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

**Hunger Free Vermont, UVM, Dr. Poppenidieck** - Spoke and participated in round table discussion about hunger issues with a specific proposal for universal meal program for free breakfast and lunch. Emphasized role of VT supporting Farm to School and other programs to advance consumer connections to local foods that helps provide good nutrition and access to food insecure Vermonters.

**IBM Trip, Governor's office and Yorktown, NY** - participated in cabinet level discussion on pending trip to IBM to learn about their new technologies and partnership with Vermont. Traveling to NY at time of this writing.

**Vermont Gas Pipeline, Governor's Office** - participated in Cabinet level discussion with of VT Gas pipeline relative to its impacts and concerns given expansion south.

**DEC Water Meeting, VAAFM office** - monthly meeting with DEC partners on water quality issues and collaborations. Relations remain good.

**Food Safety Modernization Act, NEASDA Phone Conference** - phone conference with northeast ag Secretaries to organize meeting with FDA on FSMA on May 3rd in Hartford, Conn. Vermont continues to assemble comments and lead the conversation with the other states.

**Budget Presentation, Senate Appropriations, State House** - presented budget to Senate Approps. Committee was largely interested in the source of the budget changes and the new positions.

**Act 250 Funding and Prime Ag Soils** - discussed funding shortfall for VAAFM work on Act 250 cases relating to Prime Ag soils. Funding comes from Prime Ag soils mitigation charges which are assigned to VHCB and transferred to VAAFM.

**Working Landscape Enterprise Board Meeting** - board met to select grant recipients for Enterprise funding awards. No announcements is pending yet.

**VAAFM Staff Meeting, Pavilion Auditorium** - Agency met to get instructions on ERP and review and discuss progress on issues. Potluck lunch in Agency.

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Deborah L. Markowitz  
Agency Secretary

Justin G. Johnson  
Deputy Secretary

**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To:** Governor Peter Shumlin  
**From:** Deborah Markowitz, Secretary, Agency of Natural Resources  
**Date:** March 29, 2013  
**Subject:** ANR Weekly Report

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**Governor Level Issues:**

**Tar Sands Oil Pipeline and Act 250:** The Senate passed a bill expressly extending Act 250 jurisdiction over a change of use to the Portland to Montreal pipeline including reversal for the purpose of transporting tar sands oil from Northwestern Canada. We will be asking Chairman Deen to delay consideration of this bill until we have a resolution of the request for a jurisdictional opinion from the Act 250 District 7 Commission.

**Whistle Pig Distillery:** DEC staff attended an Act 250 hearing on the proposed Whistle Pig Distillery in Shoreham. They presented information regarding the air pollution impacts and also about water and wastewater issues. The storage of whiskey in oak barrels can result in significant volatile organic compound emissions, mainly ethanol. One of the main concerns expressed by the opponents is the potential for growth of a mold that has been associated with ethanol emissions from whiskey storage facilities. Our regulations do not directly address secondary mold growth. This facility will also require sufficient wastewater disposal and water supply systems to support this operation and so will be subject to our rules governing the necessary size and type of systems. The company has not, however, provided us with sufficient information to make a determination. We are working with ANR and the Act 250 District Commission to make sure that the company and its applicant understand our requirements.

**Moretown Landfill:** First, the landfill has decided to no longer accept bags of garbage dropped off by individuals. They are still taking trash from the haulers with whom they have contracts. They are doing this to better control the amount of space left in the facility. They have also been reaching out to folks in the Valley, telling them to contact us to put pressure on us. Not sure what they are expecting that to accomplish though, since the final decision has already been issued. If you get inquiries, feel free to send them to me.

The Air Division will continue to review Moretown Landfill's monthly gas well monitoring information. Recent results show levels that are of concern due in part to the corrective action work they are performing. We are watching these levels closely to determine if more significant problems are occurring but it is expected that the levels will be gradually improving as the corrective actions are implemented (dewatering wells, adding new wells, etc.).

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## **EVERYTHING ELSE:**

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

**Shorelands Legislation:** The shorelands bill passed out of the House Fish, Wildlife and Water Resources Committee and will now go to the full House for consideration. This was an important first step for this bill, which we continue to support. We are hoping to get some changes to the bill in the Senate. We are engaged in discussions with House and Senate leadership about procedure going forward.

**Idling Reduction:** David appeared before the House and Senate Transportation Committees to present the Department's proposal for an idling reduction regulation. This proposed rule would limit idling of heavy trucks and buses, as well as passenger vehicles, unless necessary for some use such as refrigeration, running machinery, and heating or cooling. The limit on passenger vehicles would only apply while on public roads. The committee is considering whether it would prefer for the Department to proceed by regulation under existing authority, or to legislate on this matter. Once I have that feedback, I will brief the 5<sup>th</sup> floor and make a recommendation regarding how to proceed.

**Joint Resolution:** Commissioner Snyder and ANR Lands Administration Director Mike Fraysier met last week and again this week with Senate Institutions Committee on the Department's proposed Joint Resolution. This year's Joint Resolution proposal contains two proposed land transactions: (1) Land exchange with Markowski Excavation in Plymouth, and (2) Transfer of a portion of Grand Isle State Park to the Town of Grand Isle for use as a local recreation park. The Committee had a number of questions regarding the Markowski exchange proposal, but indicated that they will likely vote the Joint Resolution out of committee by the end of this week. We expect to take the Joint Resolution up with House Corrections and Institutions Committee within the next couple of weeks.

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

**Three New Vermont State Record Fish Caught in 2012:** Vermont's lakes and streams continue to produce amazing numbers of big fish year after year. In 2012, three new state records were established for burbot, channel catfish and pumpkinseed sunfish.

- In February, Swanton angler Brian LaBelle started the year off by catching a new state record through the ice, an 8.81-pound burbot from Lake Champlain.

- In June, Robert Scott of Poultney was fishing off his dock on Lake St. Catherine when he hooked into what proved to be the new state record channel catfish measuring 41-inches long and weighing a whopping 35 pounds, 15 ounces.
- In July, fourteen-year-old Logan Bathalon of Bomoseen was fishing from the Float Bridge when he landed a pumpkinseed sunfish measuring 10.5-inches and weighing 1.25-pounds, a full quarter pound more than the previous record.

There were also press releases about the impact of climate change on our bear population and on research relating to the little brown bats and white nose syndrome.

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

**CONEG Environmental Commissioners' Meeting:** Commissioner Mears chaired a regular meeting of the Northeastern states' environmental commissioners. The most significant topic related to the budget impacts on our state programs of the federal cuts to EPA. We met with EPA Regional Administrator Curt Spalding and pressed him to provide us with a quick and detailed response regarding EPA's plans so that our states can determine the impacts on our budgets. Topics also included a discussion of interstate air pollution reduction strategies, regional solid waste planning, electric vehicles, and the imminent launch of a Northeast Congressional caucus focused on environmental issues. We also discussed how our group will interface with CONEG and the regional interstate environmental groups.

**Business Transformation Initiative:** DEC's planning team met this week with the Vermont Manufacturing Extension Center who presented their Lean capabilities and experience. VMEC operates statewide as a not-for-profit center providing confidential consulting, coaching, hands-on assistance and training to accelerate profitable growth through innovation, increased productivity, reduced costs and creating and retaining good paying jobs. They offer a variety of Lean based training and support services. Even though VMEC's client base is primarily businesses, the tools used in Lean events and culture shifts are the same for government. While it is unclear at this time whether and how VMEC will fit into DEC's Lean effort, they certainly provide many important opportunities.

**WATA Award Ceremony:** The US Forest Service will present a *Wings Across the Americas* conservation award to Audubon Vermont and the Department of Forests, Parks and Recreation in recognition of their *Foresters for the Birds* project. Commissioner Michael Snyder will attend the ceremony and accept the award on behalf of the department. The event is part of the 78<sup>th</sup> North American Wildlife and Natural Resources Conference being held this week in Arlington, Virginia.

**Function in the Junction:** FPR held the annual Forest Health Information Meeting in White River Junction on March 26 to a packed house at the Tupelo Music Hall. Foresters from Vermont and New Hampshire came to the event to get updates on the latest news in forest and tree health. Among the highlights this year:



- Emerald Ash borer, one of the most damaging pests in New England, is on Vermont's doorstep and has resulted in quarantines in adjoining states. Firewood is the main transport agent.
- Wild bees which pollinate many of our important hardwood trees (including maples) are experiencing significant declines.
- NH is seeing a rise in an old pest, White Pine Blister rust, and is rushing to try to eradicate a new one, Red Pine Scale, before it jumps to Vermont.
- Research shows that sugarbush monocultures result in more pest problems, which are eased by retaining other tree species in tapped stands.
- Volunteers and resources, such as the Vermont invasives program, are getting more eyes on the ground to help monitor for health issues in local areas, while online tools are improving to help with remote monitoring for disturbance.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**Woodstock Inn:** The Woodstock Inn has proposed to utilize an existing small backup diesel generator on-site to reduce their peak electric usage during high demand days in the summer. While we are not proponents of the use of diesel generators on these hot, hazy summer days when they could exacerbate already bad air quality, nor would their guests necessarily appreciate the noise or fumes, the engine is small enough and new enough that no permit or other requirements apply.

**Highgate Springs Point of Entry (POE):** Last August, Drinking Water & Groundwater Protection Division staff met with representatives of Highgate Springs POE (U.S. Customs border station) to discuss options for resolving the unacceptable water quality of the facility's well. It was agreed they would drill a new well in an effort to get better quality water. Unfortunately, we have just learned the new well has poorer water quality than the original well (chloride and radionuclides) and so the facility has asked for another meeting with the Division to discuss how to proceed.

**Village of Waterbury Wastewater Phosphorus Project:** The project is moving forward. Federal National Environmental Policy Act (NEPA) environmental review is required for this project because it will receive federal funding, in the form of a \$0.8M EPA state and tribal assistance grant. EPA Region 1 has signed an amended Finding of No Significant Impact for the current project. Upon completion of a 30-day public comment period on this finding, the Facilities Engineering Division expects that we will be able to formally approve the facilities planning documents for this project. On a related note, Village voters approved a \$0.355M bond article for the estimated local share of the total project cost estimated at \$7.045M. In addition, based on the current estimated cost, a substantial additional state phosphorus grant appropriation of roughly \$3.44 million is needed from the General Assembly to complete the funding package for this project. The current proposed capital bill budget includes \$3.2M for the project.

**Proctor Hydroelectric Station:** Green Mountain Power filed a Section 401 amendment application for changes to the headworks at the Proctor Hydroelectric Station. GMP wants to begin the work this summer, so it is amending its existing license rather than waiting for the Otter Creek Project relicensing process to be completed. We have informed GMP that it will be necessary for them to withdraw the 401 application associated with the new FERC license to give us additional time to complete the process. The Program anticipates having a draft certification for the new license on public notice this summer.

**Roxbury Fish Hatchery:** DEC staff met with DFW, VEM, and FEMA regarding the request for FEMA reimbursement for the Roxbury Hatchery reconstruction. State and federal water quality requirements are a critical piece of the applicable standards for this project. We will continue discussions with DFW to determine the best course of action to respond to FEMA's requests.

### **Fish and Wildlife**

**Scorpion sting in Burlington:** An 80 year old woman was stung by a scorpion. It is believed the scorpion got into the woman's clothing on an airplane flight from New York City. Various poison centers in the Northeast along with phone calls to Arizona, Central America and Africa created much confusion over the scorpion species identity. Warden Chad Barrett was able properly identify the species which allowed the treating physician to administer the proper treatment. Fortunately, the species wasn't a terribly dangerous one and the woman is now recovering nicely at home.

**Cable Snares in Bennington:** Warden Travis Buttle reported receiving a complaint from coyote hunters who had killed a coyote with the remains of an illegal cable snare attached to its leg. A further search of the area uncovered several other set snares, one of which had a porcupine caught in it. The investigation continues.

**Federation of Sportsman Annual Banquet:** Warden Jeff Whipple attended the Federation's annual banquet making a presentation to approximately 250 attendees regarding Operation Game Thief. He explained to the audience how the program works, and how our department partners with the federation to administer the program.

**Buffalo Brook Watershed Meeting:** Staff participated along with other district representatives (RMP, FPR) in a meeting with representatives of the Town of Plymouth and Lake Rescue Association to identify, prioritize and plan for improved forest management practices and possible stream restoration in the Buffalo Brook watershed. Buffalo Brook is one of several streams feeding the Plymouth Lakes (Amherst, Echo and Rescue) that received significant damage during Tropical Storm Irene. Previously, in the summer of 2006, the breaching of the dam impounding Reading Pond in the upper Buffalo Brook watershed following heavy rains resulted in significant channel erosion and bed degradation. Both flood events significantly raised turbidity levels in the chain of lakes. Camp Plymouth State Park at the mouth of Buffalo

Brook on Echo Lake sustained substantial damages related to sediment during Tropical Storm Irene. This project is being partially funded by a watershed grant.

**Fish Contest on Facebook:** Staff worked on contest rules and questions for a new fishing promotion on Facebook. From March 20 through April 2, four fish and fishing related questions will be posted on the Department's Facebook page. The questions will get progressively more difficult to answer. Contestants who email the correct answers to all four questions to the Department will be entered into a drawing for a new spinning rod & reel combo. The objective of the promotional contest and giveaway is to give anglers an incentive to spend some time researching and learning about fish, so they can correctly answer the questions. It is also aimed at driving new customers to the Department's Facebook page. The first question was posted on March 20 and the second one was posted on March 25. The third will be March 29 and the final question will be posted on April 2. The drawing from the pool of contestants who provided four correct answers will take place on April 8.

**Fish Regulation Changes:** Staff attended the Fish and Wildlife Board Meeting in Waterbury to present proposed regulations changes on expansion of winter trout catch and release areas, expansion of bass catch and release seasons and an additional river added to the trophy trout stocking.

### **Forest, Parks and Recreation**

**Land Transactions:** Pending resolution of some title questions, we hope to close on the Stone donation at Rupert State Forest (towns of Rupert and Dorset) by the end of this month. Work continues on other ongoing ANR land transactions, including Bolton Nordic parcel (Bolton), Lafreniere sale parcel (Bolton), Alburgh Dunes State Park land exchange (Alburgh), transfer of Woodchuck Mountain property to the Town of Newbury, and other land transaction projects.

**Operating Season Preparations:** The Parks Division is focusing heavily on the upcoming operating season. Staff hiring is being completed, details of training are being finalized and materials, supplies and equipment are being purchased and organized. Serious effort is being made to assure the roll-out of the new time reporting and expense reimbursement process is successful for the temporary workforce. As final decisions about the process are being made, strategies are being discussed for effective training.

**Arbor Day Art Contest:** The Arbor Day "Growing Works of Art" contest has wrapped up. Winners were chosen for each grade from first through seventh. We received 217 entries this year, with the majority of the entries from fourth and fifth grade classrooms. Winning entries were received from all over the state: Brandon, Johnson, Hyde Park, West Dover, Castleton, Braintree and Ripton. Contest winners will be recognized on Arbor Day in front of their peers at the state Arbor Day celebration on Friday, May 3 at the Statehouse.

**Envirothon Training:** Planning is underway for the Envirothon training day, which will take place on April 4 this year. There will be a full day of workshops for teams participating in the

Envirothon competition, with sessions on Soil, Aquatics, Wildlife, Forestry and this year's current issue theme of grassland management. EC staff will be conducting 5 workshops for 80 high school students from 10 high schools (not all high schools participating in the Envirothon competition participate in the training day). EC staff are planning the workshops which will include tree physiology, tree identification and forest measurements.

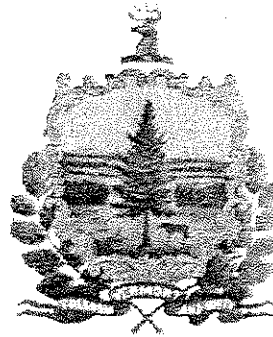
**BOF Weekend:** Registration has opened, and there are some interesting new workshops being planned for this year's Becoming an Outdoor Family (BOF) weekend. BOF is a fun weekend of camping and outdoor clinics for families, being held May 31-June 2 in Groton State Forest.

### **Business Office**

The **VTHER/ERP** work continues to ramp up with Business Offices needing to devote increasing amounts of time to prepare for the time entry, expense reimbursement, recruitment and personnel action portions of the new systems. Overall timelines have been published and we are adding internal deadlines that we will communicate to staff as we near the "dark" period before "go-live".

**DFW Audit:** We believe that all the final requests relating to the Financial Audit of the Agency and the A-133 Audit of Fish and Wildlife are completed. Unfortunately, due to a few findings, DFW will need to be re-audited next year. The department will be billed for re-audit costs, typically around \$50,000.

# Memo



**TO:** Governor Peter Shumlin  
**FROM:** Keith W. Flynn, Commissioner  
**DATE:** March 29, 2013  
**SUBJECT:** Governor's Report

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Met with HGO Chair Donna Sweeny and three other House Rep's to discuss operational and budget pressures for VSP. Discussion included past studies that have been done regarding law enforcement in the State. The many State Agency performing similar work, and how local and county law enforcement could be better utilized. Particularly the idea that these law enforcement agencies are providing similar or the same programs throughout the State. We talked about the contracts VSP has with local communities and the amount of overtime that is used to perform the duties. All work performed during a contract is paid at overtime rate. The discussion included the possibility of a mission change for VSP. Rep. Sweeny is going to talk with HJC Chair to discuss a possible bill to study this issue, or possibly a bill to reorganize the department. You may want to meet to discuss this more.

The HAC recommended funding 1 less Recovery and Mitigation Section position than was requested in the DEMHS budget. By a straw vote Thursday all but 2 members of HGO supported the recommended structure of the DEMHS Recovery and Mitigation Section as proposed.


FEMA announced the JFO in Essex has been sold and will be vacated by April 21<sup>st</sup>. New space is being sought.

Implementation of the first approved home buyouts under HMGP occurred this week with two in Bethel and one in Bolton.

Over the past week two non-emergency notifications have been received from Vermont Yankee. The first was received on March 18<sup>th</sup> regarding the over-pressurization of the reactor building resulting in the release of a blow-out panel. The second was received on March 24 regarding a flood seal that had been misplaced resulting in water getting into the switch-gear rooms in the plant. These incidents have been in the press once the information was released about them.

FEMA Headquarters issued a decision on second appeal of Town of Townshend's PW1803. While the decision does not agree that Vermont's Stream Alteration statute and Permit constitutes an eligible standard it does find that the box culvert is eligible under 406 Hazard Mitigation. This is \$100K of good news for Townshend, Vermont, and should serve as a precedent which will benefit many other Vermont towns with the costs of their culvert replacements.

Testified with staff from VSP on marijuana decriminalization in HJC this week, this is the first testimony we've provided.



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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Jeb Spaulding  
**DATE:** March 29, 2013  
**SUBJECT:** Confidential Report to the Governor

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**BUILDINGS AND GENERAL RESOURCES**

**Status of Governor's Priorities:**

- Governor's priorities as expressed in capital bill pretty much intact. Of the \$70 million request for the Irene recovery projects \$69 million remains intact. Committee hopes to vote bill out of committee today or tomorrow.

**Legislative Issues/Contacts:**

- The warranty deed authorization bill for Building 617 is gaining support and momentum in HCIC, while S.144, the 20 Houghton Street sale authorization bill, is running into some tough scrutiny before the same panel.

**Significant Events/Meetings:**

- Learned from John Haverstock, Pittsford town manager, that the town select board would settle for a lump sum payment of \$50,000 and surrender of sewage capacity.

## FINANCE AND MANAGEMENT

### Issues Update:

#### ERP Project:

Go-Live is approximately 6 weeks away. There is still a great deal to be accomplished, especially in the Time & Labor and Testing areas. The Directors' and Sponsors' meetings to be held this afternoon, Thursday March 28<sup>th</sup>, will focus on the remaining schedule and tasks.

FY 2014 Governor's Recommended Budget: The House Appropriations Committee (HAC) completed its FY 2014 operating budget markup to present on the House floor, including a revenue package developed by House Ways & Means Committee. Secretary Spaulding and Commissioner Reardon have been in discussions with the House fiscal leadership, expressing their concerns about the overall package. The Department of Finance and Management is preparing a detailed, section-by-section analysis of the HAC plan.

Federal Sequestration: The Department of Finance and Management continues to work with the Joint Fiscal Office to develop a detailed consensus estimate for the impact to Vermont from the federal sequester. The likely total impact to the State – both directly for State government and indirectly for municipalities, partners and other entities – is estimated to be approximately \$15 million. The consensus estimate will identify specific policy areas affected and aggregated by the level of direct versus indirect impact on State government operations. The estimate will be based on information from our federal contacts, informed by our survey of the field departments.

USPIRG Rating: USPIRG issued their 4<sup>th</sup> annual "Follow the Money" transparency grading on Wednesday. Vermont's news SPOTLIGHT.vermont.gov transparency website helped Vermont go from a grade of D- in 2012 to a C+ in 2013, one of the most improved State results. The one issue which prevents VT from rising into the "Bs" with USPIRG is the lack of searchable databases for vendor payments, tax expenditures, and contracts built into the website.

## HEALTH CARE REFORM

### Status of Governor's Priorities:

#### Legislative initiatives:

- The premium assistance and cost-sharing assistance was included in the House Appropriations bill, as was the 3% Medicaid cost-shift appropriation.
- The employer assessment was repealed in FY15, which will increase the amount of revenue that is needed to be raised in FY15, which is when we would need to ensure the Exchange is self-sustaining.
- Ways and Means has not yet made a decision on an Exchange financing source.

ERISA: Robin Lunge spoke with Assistant Secretary Borzi from U.S. DOL and her team about our concerns relating to ERISA and single payer financing. They provided us with preliminary information about ways to structure an exemption to maximize the likelihood that we would successfully win an ERISA challenge, but acknowledged that this was tricky. They are willing to continue to work with us on compliant structures and we are providing them with background information on Green Mountain



Care and Act 48. They would also like to see any federal legislation that we are proposing and will give us feedback, although they were not optimistic that this route would be successful.

Robin has calls with 2 states today and will update you next week.

Exchange: We have briefed the Governor on the current status of the Exchange project. Robin has scheduled a more in depth follow up briefing for the Chief of Staff & Secretary of Administration for next week.

Robin is working with DFR to analyze the legal status of the Vermont Automobiles Dealers Association in terms of whether they are able to operate outside of the exchange. VADA is a self-insured multiple employer arrangement which does not have grandfathered plans. It appears this type of arrangement is the equivalent to an association and should not continue after the plan expires in 2014 (their plan runs Nov 1 2013 to Oct 31 2014). HHS indicated that they would be issuing guidance on MEWAs, which we have not received. Robin has reached out to HHS to determine when this might be available.

Rate filings: The carriers filed their rates on March 25<sup>th</sup>. The rates will be public Monday April 1<sup>st</sup>. We are getting an analysis and comparison to today's rates this afternoon and will discuss how to proceed with the press Monday.

**Press/Media Notes:**

3/27 - Robin spoke with Alex Wayne from Bloomberg News about the proposed rates coming out Monday. He may come up if we do a press conference Monday.

**Significant Events/Meetings:**

VITL Board Meeting: Robin attended the VITL board meeting. They are instituting a technology committee to talk about what additional partners they may want to look for in moving to a more self-sustaining model. They indicated they are having some trouble with DVHA, so she will follow up with Mark Larson. The state needs expedite our project prioritization process, so we can give better direction to VITL on our priorities. Robin also raised the issue of ensuring that future EMR purchases are influenced so that we steer folks away from the EMRs we know are not easy to make interoperable.

**HUMAN RESOURCES**

**Legislative Issues/Contacts:**

Commissioner Duffy is working with representatives from the VSEA and the States' Attorneys office to help them draft a bill that will permit collective bargaining for Deputy State's Attorneys without classifying them as state employees. The key remaining issue is whether by virtue of this bill deputy states' attorneys could lose certain benefits. The parties are continuing discussion to resolve the issue.

Commissioner Duffy met with representatives of the SEIU and its lobbyists to discuss changes they would like made to S.59, the home health care unionization bill. The parties were able to agree to many changes, but some requested changes are still being discussed.

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

DHR staff and counsel participated in mediation with the Vermont State Troopers' Association. At this point, the parties have officially completed mediation, without an agreement, although discussions with Mike O'Neil continue. DHR is continuing the process and has requested VTA to agree to a fact finder, so that we can begin the fact finding process as soon as possible, should it be necessary.

### **Evolving Issues:**

DHR is working with the Secretary's Office and Finance and Management to enter into a contract with Mike Pulling to study the current viability of the Veterans' Home and potential alternate governance structures that would enhance its viability.

## **INFORMATION AND INNOVATION**

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

Healthcare: Progress continues, but the HBE and IE projects remain at risk and the progress has not yet accelerated to the pace necessary. One small success is that one of the critical limited service positions has been accepted now that the limited service duration has been extended. While we still have resource issues, each additional resource we get puts us one step closer to the team we need.

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

- Richard met with legislative IT committee led by Rep. Sam Young to begin discussions of all things IT. The committee of 5 had a series of questions which we got about 1/3<sup>rd</sup> of the way through with questions ranging from why have projects failed to oversight for healthcare. The discussion was very favorably received, but many questions remain. The group plans to invite me back to continue discussions when the committee meets next.

### **Evolving Issues:**

#### **Web:**

- Work Continues on finalizing the Web Portal Project Contract with VIC. Although we are getting much closer to a contract that is acceptable to both VIC and the State, I do not expect resolution before we need to extend the VIC contract one more time. However, my confidence has gone up that we can reach consensus, even if it is likely to take 3-4 more weeks.

## **LIBRARIES**

Nothing to report.

## TAXES

### Legislation:

Revenue Proposals: Not much that can be said. The caucuses seemed to be pretty disciplined in the sense that we were not getting background questions from members. Rep. Fisher and Steve Klein both volunteered to the Commissioner that they were generally concerned about how health care funding was unfolding in the House, but no details.

TIF: Senate Finance is hearing from the Auditor and the Secretary next week (the Commissioner deferred a witness slot, but said she would be available for questions). The Commissioner also ran into the Auditor who reiterated his defense of his auditor's quality work, and also stated that he thinks future audits by the his office are necessary (he thinks with a baseline they will be less work, that they might contract out).

Solar Tax: Last year a nameplate tax on solar facilities was passed, revenue to go to the Education Fund. There is an exemption for small facilities (for both municipal and education taxes), however since this tax exists in its own chapter, the other exemptions that apply to the property tax are not available (eg. a town which owns a solar facility would be subject to the education tax). DPS and the Department had estimated that there would be about 100 taxpayers; it has taken some time to put together a list, but it appears the final number will be on the order of 400 (many of whom will owe a very small amount that we likely would not collect if not paid). The tax is due on April 15, however this first year we will be billing, and we will give an extended date to pay under the Commissioner's general abatement authority. We might anticipate some fallout from the way this tax operates, which we could address with a possible amendment next year. We considered seeking amendment this year, however, at this late date, it appears it would be less problematic once we have the billing cycle completed.

Estate Tax, Local Option Tax: To be discussed at GPS meeting.

### Operations:

Town of Sutton: The town of Sutton is getting a \$190,000 break on education taxes due to a programming glitch that caused an error in the equalization of their grand list by PVR.

Data Warehouse/Integrated Tax System: We are in the final weeks of transitioning to full operation of our Data Warehouse – the final three onsite vendor employees will be leaving in the next few weeks (although the benefits based payments will continue for 3 more years).

Tax Season: As of Monday, with three full weeks left until the filing deadline, we were still running slightly behind in processing (7,300 fewer income returns), mainly due to the IRS late start.

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**CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN**

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From: Susan Spaulding  
Date: March 29, 2013  
RE: Boards and Commissions Update

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**Public Service Board:** We've had 121 requests for applications and we currently have 25 completed applications on file. The application deadline is Monday, April 1<sup>st</sup> (postmarked).

Completed applications:

Daniel Alcorn, Rutland  
Peter Anthony, Barre  
Ted Auch, Cleveland, OH  
Edward Champine, Newport Town  
Timothy Davis, North Ferrisburgh  
Rebecca Ellis, Waterbury  
John Fletcher, Richmond  
Tom Franks, Brattleboro  
Chris Granda, Richmond  
Ken Hoeppner, Jeffersonville  
James Immelcus, Guilford  
Bowdie Kelton, White River Junction  
Sandra Levine, Montpelier  
Lori Lewis, Burlington  
Mark Loevy-Reyes, Brattleboro  
Mark McKee, Vershire  
Mary O'Neil, St. Albans  
Richard Poeton, Bennington  
Carl Rosenquist, St. Albans  
Terrence Ryan, Huntington  
Alec Slater, South Hero  
Jeffrey Taylor, Clarendon  
Michael Tousley, Kensington, MD  
Bethany Whitaker, Burlington  
Charles, Williame III, Rutland

**Supervisor of Somerset:** Mr. Winfield Gates from Somerset called this office to get Jim Olivier's telephone number. I was waiting for Jim to have a chance to get up to speed wearing his SUPERVISOR of Somerset hat and asked Bill Johnson, Dept of Taxes, to please call Mr. Gates. Bill let me know that Mr. Gates managed to get Jim's phone number on his own and has already called him. The issue is that the residents of Somerset "right wing conservatives" think that a resident of Somerset should be the Supervisor and they disagree with how their tax money is being spent. Larry Cassidy once told me that as Supervisor he would get unpleasant calls at all hours of the day. I don't know if Mr. Gates was a frequent caller but it wouldn't surprise me if he is going to try to make Jim Olivier's job as Supervisor difficult.

**Appointments made week of March 25<sup>th</sup>, 2013**

**Justice of the Peace, Town of Benson:**

APPOINTED: Erick Shaw, Benson

**Selective Service Board:**

Nominee to the President: Russell Petelle, Derby

Nominee to the President: Charles Baldwin, Barre

**Texas Low-Level Radioactive Waste Disposal Compact:**

REAPPOINTED: Richard Saudek, East Montpelier

**Transportation Board:**

APPOINTED: Thomas Dailey, Bennington

APPOINTED: Vanessa Kittell, Fairfield

REAPPOINTED: Nick Marro

**SerVermont:**

APPOINTED: Betsy Ward, Burlington

**Developmental Disabilities Council:**

REAPPOINTED: Craig Davis, Middlebury (Person w/ Disability)

REAPPOINTED: Dale Hackett, Barre (Person w/ Disability)

REAPPOINTED: John Hall, Newport (Person w/ Disability)

REAPPOINTED: Wendy Kruger, Morrisville (Parent of Adult Child w/ Disability)

REAPPOINTED: Ed Paquin, Montpelier (Disability Rights VT P)

REAPPOINTED: Cheryl Phaneuf, East Hardwick (Fam Member of Adult w/ Disability)

REAPPOINTED: Jennifer Stratton, Hardwick (Private Non Profit)

**Vermont Criminal Justice Training Council:**

REAPPOINTED: Steve McQueen, Essex Junction (Vt Association of Chiefs of Police)

**Children and Families Council for Prevention Programs:**

REAPPOINTED: Keith Tallon, Reading (Dept of Corrections)

REAPPOINTED: Linda Johnson, Cabot (§VII and IV Exp W/ Child Abuse and Neglect)

REAPPOINTED: Michael Loner, Hinesburg (DREAM Executive Director )

**Homeland Security Advisory Council:**

REAPPOINTED: Timothy Stetson, Enosburgh (American Red Cross)

REAPPOINTED: Michael Bucossi, Brattleboro (Career Fire Chiefs)

REAPPOINTED: Robert Schlator, Rutland (Volunteer Firefighter)

REAPPOINTED: Phil Scott, Berlin (Co-Chair)

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin  
From: Michael J. Hogan, Commissioner of Liquor Control  
Date: March 29, 2013  
Re: Weekly Report

Status of Governor's Priorities: Break open tickets-I think the legislature is making a big mistake if they don't regulate these tickets. We will continue to have problems with little oversight. The money is there for the taking; they just can't or won't see it. Thanks for trying. It might be still salvageable.

Legislative Issues/Contacts:

S.61 has been voted out of the Senate. As I mentioned last week, we will try to make some changes on the House side. I have had various town clerks unhappy about the prorating of licenses which result in less money for the towns and municipalities. I will keep your staff up to date.

Press Issues/Releases/Contacts: We did some interviews with WCAX regarding the growth of instate manufacturers. I think this was a positive piece for people to see how many Vermont based businesses have grown over the years. This is a huge investment in economic growth for today and for the future.

Significant Events/Meetings:

I am going to speak at the Vermont Travel Industry Conference Town Meeting in Stowe next week. Megan Smith folks have put this on the last few years.

Evolving Issues:

Other than the Miss Tax bill and the break open tickets, most of the other issues have to do with manufacturing changes for instate alcohol producers, the fee bill, and some other miss issues.

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Summary of Key Department Activity:

The Sales for March are +5.5% over last year. We are having a good year despite a slow recovery across the country. New products, marketing changes, tastings have all contributed to robust growth in our sector. Beer across the country is slow with the exception of the craft beers as I explained last week. Wine has steady growth but is very dependent on weather factors for imports should you get a bad harvest in Europe. Overall, the alcohol industry is continuing to grow with company consolidations and new marketing innovation.

Commissioner's Commentary: You are doing a great job in getting the message out to Vermonters. The Legislature unfortunately is not listening. Keep pushing them! Have a nice Easter.

## **Irene Recovery Situation Report**

### **3/29/2013**

#### **IRENE RECOVERY OFFICE**

- Dave Rapaport will step down as Irene Recovery Officer on April 5 to pursue an out of state private sector opportunity in his profession. Ben Rose will assume management of the Irene Recovery Office's functions as part of his duties as Chief of DEMHS's new Recovery and Mitigation Section, and Kate Ash will continue to staff the recovery until scheduled phase-out of the IRO by the 2<sup>nd</sup> anniversary of Irene.

#### **WSOC-VSH**

- Authorization to proceed with asbestos abatement for 27 historic buildings at WSOC from Mark Landry was received Thursday. Work is scheduled to begin next week. Approval for demolition was put on hold to ensure that this would not disqualify WSOC projects from eligibility for becoming a pilot under new Sandy legislation.
- FEMA internal guidance for application of provisions of recently enacted Sandy legislation is expected to be completed in about 2 weeks. FEMA has advised that WSOC will be made a pilot as established in these revisions to the Stafford Act, which will provide needed flexibility to maximize funding eligibility. It is anticipated that this will quickly enable WSOC funding eligibility to be clarified, and projects to move forward, including approval for demolition by mid-April.
- One key issue regarding FEMA's interpretation of insurance for WSOC remains to be settled.

#### **FEMA PA**

- Ben Rose was named Recovery and Mitigation Section Chief.
- FEMA Headquarters issued a decision on second appeal of Town of Townshend's PW1803. The decision does not agree that Vermont's Stream Alteration statute and Permit constitutes an eligible standard, but does find that the box culvert is eligible under 406 Hazard Mitigation. This is \$100K of good news for Townshend, Vermont, and should serve as a precedent which will benefit many other Vermont towns with the costs of their culvert replacements. Total beneficial \$\$ impact of the decision is not yet quantified.
- Debris PWs for Bennington, Woodford, and Rockingham were expected from FEMA a few weeks ago, but are still delayed awaiting FEMA legal review.
- Federal funds obligated to date (based on 90% federal share) remain at \$142.7M
- On Thursday, DEMHS hosted a meeting with AOT District Techs to review roles and responsibilities for future federally-declared disasters.

#### **ACCD**

- As a result of the Hurricane Sandy legislation and work of the Congressional delegation, ACCD will receive an additional \$17.9 million CDBG-DR, supplementing the \$21.6 million allocation received in 2012. HUD will require the funds to be targeted to Windsor County and restrictions will be many, including a requirement that the funds be expended in two

years. Next step is for HUD to publish a federal register notice and then ACCD will develop an Action Plan for the use of the funds which must be approved by HUD.

- We have developed a list of remaining needs for the delegation to help make the case for additional funding.
- Worked with developers of CDBG-DR projects and HUD to address new information from the agency which requires sign-off on environmental reviews before a developer enters into a purchase and sale agreement for a project property. A waiver will be required for Ladd Hall.

### **HMGP**

- First three closings on residential buyouts occurred on Tuesday, with one in Bolton and two in Bethel. We expect slow but steady progress on further closings, each of which is a complex real estate transaction, with the hope that most will be completed this year.
- **Current Status of Buyout Properties:**

HMGP Purchased (75% HMGP, 25% CDBG)	3
HMGP Approved	87
HMGP Pending	21
Appealing/RFI HMGP Determination	6
HMGP Ineligible	4
Round 4	5
CDBG-DR Only	5
Grand Total	131

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

### **VTrans**

#### **Program Development Division**

- Guilford STP EH11(4) – Scott reviewed and approved the consultant's contract amendment for this covered bridge project. The project has been dormant since Tropical Storm Irene but the Town is ready to get started again. Scott will be meeting with the Town Administrator next week to review the project schedule.



Operations Division

All District Irene Related FHWA ER Sites	This Week
Total sites	690
Total sites complete	424
Total sites under construction	15
Total sites awarded	84
Total sites ready for bid	103
Total sites scoping/design complete	119
Total sites no activity	11
Total sites given to PDD	59
Total sites on hold ROW/ENV	46

Finance and Administration Division

- Transportation System Recovery Expenditures through March 25, 2013: **\$219,723,075**

	Totals	Federal	State	Local
FHWA-ER	\$110,613,394	\$104,428,518	\$3,645,000	\$2,539,874
FEMA - 4022	\$104,685,575	\$100,791,902	\$3,893,672	\$0
FEMA- RREW	\$4,424,106	\$0	\$4,424,106	\$0
	\$219,723,075	\$205,220,421	\$11,962,780	\$2,539,874

