

WEEKLY REPORTS

Checklist
2/22/2013

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

Other

- ☐ Irene Recovery Office

To: Governor Peter Shumlin
From: Lawrence Miller, Secretary - Agency of Commerce and Community Development
Date: February 22, 2013
Re: Weekly Report

Lawrence has been researching the implications of accessing backcountry powder stashes from lift served terrain at Sugarbush with his 12 year old research assistant. Turns out to be all good when you know where the drainages come out and way less work than skinning up. All good, dude.

ACCD successfully prepared to move to swing space on Friday. Lawrence was particularly glad to be out on school vacation for the final week of this preparation and gives all due credit to staff for completing the project and extends full appreciation to BGS and SecAdmin for scheduling thusly.

Joe Bookchin is separated from the Agency. Joe was the Creative Economy officer, held over from the film commission. We are moving more towards other aspects of the creative economy and need different skills. We expect to reach terms with a replacement this coming week.

ConnectVT - During a mid-month meeting of the VTA board, it became clear that there are some challenges associated with three grants that have been awarded to VTel. In particular, a Backroads Broadband grant awarded to VTel in 2011 has not been completed, yet. The completion date was 11-11. At this time, there is discussion underway b/t VTel and VTA about how to proceed. Note that VTel has completed work totaling about \$1million (award is \$2mln). Most of the addresses have been served, so there won't be a huge impact to progress toward the 2013 deadline w/ respect to this grant. Liz has been briefed on this issue and we will stay in contact with respect to any progress or pitfalls. The other two grants that were awarded to VTel (about \$5million for cell and another \$2 for add'l broadband) have yet to be signed.

- Met with Rich Tetreault of VTrans to address VTel's concerns about the Section 1111 Permit. Turns out that VTrans hasn't encountered any complaints from VTel. VTrans suggested that Michel consider bringing a master plan to them so VTrans can work through any ROW/permitting.

- After lengthy conversations with Public Safety, we decided that they would apply for funding that NTIA has made available to support states' efforts for planning and outreach for FirstNet. Kiersten has recommended that Public Safety assume the role of Chair and to keep the ConnectVT piece in the forefront, that she serve as Vice-Chair of the group.

St. Albans/20 Houghton Street This project was discussed in Senate Institutions this week and the committee was very receptive to the project. A new bill is being drafted that will **authorize** BGS to sell 20 Houghton and enter into negotiations for a lease or lease-purchase of a new building. Numbers are still being refined, but we did brief Jeb about our recent developer interviews; the economic analysis, etc. Overall, the entire project (sale of 20 Houghton, additional investment/jobs by Mylan, new SOB, office bldg, etc.) will generate \$768million in new economic activity over 21 years.

Housing Accessibility Rules: Developers and fellow funding agencies are registering concerns about the Department of Public Safety's new ADA rules, particularly as they relate to the accessibility of upper floors and entrances to historic structures. Cost, design and smart growth implications. Concerns are consistent with ongoing

frustration with ability of architects and developers to participate in and be informed of building codes requirements.

HMGP and Ineligible Buyouts: Coordinating call with Vermont Emergency Management and Homeland Security staff on FEMA-approved buyouts and strategy for properties determined to be ineligible for FEMA funding. ACCD will provide CDBG-DR or VHCB funds to cover 75% of project costs for ineligible projects that are primary homes.

DEHCD and Landlord Education: Met with Chairs Bill Botzow, D-Bennington, and Helen Head, D-South Burlington, on H.239 which would require DEHCD to conduct an outreach and information program for landlords. The bill is the result of legislators' concerns for landlords, particularly of small rental properties, and their ability to successfully navigate the eviction process. Capacity Issue!!

House Commerce: Testified before House Commerce on CDBG Disaster Recovery assistance for businesses. The committee is considering H.169 and hoped CDBG-DR could be used to offset increases in unemployment compensation contributions resulting from rate changes due to Irene-related layoffs. The funding cannot be used for that purpose but, with Sam Anderson of CVEDC, explained how the disaster business assistance program can help.

Office Move: With the amazing help of Angela Owen from PTAC, Jayna Guilford, and David Metraux of IT, the Vermont Training Program culled, scanned, and shred 30 years of program history. This resulted in not having to move approximately 500 paper files and greater access to documents in a searchable format.

Vermont Life Products: Julie, Jan and Mary spent all day at Reso on Monday and Tuesday to do a physical inventory of products and start loading up their personal cars and trucks with goods so that items wouldn't be stolen at Reso, which is nearly deserted because of layoffs as the company moves to PA. All products are currently being stored in the bunker, but 22 pallets of books, calendars and note cards remain, as well as more ancillary items that we haven't yet inventoried. We are working on a plan for inventory storage. Suspending catalog operations for now since it is very slow season. **May kill the catalog except for VT Life products and maybe a few artisan items.**

VDOL Website: The CMO met with Commissioner Noonan and CIO Boes to review the new SOV website template, SOV brand and web standards and the proposed new VDOL website. Commissioner Noonan will provide the CMO's office a site map for the new VDOL website together with federal, state and 'business' requirements. Upon receipt, the CMO's office will prep VDOL site design for all levels of the architecture in the new SOV web template for the Commissioner's and team's review and comment.

Memorandum

To: Honorable Governor Peter Shumlin

From: Labor Commissioner Annie Noonan

Re: Weekly Report – Week Ending February 22, 2013

Issues of Critical Note and Legislative: LCAR voted down the Department's proposed rule for UI Issue for Newspapers (see earlier email report). I spoke with Jeb this morning regarding the risks of moving the rule forward in the face of this negative vote. The newspapers would likely challenge the rule in court; claimants not as likely unless they could find representation from one of the unions or legal aid. Presumptive Disability for firefighters and EMTs: Senate EDHA and Finance took up S.85, and I testified that the administration was supportive of the firefighters and EMTs and looked forward to working with the legislature on the bill. I worked off the email exchange provided to me by Kate Duffy that she and Jeb received from Risk Management's Bill Duchac. Both House Commerce and Senate Finance took up the issue of UI tax rate relief for Vermont businesses impacted by the federally-declared disaster of Hurricane Irene. VDOL did not introduce the bill, so we are reacting with proposed amendments that would better control the costs of this relief. Commerce spent considerable time on our suggestions, and are continuing discussion this afternoon. Senate Finance is just now taking up the bill. This morning was the public hearing on S.136 – VR services in Workers Comp. The redraft that I worked on last week (after the committee members blew up at each other), was well-received, yet there is still some edits to be incorporated as a result of the public hearing this morning. VDOL's budget was presented in House Appropriations this week – with some questions about our 'outstanding issues' (cut in the reach up grant; vosha deficit; worker comp fee bill relating to our computer need; and, most critically, how we will manage around the sequestration cuts and continuing resolution cliff given that our budget is 76% federally funded). VDOL is already running numbers related to the possible 10% sequestration cuts. I attended House Judiciary on Equal Pay this week, and it appears that the bill is moving forward based upon the last draft. Representative Dave Sharpe introduced a bill that would require VDOL to find equivalent benefits to workers if we pay off the UITF loan in November thus relieving the employer community of the FUTA tax credit loss. This is similar to his actions last year when he demanded VDOL find \$8 million in equivalent benefits for workers if we had gone forward with the state-funded repayment of the federal UITF loan. I think that the administration needs to discuss this bill with the Speaker to ensure that he is not going to ask VDOL to go down this road again this year. AHS cuts to VDOL's Reach Up contract will likely result in layoff notices (4-6 staff), and we need to determine how we will fill current reach up vacancies between now and July 1. I had a brief conversation with Doug Racine and Susan Bartlett this week and laid out the very time-sensitive questions and issues for VDOL. We are supposed to meet next week, but finding it difficult to find a date/time when legislative committee demands are not conflicting. Bills are still appearing relating to UI, WC and other labor law matters.

Workers' Compensation:

Unemployment Comp & Wage: Continuing efforts to calculate impact of Irene for the disaster loan forgiveness bill; Revisions to the Vermont's Federal SBR for Integrity Funding; Preparation work for potential federal sequestration; Additional edits to the VCC spreadsheet (Wage & Hour)

Call Center Stats: For the week ending 02/16/13 we took 3,078 calls. This is a decrease of 354 calls from the week ending 02/09/13. We processed 556 initial and 468 additional claims. This is a decrease of 95 initial claims and an increase of 19 additional claims from the week ending 02/09/13.

13 claimants exhausted all tiers of benefits with the week ending 02/16/13 compared to 11 claimants who exhausted all tiers of benefits during the week ending 02/09/13. We paid 9,044 claimants during the week ending 02/16/13 compared to 9,152 for the week ending 02/09/13. 34 Mass Claims were processed for week ending 02/16/13: Granite Sheds – 6; Munson Earth Moving – 4; Ultramotive – 17; Vermont Castings – 7. February 1, 2013. EFF Commerce LLC in October 2012 purchased Resolution,

Inc. in Williston. J Group is closing that facility and has already begun staggered layoffs. Last quarter report filed for Resolution listed 45 employees.

Workforce Development:

Securitas Security out of Springfield MA will be conducting a job fair at the St. Albans and Burlington DOL office on Wednesday, February 20th to promote their positions for Shift Lead Officers, Site Supervisor and Site Manager. The company has a contract with Green Mountain Coffee Roasters for security officers but will not be promoting they are hiring for GMCR. Job openings will be on VJL.

There was a rumor that GE might be hiring up to 200 workers in upcoming months based upon their comments to our staff in preparation for the spring job fair. This may be changing as a result of the federal budget problems. Grace Cottage Hospital may layoff 20 employees. They are discussing a Rapid Response with our staff. Bennington posted 41 new job orders this week; (Plasan is hiring for 40 new workers). Kaman Composites is estimating 20 new positions.

LMI: presentations this week in career awareness in Randolph. We are trying to work with VTC on their TAACC grant but we are waiting on them to respond. LMI is helping our MSFW Program to revise our H2A program survey tool. Mat is working on the UI Trust Fund Modeling Report. Make Vermont Home: we are now calling Vermont employers with 5-9 employees. LMI is providing ongoing assistance to the NEK team on info, modeling and projections. We sent data to JFO on UI benefits for DV victims. Mat provided Jeb with economic talking points for the Governor. Mat prepared an analysis/research for Annie on Defense Contractors and federal employees.

Legal: Peter Vieta v. MED Associates: Oral argument set for March 12. Mary Dugan v. Addison Rutland Supervisory Union: Claimant's brief filed Feb. 20th. In re Thomas King: . DISMISSED Feb. 14, 2013;

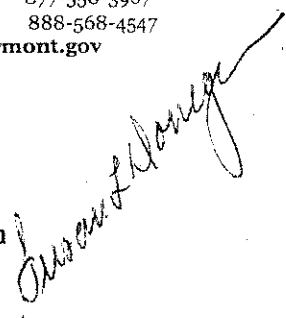
Workers comp: A public hearing on the draft S.136 Committee Report was held on Friday morning. The person who died after being run over by a fuel truck was not an employee so there is no VOSHA jurisdiction. The police and medical examiner have determined it was a suicide - person is on video deliberately lying down after driver got in vehicle and placing head beneath the wheels. VDOL staff met with Rep. Marcotte and Cathy Lambert of AGC. The concern is that the age of folks in the construction industry is rising and they are having some trouble attracting young people. The state and federal child labor laws limit what a child under the age of 18 can do in construction. We pointed them to the recognized exceptions in those rules - specific provisions for youth in recognized apprenticeship programs, and for school supervised/administered student learner programs. It might be possible for AGC to partner with Vocational Technical centers and have "students" employed and learning skills on the job over the summer. This possibility will be explored. Student learners are not allowed to replace existing workers. A draft policy, "Administrative Guidance for Filing All Relevant Evidence in Support of *Notice of Intention to Discontinue Payments*" (Form 27) as required by 21 V.S.A. 643a was sent out to all persons on the W.C. Program's listserves for comment. This document was developed by staff to provide adjusters and attorneys with guidance on the format and content of filings to be submitted to the W.C. Program to support or contest discontinuances. Public comment is sought through March 7, 2013. This is not a rule at this point, but is an effort to address the large amount of paper records submitted for staff review.

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

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

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: February 22, 2013
Re: Weekly Report



Legislative Issues/Contacts:

The House Commerce Committee received testimony this week from the Department on the banking and securities portion of the DFR housekeeping bill. The proposed legislation for the Banking Division included amendments to the licensing law that would permit the Division to transition from paper to electronic medium.

Commissioner Susan Donegan testified today before the Senate Committee on Economic Development, Housing and General Affairs in support of the joint resolution regarding the Coalition for Captive Insurance Clarity.

Tom Candon, Deputy Commissioner of the Banking and Securities Division, also testified today before the Senate Committee on Economic Development, Housing and General Affairs regarding Social Media Privacy (S.7). The bill would adversely impact the supervisory and recordkeeping requirements, which broker-dealers and investment advisors must follow under federal and state securities law.

Significant Events/Meetings:

David Provost, Deputy Commissioner of the Captive Insurance Division, and Dan Towle, Director of Financial Services at the Agency of Commerce and Community Development, were presenters this week at a Vermont Captive Insurant Association "Road Show" in New York City to an audience of about 120 captive service providers, interested parties, captive owners, and prospective captive owners. Provost met with the new captive coordinator from the Connecticut Insurance Department this week to discuss common objectives.



Banking
802-828-3307

Insurance
802-828-3301

Captive Insurance
802-828-3304

Securities
802-828-3420

Commissioner Donegan took part Thursday in a conference call with Michael McRaith, Director of the Federal Insurance Office, and representatives from the Captive Insurance Division and the Vermont Captive Insurance Association. McRaith requested the meeting to discuss how Dodd-Frank legislation is impacting captive insurance and to learn more about special purpose vehicles. He was very positive about Vermont's stature in the captive field and wished that all jurisdictions met Vermont's gold standard of regulation. He asked to be kept informed of any developments in these areas.

Evolving Issues:

Insurance Rate Trends:

Generally, we are starting to see rate filings from insurance companies requesting increases across all lines of insurance including long-term care, title, property and casualty insurance. Changes in the economy, weather events and medical costs are contributing factors. Some increases are significant. The challenge is to assess the requested increases with an eye toward stability and solvency in the marketplace while achieving the best outcome possible for policyholders. For example, yesterday the Commissioner directed that the workers' compensation rate filings submitted by the National Council on Compensation Insurance (NCCI) be adjusted downward in both the voluntary (plus-5.4 percent to approximately plus-4.1 percent) and the assigned risk markets (minus-1.9 percent to approximately minus-3.1 percent). The goal was to blunt any increase felt by small businesses in particular. She also explained to NCCI officials that, going forward, both she and Annie Noonan, Commissioner of the Department of Labor, would be looking for greater efficiencies from cost containment and utilization on the medical side of workers' compensation.

We are also beginning to see significant rate increases in health insurance filings. This trend has been anticipated for the last several months. For example, a recent non-group (individual) filing requested an average of 11.4 percent rate increase over 2012 rates for policyholders renewing in the first quarter of 2013 (1Q13), 19.6 percent for policies renewing in the second quarter (2Q13), and 19.5 percent for policies renewing in the third quarter (3Q13). The proposed increases are being driven primarily by three factors: worsening claims experience in the non-group market compared with last year; increasing medical and pharmaceutical; and the added cost of new mandated state benefits. These filings will be before the Green Mountain Care Board in the next few months.



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CONFIDENTIAL AND PRIVILEGED: NO SHARING
MEMORANDUM

TO: Governor Shumlin
FROM: Armando Vilaseca, Secretary
SUBJECT: Agency of Education (AOE)
DATE: February 22, 2013

Flexible Pathways Initiative: This legislation has been voted out of the Senate Education Committee. A great deal of work has been put into ensuring there is buy-in from the various stakeholders. Despite their participation in the press conference last week, the VT-NEA continues to present obstacles to the success of this bill. There is a lot of support for this concept but we continue to be challenged by Joel Cook who continues to be seeming to obstruct the process, as he seems to have quite a bit of influence over Senator McCormack. It is my hope that we can use the committee process with House Education to "massage this bill to meet your expectations and truly bring about positive change for students.

Greater Burlington Industrial Corporation (GBIC) and Lake Champlain Regional Chamber of Commerce: Wednesday I presented at the joint meeting of the GBIC and the Chamber luncheon, focusing on our Education Initiatives. The business community has been very supportive of these initiatives, and solicited ways they could help inform lawmakers and the State Board to ensure these initiatives are carried out.

BFA-St. Albans Staff Meeting: On Monday evening Martha Allen and I attended a staff meeting at BFA-St. Albans. Both of us were invited to speak to this group by the President of their local Education Association, who thought the staff could really benefit from a morale boost. Considering the recent publicity surrounding their former superintendent, Bob Rosane, and the potentially adverse impact this could have on many of the staff's self-perceptions, we both felt it was important to make this outreach. It was an encouraging meeting. BFA has a special place in my heart and I am disappointed by the events of the past few months, but they are showing improvements and know that they need to continue to do so.

"Policy over Easy: WCAX All-Access Town Meeting: Prior to Tuesday's SBE meeting, I participated in a special town meeting that included the state's top officials and WCAX News staff. It was primarily cabinet secretaries and we discussed the daily decisions that we make on spending tax money. It was an opportunity for the public to learn what goes into making those decisions and to give us feedback.

State Board of Education: Welcoming new members Krista Huling and Margaret MacLean, the Board held its monthly meeting on Tuesday. They discussed at length, language regarding proposed changes to graduation requirements being considered by the Education Quality Standards Commission and made several suggestions for staff to take back to the commission. Lisa Ventriss, Tim Donovan and Mary Schwartz from the VT Business Roundtable discussed that organization's current initiatives, and AOE staff updated the Board on high and low special education spending (meeting an annual reporting requirement). More information can be found here:

<http://education.vermont.gov/new/html/board/schedule.html>

Community High School of Vermont (CHSVT): Today I sent a memo to Learning Works Partner Agencies and staff at the CHSVT. Your office was copied on this. The memo is also attached to this email.

Conference Call with Staff from Senator Sanders: Together my staff and I participated in two conference calls this week with staff from Senator Sanders' office. This was initiated by Senator Sanders' office and we discussed effective teaching and learning related to STEM, literacy, foreign languages, civics and various other subjects.

"Education – Join the Conversation": Thursday Deputy Talbott and I, accompanied by Marilyn Frederick and Robin Pembroke, business managers from Lamoille North SU and Orange Southwest SU, respectively, recorded another roundtable discussion, titled "Understanding the Cost of Education." We talked about the statewide property tax system, declining enrollment, per pupil spending, and incentives such as REDs that can reduce per pupil spending and increase opportunities for students.

Department of Mental Health: Today I met with the Act 264 Advisory Board and the State Program Standing Committee for child and adolescent mental health. The focus of my discussion was the Advisory Board's priority recommendations for the interagency system of care for children and adolescents with any of the 14 disabilities under special education law. Their recommendations are valid and include System-wide Coordination, Peer Support/Peer Navigation, Integrated Family Services, and Family Voice/ Family Engagement. I also took this opportunity to share with these groups some of your ideas around education reform.

Service Rendered Incorporated (SRI): This week I met with Bruce Wilson, Executive Director of SRI at the Burlington Town Center Mall. This non-profit organization serves youth (ages 14-25) across the state by helping set individual goals while educating on the issues of drugs, alcohol, tobacco, HIV/AIDS and STDS combined with providing internship/job readiness opportunities and safe places for recreational activities. SRI operates two centers, located in the highest risk counties in the state. Each center has its own youth advisory board and uses the peer-to-peer model. They are unique in their hope to utilize their new space not only for youth, but for the community as well, thus encouraging active involvement in our communities.





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MEMORANDUM

TO: LW Partner Agencies and CHS staff
FROM: Armando Vilaseca *AV*
SUBJECT: Referral of non-Corrections students from Community High School of Vermont to Learning Works, Vermont's Adult Education and Literacy System
DATE: 02/22/2013

Recent discussions have clarified the statutory restrictions placed on Community High School of Vermont (CHSVT) in serving students who do not fall under the authority of the Department of Corrections. Typically, these students are served through the Adult Education and Literacy (AEL) system. Operated under the supervision of the Agency of Education, the AEL system already serves over 3,800 students per year. In order to ensure that all students have access to the most appropriate services to remain or re-engage, in their education, the following protocols are established.

Students currently receiving services from CHSVT will continue until such time as they complete their course of study and earn their high school credential.

Effective from the date of this memorandum, students seeking admission to any CHSVT community site with no previous connection to the Department of Corrections will be referred to the local provider of adult education and literacy (AEL) services.

The Agency of Education expects that local programs will coordinate the processes and mechanisms for ensuring this will happen in a timely, effective and supportive manner in order to facilitate the student's entry into services.

Those member providers of Learning Works identified below will be responsible for the full range of adult education services including; orientation and assessment, personalized learning plans, basic skills instruction, access (as appropriate) to the full range of high school credentialing programs, and career and college readiness.

Students requiring basic skills instruction or who otherwise do not qualify for access to secondary credential funding will be served under the existing adult basic education infrastructure – the impact of these additional students will be monitored to determine if there will need to be an increase in AEL resources.

AEL Contact information, by region, is provided below:

Barre P&P
Barre

Central Vermont ABE
Barre Center

Edward W. Pirie
802-476-4588
epirie@cvabe.org

Bennington P&P
Bennington

The Tutorial Center
Bennington Center

Jan Leslie
802-447-0111
janl@tutorialcenter.org

Brattleboro P&P
North Brattleboro

Vermont Adult Learning
Brattleboro Regional Office

Cathryn Hayes
802-275-4083
chayes@vtadultlearning.org

Burlington P&P
Burlington

Vermont Adult Learning
Chittenden Regional Office

Cindy Mills
802-735-2761
cmills@vtadultlearning.org

Newport P&P
Newport

Northeast Kingdom Learning Services
Newport Center

Markus Vogt
802-334-2839
markus.vogt@neklsvt.org



Rutland P&P
Rutland

Vermont Adult Learning
Rutland Regional Office

Michelle Folger
802-282-4310
mfolger@vtadulthoodlearning.org

St. Albans P&P
St. Albans

Vermont Adult Learning
Franklin/Grand Isle Regional Office

Lenny Rosenberg
802-752-4977
lrosenberg@vtadulthoodlearning.org

Springfield P&P
Springfield

Vermont Adult Learning
Windsor Regional Office

Kristin Andrade
802-281-4312
kandrade@vtadulthoodlearning.org

St. Johnsbury P&P
St. Johnsbury

Northeast Kingdom Learning Services
St. Johnsbury Center

Jen Adams
802-748-5624
jennifer.adams@neklsvt.org



CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Greg Smith, Executive Director, VT Lottery
Date: Feb 22, 2013
Re: Weekly Report

Status of Governor's Priorities:

n/a

Legislative Issues/Contacts:

Appeared before Sen. Approp Comm regarding budget. Most of the discussion was about raising sales with new games, why Lottery did not have break-open tickets, and some i-gaming – mainly looking for revenue. I brought up Keno as a game that would compare with break-opens and could use vendors and equipment that lottery already was familiar with. There were comments amongst the senators about history on trying to regulate break-opens from decades ago but no clear understanding. We spent very little time talking about our expense lines in the budget other than payroll and marketing.

Press Issues/Releases/Contacts:

Lottery celebrated the career of commissioner Art Ristau and our 35th birthday. We had coverage and stories from WCAX and the Times Argus.

Significant Events/Meetings:

Lottery commission meeting on Wed. We talked about break-open tickets and how the information exposed the discretionary spending that occurs in the establishments.

Evolving Issues:

Public record request matter is progressing smoothly. Dr. Jolley has so far accepted the restrictions we have explained for some of the data. We have not received any funds for covering costs but he knows that is the next step and has been quite engaged in our back-and-forth about data. We are also exploring the fishing/hunting license coordination with our gaming vendor and F & W dept. I will keep you informed on progress.

Summary of Key Agency Department Activity:

We are getting ahead in our marketing planning and working on new or modified games. Tri-State had approved the launch of a new game in VT, NH, and ME in May called Gimme 5. A match 5 game that is offered in 32 other states. We used to have a somewhat similar game in the 90's. This game will have a \$100K top cash prize that we expect will be hit twice a month between all three states. Drawings will happen on Monday, Wed and Friday.

Executive Director's Commentary:

I will be out of the country on vacation March 5 – 11. Carole Lacasse will know how to reach me.

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

Executive Privilege

TO: Governor Peter Shumlin
FROM: Secretary Brian R. Searles
DATE: Friday, February 22, 2013
SUBJECT: VTrans - Confidential Report to the Governor

Revenue Plan Gains Definition

We will roll out the 2-year approach to the revenue package this afternoon to the Chairs, Senate and House leadership and the Lt. Governor. The bottom line in terms of gas tax increase is 6.7 cents the first year and a decrease of .7 cents the second year.

In New Hampshire, the House Public Works and Transportation committee passed a 15 cent increase yesterday, phased in over four years. The New Hampshire Senate is still working toward legalized casino gambling to make up their transportation revenue shortfall, which is more severe than ours.

Northeast Kingdom EB-5 Development Transportation Implications

We have a team that is working with new ACCD Deputy Secretary Lucy LeRiche and the Northeastern Vermont Development Agency to move toward updating several transportation studies that were completed in recent years in the Newport/Jay area. When updated, these studies could serve as the basis for identifying infrastructure necessary to support the anticipated EB-5 projects in the area.

Policy and Planning Director Joe Segale will work with partners to develop a scope of work and budget for the study updates and on an agreement that results in cost sharing for any transportation improvements that are deemed necessary.

Manchester Signage on Rt. 279

VTrans Traffic Operations staff is moving on adding signage to the newly completed northern section of the project formerly known as the Bennington Bypass that points the way and gives mileage to Manchester. By FHWA rule and formula, the new project included only a sign directing people north to Rutland and this caused an uproar from Manchester. We agreed with objectors that as many, if not more, tourists and others are seeking information about Manchester as a destination and decided to add signage after

convincing FHWA of the need. A meeting was held with District staff this week to determine exact location of the new signs.

Flashing Commercial Sign Rule

This is an area that caused a stir in the 2011 legislature with the Clark Truck Center sign in Underhill being the focal point. The Travel Information Council, which is staffed by VTrans and chaired by ACCD legal counsel John Kessler, is in the process of promulgating a rule defining "flashing" signs, which are prohibited by the sign statutes but not defined. Kessler and our staff met with both transportations committees in the legislature this week to get their input. The proposed rule will allow signs to change messages once every 15 minutes, with the exception of time/temperature, codifying the process TIC has been using for many years. The proposed rule goes to the Legislative Committee on Administrative Rules (LCAR) today.

Affirmative Action Plan

Deputy Secretary Minter is leading an effort to improve our plan and the results of our recruitment and retention program aimed at women and minorities. The numbers, particular in our Operations (Maintenance) Division, are dismal and have shown no improvement over the last ten years. Our federal funders are granting us a "conditional" approval of the plan covering the next three years but it's clear we are going to have to take extraordinary steps to attract more women and minorities to that part of our work force.

One change that I have already ordered is that Civil Rights staff will be involved in interview panels for hiring in the districts. We are also working closely with DHR on this problem.

On a positive note, the recruiting of women, in particular, and the retention and promotion of women and minorities in project development and other professional ranks has been showing very good results.

Irene Lives On

Lest anyone think that storm work is over, our Contract Administration staff are working with the Operations Division on 277 Irene-related projects for the coming season. Forty-seven contracts have been drafted thus far. We think that some bundling of projects in corridors is appropriate to get the eventual number down to around 100 in addition to the normal workload.

VTrans in Boston

Check out a nice article in the VSEA newsletter by one of our staff members who went to MA.

<http://www.vsea.org/vsea-aot-member-talks-about-his-experience-massachusetts>

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: February 22, 2013

EPSDT Threatened Litigation - AHS Central Office staff are working with VDH, DAIL and DMH and their attorneys to respond to threatened litigation by Vermont Legal Aid. The focus is on whether the state is meeting its obligations for providing Medicaid covered services for children with autism, mental health diagnoses and other developmental disabilities, including children's personal care services and other treatments that would be provided by the designated agencies. Approximately \$6.4M has been appropriated for these services and is now available to the designated agencies to provide increased capacity. We are working on future estimates for cost of providing these services and at this point expect the costs will exceed substantially the current appropriation. We will continue to provide updates as we have better estimates. The services are mandatory under the Medicaid EPSDT (Early and Periodic, Screening, Diagnosis and Treatment) requirements to the extent they are determined to be medically necessary for the child. The AHS Integrated Family Services team is leading this effort and in the process of examining the current system for providing these services, identifying gaps and developing a plan for full implementation of EPSDT in coordination with VDH, DAIL and DMH.

Vermont Department of Health (VDH)

Rutland Methadone: The VDH is working on contract language with Rutland Regional Medical Center to establish a Hub in Rutland with anticipated start-up next fall.

Update on Budget Testimony for Alcohol and Drug Abuse Programs (ADAP): During VDH's budget testimony both Valley Vista and Maple Leaf Farm have been vocal about their needs for additional resources. Because the Governor's Budget includes additional FY14 funds for Maple Leaf if they move to a new location at Pine Ridge, Valley Vista has been contacting legislators saying that they can provide these additional services for a lower cost. No proposal has been submitted to the VDH as of yet. Commissioner Chen and Deputy Commissioner Barbara Cimaglio have met with Reps. Heath and Toll who are being contacted by both providers. Rep. Pugh invited both to testify in her committee. The VDH has responded to numerous questions about need for services, current spending, and outcomes. Both providers are working hard to get the key legislators to support their requests for additional resources. Deputy Commissioner Cimaglio tells me that the demand for services, evidenced by a waiting list, is higher for Maple Leaf than it is for Valley Vista, in part because of Maple Leaf's location in the northwest part of the state.

Department of Mental Health (DMH)

Legislative Week: It has been a very busy week of testimony as bills pertaining to health and mental health are introduced and pressing issues rise to the surface.

Secure Residential and Hospital: Interim Commissioner Moulton and Interim Deputy Commissioner Frank Reed testified on February 19th before House Corrections and Institutions regarding the plans for the secure residential. Interim Commissioner Moulton's testimony reflected that there was no money in the budget for continuing the secure residential when the hospital comes on line. We stressed the need to evaluate the use of the secure residential within the next year and report back to the legislature with a needs assessment when the hospital opens.

Interim Commissioner Moulton and I also testified on this subject in House Human Services Friday afternoon. The committee is frustrated that we are back saying that we may not need all 25 beds as acute care beds and that we want the option to use four of those beds for secure residential placements. Again, we want flexibility as we assess mental health needs in an expanded community based system.

Interim Commissioner Moulton also testified to the current numbers of Level I patients served in hospital beds at Brattleboro Retreat, Rutland Medical Center, Fletcher Allen, and Green Mountain Psychiatric Center: 37-41. This would suggest that the 25-bed hospital in Berlin would be needed, if built today, with 20 more Level I beds between Brattleboro and Rutland. Forty-five total Level I beds makes for a tight squeeze. If there is no funding found to continue the secure residential for another year, DMH will be faced with working to move all people to the community and shutting it down or consider a small unit at Berlin.

There was a strong reaction from H. Corrections and Institutions to potential change that would force consideration of a secure residential in Berlin. Responses ranged:

- 1.) concern that hospital design has just been completed;
- 2.) any change in design to accommodate additional space for secure residential will require approval from FEMA;
- 3.) design change will create additional costs;
- 4.) global commitment could be in jeopardy if secure residential is placed adjacent to the hospital;
- 5.) not funding the secure residential will compromise the mental health system build-out.

H. Corrections and Institutions is well-versed on this historical discussion. The idea of holding out a small number of secure residential beds at the Berlin site (4) was neutrally received.

Representative Donahue asked for a meeting the following day. She suggests maintaining the hospital footprint with no changes, fitting up the hospital for 16 while not fitting up 9 beds in one wing. With 16 beds only coming on line, that will allow the secure residential in Middlesex to continue in operation as is, while monitoring hospital bed need. If this scenario plays out, assessment will need to be made in favor of hospital or secure residential after the hospital opens

and then construction will have to recommence. Any secure residential placement, in our opinion, will require a hospital build-out off the end wing for additional activity space as “residents” cannot routinely utilize “patient” space.

Title 18: Health: Changes as they pertain to involuntary commitment: Interim Commissioner Moulton presented proposed legislation today to Senate Health and Welfare/Senator Ayer sponsor. This is a clean-up bill, but there is significant interest from various stakeholders to insert other language.

Call for the Commissioner to Appear in Court to Explain Release of Patient: The case of Mr. Evan Raposa has been brought back to St. Johnsbury courthouse. Mr. Raposa attacked an individual in Danville 2 years ago, severely injuring his victim. Mr. Raposa was hospitalized at Brattleboro Retreat following the flood and subsequent closure of the Vermont State Hospital. His condition had stabilized. Advocates and the hospital pressed the DMH to work on an appropriate discharge plan. States Attorney Ben Luna; DMH AG Kristin Chandler; and Disability Law Project Attorney Jack McCullough worked toward agreement on an Order of Hospitalization, while the DMH found an appropriate placement at the Meadow View intensive residential recovery residence in Brattleboro. Interim Commissioner Moulton had also met with Mr. Luna and Ms. Chandler in early December to answer questions for Mr. Luna and work toward resolution. By the end of December the attorneys had all stipulated to an agreement and appeared before a judge who signed the order. Mr. Raposa was moved to Meadow View. The order was sent to Judge Teachout in St. Johnsbury who called for a discharge hearing and learned, at that time, that agreement had been made and Mr. Raposa was living in a staff secure setting in a community. She was extremely upset with this process. All attorneys explained to me that a return to court generally only happens when an attorney does not agree so they were somewhat surprised by the strong comments made by Judge Teachout.

Interim Commissioner Moulton has since spoken to all attorneys to review their legal processes in this case, asking for documentation of the discharge hearing requirement noted by the judge. There was a court document from 2011, which speaks to a return to court for a discharge hearing. While lawyers involved did not seem to think this necessary, it is my recommendation in the future that original orders on any high profile cases be held at the DMH for the Commissioner’s review prior to signing an Order of Hospitalization. Interim Commissioner Moulton is ordered before the Judge on February 27th at 9:00 AM to explain why DMH did not follow the process. This is likely to be a highly publicized event and most unfortunate for all parties. Interim Commissioner Moulton had asked for a thorough review of this process with all attorneys involved, but the judge wishes to have this be a public review.

Department of Disabilities, Aging and Independent Living (DAIL)

Legislature:

Commissioner Wehry, Interim Commissioner Moulton and I testified before a joint meeting of the Senate Judiciary and Health and Welfare on February 21st to explain the Serious Functional Impairment (SFI) population. We had a very good discussion suggesting more careful

assessment of individuals within correctional facilities, which would enhance success even without exceptionally high budgets. This was more of an opportunity to educate than to debate the merits of this enterprise.

The Senate Appropriations Committee has requested comment from AHS on the likely fiscal implications of S.59, the bill to create collective bargaining rights for independent home care workers. S.59 passed out of committee 5-0 with our support after it was amended.

Fire in Rutland Nursing Home: A fire in a boiler room in a Rutland nursing home led to the evacuation of more than 75 residents earlier this week. None were harmed and it is anticipated they will start moving back by the end of the week.

Adult Protective Services (APS): A same sex couple in the Northeast Kingdom has accused APS of discrimination. The accusation occurred after an investigation of alleged neglect led to the hospitalization of one of the couple and a subsequent petition by the hospital for an emergency guardianship. The news article reported it was the investigator who had petitioned, which was inaccurate (and would have violated our practice). The alleged victim's husband and mother have both requested help from the Governor's office to allow the victim, who has cognitive impairment, to return home. Commissioner Wehry is looking into the situation and the field supervisor, Shawna Agel, has been trying to assist the alleged perpetrator and the mother to navigate our system. We have found no evidence of discrimination as of yet.

S.73, An Act Relating to the Moratorium on Home Health Agency Certificates of Need, and Blocked Release of Aggregate Data: The State Long Term Care Ombudsman, Jackie Majoros, has blocked release of aggregate data collected by her office which has bearing on S.73. She claims the data, which reveals some home health access issues, is protected by the Older Americans Act. We do not agree with her interpretation and Commissioner Wehry has asked for a meeting with her supervisor, Eric Avildsen at VT Legal Aid. Peter Cobb is aware of the issues and notes the data actually reflects a favorable light on home health.

Program of All-Inclusive Care for the Elderly (PACE): With the closing of PACE in Rutland, two providers have stepped up to take on the Adult Day business, Ron Cioffi at Rutland Area Visiting Nurse Association and Hospice (RAVNAH), and Dan Quinn at InterAge/Rutland Mental Health Services (RMHS). Initially it appeared that they would peacefully coexist but it appears InterAge, which already has one adult day site, would now like to serve all participants. Ron has responded with a formal Certificate of Need (CON) request and gathering letters of support from the community. We are looking into legal parameters and for now recommend a neutral position. Ideally we will work out a solution that will result in the least amount of disruption of care for PACE participants and the best quality at a lowest cost.

Department of Corrections (DOC)

Press Issues/Releases/Contacts:

The Department was contacted by WCAX, Fox 44, Associated Press, and The News & Observer Newspaper regarding the fugitive Mikel Brady, who shot a North Carolina State Trooper in the face during a traffic stop. The details of the situation are:

- Mikel was on furlough from 6/25/12 to 10/08/12.
- He was stopped by an F&W Warden, and told to report to our office. He never showed, and as a result, was placed on escape.
- Commissioner Pallito is having a staff member audit the file and hopes to see a result in about two weeks.

Significant Events/Meetings:

Two offenders who had been on escape status were picked up in NYC over the weekend; Erin Charbonneau and James Vincellette. They were picked up for Grand Larceny for trying to steal Donna Karan's (American Fashion Designer and creator of the DKNY clothing labels) SUV. It appears that Ms. Charbonneau was released by NYPD prior to Vermont lodging the warrant; however we managed to get the warrants there in time for them to hold James Vincellette. Mr. Vincellette was serving a sentence of 9 months to 17 years for burglary and prior escape offenses. He was released to furlough on 2/4/13 and placed on escape on 2/9/13. Ms. Charbonneau has a sentence of 59 days to 15 years for a number of property offenses. The Department will review the cases as well as begin a discussion on how best to view previous escape attempts when making release decisions.

Population:

The sentenced population has increased since January by 20 to 30 individuals, while the detention population remains steady at 400 individuals. The female population has stayed below 130 individuals since February 7th. The detention population comprises 29% of the female population and 18% of the male population.

Department for Children and Families (DCF)

Significant Events/Meetings:

Early Closure of the Crisis Fuel Program: The DCF has made the decision to close the Crisis Fuel Assistance program statewide effective 4:00 p.m. on March 1st. Based on the demand for crisis fuel services at the five Community Action Programs (CAPs), the current available funds should take the program to next Friday. A planned single closure date ensures that statewide, all income eligible Vermont families will have equal access to the same level of services. The DCF will work with our community partners to identify local or individual solutions that clients might pursue on their own.

For the first time in program history, the crisis fuel program closed three weeks early last winter when \$4.0 million in funds were exhausted. This year the closure will be unprecedented, ending two full months before the April 30th program close date. With \$2.8 million in funding this year,

this very early closure was anticipated and consistently shared with the CAP partners. The total Low Income Home Energy Assistance Program (LIHEAP) budget does not have available funds to sustain the crisis program beyond March 1st. DCF's grant agreements with the CAPs and the program rules anticipate and allow for an early closure based on available funding.

The Administration should anticipate strong reactions from clients, advocates, community partners, fuel dealers, members of the legislature, and the media. Fuel Chief, Richard Moffi, has been consistent in his messages this year that Vermont's Seasonal Fuel Program is a supplemental program to "help" clients pay a portion of their heating bills and that this year's \$2.8 million in funding for crisis fuel benefits was not expected to last well into March. Commissioner Yacovone is talking with Secretary Spaulding to see if there is any way to fund this program through the end of March.

Evolving Issues:

Fair Hearings Regarding Motels: The DCF has had a number of consumers asking for fair hearings in front of the Human Services Board in protest over being placed at the Burlington hostel instead of a motel. Economic Services Division (ESD) lost one hearing on Wednesday 2/13/13 and may lose another. If clients have doctors' notes saying that it is not in their best interest to move from a hotel or be placed in a 'shelter', the hearing office is making ESD house them at a hotel or motel. In addition, a doctor wrote a note stating that "Jane Doe" needs to stay in a hotel with a pool as it would be therapeutic. The Fair Hearing (FH) officer said ESD needs to honor this. The Board's position is to follow the rules set in ESD manuals. Currently, the board is arbitrarily making its own guidelines that are outside ESD rules. The Secretary's office needs to have the ability to overturn a FH officer's decision. That language should be added to the rules with the understanding that I would probably delegate decision making discretion to Commissioner Yacovone.

Health Care Closure Letters: A combination of inflexible IT systems and human error have led to the issuance of 3,948 notices to health care beneficiaries telling them in error that they would lose their health care coverage on March 1st. The DCF has sent all of the beneficiaries a follow up letter telling them their coverage will not lapse as long as they pay their premium.

The DCF is required to give beneficiaries an 11 days notice before taking adverse action against them for non-payment of premiums. Due to February having 28 days and the President's Day Holiday, the IT system was programmed to run sooner than normal to ensure the 11 day adverse action deadline was met. Normally, premiums are collected from bank accounts on the 15th of the month, this month the bank account collection process was run on February 14th. The system read the account on the wrong day, in doing so termination notices were triggered because we are only authorized to deduct funds on the 15th.

If a reporter calls, Commissioner Yacovone plans to tell them under health care reform, and with the implementation of the Health Benefits Exchange, we will have modern IT tools with the ability to do programming that will prevent these types of errors.

Office of Child Support (OCS) Debit Card Program: Effective July 1st, the OCS will require that custodial parents utilize either direct deposit or a pre-paid debit card for receipt of child support thus eliminating the need to issue daily checks. OCS currently issues approximately 147,000 checks per year to custodial parents at an estimated cost of \$1.50 per check for a total of \$220,500 annually. This figure does not include the human resources involved in this process or any issues created when there is a problem with the check run. Additionally, as discovered during Tropical Storm Irene, the use of checks for disbursement of child support created significant challenges for those impacted in accessing their funds. If OCS had been using debit cards, all families would have had access to funds immediately without mailing delays.

Recognition of Woodside Rehabilitation Center: Woodside participates in a national initiative (PbS- Performance Based Standards) focused on standardized data collection, analysis, and continuous improvement. Woodside is one of nearly 200 centers across 28 states to participate in this intensive program. Outcome information is tracked in the areas of safety, order, security, health/mental health, justice, programming, and reintegration. Specifically, issues that are looked into are injuries to youth and staff, restraints and isolations, staff to youth ratios, family engagement, treatment programming, and discharge planning. Woodside's data can be compared to other facilities. The data is then used both to assess progress in these areas and to identify problem areas to develop specific improvement plans. This past week, a representative of PbS visited Woodside to present the program with a plaque in excellence recognition. Woodside has officially achieved a Level II PbS program status and is well on its way to being a model program for the rest of the nation. The Department also received an award for being an "innovate jurisdiction" in recognition of the changes taken to ensure Woodside provides best practice services to all youth.

Department of Vermont Health Access (DVHA)

Status of Governor's Priorities:

Provider Tax Hearing update: Hearings for eight of the nine hospitals that have appealed their provider tax assessments were held. DVHA now has 20 days to respond to the requests for reconsideration. Testimony provided during the hearings has not altered the Department's evaluation that the provider tax has been assessed appropriately. Notices to the hospitals will be sent by March 1st.

Relocation of DVHA to Waterbury: This is a topic that continues to be controversial within the Department. Many staff worry about losing their ability to maintain employment due to additional commuting. Staff members remain very interested in information about the plans and policy about telecommuting.

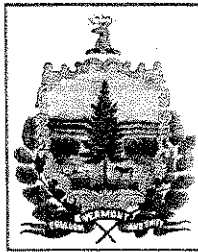
Press/Media Contacts:

Editorial Board Meetings: Commissioner Larson and Robin Lunge have met with the Addison Independent, Burlington Free Press and Valley News this week to provide an update on health care reform.

Significant Events/Meetings

Duals Proposal Update: The application to be a Medicare Plan will be submitted on February 21st. The financial model being developed by Wakely Consulting is scheduled to be completed by March 8th. The model will be based on the most recent assumptions about the MOU negotiations and will be subject to change as negotiations continue.

Global Commitment renewal: A public hearing was held this week on the proposal for the Global Commitment renewal. The hearing is required as part of the renewal process. It was held by VIT. No members of the public attended to make comment about the proposal.



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: February 22, 2013

Secretary's Top Issues:

Agency is watching sequester activities in DC. Meat Inspection could be halted in VT as the state has mainly federal meat slaughter facilities. Meat Inspection unit is meeting to discuss options to assist the industry if sequestration cuts go into effect. Sequestration may also affect Animal Health work that is done in collaboration with FDA on animal tissue residue.

Animal Health (AH) participated in a national conference call on the USDA animal disease traceability rule which goes into effect on March 11th, 2013. AH is developing outreach materials for stakeholders in VT as there are new paperwork and identification requirements.

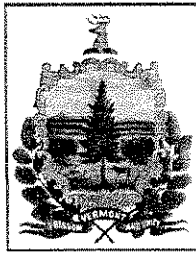
A tuberculosis positive cow was detected in CA via slaughter surveillance; the cow has been traced back to its herd of origin, a dairy farm in Tulare County. A TB positive dairy cattle herd was detected earlier this month in Washington State; 11 cows have tested positive & veterinarians are still attempting to identify potentially exposed cattle. These cases highlight the public health importance of TB testing in dairy herds (cattle, goat, & sheep) that sell raw milk (pasteurization destroys the bacteria). 45 herds have complied with the requirement to test for TB and Brucellosis that sell Raw Milk in VT. Rural Vermont's survey states that over 100 farms are selling raw milk. This is an area of concern for the agency.

Annie Macmillan, Ag Toxicologist & Henry Marckres, Consumer Protection Chief & Maple Expert are investigating the sale of isopropyl alcohol for maple tubing in Vermont. There are concerns of applicability & safety of the use of this product for plastic tubing. The alcohol is not food grade & may break down the plastic. Also, a shipment of prototype syrup & sap hydrometers, & hydrotherms were sent to the Agency's weights & measures lab for testing. The instruments are made in China. Concerns are the weight in the hydrometers might be lead, & the unknown liquid used in the hydrotherms.

Dr. Haas, State Vet, Jim Cameron, Animal Health Specialist and federal Veterinary Medical Officer, Dr. Joel Russo, interviewed the owner & transport manager of a VT livestock commingling point. A truckload of calves shipped from the facility to a slaughter plant in NY had an unacceptably high mortality rate upon arrival. Additional calves were condemned at slaughter. The meeting with facility managers & owners focused on best management practices on site to help ensure that this type of circumstance does not repeat in the future. Bob calves are often not viewed by farmers as an economic investment & nutritional support is often not adequate to sustain these neonates during an extended trip to the slaughter facility. This issue will be taken up by the Livestock Care Standards Advisory Council with the intent of developing livestock management recommendations for VT's industry members & for the legislature.

Secretary Ross & Deputy Secretary Bothfeld met with Rust Miller from Consider Bardwell Farm to discuss potential growth of his company in the West Pawlet area. Representative Malcolm attended the meeting as well as Kiersten Bourgeois. More details on this plan need to be worked out but Ag and Commerce are committed to assisting in any way possible.

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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: February 22, 2013

Status of Governor's Priorities:

Jobs in Agriculture

Press

Henry Marcres, Consumer Protection Chief and Maple Expert was interviewed on the proposed maple grades by Pat Bradley of Public Radio.

Legislative Issues

Senate Ag took up the hemp permitting bill today. At this point it appears that their desire is to re-visit existing language in Ch.34 and make changes as they feel necessary. Tim Schmalz will be providing an update on this.

House Ag continues to work on the GE labeling bill. Thursday was spent in bill markup. The morning was spent crafting language specific to the findings in Section I. No testimony was provided on Thursday.

Laura DiPietro, Assistant Director of Ag Resource Management and Jim Leland, Director of Ag Resource Management will be testifying at the TMDL joint session Friday Feb 22.

House Fish and Wildlife is taking testimony on H.223; the shorelands protection act. There are a number of concerns with this bill that we will need to address. Jim Leland, Director of Ag Resource Management will be attending to listen to testimony.

Dr. Haas, State Veterinarian has been asked to testify to the Senate Agriculture committee next week on the bill that proposes to allow the sale of raw milk at farmer's markets. VAAFM has concerns about the proposed language in the bill for a number of reasons. The VT Dept. of Health and the Vermont Veterinary Medical Association also have concerns and will likely be testifying during the same hearing. The strongest proponent of this bill is Rural Vermont.

Deputy Secretary Bothfeld testified in Senate Ag on S.70 expanding raw milk sales at Farmers Markets. The Agency voiced its concerns regarding the disconnect in this proposed bill from the farm that produces the raw milk. Current statute requires a visit to the farm prior to purchasing raw milk either at the farm or through delivery. The visit is still required but others testifying stated that going to the farm was too difficult and time consuming. The informed consent that was established in the original bill would be lost with sales at the farmers market. Concern for the informed consent at farmers markets through signage and concern for the strike all on sampling of raw milk – original bill sampling only at the farm – S.70 strikes language. Sampling of raw milk increases the risk to the general public of potential pathogens in raw milk. Agency will request language in this bill, if it continues to move forward, for farmers market managers to verify with the agency of agriculture that all requirements within the statute have been met prior to selling raw milk at farmers markets.

On Thursday Feb. 21, Tim Schmalz, Plant Industry Section Chief was asked to provide testimony on the status of the hemp rules in AAfM, as part of implementing the licensing of farmers to grow industrial hemp, as orders in H.29. Provided a copy of the draft rules, and expressed reservations about the rule, as there are numerous conditions in law that will impose substantial potential costs on either the farmer/applicant or the Agency of Agriculture, and won't help accomplish the intent of producing hemp as a viable and profitable crop in Vermont. The committee took up the law and went through the conditions line by line, striking those they felt were excessive and/or unnecessary, including the requirements for criminal background checks, submitting fingerprints, felony conviction ineligibility, long-term recordkeeping, documenting usage of all parts of the hemp plants, and so forth. Discussion of authorizing a permitting rather than a licensing process also took place, as did discussion of authorizing fee collection in statute, to offset potential costs incurred by the State as part of the permit process in the future. Conditions remaining included generating maps of hemp fields, certification that the seed used is of a variety specifically for hemp and not for marijuana growing, and general rulemaking authority. Testimony concluded with a request for follow-up testimony next week.

Significant Events/Meetings:

Henry Marckres, Consumer Protection Chief and Maple Expert, is attending the IMSI meeting in Burlington on Thursday. Marckres is reporting on the proposed grade change, voluntary maple certification and the Agency activities.

Henry Marckres represented the Agency at the Butternut Mountain Farm Open House on Saturday evening in Morrisville.

Animal Health (AH) participated in a national conference call on the USDA animal disease traceability rule which goes into effect on March 11th, 2013. AH is developing outreach materials for stakeholders in VT as there are new paperwork and identification requirements that folks need to be aware of.

The Animal Euthanasia Board held its annual board meeting in Pittsfield Friday, Feb 15th. The board welcomed a number of new members and discussed ways to increase efficiency by streamline forms, certified euthanasia technician training, and facility inspection.

Livestock Dealer Randy Quesnel was issued a conditioned dealer's license. Although this was discussed at Mr. Quesnel's hearing, Darryl Kuehne will meet with Mr. Quesnel to make sure the requirements of the conditioned license are understood and followed. AH would like to thank the licensing department for developing the conditioned license.

Dr. Haas, Jim Cameron and federal Veterinary Medical Officer, Dr. Joel Russo, interviewed the owner and transport manager of a VT livestock commingling point on February 20th. A truckload of calves that was shipped from the facility to a slaughter plant in NY earlier in the week had an unacceptably high mortality rate upon arrival at the plant. Additional calves were condemned at slaughter. The meeting with facility managers and owners focused on best management practices that could be implemented on site to help ensure that this type of circumstance does not repeat itself in the future. Bob calves are often not viewed by farmers as an economic investment and as a result, nutritional support is often not adequate to sustain these neonates during an extended trip to the slaughter facility. This issue is one that will be taken up by the Livestock Care Standards Advisory Council at its next meeting with the intent of developing livestock management recommendations for Vermont's industry members and for the legislature.

Dr. Haas visited a quarantined property in North Concord, VT this week to follow up on a rabies quarantine that was issued at the end of January 2013. All livestock on the farm are healthy at this point, and discussions were held regarding the overall length of the quarantine. This case in particular (one positive horse out of a herd of 10; all horses current on their rabies vaccination) has caused the animal health section to re-evaluate its rabies quarantine policy and give consideration to making it more flexible than what the standard 6 month quarantine

has allowed for in the past. State veterinarians will be meeting with Dept of Health veterinarians next week to discuss this matter and make policy changes as deemed appropriate.

Sec Ross and Dep Sec LaClair met with Stuart Comstock-Gay, President of the Vermont Community Foundation, to discuss long term partnerships including Working Lands and Farm to Institution. The conversation will continue to pursue potential leveraging of investments from in-state donors as well as out of state donors and other foundations.

Evolving Issues:

Animal Health was contacted by the owner of a hunt park located in VT. The owner wanted to know the Agency's position on the bill introduced by ANR that would ban the import of feral pigs/Russian wild boar (*Sus scrofa* and *Sus scrofa scrofa*). The caller was informed that the Agency supports efforts designed to prevent the incursion of feral pigs into the state.

State veterinarians were informed this week that due to uncertainty in the federal budget, there is a possibility that the cooperative agreements that fund a portion of the animal health section's activities will have to be reduced by 5%. The uncertainty may also impact the speed with which the 2013 monetary awards are made. For the first time, AH will be working on pre-award letters this year, which will enable cooperative agreement funded activities to begin on April 1st.

AH received notification from USDA-APHIS this week that the Avian Health cooperative agreement workplan can be amended to support the development of poultry health outreach materials that can be distributed at VT bird swaps and fairs. The brochures that are to be developed will focus on AI and other poultry diseases of public health significance as well as Vermont's National Poultry Improvement Program.

The swine producer who contacted the Agency recently for assistance with liquidating his swine herd received assistance from Black River Produce. The swine were slaughtered/processed earlier this week. VAAFM will be following up with the producer to direct him to the appropriate technical assistance to support a viable business model in the future.

Educational materials for Vermont's equine industry were finalized and disseminated this week. The subject matter is Vermont's equine importation requirements. During 2012, VAAFM AH came to realize that there is widespread noncompliance within the competitive equine industry with Vermont's import regulations. This puts Vermont's resident equine herd at risk and increases the liability for Vermont's competitive horse events. Hopefully the broad distribution of this information will help to ensure compliance with Vermont's equine requirements starting in 2013.

Summary of Key Agency Department Activity:

Administration

In re: Winn AAFM#2013-01-02 MI Legal counsel and Drs Haas and McNamara convened a pre-hearing settlement conference with respondent and his attorney. A stipulated settlement has been reached and Mr. Winn will execute an Assurance of Discontinuance to resolve the outstanding issues.

In re: Holden Cattle Co and Fillmore Farms AAFM #2012-12-02 MF. Legal counsel and representatives of the ARM Division participated in a contested administrative hearing against the farm regarding an allegation that the manure pit was not maintained in compliance with Vermont's MFO requirements. A decision by the Hearing Officer is pending. Of concern, from all participants, is that the violation has not yet been remedied due, purportedly, to financial hardship of both the farm owner and the farm operator. Both are LLCs.

In re Randy Quesnel, AAFM#2012-07-52 AH The Secretary issued his decision in this contested case, granting Mr. Quesnel a conditioned livestock dealer's license. Stephanie Parks, Dr. Mehlenbacher, and Jeff Cook

worked together in order to process the license within hours of the Secretary's Order so Mr. Quesnel could lawfully resume his business dealings upon delivering the licensing fee to Montpelier the next day.

In re: VTC Digester, PSB#7965. Legal counsel and Director Leland continued the Agency's effort this week to work with VTC and ANR in order to settle the pending PSB matter as soon as possible. Resolution is expected any day.

In re Limerick Road Solar, LLC PSB # pending.

In re Claire Solar Partners, LLC PSB #pending.

Legal counsel received two new cases, one pre-filing, from legal counsel that represent solar developers. Because of the Agency's participation in PSB cases over the last year or more, developers are reaching out to the Agency, through its counsel, 45 days prior to filing. This is a proactive approach that makes sense, but of continuing concern is the lack of staffing capacity at AAFM to assist with technical review of PSB solar cases.

In re: Goldberg/Highland Crossing. Appeal to Superior Court. The developer served its interrogatories and requests to produce this week on the Agency. Responding to this discovery will require dedicated time and effort by the Agency's A250 team and its legal team. Response is due within 30 days.

Agricultural Development

Secretary Ross and Deputy Secretary Bothfeld met with a cheese maker from West Pawlet to discuss potential growth of his company in the area. Representative Malcolm attended the meeting as well as Kiersten Bourgeois. More details on this plan need to be worked out but Ag and Commerce are committed to assisting in any way possible.

Secretary Ross and Deputy Secretary Bothfeld attended the Green Mountain Federation of Dairy Co-op luncheon and meeting. Both discussed pending legislation, agency activities and federal policy concerns such as sequestration. Concern by dairy farmers regarding the GE labeling bill – if this bill passes who has the responsibility for buffering a business that wants to label GE free. These farmers choose to use legal GE crops and want to know if they will be responsible for buffering the business that chooses to label GE free. In current USDA organic rule – organic farmers are responsible for buffering from their potential neighbor who may use GE crops. These dairy farmers felt that was an important point for the state GE labeling statute.

Working Lands: Sec Ross, Dep Secretary LaClair and staff lead the monthly Working Lands Enterprise Board meeting. A team of 30 Board members, staff and field experts in Ag and Forestry/Forest Products will begin to review 190 applications for Investment Area one, (small and emerging) Enterprises. The process will take approx 4 weeks with great care given to objectivity in scoring, geographical and sector distribution, innovation and need. A 25% cash match is required for this investment area (\$3-15k grants) and all applicants are asked the 'but for' question: Will this project happen without Working Lands grant funds?

Dep Sec LaClair and Colleen Leonard Working Lands Administrator met with the Vermont Food Funders Network, a collaborative of 9 Vermont philanthropic organizations including the Vermont Community Foundation, the High Meadows Fund, Merck and Castanea to discuss leveraging investments for Working Lands applications. The 'funders' are very interested in reviewing applications which fall within the 'mission' of the various philanthropy fund. Further discussion will continue in the next 3 months to define a process which encourages partnership/leveraging but does not overwhelm funders with applications.

VEDA: Dep Sec LaClair attended the monthly VEDA board meeting. The new Clean Energy Loan fund and proposals for a state bond bank were addressed by VEDA President Jo Bradley as well as State Treasurer Beth Pearce. During the VACC meeting (VT Ag Credit Corp) discussion included the challenge some farmers are

facing given the ongoing cost of feed, a number of which are in the VACC portfolio and are in need of additional financial assistance.

Food Safety and Animal Health and Consumer Protection

Henry Marckres, Consumer Protection Chief and Maple Expert spoke at Sterling College on Monday on grading and flavoring maple syrup.

Henry Marckres, Consumer Protection Chief and Maple Expert is scheduled to speak on Friday night at the Franklin County Maple Producers meeting on the proposed grades, FDA registration and voluntary certification.

The first voluntary certification inspection is scheduled for the UVM Proctor Center on Thursday.

Sumner Kuehne, Consumer Protection Specialist is in Georgia this week on USDA GAP training. When he completes his required training, there will be three licensed GAP inspectors in the Agency.

Animal Health completed dairy surveys in the areas of Bradford, Corinth, Chelsea, Williamstown, and Brookfield.

Animal Health Specialist Zachary Bartlett partnered with USDA Veterinary Services Animal Health Technician Leslie Michaud to complete two scrapie flock inspections in sheep and also participate in a VS hosted webinar on the scrapie program updates. A large flock in Ohio was recently found to be positive for scrapie; this flock had sent sheep to many different parts of the US, requiring possibly extensive tracebacks. The incident emphasizes the importance of continued scrapie surveillance and traceability requirements (official identification, CVIs and import permits).

A tuberculosis positive cow was detected in CA via slaughter surveillance; the cow has been traced back to its herd of origin, a dairy farm in Tulare County, and whole herd testing is being conducted, along with tracing where other cows from this dairy came from and went to. A TB positive dairy cattle herd was detected earlier this month in Washington State; 11 cows have tested positive and veterinarians are still attempting to identify potentially exposed cattle. It is not known if these dairies sell raw milk. The cases highlight the public health importance of TB testing in dairy herds (cattle, goat, and sheep) that sell raw milk (pasteurization destroys the bacteria).

Tissue residue case - ongoing investigation in Franklin county.

Meat Inspection

Pre-hearing conference about on-farm slaughter resulted in an AOD and an administrative penalty.

Meat Inspection Program chief met with individuals at Applecheek farm in Hyde Park to review requirements for a State Inspected red meat processing plant and a state inspected poultry operation – Target date of late spring for Red meat and July for poultry slaughter

Meat Inspection Program is reviewing HACCP documents submitted for the Hannaford Career Center mobile poultry slaughter unit as they progress in their efforts to obtain state inspection

Agricultural Resource Management

Water Quality Update

Agricultural Working Group: This group met on February 14th to discuss options for creating flexible regulatory systems that allowed farms to maximize their agricultural needs while expanding on the current

water quality needs. There was a great deal of confusion about how this would all work between the regulating Agencies, mainly EPA, DEC and VAAFM. We also had the group prioritize a few items for future discussions. The key items they selected were farm compliance with water quality regulations, nutrient management needs and farm income/cost-share programs. We will work on these subjects along with livestock exclusion and current use at future meetings. The intention is to finish working with this group in April and then pick back up as needed in the late summer.

EPA TMDL: Met with EPA this week to receive an update on the modeling work being done by a contractor. The timeline for the TMDL is not expected to be until 2014, however by the end of this summer there should be some preliminary results we can look at to determine which policy decisions need to be made, include which sector is responsible for how much of the phosphorus loading. Today there was a joint TMDL hearing at the legislature which was essentially an update on the timeline and an opportunity to educate the committees on some of the terms and how the work they do will fit into the new TMDL.

Prioritizing Resources between Partners: This week the leaders from the various agricultural organizations/agencies working in Vermont met to see if there are opportunities to shift how we all use our financial resources in order to maximize all of our funds that collectively are working towards the same goal of reducing non point source agricultural pollution. Currently there are a number of positions within partner organizations that rely on "soft funding" while we are returning funds at the federal level for work the others partners are paying for. We will continue to examine where we can gain efficiencies with the goal of identifying more sustainable funding sources for current staff and minimizing the balance of unspent federal funds.

Agricultural Indicators of Progress: We met with the lead scientists in Vermont to discuss how to quantify the potential reductions from the implemented agricultural practices. As part of a grant from the USDA, VAAFM is responsible to identify the necessary coefficients or parameters that are used to quantify these reductions. The group has agreed to work to examine two current systems, the SWAT model used in the TMDL and the future APEX software that NRCS will be using in their conservation planning efforts, to identify any gaps in data where farms may be implementing practices that these systems have no data for. Then we will look to see if there is a way to study and get some values for these practices through the NRCS edge of field monitoring projects, and if not we will do a more thorough literature review.

Coordination between Partners at the Field Level: DEC has organized a meeting on March 7th to train their staff, VAAFM, NRCS, Conservation District, and UVM field staff on the terms and requirements for agricultural regulatory programs. This workshop/ training will discuss and review AG Water Quality coordination and consistency across a variety of areas: Water Quality 101; what constitutes a water quality violation?; the science of identifying target areas; ensuring a consistent approach across staff and watershed planning basins. This meeting will be very valuable for all folks conducting AG water quality resource assessment, resource concern identification, resource technical assistance, education and outreach, and priority BMP implementation work. In addition, this should provide us all with an opportunity to meet other folks who are providing AG Water Quality technical assistance in an effort to be better coordinated in delivering AG water quality resource assistance to the AG community.

Mosquito Survey

On Wednesday, Feb 21, a conference call/webinar was held with Department of Health and interested town managers from those towns in the area where EEE was detected last Summer. Representatives from Ripton, Cornwall, Brandon, the Lemon Fair insect Control district, among others, participated. The items for discussion included the occurrence of EEE in 2012, how and why the disease is problematic in Vermont, and our (AAFM and DOH) plans for survey and analysis in 2013 (and beyond). General consensus was that we should continue with our efforts to manage the disease, and outreach efforts are critical in the future.

State Entomologist

Alan Graham is the new State Entomologist, officially as of 2/25, but practically since the beginning of February. We will be posting the Vector Management Coordinator position early next week, to replace Alan in that role, and will hopefully have a new VMC on board within a month.

A hearing was held on Thursday with the Holden Farm of Bennington regarding an administrative penalty for a waste storage structure that is not maintaining required freeboard. The original action was taken this past December and all efforts to resolve the issue have so far have been unsuccessful.

Agency staff participated in a call with towns in the Addison/ Rutland area and the Health Dept. about mosquito control plans for this year.

Secretary's Comments

MEETINGS OF INTEREST

WCAX Cabinet Press Conference – attended meeting at the Capital Plaza. Joined other Cabinet members in answering questions from the Press and the paid attendees. Found it interesting that WCAX charged to get into event – presumably to cover breakfast.

Land Use Committee – Gov Ceremonial Offices – attended meeting to discuss land use issues. Act 250 matters involving Whistle Pig were discussed as were the implications of the Department of Fire Safety's new rule requiring an elevator for all second story units with more than 1000 square feet. The evolving land use issues related to what is and is not a farm were discussed as well. It was agreed to convene a work group over the summer to include the NRB, VAAFM and ACCD as well as others.

Green Mountain Federation of Dairy Co-ops – this organization represents many of the dairy interests in the state and is led by Jane Clifford. Deputy Sec Bothfeld and Sec Ross attended lunch and brief the Board on the legislative happenings.

Working Landscape Board Meeting – Met with Board to review policy questions and evaluation matters in advance of reviewing applications for another funding bucket. Inclusion of a means test, an interest of the Governor's, is proving difficult to do because of the invasive and complex requirements to do it well and fair.

Specialty Food Reception – attended the reception in the State House. Worked the room for over an hour. Discovered receptivity to voluntary labeling for GE Free products on the part of the Association and other business interests.

Joint House And Senate Ag Committee Hearing – the focus of the hearing was on dairy and the hearing was held in Room 11 for over 2 hours. Participated as leadoff witness to the hearing. Reviewed the state of dairy in Vermont and answered 8 of 16 questions requested by the Senate Committee. Will return to finish the other questions.

Big E Conference Call – led a conference call with the other 5 New England Commissioners to discuss and strategize in advance of our meeting with Big E staff. The meeting on the future relationship between the Avenue of the States and the Big E will be discussed at the Harvest New England conference in Mass on Feb 27th. This is a subject matter with relevance to our state budget and marketing and may eventually rise to the attention of the Governor as all 6 states are not happy with their relationship with the Big E.

Farmer Listening Session – on Friday afternoon Sec Ross will conduct his first of 5 listening in the field sessions with the farm community. The sessions will be held in communities where flood damage from Irene was pronounced and the purpose will be to hear from farmers about the lingering or ongoing impacts of Irene as well as listening to any other concerns or questions they have. The first session will be held in Vergennes and

subsequent meeting will be held in Springfield, Morrisville, Poultney, and Randolph. More will be scheduled later in the year.

Legislative Bill Tracking Information

House Ag Testimony on GM – 2-19-13

Robert Merker, Supervisory Consumer Safety Officer, Food and Drug Administration

- Indicated that no regulatory body does its own testing for most products – all approvals are all done through the manufacturer (drugs and medical devices). Color additives in food, drugs, etc. do require approval, as do food additives
- Conducts full compositional evaluation which tells them whether the overall nutrition and gene expression have changed
- Safety assessment process: look at identity – in the case of bioengineered food, looking at new proteins (which are generally non-toxic, so no acceptable daily intake);
- Usually independent labs that manufacturers contract with to do safety studies: assessment of allergens, digestibility, meets codex alimentarius, compositional assessment that compares levels of all components in conventional crops compared to GE crops
- In a few instances, there have been compositional changes where labeling is required
- **FDA cannot require things to be labeled differently unless there is a material difference between them
- There have been flawed studies on the negative impact of GE crops
- Most of the GE crops that we eat have been heavily processed and contain no protein
- There was uncertainty expressed at FDA 20 years ago, but now there is no uncertainty
- **FDA says that there can be voluntary labeling
- Foods are considered GRAS unless they are adulterated
- Marianski quote in bill was taken out of context in the Bill

Michelle Kropp, Gringo Jack's

- Against GMO's, they are getting approval through non-GMO project
- Will cost them approximately \$4-5,000 to be approved through non-GMO project
- Using all verified non-GMO ingredients
- Expressed mixed emotions about state-level labeling law – would prefer voluntary labeling
- Would be 5-7 cents per label, plus labor costs, if there was a VT-specific label required
- Distributors will not separate out inventory based on location

Schmalz Notes 2-19-13 House Ag H.112

- AM – Arrived at approximately 11:30 AM, Jane Clifford offering testimony on GMO Bill, expressed her concerns that the GMO labeling bill might become a hindrance to growers and marketers hoping to feed increasing numbers of population
- Kilmartin testimony was reportedly directed at religious reasons to prohibit GE manipulation of seed, referenced Genesis 1:29, apparently felt these seed were from God, should not be manipulated by man. (I was not present; this is based on responses to my questions about R K's testimony from committee members).
- Media present during both sessions: John Dillon, VPR, asked C. Part. If she felt the new bill would pass constitutional muster, her response was muted and I could not hear clearly. PM session, television crew showed up in PM, ABC/FOX affiliate. No questions, only footage.

House Ag Testimony on GM – 2-20-13

Kari Bradley, General Manager, Hunger Mountain Coop

- Co-op does \$20 million in sales; 30% from VT
- Part of a national group – policy shift from banning GMOs to labeling
- Carry 12,000 SKUs – impossible for the retailer to determine whether or not it is GMO
- Language of the bill seems to limit liability for retailer – this is important

- Believes that the bill will lead to an increase of non-GMO supply
- Part of a national trend – this is an idea whose time has come
- If Vermont is out in front, it will help us be seen as a leader in good food
- Customers are concerned about health impact of GMOs, and concerned about the lack of research
- Co-op takes SNAP and has low-income member program to help make these foods more affordable
- If considered together, co-ops would be a top-20 employer in the state
- Feels that his Vermont suppliers would not have a problem with compliance

Kathy Bacon – Freedom Foods

- Create their own products, and co-pack for other brands
- Started Hillside Farm in 1998; was using Food Venture Center in Fairfax
- Started Freedom Foods in 2008, fitting up Randolph co-op with food processing
- In new facility, going to process meat and seafood (received VEGI grant)
- Supports factual labeling, local, organic and clean
- Opposed to legislation at the state level – must be done federally
- Would need to have a second SKU for every product, reflecting different labels for Vermont and others
- Small producers buy large amounts of labels to get a discount, often enough for 5+ years
- Would cost thousands to buy new labels
- Tourists at destination stores will see shelves of food with GMOs that they don't see at home
- GMOs are ubiquitous, down to baking powder – would be very difficult to determine if ingredients are GMO-free, and find alternatives, if necessary
- Alternatives would change the price point of the product
- Small companies will have a very hard time with compliance
- State by state approach will be a huge logistical challenge – will not be able to comply with the differences in state laws
- If there was a real public health concern, the USDA and FDA would take it on

George Schenk, Founder and CEO of American Flatbread, Waitsfield

- Strongly in support of the bill
- Need transparency to the consumer to preserve the market
- Consumer right to know what is in their food

Mel Fields, Birnn Chocolates of Vermont

- They are wholesalers - Provide detailed list of ingredients to retailers, but they do not label the product for the consumer – usually for a bulk candy case
- Against the bill
- Feels strongly about organic, natural foods, but concerned about impact the business community
- As a taxpayer, concerned about the cost of litigation from having the bill challenged
- Would not be able to find GMO-free ingredients – would have to source from China and/or India. Company decided that they would rather have a US product that is produced under FDA regulations than buy something from China
- Every bit of chocolate has lecithin – all soy-based, all GMO
- Would be harmful to local Vermont businesses
- Liked previous language that tied the effectiveness to passage of bill in other states

Other notes

- Chair would like to start markup tomorrow or Friday afternoon
- Wants to hear from medical profession
- Open to suggestions on effective date

House Ag H.112 Friday Feb 22, 2013, 1300

Present: Toleno, Connor, Smith, Michelsen, Lawrence, Partridge, Bartolomew, Zagar, Stevens, O'Grady, (others) no media in evidence.

Skype connection with Mr. Jeffery Smith, exec dir. Institute for Responsible Technology

Testimony :

Began by stating FDA memos from 1991/92, during the original FDA GMO policy reviews make clear that fda scientists had concerns re:GMO foods, political appointees continued to remove, winnow out the scientists concerns, based the rationale of no labeling on the absence of meaningful differences (or no information on GMO products). Scientists however did not agree with the FDA heads.

Monsanto employees and managers have been in positions to implement FDA and Federal government policy generally regarding GMO foods now and historically. These influential persons have politicized the decision to allow GMO products in our food chain.

Mentioned self-propagation tendencies through cross-pollination in crops once released, which results in self-replicating and widespread pollution of the gene pool.

There is widespread public perception that there are agencies taking responsibility for human health and environmental protection when in fact there is little to no regulatory or governmental oversight of these products and their availability. Leads to misperception that someone is responsible for approving GMO products, who was acting responsibly to ensure food safety.

Went on to describe various diseases and afflictions caused by GMO foods, that tend to disappear after GMO foods are removed from diets, in both humans and animals.

Discussed spread of Bt toxin appearing in food supply, in human cells, consequences of same in our digestive systems, leading to leaky gut syndrome, internal bleeding, etc.

Discussed activity of Roundup as an endocrine disruptor and cancer causing agent, cited studies in rodents, etc.

Discussed doctors prescribing non-GMO diets, further examples of how non-GMO diets are beneficial to humans, associates GMO foods with allergies, weight gain, migraines, etc.

As to whether we should label GMOs – we don't have to accept that GMOs are unhealthy, but the decision should be made by the consumers, not FDA (ignored the science), or religious side, where numerous religious leaders have encouraged their following to avoid GMOs.

Cited Indian example of GMO labeling process – no GMOs have been evaluated worldwide on an impartial basis, Indian researchers concluded it would take up to 25 years to determine safety of GMOs.

Ultimately, he feels it is best to empower consumers by requiring labeling of GMOs.

Q/A

What about environmental interests? (CP)

More and more roundup is being used as a result of RR crops. Monsanto has claimed roundup is biodegradable, they were incorrect. Roundup has a 22 year half life in soil, max. Discussion of how roundup works, binding with trace minerals in field soils (Mg ,Mn, Ca, other micronutrients availability) also promotes growth of soil borne pathogens, which contribute to the mortality of the plants. Connect this to deficient livestock, roundup remains in soils and affects future planting in same soils, epidemic of miscarriages in livestock due to microorganisms present in fetal tissues, roundup can be absorbed by water and impacts the water supply, affecting aqueous organisms,

Bt also affects aquatics, clearly toxic to environment.

Roundup resistant weeds are a result of excessive applications of roundup to RR crops, canola resistance has spread (?) to other brassica species from RR canola, thru genetic drift and cross-pollination.

Bt affects non-target insects, honeybees collecting pollen from Bt corn are adversely impacted by Bt proteins in corn.

Concerns about 2,4-D resistant plants in development, Dicamba tolerant plants, etc., use of these will further increase the threat to environment.

(John Bartholomew - JB) – reference Dr. Merker at FDA (testified on Tuesday 2/19), mentioned independent lab studies from non-in house labs at FDA, rewrite the studies to hide the effects they didn't like. Is merker wrong?

Doesn't know how Monsanto does safety studies, cites flawed study design at Monsanto, sent methods out to the independent labs, unscientific reasons for discarding results in studies.

(Teo Zagar -TZ) Have you ever been legally threatened by biotechs for your statements and policies?

No, but they do try to smear him (ad hominem attacks are prevalent against him), badge of honor that they have tried to discredit him, but do not have not taken action against him legally.

Smith did wrap up by saying congratulate the committee for taking this matter up, VT distinguished themselves by taking up leadership position on this issue, farmer protection act, seed labeling law, will send copies of the movie (with bonus disc) to the committee if they forward their address

Gov Shumlin was reticent (reluctant) to pass the bill last year, but did not want to burden VT with litigation costs, *Offered to solicit pledges for support a defense fund for VT legal costs if the bill passes* (Schmalz emphasis).

Not against GMOs per se, but is opposed to using these untested products universally for the benefit of corporations driven by short term motives (patents, revenues, etc.) risking everything for the sake of these short term goals.

Feels personally GMOs should be banned, but failing that, there needs to be more information dissemination and consumers should be able to decide for themselves.

(Dan Connor - DC) committee is aware that there are other leg bodies considering other laws, has he been following these, and has he been asked to comment by them?

Yes, his organization is following other laws, AZ for example, and NM, and CO, CT, ballot initiative in WA, 37 in total, most are underfunded and in need of organization, high hurdles, 7 or 8 have a good chance of passing based on his information

(JB) comment on CA Prop 37?

In CA you cannot (could not) believe the ad campaigns against the CA initiative, people were overwhelmed by the spin on TV and radio, disinformation campaign, waged by biotech companies, even then they got 46% of electorate

(Will Stevens) where does your funding come from?

Small family foundations and individuals, small number from companies suing the non-gmo packet guide, revenues for the movie sales.

(JB) we will air your movie in Hartland

Thumbs up, signaling approval of JB airing movie in Hartland Film Festival (audio was dropping out)
End.

Committee was very supportive of his testimony and the bill in general, thanked him and inquired as to obtaining copies of his movie.

Markup on bill followed (2:30 pm to XX), Markup focused on VLS submissions for revising findings at beginning of bill

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Deborah L. Markowitz
Agency Secretary

Justin G. Johnson
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State of Vermont
Agency of Natural Resources

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Deborah Markowitz, Secretary, Agency of Natural Resources
Date: February 22, 2013
Subject: ANR Weekly Report

Governor Level Issues:

Moretown Landfill: The public comment period following the Program's intent to deny letter for the pending Cell 2 and Cell 3 application closed on February 5th. In all, approximately 250 comments were received. Staff have posted pdf files of the emails and attachments for public viewing on the Moretown Landfill webpage. A responsiveness summary is being prepared and the Program anticipates issuing a final decision on this application on March 8, 2013. The Landfill has completed the comprehensive analysis of the gas well collection system and a driller is on site this week to replace approximately 15 vertical landfill gas collection wells. That work is anticipated to take 7-10 days to complete. An additional 4-6 gas wells located on the side slopes are scheduled for replacement in the spring when they can be more easily accessed. Following the cease order by Act 250, MLI placed 12 inches of low-permeability soils on all areas that were unable to be capped with the duraskrim temporary capping. In response to reports from neighbors of illness/nausea side effects that they attribute to landfill gas exposure, the Program has requested exploratory air sampling be conducted. MLI has submitted a brief plan outlining the air sampling they intend to conduct. Staff is working with VDH and the Air Pollution Prevention Division to review the plan and assure it is comprehensive enough to fully assess any public health impacts. MLI representatives have requested to meet with Program staff to discuss the Cell 4 application sometime during the final week in February.

Greater Upper Valley Landfill: On Monday, February 11, 2013, Solid Waste staff, Dennis Fekert and Chris Kaufman, met with representatives of the Greater Upper Valley Solid Waste District and the Windsor/Windham Counties Solid Waste Management District, about their certified, but as yet unconstructed, solid waste landfill. The District is on a tight budget and is looking for guidance on upgrading their designs for the landfill. While staff cannot design the facility, we lent some assistance so that the District could narrow the scope of the RFP to come.

Jay Peak meetings: Streamflow Protection staff met with Jay Peak representatives and the Corps of Engineers regarding Jay Peak's development of a new snowmaking water withdrawal on the Missisquoi River. Jay Peak is going to revise and resubmit its snowmaking needs and alternatives analysis sometime in the next few months. Following the Department's review, the Department will schedule a flow conference and issue a flow determination.

DEC staff also met with Jay Peak to fulfill the Watershed Management Division's request for a detailed hydrologic modeling analysis of the phased West Bowl master plan proposal. A second meeting dealt with mitigation for wetland, water, and other forest resources.

DFW staff also prepared for and attended multiple meetings with Jay Peak. The first meeting was with Jay Peak and DEC WQD to discuss the developing a model of the hydrological conditions in the "West Bowl". The hope is this model will allow the examination of current hydrologic condition that contributes to the flows in upper Jay Branch. Then the model will be adapted/modified to incorporate proposed development in the West Bowl to explore changes in hydrological conditions. The West Bowl is an undeveloped forested area with many wetlands and assorted hydrologic features. The "current condition model" will be presented to the ANR staff sometime early March. The other Jay Peak meeting pertained to wildlife habitat and other important resources impacts in the Version 5 of the Jay Peak Master Plan. The riparian buffers were mentioned again and areas where development could be consolidated to reduce road infrastructure. Staff provided comments on a smaller ACT 250 permit Jay Peak has submitted. This project called for the replacement of a ski lift with a newer detachable lift in a different alignment. The problem is over half of the lift base and all of the operator warming hut are in the 50ft stream buffer. Comments stated that the lift base and warming hut needed to be moved outside of the buffer.

VT Gas Project: Staff participated in a conference call to discuss the VT Gas (VG) St. Albans extension project with state wetlands and VG staff. VG plans to trench thru one of 2 known populations in the state of the very rare (S1) awned sedge (*Carex atherodes*). They will be impacting approximately 33% of the populations. We are trying to get VG to reduce the time they will be working in the area and/or work in that area later in the season. They are resistant to both requests. Although they will change their direction and work from the south, they are still likely to be working in the sedge area during the growing season. We have another conference call scheduled for next week to attempt to resolve the impasse.

EVERYTHING ELSE:

Legislative Issues/Testimony:

Shoreline Protection: Susan Warren, the Lakes and Ponds program manager, provided testimony in David Deen's committee on a bill to create a shoreland protection permitting program.

SY15 Capital Bill: Winslow Ladue and Eric Blatt provided testimony to the House Institutions and Corrections Committee on ANR's SFY14 and SFY15 capital appropriation request for the Pollution Control and Drinking Water Supply Programs.

Legislative Hearing on Climate Change: Secretary Markowitz, Commissioner Mears and Director Valentinetti addressed a special meeting of the House Natural Resources Committee on climate change. They were joined by climate researcher Dr. Alan Betts, Department of Public Service Commissioner Chris Recchia, and Deputy Secretary of Transportation Sue Minter. The group covered a wide range of topics: changes in Vermont's Climate, Vermont's GHG Emissions and Actions, the Comprehensive Energy Plan, the Regional Greenhouse Gas Initiative; Transportation issues, and climate change adaptation.

FPR FY14 Budget: Commissioner Michael Snyder and Adrienne Jones, FPR Financial Manager, are scheduled for testimony this week with House Appropriations.

Capital Bill: Commissioner Michael Snyder, State Parks Director Craig Whipple and Parks Projects Coordinator Frank Spaulding will meet with Senate Institutions later this week for testimony on the Capital Bill.

Current Use: Deputy Secretary Justin Johnson and Commissioner Michael Snyder testified at House Ways and Means on Current Use.

S.54: Commissioner Snyder will be providing testimony this week to Senate Institutions on S.54, an act relating to the preservation of the Vermont State Hospital cemetery.

Upcoming Joint Resolution: The Department will soon be submitting a proposed Joint Resolution to the legislature seeking authorization to proceed with a proposed land exchange with Markowski Excavation in Plymouth, and a transfer of a portion of Grand Isle State Park to the Town of Grand Isle for outdoor recreation purposes.

S.21: As requested by the Senate Natural Resources and Energy Committee, the ANR Lands Director provided written comments regarding the proposed commercial construction prohibitions on state lands outlined in S. 21.

Press Issues/Releases:

Ice Shanties Must Be Removed Before Ice Weakens: Vermont state law requires that ice fishing shanties must be removed from the ice before the ice becomes unsafe or ice loses its ability to support the shanty out of the water, or before the last Sunday in March (the 31st this year), whichever comes first. The same Vermont law requires the name and address of the owner to be on the ice shanty

Significant Events/Meetings:

Vermont Monitoring Cooperative: Commissioner Mears participated in a meeting of the steering committee of the Vermont Monitoring Cooperative along with representatives of all three ANR departments. The group discussed funding challenges associated with funding ongoing monitoring work. Thanks to the efforts of Senator Leahy's office, the group has sufficient funding for the coming year. They have also undertaken to develop a common database that university, federal and state researchers and scientists can use to access each other's data on forest and environmental health in Vermont.

Northeast Environmental Commissioners Conference Call: Commissioner Mears facilitated a conference call among the Northeast Environmental Commissioners. We discussed and agreed upon an approach for action by our Governors to address interstate air pollution. A draft letter has been developed by the group and will be presented to the CONEG Governors at the upcoming NGA meeting.

Lake Champlain Basin Program Steering Committee: Commissioner Mears represented the agency at the meeting of the steering committee in Lake Placid, New York. The main work of the group was to allocate nearly one and a half million dollars to projects to address water pollution and related threats to Lake Champlain. Vermont DEC and New York DEC collaborated on a set of proposals for implementation of pollution controls which were approved for funding. This was our first effort since I have been on the board to present a set of joint state proposals and our success sets a good tone for improved coordination with New York on a water quality protection strategy for the lake.

DEC Quarterly Meeting with Vermont Department of Health: We had a good meeting that covered a variety of topics of common interest to both departments. A quick summary of the topics covered include the following:

- Coordination on setting public health protection standards where contamination levels are below background;
 - A study of PCB's in schools being done collaboratively with the Department of Education;
 - Implementation of the private well testing legislation;
 - Update on the new standard being developed for manganese in drinking water;
 - Coordination on public communications related to chloramines; and
 - Discussion of the state of our knowledge of the health risks associated with ultrafine particles in air emissions from wood-fired devices.
-

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

National Association of Clean Air Agencies (NACAA) Global Warming Committee Call:

Jeff Merrell participated in this monthly call on Feb 13 which included presentations and discussion on: A new scientific study on the impact of black carbon on the climate by Mark Z. Jacobson of Stanford University; Notice of intent to sue EPA on failure to set methane NSPS for the oil and gas sector (Office of the New York State Attorney General); A summary of the impacts of Hurricane Sandy on New York City, and discussion of ongoing cleanup and future adaptation efforts and; An update on California's Greenhouse Gas Program implementing AB32.

CA Air Resources Board Low Carbon Fuel Standard Sustainability Workgroup:

Brian Woods joined the periodic teleconference of this group. Edie Sonne Hall from Weyerhaeuser gave a presentation on forest sustainability certification, both opportunities and challenges. This was followed by a discussion of how CA might go about designing its low-carbon fuel sustainability program. It appears they are heavily leaning toward a voluntary, incentive-based program, where certified sustainable feedstocks would be eligible for some bonus carbon credit.

ANR v. Daniel Mandich and Westminster Meats, LLC: Emergency Order: The wastewater system servicing the Westminster Meats slaughterhouse and meat packing facility failed in January of this year. After outreach efforts failed to produce voluntary compliance, we requested an emergency order from the Environmental Court. The Court issued the Order on two grounds: (1) an activity which required a permit was continuing without a permit and (2) the violation was causing a threat to public health. The Emergency Order requires Westminster Meats to have the failed system pumped and disconnected and prohibits them from using the failed system.

Underground Injection Control (UIC) Rule revision: Meetings continue to occur with outside groups to get input to the current draft of the UIC rule revision. The Drinking Water and Groundwater Protection division held a meeting with engineering consultants and will be meeting shortly with representatives of the Barre Granite Association and the VT Chamber of Commerce.

VTC's proposed Agriculture-Methane Electric Generating Facility: A number of DEC programs met with the Agency of Agriculture and representatives of the Vermont Technical College. The meeting addressed concerns which the Agencies have regarding VTC's filing to the Public Service Board for a 375 kW Agriculture-Methane Electric Generating Facility at Randolph Center, VT. Both Agencies had notified VTC of their concerns earlier and the meeting was held to see how those concerns could be best addressed. It is likely that all the concerns will be addressed in a manner satisfactory to both Agencies.

New Website: The DW&GWP division has a new website which was launched this week. Although there is still work to be done on it, it is good to finally have a website that represents the division. Many thanks go to Ashley Lucht who hired a contractor and then kept the project moving forward with assistance from Heather Campbell.

A.R.C. Project: Agency Records Project: Staff across DEC are working through the inventory surveys and thereby being in a position to participate in interviews with Grant Thornton staff beginning next week and for several weeks to follow. Interviews next week (so far) include 7-8 programs and multiple staff. ANR records officers met to coordinate on interview schedules with a focus on regional office staff. In addition, the ANR GT lead team participated in the weekly call to review status and create plans for the next round of interviews next week.

Facilities Engineering Division awarded loans for the following projects:

- **East Montpelier Town School District:** A DWSRF loan was increased by \$12,831.50 from \$69,780 to \$82,611.50 to complete an upgrade of the school's water system.
- **Greensboro Bend Fire District No. 2:** A DWSRF loan was awarded in the amount of \$109,531.44 to fund an extension of a water distribution main to connect the Four Seasons Early Learning Center to the water system and to upgrade the disinfection system.
- **Dover Town School District:** A DWSRF loan was increased by \$6,367.30 from \$17,000.00 to \$23,367.30 to fund improvements to the Dover Elementary School water system.

JARD site, Bennington: Waste Management division staff met with the Vermont Department of Health and Johnson Co to review data regarding impacted homes and plan for additional investigation and cleanup actions at this contaminated brownfields site. Unfortunately, indoor air testing in five residences in January resulted in an unusable data set and we will have to test the houses again. Re-sampling of the homes is scheduled for the week of February 18th. A larger meeting with the residents and VTDEC and EPA (removal and remedial) programs will be in March to discuss next steps and moving forward. Several items that need to be addressed include installation of mitigation systems in several homes, removal of PCB impacted sediments from several homes and cleaning them, remediating the continuing release from the JARD site and the timing on the request for national priorities list (Superfund) listing. We plan to meet with USEPA to coordinate on work needed and which agency will conduct the necessary work.

North Country Sportsmen's Club: We responded to a letter from concerned neighbors which challenged our approval of the Environmental Stewardship Plan (ESP) submitted by the club. We maintain that the plan is consistent with ESP guidance documents and the neighbors maintain that their plan is not robust enough. The club has also submitted, and we have subsequently approved, a work plan to conduct a comprehensive soil sampling event in the spring on two down-gradient properties. The club is also waiting for Act 250 approval or an exemption so they can start work using F&W grant money to implement their recommended range improvements. The club ceased using the shooting station that was depositing lead shot into the headwaters of a tributary to Sucker Brook in early 2012.

Hazardous Waste Management Rule Revisions filed: The hazardous waste program completed the final "adopted rule" step in the rulemaking process for revisions being made to the Vermont Hazardous Waste Management Regulations (last revised in 2006). Changes to the

VHWMR include adoption of new federal RCRA regulations required for Vermont's hazardous waste program to maintain its EPA-authorized status; adoption of the federal Academic Labs rule to replace the expired University Labs XL rule (applicable to UVM); addition of new standards for facilities that aggregate and temporarily store waste fuels received from off-site for subsequent reclamation/reuse; substitution of current small quantity generator emergency response procedures with equally protective but simpler standards; and clarification that used oil fuel meeting quality specifications is subject to limited regulation under the Subchapter 8 used oil management standards. The revised VHWMR will become effective on March 15, 2013.

NEWSVT Landfill: DEC staff attended the semi-annual Landfill Oversight Committee Meeting at the New England Waste Services of Vermont landfill in Coventry, VT. The meeting is an information gathering/sharing session between the landfill, the landfill's consultants, Act 250, ANR, local communities, the City of Sherbrook, Quebec officials, and the MRC Memphremagog (regional planning group in Magog, QC). Agenda Items included recent water quality results, proposed tonnage increase, active operations, future development, odors, leachate disposal, proposed solar project and updates of last summer's construction. The Canadians continue to have concerns regarding the impacts on Lake Memphremagog from the treatment of leachate at the Newport WWTF and from the unlined landfill portions of the landfill. A lengthy discussion involved what the short term and long term impacts are to the Black River wetland area and Lake Memphremagog if the unlined landfill were to be remediated or leave it as it currently exists.

Habitat for Humanity: Solid waste staff met with David Mullin, Executive Director of Habitat for Humanity in VT. Along with their home building efforts, they have two (and more planned) ReStores in Vermont that sell used furniture, surplus/used building supplies, and other surplus items. All profits get plowed back into home building in VT. They offer pick up service to homeowners, contractors, and business that have surplus goods to donate. Apparently, they cannot keep up with the demand to donate, and will travel all over the state for worthwhile goods. We discussed collaboration, spreading the word about the Restores, and other services that they may offer to divert waste from disposal.

Solar Farm on Landfill: Green Mountain Power is moving forward with siting a solar farm on the former Rutland City Landfill, and the Program has been working with the Company and City on the project. GMP is aware of our requirements as spelled out in the "Constructing Solar Photovoltaics on Solid Waste Landfills" policy, and the need for the City to amend its post closure certification to include the solar farm. A site visit is planned.

Alburg ink spill: At about 1:00 a.m. on Tuesday, Feb 12, a tractor-trailer hit black ice, lost control, spun 180 degrees, and went off of Rte 78 in Alburgh. The truck was loaded with 55-gallon drums of flammable and toxic printing ink, pigments, adhesives, and varnishing agents. Approximately 9-10 of these drums were thrown as far as 50-60 yards from where the truck came to rest, and burst open on impact, spraying their contents. In addition the truck leaked approximately 30 gallons of diesel fuel. The ANR Spill Response Program coordinated the response.

Fluorescent Lamp Recycling: The manufacturer-funded fluorescent lamp recycling program has recently been used by a large generator that brought over 3000 CFLs to a municipal collection location. Although there is no quantity limit on CFLs, this was entirely unexpected, and given that the intent of the collection program was to serve residential and small business sources, this has created concern. We believe we need to have an internal discussion on the remedy for this situation, and certainly the National Electrical Manufacturers Association will be discussing their concerns and possible remedies with us soon.

Watershed Grants: DEC and DFW staff met with the Watershed Grants Review Committee to review and select project proposals. The Committee's recommended list of selected proposals was sent to the F&W Commissioner for endorsement. The F&W Commissioner endorsed the Committee's list of 12 proposals involving \$122,010 in conservation license plate grant funding. Grant agreements will be executed soon.

Lower Orange Reservoir Dam Safety Order: The Rivers Program participated in an internal meeting with Facilities Engineering, Groundwater/Drinking Water and Fish & Wildlife to determine the next steps to resolve the City of Barre's appeal of a Chapter 43 Dam Safety Order for the Lower Orange Reservoir. The issue is the need to provide conservation flows while still meeting the safe yield requirements of the city water supply during dry periods. The next step is for a small technical group to meet with the city's consultant and water system operator to determine what information on the hydrology of the watershed is available and explore options to resolve the appeal.

Fish and Wildlife

Greenworks Conference at UVM: Staff attended the Greenworks (VT Nursery and Landscape Assoc) conference at UVM. Doug Telemey, author of Bringing Nature Home spoke about the importance of using native species for landscaping in urban settings. With the loss of greater amounts of natural vegetation especially in urban areas, he emphasized that using native in landscaping is increasingly important, even vital in retaining biodiversity. He provided lists documenting the numbers of insects that various plants host, and not surprisingly native plants host many more insects than do introduced plants.

Dam Removal Project in Weston: Staff attended a meeting with Todd Menees, Stream Alteration Engineer, Marie Caduto, Watershed Coordinator, and the Weston Community Association in regards to a dam removal project located on Cold Spring Brook in Weston. The dam breeched during Irene and currently the stream now flows on river right. The Weston Community Association applied for a watershed grant to fund the removal of the dam structure but was denied because removing the dam would not open up a substantial amount of habitat, according to Marie Caduto. Due to funding, Weston Community Association is now proposing to stabilize the right bank, put in a retaining wall on the left bank, and keep the dam structure in place.

Updates to Assist Aquatic Organism Passages: Staff worked with contracted consultants to update stream habitat gain metrics for the Agency Bridge and Culvert database. Thousands of culvert assessments have been conducted or funded by ANR to evaluate geomorphic compatibility and aquatic organism passage (AOP). A measure of potential habitat gain is generated through a GIS based tool for each structure and is used to more effectively identify structures for AOP enhancement. This additional information helps assure efficient use of limited aquatic habitat restoration funds.

Educating the Conservation Commission: Staff prepared a 7 map inventory and gave an informative presentation to the Conservation Commission Tuesday night. This is now the third time in 6 years that staff has had to present to this commission, each time with an entirely new cast of characters. It is illustrative of the high turn-over in these volunteer boards and the constant cycle of re-education that is necessary. This group is working on Town Plans for both Jeffersonville and Cambridge (separate planning authority), so I say it may be a constant cycle of re-education but is not futile since these groups are making big decisions about our natural resources.

Ice Fishing: Ice fishing continues with numerous ice fishing derbies occurring throughout the state. Wardens report high fishing pressure during the derbies; however outside those times fishing pressure is light. Derby angler law compliance is extremely high.

Sick Moose: Wardens euthanized a moose that couldn't stand up in Fayston. It was suspected to have brain worm.

Malletts Bay fishing Access: Local wardens are receiving complaints of snowmobilers and ATVers utilizing the access area to solely ride on the ice which is a violation of our access area use rule. Several tickets have been issued which has created several questions from area legislators.

Forest, Parks and Recreation

Commissioner's Meetings: In addition to legislative meetings and testimony listed above, Commissioner Michael Snyder participated in a Working Lands Enterprise Board meeting, a weekly Land Use meeting at the Governor's office, and a meeting with Secretary Markowitz and ANR legal staff to discuss a Bolton Nordic subdivision Act 250 application.

Bolton Nordic Acquisition: Closing on this property has been delayed with a target date of March 29, 2013. There is a cloud on title to the so-called gravel lot affecting Catamount Bolton Land's claimed ownership and their ability to convey a right-of-way easement to the State for access to the property as well as an emergency access easement to the Town of Bolton. Catamount Bolton is working to resolve this title issue with Mr. Ralph DeLauriers who appears to hold title to this gravel lot. Closing will not occur until this title issue is resolved. Also, the Agency will be submitting a letter to the District Commission to inform them that there are title

issues related to the access easement as this impacts the Act 250 subdivision permit application pending before the Commission. The Agency will not be requesting a hearing.

Recreational Trail Grant Applications: Review of RTP grant applications is ongoing, specifically to ensure that the federal regulatory requirement that an easement for such RTP trails is conveyed across private property.

Plum Creek v. State: The Department is working with the Attorney General's Office to begin to prepare for trial which is scheduled for May 2013.

Ski Area Updates: Department staff met last week with officials from Burke Mountain Ski Area, Smugglers' Notch Ski Area, Stowe Mountain Resort, and Jay Peak Resort to discuss ski area lease and related ski area issues. These and most other Vermont ski areas are reporting a good season to date – this despite a lack of natural snow in January and two major thaws. Recent snows and cold weather have the ski areas poised for a successful Presidents Week. Burke Mountain and Jay Peak are moving forward with their respective master plans and are planning major projects, both within and outside of the state leasehold boundaries. Additional ski trail development along with a new lift is being planned for the East Bowl area of Burke within the leasehold boundary, and plans are underway for new hotels, an indoor bike park, tennis courts and other facilities on private land. Burke made a major investment last year in upgrading their snowmaking which enabled them to open early and have one of their best Decembers ever. Additional snowmaking improvements are planned at Burke in 2013. Jay Peak completed a new beginner detachable quad lift on state land last year which replaced an old poma lift and is planning to install a new “6-pack” lift at the stateside area this summer which will replace the existing Bonaventure quad lift. Jay Peak is seeking permits for ski area development adjacent to state land in the “West Bowl” area north of Jay Peak and related development on resort property. Smugglers' Notch and Stowe both completed major snowmaking projects last year which have enabled them to recover quickly from last month's thaws. Smugglers' Notch plans to submit Act 250 and other permits later this spring for a planned pipeline from the Lamoille River to the ski area to augment their snowmaking capacity. Department staff will be meeting with officials from Killington later this week.

Land Transactions: A final subdivision hearing has been scheduled for next week with the Bolton Development Review Board for the Lafreniere sale parcel. The Department will be working closely over the coming months with the Town, Department of Buildings and General Services, Division for Historic Preservation, and the Vermont Housing and Conservation Board to market and advertise this property to prospective buyers. Work continues on other priority ANR land transactions including Bolton Nordic property (Bolton), Alburgh Dunes State Park land exchange (Alburgh), Fitzpatrick inholding in Coolidge State Forest (Killington), Benson inholding within Okemo State Forest (Andover), Stone parcel donation at Rupert State Forest (Rupert/Dorset), van Schaik parcel donation at Lord State Forest (Cavendish), transfer of Woodchuck Mountain property to Town of Newbury, and other land transaction projects.

Survey Section Updates: Work continues at Blueberry Hill WMA and at other high priority survey and boundary projects on ANR lands. Given that there is currently only one ANR Lands

Surveyor for the Agency and in order to better address the backlog of survey needs on ANR lands, the Lands Division plans to contract out some priority survey work on ANR lands.

Birding Hot Spots: The Vermont Center for Ecostudies has announced that all Vermont State Parks are designated “eBird Hot Spots” where birders can log into their website and record sightings. This aids the Division in promoting birding as an extremely popular outdoor activity.

Rating the Best State Parks: Burton Island State Park has risen to the top five finalists in the About.com national “Readers Choice for Best State Parks” contest. Online voting will continue until March 19, after which the winner will be announced.

Teacher’s Personal Summer Challenge: Beth Gorton, an art teacher from a school in southern Vermont, challenged herself in 2012 for her 62nd birthday to visit every Vermont State Park in one summer. A recent correspondence from her describes her adventure this past season and her reflections on state parks and the Vermont outdoors.

Camping Reservations Are Up: Reservation records show more than a 5% increase in camping reservation activity over last year at this time.

Forestry Updates: FPR Forestry Division has been working with IT, and very soon will be able to draw the names for the State Forestry firewood lottery program. Barbara Burns, Forest Health Program Manager, attended the Northeastern Area Association of State Foresters (NAASF) Forest Health Committee meeting in Portsmouth, NH last week. Steve Sinclair is again serving with a UVM search committee for a new Extension Forester. This is round three for this process, and we are hoping that the third time is the charm!

Program Updates: Conservation Education staff are engaged in National Project Learning Tree’s (PLT) strategic planning process in a task force working on income revenue for the program. Staff are also contributing to the Marsh-Billings-Rockefeller National Historical Park’s Long Range Interpretive Planning process. State park interpreter training is being planned, along with some workshops for FPR staff.

Information Technology

National Life Move: We continue to work on the moves into Davis-2, which requires some reworking of the Waitsfield site.

Bob Hammerl and Justin Johnson came up with a plan for the NL conference rooms which will be reviewed with Steve Chadwick ASAP.

The wireless LAN at NL is a big hit. Plans are underway to incorporate WLANS into regional offices.

Budget: Steve, Pam and Bob met with DII to learn more about Administration plans to move financial responsibilities for certain IT costs to DII. Hopefully we are looking out to the 2016 budget and that we'll have enough detail to plan ANR's budgets around the changes.

IT Projects: Ryan completed a map book for the Southern Lake Champlain Tactical Basin (very large file – only open from Ethernet connection).


Ryan also completed a request to delineate watersheds for the all the 2012 303(d) LIST OF WATERS. The watersheds will help Tim Clear, TMDL Coordinator, complete an analysis for targeted watersheds. It also allows the Agency and the public to easily see the impairment's contributing area. The new layer file is available under the *Fresh Water Resources and Characteristics* GIS directory.

Peter set up a public-facing ENVY SharePoint site the purpose of which is to disseminate public documents about Entergy Vermont Yankee nuclear power plant. Peter met with the "ENVY team" to train the team on how to use the site.

Erik held a webinar for 150 internal and external customers demonstrating the tools and maps of the Natural Resources Atlas. He then answered hundreds of E-mails regarding the Atlas coming as a result of the webinar. All were positive comments and questions/comments were helpful to better understand the workflows and purposes of the people that use the mapping tool.

Business Office

The ANR 2014 budget is being presented to the House Appropriations Committee this week.



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Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin
FROM: Secretary Jeb Spaulding
DATE: February 22, 2013
SUBJECT: Confidential Report to the Governor

BUILDINGS AND GENERAL RESOURCES

Legislative Issues/Contacts:

- Met with John Haverstock, town manager of Pittsford, in an attempt to negotiate a settlement regarding the State of Vermont and sewer capacity SOV pays for and does not need or use. Pittsford meeting arranged by Rep. Shaw and Sen. Flory.
- Met with Mayor Monette, City Manager Ward of Newport and Rep. Marcotte to clear the air and regarding the leasing of the boardwalk to an entity which then would apply for grant funds from VTRANS to repair the boardwalk.
- Worked with EPR consultants on background and the construction of proposals to use in negotiations with the City of Montpelier regarding the heat plant.

Significant Events/Meetings:

- To meet with City of Montpelier regarding the Carr lot redevelopment and the proposed Montpelier/Vermont rest area.
- Made proposal to City of Montpelier to address the heat plant cost overrun, associated costs and fair share.

FINANCE AND MANAGEMENT

Issues Update:

ERP Training: The Agenda for the ERP Extended Cabinet Meeting scheduled for March 18th is being finalized. This meeting is intended to allow the ERP Team to directly inform senior management about exactly what is going to change, how it will impact them personally and their organizations, and garner their support for the changes. Without senior management support, Go-Live and post Go-Live will be decidedly more difficult.

Overtime Settlement: Deputy Commissioner Zeller, FinOps Director Brad Ferland and Payroll Director Mary Graves met to finalize the detail tax filings, payroll changes and accounting entries necessary to handle the James Deeghan overtime settlement agreement with the State. The restitution is being paid primarily from Deeghan's retirement funds, on a monthly basis over six years. Because of the long-term nature of the re-payment schedule, Deputy Zeller will create a document detailing the necessary adjustments and accounting transactions to be recorded by the Attorney General's Office, the Treasurer's Office and Financial Operations/Payroll. This document will be co-signed by Zeller, Treasurer Pearce and Chief Assistant Attorney General Bill Griffin. This document will provide clarity now, and into the future, and protect against lapses due to any change in personnel for this complex multi-year settlement.

Federal Sequester: The Department of Finance and Management is monitoring the situation in Washington, D.C. regarding the possible impending sequester. The fiscal impact to the State is difficult to quantify and will depend on the structure of the sequester if it happens, as well as decisions by the federal Office of Management and Budget (OMB) as to how to implement it. The estimated impact of program cuts for Vermont has been in the range of \$14 to \$16 million, but that is a rough estimate based on many unknown factors. There could also be significant revenue impacts if tax revenues decline due to defense cuts and other negative impacts to the economy.

HEALTH CARE REFORM

Status of Governor's Priorities:

Premium & Cost-Sharing Subsidies: HHC voted out a proposal that was within the budget amount of our revised proposal (\$4.5M GF) – they put more into premiums & reduced cost-sharing for 200-250% FPL to balance. There was one member missing, so they may vote to reconsider. If they do that, it is likely that Rep Till's proposal will pass, which increases the GF by about \$775,000.

Other HCR in budget: HHC is looking at replacing the employer assessment revenue with revenue from a sugar sweetened beverage tax. Otherwise, no changes to our HCR budget initiatives. I've started testifying in Ways and Means. There will be push back on the claims assessment & I need to do more reeducation on why we went with a state-based Exchange, because there is concern regarding the \$18M cost projections.

Next Steps – Financing: Information about financing commission is public. We are waiting for more feedback from the Senate.

ERISA: Robin has completed two one-pagers on the ERISA issue and possible Congressional fixes. One is more detailed for delegation staff and internal, one is higher level for the Governor. She has requested a call with US DOL Asst Secretary Phyllis Borzi to discuss options. She is working on a list of businesses to reach out to with Lawrence Miller.

Duals: Robin has been working on determining the legal solvency standards applicable & how that translates into state government authority to certify that DVHA meets the relevant standard.

Press/Media Notes:

Ham Davis: Robin spoke with Ham Davis from Vt Digger about the financing plan, the GMC triggers, and the 9 member board idea. He ran one story on the GMCB and pressures on benefit increases. Expect he will run another on financing plan.

Editorial Boards: Robin and Mark Larson are making the rounds with editorial boards to give them an update about the Exchange and single payer planning. They met this week with the Free Press & Addison Independent and will meet Thursday with the Valley News.

Significant Events/Meetings:

State Alternatives for Addressing Continuity of Coverage and Affordability: Robin spoke on a multi-state webinar about Vermont's plans for a state premium & cost-sharing assistance program to supplement the federal tax credits/subsidies.

Union issues & health care reform with DFR: Michael Sirotkin is concerned about how unions fit into the grandfathering provisions under the ACA and state law. Unions prefer to remain out of the Exchange. Not sure that is allowable under federal law. Robin is working with DFR on the issue.

Duals: We are finalizing the certification issue.

Cost-sharing wrap with CMS/CCIIO: We have a call with CMS/CCIIO at their request to discuss operationalizing the state funded cost-sharing wrap.

HUMAN RESOURCES

Legislative Issues/Contacts:

Commissioner Duffy testified before Senate Appropriations on DHR's budget request. Little time was spent discussing the budget. Rather, Senator Sears spent most of the time chastising DHR for its failure to know that an employee was on temporary relief from duty from the Vet's Home for almost 18 months as a result of an investigation conducted by Adult Protective Services. Commissioner Duffy challenged some of the statements made, and indicated DHR does not interfere with APS investigations. The Committee has asked Commissioner Duffy to meet with Senator Westman and provide him with information concerning the number of employees on temporary relief from duty and the amount of time on relief from duty. DHR is gathering the information and Commissioner Duffy will attempt to schedule a meeting with Senator Westman early next week.

Commissioner Duffy testified before House Government Operations on the position pool.

Commissioner Duffy described the origins of the pool, the need for the pool, the recent sweeps of pool positions and awarding of requests for positions. Commissioner Duffy explained that the total number of positions is well below the number at the height of the Douglas Administration, and has been in response to Irene, health care initiatives, long-delayed IT projects, and understaffing concerns at DCF and DAIL.

Evolving Issues:

The Auditor's Office is conducting an audit of the State's workers' compensation program. The Auditor's Office has advised DHR that it will contact DHR employees to understand its role in the workers' compensation process.

DHR staff members are preparing for a hearing before the Labor Board on the double pay grievance filed by the VSEA. The hearing is scheduled for two days, February 21st and 28th. Commissioner Duffy will attend the full hearing.

DHR is continuing to bargain with the VTA. DHR moved off of some of its original proposals, but the VTA has not responded. DHR believes it is important to stress that VTA must move on some of its positions, and that excessive overtime, in particular, must be addressed in the successor contract. Commissioner Duffy will continue to update Secretary Spaulding on the progress made in reaching an agreement.

INFORMATION AND INNOVATION

Status of Governor's Priorities:

Healthcare: Earlier this week, SOV worked with CGI to interview a possible candidate to replace their departing Project Manager for the HBE SI project. While this is good news, it is not likely this person will be hired in time to overlap with the departing PM before he leaves which is still a significant risk to our HBE project.

Legislative Issues/Contacts:

Senate Appropriations: Commissioner Boes testified on the DII budget on Thursday and will likely need to return. We discussed the Microsoft license centralization issue (centralizing the purchasing of Microsoft Operating Systems and Microsoft Office Standard) which would have saved the state a considerable amount except for the fact that 40% of the state was not paying their Microsoft licenses. The committee asked that we provide clarification on positions, equipment and software rather than just the financial deltas that were presented.

Evolving Issues

- State of Vermont Fiber WAN Expansion, Fiber Connect Libraries, and State Police Barracks Wired Backup Connectivity remain at risk due to delays in Sovernet fiber installations
- VDOL delivered a partial sitemap to Kathy Murphy (ACCD) so ACCD can present a web design consistent with our web standard and our common look and feel. However, in messages to Kathy and me, Annie Noonan made it clear that she greatly prefers to use their own design. For

the moment, we have agreed to pursue parallel efforts so we can weigh the pros and cons of each approach.

- Work continues to get to an acceptable contract with VIC for our continued web hosting and web development. While we are getting closer from a terms and conditions standpoint, there are still significant gaps in scope.

LIBRARIES

Nothing to report.

TAXES

Legislation:

Statewide Property Tax Rate: Passed House with an amendment committing Ways & Means to study education financing. Rep. Scheurmann's original amendment to repeal the ed rates actually garnered 5 votes in Ways & Means (Condon & Wilson joined the Rs/D).

Miscellaneous Technical Tax Bill: The technical changes appeared poised to sail through House on Friday.

Miscellaneous Policy Tax Bill:

Cloud: Still no testimony scheduled.

Appraisal: With the backing of the Vermont Assessors and Listers Association, Rep. Wilson is lobbying the committee to consider lowering the threshold for when the state reimburses towns for the education tax repaid to a taxpayer after successful valuation appeal. The current scheme results in very few state paybacks; even the proposed increase would limit it to instances of large commercial properties. Would be a modest upward pressure on the Ed Fund (currently towns appear to pay back the taxpayer over a number of years).

Current Use: The committee appears to have pulled out the Current Use provisions in the Miscellaneous Bill, and is poised, with Rep. Clarkson in the lead, to once again propose a current use bill. ANR has asked Tax to model proportional reductions in benefits that could be used to fund the county foresters, at the request of Chair Ancel.

Various Taxes:

Sugar Sweetened Beverage: Tax is studying the proposal for operational impact in the event it actually were to pass.

Universal Service Fund Fee: Currently, the charge does not apply to prepaid phone cards. The telecom industry argues for any such fee to be levied at the point of sale. The grocers/retailers argue for a charge at the wholesale level. Again, Tax is examining contingency plans in the event of either scenario.

Operations:

Integrated Tax System: Our consultant, working with the Department project team, is proceeding on time with draft business requirements and a request for proposal. We should be on track to issue the RFP in the April/May timeframe.

Ongoing Department Re-Alignment: The Tax Department has had informal discussions with DII about possibly moving our IT division to DII, similar to the rest of the Agency of Administration, and the best timing for the same in the context of the ITS project. Given our inability to attract a qualified finance manager, we are working on a plan to elevate the position to a Director level and developing a SOW or expedited RFP to bring in an accounting consultant in the interim. We then would re-deploy Val Richert to manage our IRS relationship and oversee the Taxpayer Advocate. We are still recruiting for an Economist to replace Susan Mesner. We have received only a few qualified applications from experienced economists (including two state economists, although not clear either is serious about moving), and no shortage of inquiries from newly minted PhDs with esoteric dissertations. In this area we have successfully used Deb Brighton part time, however we face a new challenge since our programmer/statistician who has assisted Deb apparently may take a job with DII.

Tax Season: Tax has processed 62,886 income returns as of last Friday; 98% of the taxpayer prepared returns have been submitted electronically. It also appears that electronic submission of W-2s by employers is up. In January, our Taxpayer Services division handled over 10,000 phone calls and 1,000 emails. We are hoping to drive down these numbers once we have overhauled our website.

