

# WEEKLY REPORTS

Checklist  
4/27/2012

Bill Lofy

Agency of Commerce and Community Development – Lawrence Miller

Agency of Agriculture – Chuck Ross

Agency of Transportation – Brian Searles

Department of Labor – Annie Noonan

Alex MacLean

Agency of Natural Resources – Deb Markowitz

Department of Public Safety – Keith Flynn

Public Service Department – Liz Miller\* (shared with Sarah)

Susan Bartlett

Agency of Human Services – Doug Racine

Sarah London

Department of Financial Regulation – Steve Kimbell

Jeb Spaulding

Agency of Administration – Jeb Spaulding

Special Reports

Additional Report: Education

Additional Report: Lottery

Additional Report: Irene Recovery Office

Additional Report: Boards and Commissions

**To: Governor Peter Shumlin**  
**From: Lawrence Miller, Secretary - Agency of Commerce and Community Development**  
**Date: April 27, 2012**  
**Re: Weekly Report**

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**CDBG-DR:** Ann received the e-mail from the Boston HUD Office as of April 17<sup>th</sup> with the official Federal Register Notice for the CDBG-Disaster Recovery Funding that delineates all the rules and regulations associated with the Funding, details dates for submittal of the Action Plan, mandates of initial dates funds must be drawn down, etc. The focus from HUD for the development of the Action Plan appears to be on "Duplication of Benefit" through the requirement of the State to develop an "*Unmet Needs and Impact Assessment.*" **The one major surprise was the inclusion of two other Disaster Declarations, #1995 and #4001. These Declarations were for the spring and early summer flooding events, which explains why Washington and Windsor counties met the threshold but Windham did not.** Since January and even earlier, we have been operating with information from HUD understanding that these Disaster funds were only for Tropical Storm Irene recovery. Also, since this is the first time HUD has ever required the Unmet Needs Assessment, they have no guidelines or template to follow, and have admitted such and will be developing a toolkit; however, it will not be completed and available till after we are required to submit our Action Plan. We are targeting having a draft Action Plan for public comment available by May 29, 2012.

**Fred Kenney at VEPC reports:** I wanted to make sure you are aware of a milestone that was reached today at the VEPC monthly meeting, thank the Agency for the vision to make this happen, and thank those who made it possible. This was the first totally paperless meeting for the Council. Instead of sending out reams of paper, or even a memory stick mailer, through Sharepoint and Intelligrants the Council is now totally utilizing electronic means to make board information available. This means: Cost savings in postage; Cost savings in paper, ink, and printer repair; Work efficiencies for VEPC staff; Total security for VEGI applications; Ubiquitous availability of VEPC info for Board members (wherever there is Internet access). The addition of WIFI to the Council's normal meeting room was the final step to make this possible as board members need to have Internet available to access the information during meetings. Thanks to ACCD management for making this possible and ACCD IT and Alice for making it happen. Thanks to the VEPC Board for their willingness to embrace this technology and be the Sharepoint for boards "guinea pigs." **I think this is an important improvement to board activity and a model for state government efficiency. Imagine the total savings to state government costs if this improvement were to be duplicated for every state board and commission!**

**I am very concerned** about certain provisions in H.78 regarding unpaid wages which were fortunately removed by the Senate but are rumored to be of interest for reinsertion. The house included "*A corporation's liability for unpaid wages shall not be affected by the corporation's dissolution and winding up of its affairs. The directors and shareholders of a corporation shall be individually liable in an action brought by the department of labor for any unpaid wages owed to the corporation's employees, or brought by an individual employee that is owed wages by the corporation.*" Reaching through to shareholders would really badly affect investment in Vermont companies and reaching through to outside directors would severely cut the number of people willing to serve on boards, particularly of troubled companies where experience is most important. Ugh. I realize we need to make sure people get paid what they are owed but there is already a bankruptcy process for this set of circumstances.



**Executive Privilege**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Brian R. Searles  
**DATE:** Friday, April 27, 2012  
**SUBJECT:** VTrans - Confidential Report to the Governor

**Storm-Related Awards**

The Vermont Agency of Transportation is proud to be chosen the winner of the American Public Works Association "Project of the Year" award for the T.S. Irene response in the category of public projects costing greater than \$75 million. We were notified a couple of days ago of the award which will be presented at the APWA Annual Meeting in Anaheim, CA on August 27 (1-day before the 1<sup>st</sup> anniversary of the storm).

The APWA is the largest public works organization in the U.S. with 28,000 members in 71 Chapters in the United States and Canada. Our project was nominated by the New England chapter and competed with dozens of projects in North America.

The Lake Champlain Islands Chamber of Commerce will be presenting VTrans an award on May 23 for the response to the record lake flooding that nearly cut off access to the Islands on Routes 2 and 78 in May and June of 2011.

**Bennington Wal-Mart Project**

VTrans is a party to proceedings which have now moved to Environmental Court concerning the demolition of the 51,000 sq. ft. Wal-Mart in Bennington and the replacement of it with a 112,126 sq. ft. Wal-Mart Super Store at the same location. On April 24 the Court reversed a District 8 ruling from 2011 and allowed party status to VNRC and the Citizens for Greater Bennington. Our interests revolve around improvements we require to Route 7A to deal with increased traffic.

**Conservation Law Foundation & Others Oppose VGS use of Circ ROW**

In a letter to Don Gilbert of Vermont Gas Systems, Sandy Levine, Jake Brown of VNRC and Paul Burns of VPIRG have objected to several aspects of the VGS Addison Expansion Advisory Group process and results including the consideration of the existing Circumferential Highway ROW as an acceptable alternative. VGS says in a preliminary report that they are "confident that it can build within this corridor in a fashion that does

not compromise the area's environmental integrity; the issues are addressable and can be resolved".

In their response letter, the signers state that they "do not share this confidence" and that "Vermont Gas should refrain from claiming use of the Circ right-of-way meets the project's objectives".

### **T-Bill**

Conferees are down to two issues: the Secretary's authority to spend for real estate without permission from the Joint Transportation Oversight Committee (JTOC) and the naming of a bridge in Jamaica on Route 30, which was washed away by Irene, in honor of the late Rick Hube. I think that Sen. Mazza will give in on the latter if the House drops the requirement on real estate purchases which only has one real advocate, Rep. Corcoran. The bridge naming language will have to be crafted so as to not set a precedent and I think that is doable. However, the conferees will not meet again until Tuesday and the bill will not likely be passed until Thursday or Friday of next week. Sue Allen was interested in when the 5-day clock might begin for a bill signing and that's our best guess at this point.

### **Route 107 Construction**

There are several active construction sites on Rt. 107 and a paving project planned for later in the summer. There was also a bridge project on that road in Stockbridge that was suspended due to Irene and that project will resume on Monday, May 30. This is just the beginning of the busiest construction season Vermont has ever seen, to include a number of complete closures under the Accelerated Bridge Program.

### **Waterbury Main Street Reconstruction/Montpelier State Street Paving**

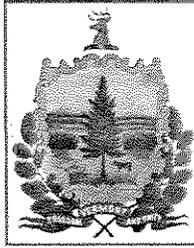
Specific language in the T-Bill will address the priority of this project and the importance of timing of the project with the construction at the Waterbury Complex. We have met with Waterbury officials and will work to ensure that one project does not negatively impact the other. My guess is that the road project, which is currently anticipated for 2015, will follow the state office project.

In another timing issue, Mayor Hollar and City Manager Fraser have requested that the paving scheduled for Main St. in Montpelier begin immediately after the district heat project piping which is scheduled for the summer of 2013. This paving project is currently scheduled for 2015, having been pushed back awaiting resolution of the heating project, and it looks as though we might be able to push it up to 2014 but not any sooner due to funding constraints.

### **Smuggler's Notch – Route 108 Closed**

District 8 reports that snow overnight has necessitated the re-closing of Rt. 108 and, given the forecast of cold weather, this closure will likely last the weekend.

To 116 STATE STREET  
MONTPELIER, VERMONT 05620



OFFICE OF THE SECRETARY  
TEL: (802) 828-1619  
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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:** April 27, 2012

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**Secretary's Top Issues:**

**Water Quality Program**

Tamarack Hill Farm, Strafford, will receive a corrective action letter for violations of the Accepted Agricultural Practices Regulations (AAPs). Cattle at the farm have free access to a stream and have trampled the banks in violation of AAP Sections 4.01(c) and (d). Recommended actions include the exclusion of cattle from the stream, with a possible defined crossing. Information will be provided to the farmer regarding livestock exclusion grants available through the Conservation Districts.

Deputy Secretary Bothfeld, Chelsea Lewis and Mike Mitchell met with Vince Galluccio to discuss potential plans for a slaughter and meat processing facility. Group discussed economic feasibility, demand for this type of facility, basic cost estimates, potential permitting requirements and regulatory requirements. Agency will work in collaboration with the Agency of Commerce and Community Development to move this project forward.

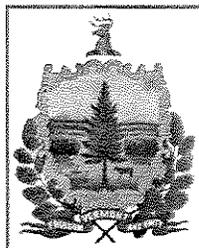
In re: Wing. Act 250 (Benson). Wing owns "Over the Hill," a federally inspected slaughterhouse in Benson. The facility has had an Act 250 permit for years. The Agency filed a letter this week with the District Commission that recites the facility's regulatory and license status of "good standing." A neighbor is trying to get the A250 permit changed. This same neighbor lost a nuisance suit against the facility after a jury trial last fall.

VT smoke and cure will be moving to their new facility in Hinesburg over the next several days. In the new facility, they will have a federal inspector, and will no longer be under a cross utilization program.

W.E. Aubuchon in Ludlow has been issued a cease and desist order for not being properly licensed to sell Class B pesticides. The store will have 30 days to have an employee become licensed as a Class B Dealer or else they will need to remove all pesticide products from the shelves and face additional enforcement action.

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**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** April 27, 2012

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**Legislative Issues**

- H.774- currently ordered to lie on the Senate floor

**Status of Governor's Priorities:**

Jobs in Agriculture

Press Issues/Releases/Contacts:

State veterinarian spoke with a reporter from Fox44 on April 25<sup>th</sup> regarding the BSE positive case in California. The reporter wanted to confirm that it was still safe for Vermonters to consume VT beef; it is.

Jon Turmel, State entomologist, spoke to Free Press (reporter-forgot his name) and Mr. Zind of VPR. Both about EAB and ALB Staff participated in the ICS-EAB drill in Randolph on April 26th. This was collaboration between VT Agency of AG, USDA-APHIS, US Forest Service, VT Department of Forests, Parks and Recreation, First Defender Program and UVM Extension. Drill was a success.

**Significant Events/Meetings:**

State veterinarian, along with agency communications director, attended the Dairy Management Inc., Crisis Management Communication Drill held on April 2

**Evolving Issues:**

The Food Safety and Consumer Protection Division held its first Compliance Unit meeting this week, with legal counsel in attendance. The group discussed current challenges associated with efficient completion of compliance and enforcement activities and began to brainstorm on techniques that can be used to overcome these challenges. During upcoming meetings, the group will focus in part on appropriate revisions to the Agency's Rules of Practice, promulgated in 1969 before I was born and amended the year that Agency legal counsel graduated from college. Much amending needed!!! ☺

**Summary of Key Agency Department Activity:**

**Administration**

In re Chaput Family Farm. PSB#7542. The farm is seeking an amendment to its CPG for its existing digester. Written testimony was filed this week to educate the PSB about the Agency's regulatory oversight of nutrient management on farms, including substrates used in digesters that are imported from off-farm sources and to recite the farm's regulatory status of "good standing."

In re: Wing. Act 250 (Benson). Wing owns "Over the Hill," a federally inspected slaughterhouse in Benson. The facility has had an Act 250 permit for years. The Agency filed a letter this week with the District Commission that recites the facility's regulatory and license status of "good standing." A neighbor is trying to get the A250 permit changed. This same neighbor lost a nuisance suit against the facility after a jury trial last fall.

### Agricultural Development

The Agency review an ACT 250 project in Glover this week.

Deputy Secretary Bothfeld, Chelsea Lewis and Mike Mitchell met with Vince Galluccio to discuss potential plans for a slaughter and meat processing facility. Group discussed economic feasibility, demand for this type of facility, basic cost estimates, potential permitting requirements and regulatory requirements. Agency will work in collaboration with the Agency of Commerce and Community Development to move this project forward.

### Food Safety and Animal Health and Consumer Protection

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- Animal Health Staff have initiated an investigation regarding a former livestock dealer that may have violated his AOD
- Animal Health Staff continue to work with new animal health employee, training him on principles of performing animal welfare inspection at the request of humane agents and inspections of regulated facilities
- Animal Health Staff performed a tissue residue investigation at the referral of FDA by collecting evidence and performing interviews in St. Albans

### Meat Inspection

- VT Salumi has transitioned to federal inspection as of this week
- On site federal audit of the program will be the week of June 11.
- VT smoke and cure will be moving to their new facility in Hinesburg over the next several days. In the new facility, they will have a federal inspector, and will no longer be under a cross utilization program.
- New VT processing facility set to start under state inspection on Monday: Daisy Hill

### Agricultural Resource Management

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#### Water Quality Program

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W.E. Aubuchon in Ludlow has been issued a cease and desist order for not being properly licensed to sell Class B pesticides. The store will have 30 days to have an employee become licensed as a Class B Dealer or else they will need to remove all pesticide products from the shelves and face additional enforcement action.

Workshops for First Detector Program given Monday 23 in Berlin and Wed. 25th in Bennington(Rhonda and Emilie)

Presentation: UVM class about invasive species, 150 students (Jon); St. Mikes College class about invasive species, 45 students (Jon); EAB and ALB, NE Utility Arborists Association, 50 people (Rhonda); Ticks and Lyme disease, NE Utility Arborists Association, 50 people (Jon)

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Display at the VT Maple Festival this weekend on Asian Longhorned Beetle and Emerald Ash Borer. Hemlock inspections from out of state stock in high gear. They must be inspected and released by PI prior to sale.

### **Secretary's Comments**

#### Conservation Meeting with Dairy Farmer

Secretary Ross met with a dairy farmer from Troy, VT who wants to sell his farm to a new farmer but amend the conservation easement to remove from the conserved farm parcel a pond and several acres of land. Due to the use of USDA NRCS funds in the conservation of this land, no amendments of this type are allowed. Farmer asked for a meeting for a full explanation and if there were any other options. At this point, there may be an option of a life lease on the pond and a section of property but not for an amendment to remove the pond and land from the conserved farm parcel.

Secretary Ross hosted visitors from France that wished to learn about the variety of agriculture and value added production in Vermont.

Secretary Ross attended the VRCD meeting.

Secretary Ross spent numerous hours at the legislature working on the agriculture housekeeping bill H.774, the Working Landscape bill and the issue of formaldehyde.

Secretary Ross called a meeting with Department of Health, Agency of Natural Resources, VOSHA and Department of Environmental Conservation to discuss the formaldehyde issue and public interaction, upcoming testing and future steps.

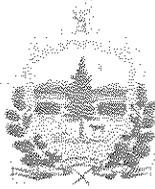
Secretary Ross attended the dedication of the new Aiken Building on the UVM Campus.

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Deborah L. Markowitz  
Agency Secretary

Christopher Recchia  
Deputy Secretary

**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To:** Governor Peter Shumlin  
**From:** Deborah Markowitz, Secretary, Agency of Natural Resources  
**Date:** April 27, 2012  
**Subject:** ANR Weekly Report

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**Governor Level Issues:**

- **Earth Day-Week:** We had a very good week, beginning with our release of our report on the environment with the theme "Resilience," coverage in paper and TV outlets, op-ed and various appearances by me and commissioners through the week, culminating in a breakfast with staff this morning.
- **H.485 – Mandatory Recycling:** After stripping of bottle bill expansion and defeating the escheats amendment, the Senate passed the bill by a vote of 29-0 on Thursday. Remarkable, since they have not agreed on what the weather is at any given moment.
- **S.202 – Rivers and Lakes; Flooding:** Second read in the House on Thursday. We expect this to pass on third read on Friday. There will be an acceptable amendment refining our rulemaking authority under the bill. At the moment, we have 1 of the 2 needed positions in the Big Bill, and \$80,000 of the \$175,000 needed to do this work.
- **H.237 – Current Use:** We provided Secretary Spaulding talking points for this in preparation for his discussion with Sen. Kittel. We do think there is merit to pursuing this bill if it looks like this would go through the Senate without significant controversy, but we are remaining neutral on it. Senator Cummings has expressed an interest in moving the bill. One upside would be approximately \$1.5 to \$2M additional revenue for the general fund. With respect to fixing the "Westman" amendment of last year, we have agreement on language in the Misc. Tax bill with Ag and Tax (though tax would prefer an outright repeal).

- **H.769 - DEC Fees:** Passed Senate this morning without fanfare. The Senate version has billback language that we like and otherwise minor differences from the House version. There is a web portal amendment on it (not involving ANR) that will cause a conference committee.

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## EVERYTHING ELSE:

### Other Legislative Issues/Testimony:

**E-Waste:** On April 18<sup>th</sup>, staff testified to the House Natural Resources and Energy Committee regarding the e-waste program, include the annual report that was submitted in February and proposed statutory changes. The successes of the program were discussed including (1) reaching the first year goal of collecting 3.4 million pounds of electronic waste in the first 9 months of the program, (2) providing 90+ convenient collection locations throughout the state, and (3) the projected costs of the first year will be less than that estimated when the legislation was proposed. The committee expressed their gratitude for all parties (ANR, solid waste districts, the contractor and recycler) working together to make the program successful and the committee is supportive of the proposed statutory changes.

**S. 148 – Hydropower Bill:** staff testified on S.148, the bill requiring a state/FERC MOU for processing small, low-impact hydropower applications. The bill, now in HFWWR, seems to be headed in an okay direction. We have been asked to participate in bill markup this week.

### Press Issues/Releases:

**Agri-Mark (aka Cabot Creamery):** staff was contacted by Seven Days with questions regarding the indirect permit amendment for the Agri-Mark (aka Cabot Creamery). This permit regulates the land application of Agri-Mark's process wastewater. The public hearing on the permit amendment was held last Thursday with about 20 people in attendance. A responsiveness summary is being prepared in response to the comments received on the proposed amendment. Cabot is in compliance with all parameters of the unannounced testing conducted.

**Public Hearing April 25 on Proposed Moose Hunt:** The Vermont Fish & Wildlife Board will hold a public hearing Wednesday, April 25, on the proposed regulation for the 2012 moose hunt. The hearing will be held at 7:30 p.m. in St. Leo's Hall, 109 South Main Street, Waterbury.

**Vermont Fish & Wildlife Acquires Two New Fishing Access Areas:** Anglers and boaters now have guaranteed access at two lake sites -- one on Lake Champlain in South Hero, the other at Maidstone Lake in the Northeast Kingdom. The Vermont Fish & Wildlife Department acquired the properties, adding them to the list of state-owned, free public fishing and boating access areas around the state.

**State Parks:** We have met with Vermont Public Radio commentator Tom Slayton, who is considering a series of radio commentaries this summer about state parks.

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

**EPA's Environmental Merit Award:** EPA Region 1 notified the Division that staff of CT DPH, VT DEC (Drinking Water staff) and VT Rural Water were nominated as a 3 party group for EPA's Environmental Merit Award and have been selected for the award in the government category. This award is being made in recognition of staff's outstanding response to Tropical Storm Irene and the assistance they provided to VT water supplies that were impacted by the Storm. Ms. Downing emphasized that this Merit award is the highest environmental achievement award that Region 1 can give and it is quite an honor to be a recipient. Jean Nicolai will attend the awards ceremony in Boston next week.

**Wetlands Program - Seneca Wind** project going ahead with resource identification/scoping in spite of agency concerns that have been expressed with the applicant.

**VT Gas** has sent letters out to landowners regarding expansion into Chittenden, Addison and Rutland counties with routes identified, before ANR review of the proposed routes.

**Vermont Marina Association Meeting:** Staff presented at a meeting of the Vermont Marina Association on April 13, providing regulatory updates and an overview of the Clean Marinas Program that we are hoping many marinas will join this year.

**VAST Meeting:** Staff presented a workshop at a VAST Chapter meeting in Barre on April 21. The workshop was on managing hazardous materials/wastes and spills. There were over 200 people in attendance.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**Quarterly Permit Specialist Meeting:** The group discussed the implementation of the electronic Project Review Sheet (ePRS) in Essex and deploying the ePRS in Springfield in May. The ePRS has been a great improvement in Essex (transparency of process, more professional product and improved performance). The group reviewed the "Do You Need A Permit Brochure" and identified changes that need to be made prior to printing. Irene took our supply of brochures. All of the permit specialists presented at Quality Workshops for realtors this spring.

**Final Response to EPA on CROMERR Application:** EA staff has submitted the final response back to EPA that should allow the notice of EPA approval to be published in the federal register. Upon final approval Vermont's CROMERR application will be the first Region 1 approval for a system that will address all federally delegated programs.

**JARD, Bennington:** As reported recently, the migration of PCBs off the former JARD site is cause for considerable concern. Staff met with the VDH toxicologists to discuss a risk communication plan for the site. We are considering four distinct audiences for the problem – affected residents, general public (including potentially other residences as well as recreators and trespassers), town officials, and private developers who are currently trying to sell land in a commercial zone which is contaminated and contains a wetland. EPA Removals is assisting in the investigation but their limitations drive consideration of Superfund listing for the site. The Town may resist Superfund listing, but we have only begun the discussions with EPA in this regard. The Town has already denied access for further sampling/investigation of the Kocher Drive Dump, which is in the vicinity of JARD and would likely be the subject of an expanded scope of work under Superfund because JARD and other industries are reported to have dumped wastes there.

**Burgess Brothers Landfill, Bennington:** In January, the Solid Waste Management Program ordered the operators of the Burgess Brothers Landfill to cease operations due to the lack of financial responsibility for closure and post-closure care. Burgess was also informed that, in accordance with the Solid Waste Management Rules, closure of the landfill must occur within 90 days of cessation of operations. As of last week, no closure work has been performed, and the 90-day timeframe has past. Burgess has been informed that the Agency intends to contract for closure of the facility using the financial responsibility funds now under our control. Staff also met with the EPA in Boston this week to discuss the project schedule and deliverables necessary to augment the groundwater remedial system at the site. Planning is underway for a drilling program to collect soil and groundwater data needed for the design and installation of a permeable reactive barrier. Soil and groundwater will be collected for use in a pilot study this summer. Construction of the permeable reactive barrier is proposed for late summer 2013.

**Compost Facility gets the go ahead from Town of Bennington:** Staff attended a meeting of the Bennington Select Board to answer questions about a proposed compost facility in the Town of Bennington. TAM Waste Management, who proposed the controversial compost site in Shaftsbury (which has since been terminated), has been working with the Town of Bennington to lease land behind their transfer station and closed landfill to operate a small compost facility. There are currently no compost facilities in Bennington, Windham or Windsor Counties and there is only 1 marginal facility in Rutland County. If this facility is constructed, it would expand the infrastructure in the state for managing organics. The Select Board voted unanimously to give the Town Manager permission to work out a lease agreement with TAM.

**Budzyn Tire Pile, Berlin:** This uncertified tire pile on Barre-Montpelier Rd. was referred to enforcement, and this week solid waste staff met on site with Enforcement Director Kessler and the owner, Fred Budzyn. While Budzyn is able to sell some used tires at his Barre garage, the pile contains thousands of junk tires, and is a fire, environmental, and public health hazard. Mr. Budzyn agreed to initiate cleanup and we will return after a month to check on progress.

**Rhoades Salvage Tire Pile, Milton:** On April 17-19<sup>th</sup>, Stone Environmental was onsite at Rhoades Salvage to conduct the lead (Pb) testing of surficial and shallow soils. Field analytical work concentrated on the areas where batteries were historically stored. Fixed-lab analysis will follow to confirm the field characterization and we will evaluate remedial options for the Pb contaminated areas that are above residential and industrial screening levels. This week solid waste staff conducted a site walk with prospective bidders for the tire pile contract. Two clean-up proposals were received by the 4/20/12 deadline.

**Vermont Technical College Digester:** On Monday, April 16, 2012 solid waste staff met with representatives of the Vermont Technical College (VTC) in order for VTC to respond to a technically incomplete letter that they had received from the SW Program. Due to funding issues VTC is on a very tight schedule. In the end it was decided that the regulatory landscape would be much clearer if VTC would change their application to eliminate the receipt of food scraps as a substrate for the digester, thus giving the Agency of Agriculture sole jurisdiction over the digester. Also, the facility needs to be a primarily farm based digester to qualify for their contracted pre kW rate in the SPEED program. Once the facility is built and operational VTC may come back to the SW Program to propose inclusion of food scraps as acceptable substrates for digestion.

**Greater Upper Valley Solid Waste Management District (GUVSWMD):** On Monday, April 16, 2012 representatives of the GUVSWMD met with Solid Waste staff to discuss the certification of the landfill in Hartford, VT. The district currently holds a certification for an as yet unconstructed landfill and they were looking for information on the remaining capacity of the Moretown landfill as well as Act 250 issues at their site. The district needs to construct a solid waste facility on the site prior to sometime in 2013 in order to maintain their Act 250 permit; we discussed a compost operation at the site. Of course staff was unable to give specific information on the Moretown landfill as many issues are currently in flux.

**Dufresne Dam Removal:** We received word that the appeal of the Chapter 43 dam order for this project has been withdrawn. VTrans, which is handling the contracting, will try to get the project back on track, but we don't know yet if the delay has killed our chances for the year. We're keeping our fingers crossed

**Bennington College Water Dialogues:** Bennington College is holding a week-long series of talks, panels and other events related to water at the local, regional and global level. Staff participated in a panel discussion on redevelopment of the Vermont Tissue Hydroelectric Project in North Bennington. The project developer, Bill Scully, spoke highly of the Agency, in spite of us pushing him hard during some difficult discussion of bypass flows and other issues.

### Fish and Wildlife

**Spring Wildlife Activity:** Bears are out and about causing conflicts with people. Staff received a number of calls regarding bears, one of which reported that a black bear had gotten into a garage. Also this week a warden had to put down a moose that was sick due to tick infestation.

**Living with Vermont's Black Bears:** Staff presented "Living with Vermont's Black Bears" program in towns of Brattleboro and Ludlow. Local public television was on site to record the Brattleboro program. Staff also participated in a VPR call-in show on black bears.

**Emergence of Rattlesnakes:** Staff has begun to monitor Timber Rattlesnake den sites to assess den emergence. The varied weather has made it challenging for staff to accurately assess timing.

**Straight-Leaved Pondweed:** Staff corrected information in the Natural Heritage Database on Straight-leaved Pondweed (*Potamogeton strictifolius*) in Vermont. There are a number of unconfirmed collections of this cryptic plant which may mean that the plant is actually rarer than thought to be.

**New Requirements for Electrical Utility Transmission companies:** Staff notified all the electrical utility transmission companies in Vermont that they will be required to apply for an endangered species permit for incidental takings during their annual management activities. Staff also followed up with a phone call to each company to explain what is required as this is a new requirement for the utility companies.

### Forest, Parks and Recreation

**State Land Transactions:** FPR and the Vermont Land Trust (VLT) have responded to the Town of Bolton's concerns and questions regarding the proposed Bolton Nordic property, and are scheduled to meet again with the Town of Bolton Selectboard on April 30 to discuss this project. Staff from FPR and the Vermont Housing and Conservation Board (VHCB) will be meeting on site at the former Lafreniere homestead parcel of Camel's Hump State Park in Bolton next week to discuss the configuration of the proposed sale parcel. House Corrections and Institutions Committee is reviewing the Department's proposed 2012 Joint Resolution (JRS 054), and may add additional conditions to the Alburgh Dunes State Park exchange to require archeological testing prior to any conveyance of state park land to the cemetery commission and to explore with the Agency of Economic, Housing and Community Development the feasibility of using the unmarked burial sites special funds, established by 18 V.S.A. § 5212b, to conduct this testing. The Committee is also considering including additional conditions in the proposed exchange with Markowski Excavation in Plymouth to increase the public benefits of this transaction.

**Parks:** Spring park ranger training is scheduled for next week in Killington. This is an all-hands-on-deck important training opportunity, for both new park rangers to learn how to do their job and for returning park rangers to learn about what has changed.

Parks Regional Manager Rob Peterson has been nominated for the UVM Office of Community-University Partnerships and Service Learning's Outstanding Community Partner award. This award is for Rob's outstanding work with a natural resource mapping class at Niquette Bay State Park.

Jamaica and Wilgus State Parks are opening early for the season this weekend.

**Prescribed Burn:** Last Thursday, another successful prescribed burn occurred on WMA lands – this time in Pittsford on the Whipple Hollow WMA. Seven acres were burned, and the fire intensity should easily accomplish management objectives by killing or girdling hardwood regeneration and shrubs. Work had not been done on this unit for the past couple of years, so there was plenty of fuel and burning conditions finally cooperated this year. Participation by personnel from the Departments of Forests, Parks and Recreation, Fish & Wildlife and Environmental Conservation, as well as on-site weather observations by National Weather Service staff, ensured the success of this burn. This should be the last of the prescribed burns in the southern portion of the state.

**Foresters Meeting:** The Division hosted a meeting for consulting Foresters on Tuesday. Fifty consultants from across Vermont attended and heard updates on the revisions to the AMP Program, Timber Harvesting Assessment Survey, and Ash Management Guidance in the increasing threat from Emerald Ash Borer (EAB). A facilitated discussion took place on the UVA Program, followed by a field tour to the Randolph

Municipal Forest to discuss tree grading and regeneration surveys. We plan on having this become an annual event.

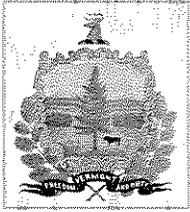
**Emerald Ash Borer Readiness:** Preparations continue for the EAB Readiness Drill in Randolph on Thursday. We will be implementing the Incident Management System to host a mock drill for the found evidence of EAB in the state. US Dept. of Agriculture, UVM Extension, and the Agency of Agriculture are also participating.

**Budget:** We received an updated federal FY2012 budget advice which now includes the competitive component. Once again, the Division and its partners were successful in this funding opportunity, with over \$600,000 coming to Vermont to support initiatives outlined in our Forest Action Plan.

**Arbor Day:** Arbor Day is coming up on May 4, and planning is underway for the special celebration at the State House that day. We are expecting over 100 students at the event celebrating the Growing Works of Art contest winners. Students from Braintree, Burlington, Springfield and Stowe will be visiting Montpelier, celebrating Arbor Day, touring the state house and the Vermont History Museum, and walking through *The Lorax* StoryWalk™.

**Conservation Education:** Our big project recently has been creating the StoryWalk™ for the Arbor Day event. We will be making additional *Lorax* StoryWalks™ to be featured in Vermont State Parks on Vermont Days. The pages of the beloved Dr. Seuss book will be on display on stakes along trails, incorporating literacy and outdoor activity while celebrating trees. These books will be rotated around other state parks with park interpreters throughout the summer. Planning is underway for two Project Learning Tree workshops taking place in Addison County in the next two weeks.





## ***State of Vermont...***

### **Department of Financial Regulation**

89 Main St. Drawer 20 Montpelier, VT 05620-3101 Main Number: 802-828-3301

Divisions: Banking, Insurance, Captive Insurance, Securities, and Health Care Administration

## **Memo from Commissioner Steve Kimbell**

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### **CONFIDENTIAL AND PRIVILEGED – NO SHARING Report to the Governor for Week Ending April 20, 2012**

#### **Governor's Priorities**

##### **Health Care Reform**

Commissioner will speak about health care reform at a Bethel legislative breakfast Monday.

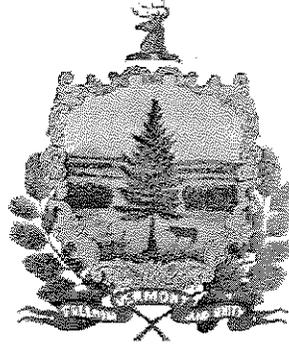
##### **Legislation**

H.559 received final approval in the Senate and will go to a conference committee to resolve minor differences between versions passed in each house.

##### **General Information**



# Memo



TO: Governor Peter Shumlin  
FROM: Keith W. Flynn, Commissioner  
DATE: April 27, 2012  
SUBJECT: Governor's Report

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## VERMONT STATE POLICE

Time Period: April 16-22 2012

A Troop – Field Force

- C&N and Domestic Assault (Child Endangerment
- 6 arrests resulting in 8 total charges. On 4/18/12 VSP responded to a robbery at a residence in Fairfax, the 89 year old female victim was home. It appears that initially this may have been a regular burglary, but when the suspect realized someone was home he turned away immediately, returned to his vehicle, and obtained something to conceal his face. The suspect then kicked in the rear door of the home and demanded cash. The elderly victim complied. Investigation continuing.

On 4/19/12 Tprs. made a physical arrest on a domestic assault. The perpetrator had his child in a "bear hug" and refused to comply. He was forcibly taken into custody and charged with Domestic Assault, Cruelty to a Child, and Resisting Arrest.

- Bomb threat at U-32 High School

#### A Troop – BCI

- Continued investigation/assistance to St. Albans PD into the Chris Davis suspicious death case. Detectives conducted multiple interviews, searched pool where victim was found for potential evidence and searched other areas of interest.
- Began investigation into a sex abuse case of a 4 yr old female in Washington Co

#### B Troop – Field Force

- Lodged Francis Griffin on a charge of Aggravated Domestic Assault after Griffin threatened his sister with a gun.

#### B Troop – BCI

- Continued follow up on Melissa Jenkins homicide
- Follow up on Westfield embezzlement case
- Assisted w/ drug sweep in Derby

#### C Troop – Field Force

- Home Invasion in Weybridge, residence entered while the elderly husband & wife were asleep. Sterling Silver, TV, & China stolen. Accused x 2 identified, charged & lodged at 4C's. DOMV, Resisting Arrest
- Responded to boyfriend/girlfriend dispute. Male Accused arrested after resisting with officers. Lodged.

- Domestic in Bristol involving ex-husband/ex-wife/new boyfriend. Ex-husband assaulted both then fled the scene. Located by VSP Williston in his vehicle at his residence in Jericho dead of a self-inflicted gunshot; after being involved in an incident in Bristol the male accused went to his mother's residence in Whiting. While there he had an argument with his mother and brother. Locked himself in the bathroom with a knife after 911 called. Troops attempted to negotiate through the door while Tpr. spoke to him through the outside window. When the timing was right Tpr. deployed Taser. Taken into custody without further incident and transported to Porter Hosp.
  
- MV stop of 2 racing vehicles on RT7 in Salisbury (83/50). Both operators arrested for excessive speed

#### C Troop – BCI

- New child abuse case in Rutland town
  
- Further follow up on active sex abuse cases

#### D Troop – Field Force

- Arrested Fugitive from Justice
  
- Traffic stop on I91 (0099) resulted in 3 subjects being arrested for possession of Meth, Marijuana and Cocaine
  
- Male subject violated RFA by repeatedly calling, and when he did not get answer he went to the house, forced open the door and assaulted his wife. He fled prior to the Troopers arriving, but Tpr. spotted him and was able to get him stopped after a short pursuit. He was taken into custody without incident and charged with First Degree Domestic Assault, Interference with Emergency Services, Violation of an Abuse Prevention Order and Unlawful Mischief. Bail was set, but he is being held on a violation of probation.

#### D Troop – BCI

- Hill homicide investigation follow up

- Sex offender registry checks
- Confession obtained from subject who sexually assaulted elderly female in Whitingham.

#### TOPS Unit

- Tpr. had stop on 91 with 0099, 200 bags Heroin and crack cocaine located, 3 arrested.
- Tpr. called out for CRT on MTC fatal assist for Hartford PD.

#### Arson Unit

- Fatal fire in Roxbury determined to be accidental
- Federal grand jury preparation for Curtis Auto Arson

#### CSST/ICAC

- Continued work on operation Green Wave

### **EMERGENCY MANAGEMENT**

#### **Issues/Updates:**

- a. Deputy Nagy attended the Legal Issues in Disasters Symposium at VT Law School.
- b. John Angil and Rich Cogliano are attending the National Radiological Emergency Preparedness Conference this week.
- c. Deputy Nagy participated on a panel at the National Radiological Emergency Program.
- d. Deputy Coffey was the keynote speaker at the Maine Preparedness Conference.
- e. Randy Bronson attended the NATTSPO conference for state HazChem managers.
- f. RERP held a conference call with WSESU Superintendent Ron Stahley who sought assurance that his procedures regarding distribution of Potassium Iodide (KI) distribution came from the Commissioner of VDH in a VY emergency; that was con-

- firm. Also discussed updating Annexes to the RERP Plan regarding the Host Facility initiative.
- g. Conducted the monthly EMD teleconference; KarenMae from Grants Unit reviewed financial issues with the towns; Towns were also advised that RACES operators will be dispatched to their EOC 's for the May 16<sup>th</sup> VY Drill
  - h. Documentation continues to be collected HMGP applications and final submission to FEMA.
  - i. Work continues on the final TS Irene After Action Report which is due by May 18, 2012.
  - j. Program staff continues to work on EMPG 2012 and HMEP application development.
  - k. Effort continues to rectify pager problems and call verification questions.
  - l. Spoke with the Secretary of State's Office on ways to better gather and disseminate information between VEM and Town's.
  - m. Met with Winooski Fire Chief Bergeron over concerns on information during events, such as TS Irene.
  - n. Planning continues with DHR and Deputy Secretary Clasen regarding employees coming to VEM for the FEMA Public Assistance Program.

**General Information/Other:**

- a. There will be VY Siren testing today in Vermont.
- b. All staff continued to participate in the flood recovery efforts.
- c. Participated in multiple JFO and Recovery Office coordination meetings and calls.
- d. Conducted DLAN training in three communities this week.
- e. Participated in coordination meeting with VDH for a non-fixed facility radiological exercise on October 25, 2012.
- f. New York State indicates signatures necessary for VT Alert may happen this week.

**FIRE SAFETY**

The division reviewed \$5,000, 000.00 in new construction valuation collecting \$29,000.00 in permit fee revenue. We have reviewed

\$32,000,000.00 in construction valuation between 04/01/2012 and today with \$181,000 in plan review fees collected.

- Received a check today of \$160,000 for cigarette registration.
- Provided new data base training for the City of Bennington. We also cleaned up a lot of existing data to help municipalities with data entry.
- Conducted three appeal hearings and all issues resolved.
- Working on the Ski-Inn complaint near completion with responses to the complaint filed by Steven's Law Office.
- Still waiting to hear back from one candidate on the Engineering position interview but have scheduled one for May 4, 2012.
- Authorized payment to RSI (Bob Gorman) for \$7000.00 for data migration payment. Still working out details on the licensing terms but hope to have this resolved by Monday.
- Wayne Ploof will be meeting with Robert Mackin in near future for we hope is a final inspection.
- Tim Angell started Monday and is training with other inspectors to conducted initial residential inspections and follow ups.
- Fire safety trailers being delivered to sites already this year due to demand.
- Still tracking potential fire code changes in legislature.
- Reviewing plans for a Ski Haus (restaurant and café seating 120 persons) at the summit on Jay Peak. Various code challenges with an assembly occupancy at the top of a mountain.
- Developing job description and continuing process for a USAR planner.

Began Fire Officer1 program in South Burlington

## CRIMINAL JUSTICE SERVICES

### Marijuana Dispensaries

The final rule hearing with LCAR is scheduled for May 17<sup>th</sup>. We have a statutory mandate to award dispensary certificates within 365 days of passage of the law which is June 2, 2012. The rules will not become final in time to meet this date. Do we need to get a legislative change extending the date? Paco Aumand and Rosemary Gretkowski had conference call with Sara London this week briefing her on the issue. Her preliminary opinion is that if the rules are not in place, which the law says we must have, then we cannot award certificates. The law requires both rules and certificates to take place before June 2, 2012. As long as we are in the process of adopting the rules then we would be in compliance with the spirit and intent of the law and therefore, would not need a legislative extension. However, Sara wanted to take this under further advisement and let us know.

Paco Aumand queried several states this week to determine how they are handling the threat of federal intervention into the marijuana dispensaries:

Rhode Island – Their dispensary program has been put on hold by the Governor because of a letter sent to the Governor's office by the Federal Government.

Washington (State) – The State of Washington does not have any legal marijuana dispensaries, yet many operate in the state. A bill was passed in 2011 creating dispensaries but the Governor vetoed most of the provisions in the bill. The one section that passed creates "selective gardens" a concept that allows multiple registered patients to ban together to grow marijuana. Many illegal dispensaries have opened in Washington which has prompted federal authorities to shut down these operations.

The raids by Federal agencies in Washington are due to the fact it is not legal in the State for dispensaries to grow and sell marijuana.

Arizona - In response to a May 2, 2011 letter from the US Attorney's Office the State of Arizona filed a complaint for declaratory judgment (See attached). At this time the Arizona State law enacting dispensaries was suspended pending a decision on the declaratory

judgment. This complaint was eventually dismissed and the State of Arizona is now moving forward with the implementation of their law. They will begin accepting dispensary applications between May 14, 2012 and May 25, 2012. In a letter from Arizona's Governor to the US Attorney in Arizona asking for guidance and the US Attorney's response. In this response the US Attorney advises the state employees who conduct activities authorized by the AMMA (Arizona Medical Marijuana Act) are not immune from the liability under the CSA.

Delaware - Suspended their program after threats from the US Attorney.

Maryland - Their Governor is threatening a veto of the pending legislation based on what happened in Delaware.

### **Blood/Breath Alcohol Program**

The lab is working on filing open positions in this program and completing freedom of information requests. The lab is beginning to feel the strain from working with so many vacancies.

### **Position Needed throughout CJS**

We are finding that keeping up with service demands is increasing getting more difficult. The new voice over internet protocol (VOIP) phone system will require support in the future as it gets rolled out state wide. The radio communications section once had a staff person who was dedicated to phone support on a half time basis and the VLETS system the other half. This position was lost in a reduction in force 4 years ago. We desperately need this position back.

We are also continuing to get pressure from the fire service for more IT support. In order to meet their demands we require a system administrator to service their records management needs.

## **COMMISSIONER COMMENTS**

The Prescription Drug bill came out of the Senate. The bill is headed to conference Committee. The Senate version is workable. Under the Senate version no Search Warrant is needed, under the House version a warrant is needed.

Law enforcement officers in Vermont have, by statute, long had the right to view prescription records in pharmacies without a warrant. The statutory requirement that anyone selling potentially dangerous drugs, including narcotics, keep records regarding those substances and allow law enforcement access to those records dates back to 1904. This statutory grant of authority has been found constitutional under both the 4<sup>th</sup> amendment to the U.S. Constitution and Article 11 of the Vermont Constitution.

In the case of *State v. Welch*, 160 Vt. 70,81-84 1992 the Supreme Court held that the Vermont pharmaceutical industry qualifies as a "pervasively regulated industry". However, that label alone will not serve as the vehicle for a warrantless search, the legality of the warrantless search depends on the authority of a valid statute. Here, the Supreme Court found, in applying the 3 part test from *New York v. Burger*, 482 U.S. 691(1987), that the applicable Vermont Statute(18 V.S.A. 4218) was sufficiently limited, in time, place and scope therefore, the warrantless search survives constitutional scrutiny.

If no right to privacy exists in prescription records at a pharmacy, why does the aggregation of those records in a central collection data base now become more protected? The access proposed by the Senate amendment actually provides less information than what can be obtained by inspection at a pharmacy. In fact, upon inquiry of the system only limited prescription information will be released to the officers, the names of the drugs dispensed will not be disclosed. Further, under the Senate version the privacy interest of the individual has been recognized by limiting indirect access to only specially trained State Police Diversion Officers and by restricting disclosure of the knowledge obtained during access except in connection with a criminal investigation.

It has been proposed that a search warrant must be required to access the VPMS. That requirement will foreclose the law enforcement utility of the VPMS. The public health utility of the VPMS requires meaningful access by law enforcement to prevent more needless opiate deaths in Vermont. If one more Vermonter dies that could have been reached by law enforcement, an intervention occurred and appropriate treatment referrals made, that will serve as a "measurable" for all involved in this process.

### **What is Probable Cause?**

A judicial officer properly issues a warrant where "there is probable cause to believe that the grounds for the application exist based upon an affidavit." V.R.Cr.P. 41(c)(1); ("The key inquiry in determining whether probable cause exists is whether the information provided in the affidavit reveals circumstances from which a person of reasonable caution would conclude that a crime has been committed and that evidence of the crime will be found in the place to be searched.").

In most instances the information obtained by accessing the VMPS will only aided in the development of probable cause, it will not exist prior to access.



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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Jeb Spaulding  
**DATE:** April 27, 2012  
**SUBJECT:** Confidential Report to the Governor

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**CONNECT VT**

Karen on vacation. Nothing to report.

**BUILDINGS AND GENERAL RESOURCES**

**Status of Governor's Priorities:**

- Capital bill adjustment passed House with further proposal of amendment to the Senate proposal of amendment. Senate agreed to House proposal of amendment to Senate proposal of amendment. H.785 PASSED by House and Senate.

**Legislative Issues/Contacts:**

- Met with chairs of SIC and HCIC and the Speaker.
- Met with the Essex Village/Town officials and their State House delegation regarding blue sky thinking session concerning Building 617 future fate. Plan is to hold open house reception on site to market the property.
- Responded to Rep. Hooper regarding involvement of stakeholder's in VSH project.
- Reps. Martin and Courcelle toured the biomass boiler plant.

**Significant Events/Meetings:**

- Met internally on the Gristmill invoice payment situation.

- Met with Larry Cassidy relative to his negotiation mission.
- Met with Waterbury team and VSH team for updates on each major project.
- G. W. Savage payment negotiations is attracting more lawyers; hope ours is ready to fight.
- Met internally on required up dates of the COOP and COG disaster plans.

### **Evolving Issues:**

- Explained search for director of operations to key BGS personnel.
- Finalized job description for special projects administrator. DHR to advertise. Yet to start process on pre-construction construction manager.
- Working with chairs of SIC and HCIC regarding MOU to allow ADMIN to enter into the Barre lease before 6/1/2012.

## **FINANCE AND MANAGEMENT**

### **Issues Update:**

Independent Review: FinOps Directors Brad Ferland and Tori Pesek will attend the independent review meeting, schedule for next week, for the Footprints (issue tracking system) replacement product (LANDesk). FinOps actively uses Footprints for tracking VISION Customer Support issues in a different manner than how DII uses Footprints. FinOps has certain needs, currently met by Footprint, which need to be available in the new system. FinOps will use the review to ascertain: 1) whether Footprints will be supported in the future until open issues are resolved; 2) will the Footprints data be retained and accessible as an issue resolution reference resource; 3) will the historic Footprints data be ported into the new system; and 4) will LANDesk be able to meet FinOps needs? \

FY 2012 Year End Closing instructions were issued earlier this week. Changes and new items were highlighted at the beginning of the document. Our goal is to have another “uneventful” year-end close as has been the case in recent years.

FY 2013 Budget: The full Senate passed the FY 2013 Big Bill (H.781) late Thursday, April 26, 2012. In anticipation of a Conference Committee (CC) deliberation, Reardon has already begun developing the letter to the CC which will provide the Administration’s view on both the appropriations and the language.

Financial Transparency Website: Work on the “financial transparency website” continues. The team has essentially completed documenting the technical requirements; potential content is being assembled; and possibilities for iconography and approach are being developed. Next week the team plans to develop several “website names” and tag lines as well as continuing the planning work on the “look/feel” of the site. Within the next 2 months, the team will seek senior management review and approval for the plan as well as providing a “visual/graphic representation” and examples of content for final approval. Successful completion of user testing and finalization of business process documentation are required before the site would go-live for public access.

## **HEALTH CARE REFORM**

Nothing to report.

## **HUMAN RESOURCES**

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

Strategic Planning: DHR continues to work with Agencies and Departments to revise the strategic plan, particularly to enhance the performance measures associated with stated goals. At this point, DHR is still waiting for revised plans from the Agency of Agriculture and the Departments of Labor and Public Service. DHR will work with Secretary Spaulding to transition the work required for strategic planning over the next year, to allow DHR to focus on the upgrade to its ERP system.

Communications/Marketing Positions Policy: DHR has finalized a policy that will provide guidance on the appropriate use of communication and marketing positions in state government. The policy will be forwarded to Agencies and Departments next week. Commissioner Duffy has spoken with a few Departments about existing positions to assess whether they are compliant with the policy. As part of this effort, some job specifications will be changed to be consistent with the policy, although the actual work performed by these individuals appears to comply with the policy.

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

Pay Act: Senate Appropriations has proposed an amendment to the Pay Act requiring DHR to assess salaries paid to attorneys, including judicial hearing officers. The Judiciary opposes this request and is working with House Government Operations to draft language that would address this issue. Commissioner Duffy will assess any request by the Judiciary and continue to monitor the Pay Act's progress.

S. 137: Agency Fee: The status of S. 137, which contains the agency fee provision, is uncertain, and efforts are being made to include some provisions of S. 137 in other bills. Commissioner Duffy will continue to monitor bills and amendments in order to address any language that permits the imposition of an agency fee on grandfathered state employees.

Request for AHS IT Positions: Along with Secretary Racine, Commissioner Boes and CIO Rouelle, Commissioner Duffy attended a hearing before the House Appropriations Committee on an amendment to the Big Bill proposed by the Senate that would create seven new IT positions in AHS. Commissioner Duffy was not required to testify. The Committee appeared sympathetic to the request.

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

Commissioner Duffy provided Terri Hallenbeck with a copy of the new policy on communication and marketing positions.

### **Evolving Issues:**

VSEA Grievance Requesting Double-Time: The VSEA has filed a grievance with the Labor Board arguing that some employees who worked during Irene are entitled to double-time pay. Secretary Spaulding and Commissioner Duffy met with the Governor's Counsel and General Counsel Collier to assess the state's response to the grievance. In particular, it was agreed that the State shall file a motion to exclude communications between the VSEA and Collier, Duffy and Spaulding that constitute confidential settlement discussions.

Tuition/Room and Board Request: DPS has requested that the child of former DPS Trooper Johnson be paid for her tuition at Dartmouth College. The State does pay tuition at any Vermont college for children of troopers killed in the line of duty, and DHR believes it is appropriate to waive the requirement that the school be located in Vermont. However, DHR believes that the total amount of money paid should not exceed the amount of in-state tuition for the most expensive college in Vermont, which is UVM. In addition, DHR believes the State should obtain more specific facts pertaining to a scholarship that was awarded to the child, to ensure that the State is not simply providing a supplemental cash payout.

Meeting with Judiciary Bargaining Team: Commissioner Duffy and Labor Director Ball met with the Judiciary's bargaining team, which is now in discussions with the VSEA on the judicial employees' contract. During negotiations, the VSEA requested that DHR's Classification Division conduct all of the judiciary's classification reviews. DHR is assessing the potential work load that would be added as a result, and will meet with representatives from judiciary to assess whether it is possible to accommodate this request.

## **INFORMATION AND INNOVATION**

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

Governor's Dashboard: Commissioner Boes and Darwin Thompson met with Secretary Spaulding to plan the next phase of the Governor's dashboard. Secretary Spaulding had talked previously with Doug Hoffer, and they tentatively agreed Doug would provide data (indicators/trends) for the dashboard. Doug presented some of this data at the planning meeting, and we agreed Doug would provide 10 indicators for each of the following categories:

- Jobs and the Economy
- Working Landscape
- Government
- Education
- Housing
- Health and Family
- Environment
- Public Safety
- Connectivity/Infrastructure
- Quality of Life

The resulting 100 data sets would be prioritized as to relevance by Mr. Hoffer and pared down to 50 (5 per category) by the State team. DII would then add the data to the dashboard, Secretary Spaulding would review and approve, and DII will publish for the public. DII is working on a sole source contract, not to exceed \$15K for Mr. Hoffer.

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

Richard Boes (along with Doug Racine, Kate Duffy and Angela Rouelle) testified in front of House Appropriations regarding the critical need in AHS IT for 7 additional positions. The committee asked many questions about the state of technology and our ability to execute on our plans, but seemed

supportive of the position request. However, they did say that they would be asking for more details on our IT plans to get us out of the non-sustainable spiral. Since DII is already working in that direction, a more detailed IT plan for next session is a simple addition to our process.

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

Terri Hallenbeck called about email issues. Richard explained that email to our Outlook users had not been affected, but a bad certificate update from our vendor had caused 2/3<sup>rd</sup> of our mobile users to experience a connectivity loss from about 8:30-9:00 this morning. While the problem was fixed quickly, some of the mobile devices needed to be powered cycled before they picked up the new certificate.

### **Evolving Issues:**

- The issue Commissioner Boes mentioned last week about possible misuse of Microsoft licensing in BGS surplus was confirmed and BGS has halted the sale of surplus computers until the problem can be addressed. Kris Rowley meets with them tomorrow to devise an alternative strategy.
- The EPMO is working with Office of the Attorney General to initiate contract discussions with Sustain Technologies for the joint Public Service Board and Public Service Department Case Management Project.

### **LIBRARIES**

Nothing to report.

### **TAXES**

#### **Legislation:**

Miscellaneous Tax Bill: Senate Finance passed out unanimously. Highlights:

*Confidentiality of Tax Bills (5/9):* Tax and Towns may provide income sensitivity adjustments to various professionals. Tax okay as long as permissive.

*Netting of Business Losses for Income Sensitivity (8):* policy choice, testified Admin did not object.

*New Market Credit (15):* exempts projects from withholding for partners income. Testified Admin supported.

*Affordable Housing Tax Credit (19):* lifts cap by \$200,000. Admin. proposal.

*Exempts Low Income Housing from Property Transfer Tax (21a):* Last minute insertion, Tax has some technical concerns.

*Annual Homestead Declarations (22):* Admin. proposal.

*Renter Rebates (27)*: Drops cap to \$3000. Assumed Admin would support (affects very few claims with improbably high rents), although further research has shown that most of these claims are by residents of assisted living facilities. Tim Ashe, who initiated the provision, has been informed and was unmoved.

*Household Income Sunsets (29)*: Senate flipped House action – Senate sunsets the \$500,000 cap on house value, retains the doubling of interest and dividends (although Anne wants to up the threshold). Admin. initially supported both sunseting. Assume we don't feel strongly enough to wade in – likely outcome is that both will be retained in some form, which does save some revenue for the EF.

*Ed Fund Rate (36/37)* 2 cent increase over 2012 rates to fill reserve.

*Alternative use of GF Surplus (38)* MacDonald provision would use surplus to drop the percent paid by income payers for property tax from 1.8% to 1.7%. In contrast to SAC, the benefit is only to income payers, and arguably would create spending capacity. Assume position for now is wait and see.

*Current Use (43-46)* Repeal last year's parking provision, replace with new scheme to remove land with a wastewater permit. Tax prefers repeal and apparently so does Ways & Means. At this point, if ANR had its druthers, they would prefer the new language. I think we have agreed to stay out of each other's way and let the conferees figure it out.

*Cloud Computing (51)* Refund like House, in contrast to House, adopts moratorium until 2014. Admin supports over House taxation, and in draft letter to conferees suggest 2015. Anne suggested that she was still feuding with Campbell, who was even farther in the taxation camp than the House – preferring taxation back to the date of the technical bulletin. The Commissioner spoke with Campbell, who said he could live with the moratorium (but wanted relief on mulch, of all things). The Commissioner is supposed to speak with the Speaker today.

*Secondary Packaging (53)* Just study. Admin supports House bill with exemption.

*Tax Rebates for Mobile Homes replaced due to Irene (54)* Admin supports.

*VY (55-56)* Admin proposal.

*VY (57)* "Transition" provisions credit payments under CPG. Admin examining.

Marketplace Fairness Bill: The Commissioner spoke with one of Congressman Welch's legislative assistants. She said there is some buzz about something moving in the lame duck session, and she doesn't think that any of the offensive counter bills will survive attachment.

### **Press and the Department's Compliance Division:**

The Tax Commissioner gave an interview to David Gram on our compliance efforts; apparently for a story he has pitched for national feed on state efforts to close the tax gap in tough budget times. Tried to steer discussion away from the controversies to emphasize that aside from the auditors that have been

legislatively mandated, but my focus has been on policy development, outreach and modernization of our compliance work.

**Operations:**

New Division: As of today, HR has approved all of the job specs for positions in our new Division of Policy, Outreach and Legislative Affairs. Michael Costa officially has moved from principal assistant to Director, and our one policy analyst reports to him. We are advertising for two more policy analysts, a business analyst, and three education/outreach specialists.



State of Vermont  
Vermont Department of Education  
120 State Street  
Montpelier, VT 05620-2501

**CONFIDENTIAL AND PRIVILEGED: NO SHARING  
MEMORANDUM**

TO: Governor Shumlin  
FROM: Armando Vilaseca, Commissioner  
DATE: April 27, 2012

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**ESEA Application Update:** I want you to know that we are leaning toward choosing not to continue negotiating a waiver from NCLB with the US ED. It has become clear since our initial submission and ongoing negotiations that the US ED is not willing to be flexible on what they consider to be core principles of an accountability system. In fact, they have made it clear that they will not approve our application unless it includes annual yearly testing, teacher pay linked to student performance, and penalties for schools. I do not take this decision lightly, and am making it after receipt of the US ED Peer Review report, the outcome of a conference call with US ED staff on Friday, and follow up with some of our own staff. My thoughts on this have not been shared with everyone, so I ask that you please keep this confidential until I have had a chance to meet with the Design Team and make a final decision.

Since August our department has dedicated countless staff hours to this project, and has worked with a Design Team of stakeholders from across the state representing various education constituencies. As the negotiations have continued since we submitted our waiver, our request looks less and less like what the Design Team, you, the Board, and educators thought it would be. While this was referred to as a "flexibility request," it would simply be replacing our existing accountability system with an untested and no less cumbersome one. We would need to dedicate a number of staff to completely re-write the submission over the coming weeks. More time spent on asking for a system we are no longer confident in is simply less time my staff is able to dedicate to actually providing assistance to the schools that need it the most.

Meanwhile we continue to await Congressional approval of a reauthorized NCLB. Until then we can continue to operate under our existing accountability system. That being said, we will continue to move forward toward an integrated system of support for schools, and will continue to focus our attention on the braiding of implementation of Common Core State Standards, Flexible Pathways to Learning, Proficiency-based Graduation Models, a Statewide System of School Support, and Early Education Initiatives.

**Leadership Champlain:** On Monday I met with Sherry Thayer, who is part of this year's Lake Champlain Regional Chamber of Commerce "Leadership Champlain" class and whose team is assisting the Governor's Institute of Vermont, (GIV) in exploring the issue of gender disparity in educational programs. GIV has found that participation rates of boys in the program are well under 50%, and in general across the U.S., academic achievement of boys is significantly lower than that of girls as seen in a variety of measures. Sherry's team was tasked by GIV to collect data on who perceives a lack of boys in academic arenas, and what actions they have taken or networks that exist, as well as what data and/or policy currently exists, specifically at the state education level. I know that you are interested in this topic, so I will keep you updated.

**Work-Based Learning (WBL):** The Vermont Department of Education has convened a group specifically on the topic of providing work-based learning opportunities to all Vermont students in a high quality and consistent manner. The Department is working with Linking Learning to Life and the Upper Valley Business and Education Partnership to write a new guide on how to create and implement WBL activities. The group developed a set of eight Vermont Gold Standards for WBL activities and will be providing resources on the Department's website that will be useful for those just beginning work-based learning in their schools, as well as seasoned practitioners. The estimated launch date is July 2012.

**US-China State-Province Chief Education Officer Dialogue:** Mark Oettinger, General Counsel, will be participating in this dialogue, scheduled for May 1<sup>st</sup> through May 5<sup>th</sup>. The event is sponsored by the international exchange division of the Chinese Ministry of Education, at no cost to the State of Vermont. The dialogue will include five US Chief State School Officers and a dozen Chinese Chief Education Officers; the purpose will be to share success stories regarding existing US-China education partnerships and to discuss how these pilots can be scaled up to the national level. These programs provide both enrichment of school communities and significant opportunities for economic development. Mark will be one of four US presenters at the conference which will be attended by Secretary of State Hilary Clinton. He has briefed Susan Bartlett about this project in the past and will call her prior to his departure to brief her in greater detail.

**Teacher Licensing System:** We are getting close to making a bid selection for a new online teacher licensing system. Our hope is to have this system operational for July, 2013. This system will make teacher licensing applications and renewals a much more efficient process and will help to reduce backlog.



Vermont Lottery Commission  
U.S. Route 302  
Suite 100  
Barre, VT 05641

[phone] 802-476-0100  
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*Office of the Executive Director*

MEMO TO: Vermont Lottery Commissioners

FROM: Alan R. Yandow, Executive Director

DATE: April 27, 2012

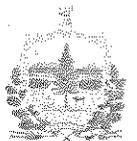
RE: Update

Since your meeting last week:

- We conducted Public Hearings on Friday the 20<sup>th</sup>, and Monday the 23<sup>rd</sup>, because some notices to the public had indicated Monday the 20<sup>th</sup>. We had one member of the public in attendance on the 23<sup>rd</sup>, with some questions about the game.
- We had an inquiry from a caller questioning our practice of pulling an instant scratch game out of stores, when all the top prizes in the game are gone. He threatened to sue the Lottery if the practice was not changed by the end of business on Monday. He was informed that the practice would not change as of that time, and he responded that he would see us in court. The issue was referred to the AG's office, where this individual was known to some of the AAG's. We have not heard back from this person.
- The Appropriations Bill (H.781) made it out of the Senate Appropriation Committee earlier this week, and then the Senate yesterday. Our request for FY2013 remains intact. Senate Appropriations, however, added some language requesting a study be done on the option of selling lottery tickets online and reporting back to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs by January 15, 2013.
- The demographic study is underway, and is expected to be presented to the Commission at your May 15<sup>th</sup> meeting.

Please let me know if you have any questions. Thank you.

Cc: Alison Richards, Office of the Governor





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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** April 27, 2012

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**Vermont Department of Health (VDH)**

Lead Paint in Child Care Facility. Representative Alice Emmons called about a lead paint issue at the Springfield Family Center (SFC). The SFC rents space to a child care facility and the DCF inspector identified peeling and chipping lead paint throughout the building. The SFC has until May 31<sup>st</sup> to stabilize the paint to come into compliance with the state lead law and child care facility licensing requirements. Health Department staff is working with the SFC on the issue and referred them to several resources, including guidance on how to break up the work so that they can continue operations during any lead abatement work. Health Department staff also is exploring potential sources of financial assistance for the work. If the work is not completed by the 31st, the Health Department will grant an extension.

Radio Frequency Radiation. The Health Department assessed the radio frequency radiation (RFR) emissions from a radio antenna used at a Montpelier Wastewater Pump Station after several people living in the vicinity of the pumping station expressed concern about the safety of the RFR emissions. The Health Department's assessment confirmed that the emissions of the Montpelier Public Works radio and associated antenna comply with the FCC regulations for RFR emissions for both the public and for workers.

Presentation on "Hub & Spoke" Model of Opiate Treatment Improvement at National Conference. Department of Health staff has been asked to give a presentation on the Hub and Spoke treatment model design at the upcoming annual American Association for the Treatment of Opioid Dependence conference.

Communication Positions. Human Resources Commissioner Kate Duffy spoke with Deputy Commissioner Tracy Dolan regarding the Health Department's communication director position to get more specificity about the duties of the position.

**Department of Mental Health (DMH)**

On Thursday, April 26, the Department hosted a conference at Lake Morey with over 70 law enforcement officers (VSP, local polices, sheriffs) and nearly 100 mental health professionals, to begin developing better working protocols between police and mental health. Commissioner Flynn was in attendance. We believe this was a very good start to a process to have mental health professionals, through mobile crisis teams, more involved with police, to avoid unnecessary hospitalizations and incarcerations. As mental health services were cut back over the past

decade, police became the responders to too many mental health crisis. With new resources going the designated agencies, we can reverse that. DA's will now develop local mobile teams with new protocols for working with police, and much better regular communication. DMH will get monthly updates from each DA on progress.

The emergency certificate of need for construction at Rutland and the Retreat is about to be submitted. It has been held up by the intensity of the legislative discussion, and by ironing out contracts with the hospitals. The construction contracts and contracts to provide services, with the hospitals are also almost done.

Friday there is a fire safety tour of the Morrisville temporary hospital space. This is the final review necessary before releasing an RFP for the construction work. A lease for the space has been finalized.

The hospital bed supply remains extremely tight, but close working between the hospitals, designated agencies and DMH staff have been successful so far this month in preventing significant emergency room stays.

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

### **Ongoing Issues**

Adult Protective Service. We remain on a steady course with continuous improvement. Public perception of progress lags behind, owing in large measure to successful disinformation campaign led by Attorney Barb Prine and Long Term Care Ombudsman Jackie Majoros, both of Vermont Legal Aid, and Gini Milkey and Michael Sirotkin of COVE. No press interest this week.

Adult Protective Services Litigation. Today I received word from Senior Solutions (Council on Aging of Southeastern Vermont) that they intend to join the litigation as plaintiffs.

Legislature. Commissioner Wehry and I testified in Senate Health and Welfare in opposition to the strike-all amendment to H.290 which would 1) create excessive reporting requirements 2) require additional staffing (0.5 FTE) to develop data not currently available, 3) require verification of the data by the Secretary, 4) and require a duplicative evaluation of APS at considerable additional expense to taxpayers and not currently in the budget. Both the Commissioner and I made clear our willingness to work with the committee.

It is Susan's and my opinion that this bill will do nothing to solve the underlying disagreement with the advocates and, in fact, set us back by distracting us from the real issues of concern. The committee seems to want to do something, anything, to show that they care and are being responsive to the advocates. As we testified, the issues are ones of definitions of "vulnerable adult," "abuse, neglect, and financial exploitation," and other terms and policies that Legal Aid has disputed for 10 years. (Why they never sued the previous administration is a mystery.) More reporting does not resolve those underlying issues. We have offered, and continue to offer,

to work with advocates and the legislature to resolve those issues, clarify the legislature's policy preferences and make necessary changes. That offer was rejected last year by Legal Aid and now has been rejected by the Senate Health and Welfare Committee. This is a recipe for continued disagreement and further legal actions.

The study the new legislation requests is a repeat of a study completed this past December. It would produce nothing new, but Legal Aid apparently did not see what they had hoped to see, so this is a second try. The bottom line here is that the bill would shift \$75,000 for direct services for Vermont's seniors to pay for a wasteful study.

### **Evolving issues**

McGirr's Nursing Home Is Closing Tomorrow. McGirr's Nursing Home in Bellow Falls is closing. The community remains angry and confused by this outcome. The responsibility for the closure remains squarely on the administrator, but she is a community institution with a lot of support. She failed to respond to CMS concerns, state concerns and state attempts to help her. She disagreed with CMS citations, so refused to fix the problems until it was too late. The closure is the result of a loss of CMS certification, which means the loss of Medicare and Medicaid money. The only way the state could have kept the home open would have been to ignore the CMS findings, which are health and safety related, and use General Fund money to pay the bills.

As of today, all the residents are in new placements.

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

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

Council of State Governments. CSG was in town this weekend to discuss Vermont's recent work on recidivism. Following the Governor's press conference, CSG met with the Corrections Oversight Committee to discuss the next steps. CSG is designing five points of data which can be used to monitor the DOC's progress. CSG also met with the DOC's management team to discuss next possible steps in further reducing populations and recidivism.

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

Springfield Assault. As of this time, it appears that the victim in Monday's assault at Springfield will recover from his injuries. The DOC has contacted VSP to interview him to see if additional charges against Dakota Gardner are warranted. Mr. Gardner will be released on Monday to the custody of the US Marshals Service to face charges stemming from his recent activity against public officials.

South Burlington Murder. Robert Dougherty (DOB: 3/15/74), was sentenced to Probation on 9/22/09 for Domestic Assault, Sale/Delivery/Dispensing regulated drugs – Felony and

Furnishing Malt Beverages to Minors. Dougherty has no violent criminal history outside of the Domestic Assault he is currently being supervised for. On April 23, 2012 Dougherty was arrested by South Burlington Police and charged with Murder and Assault and Robbery. Dougherty is being held on \$100,000 bail, and will be arraigned today. Yosef Pitts is on Parole for 2 counts of Possession of Cocaine. Pitts is wanted for questioning by South Burlington Police related to the above murder. At this time there is no indication if Pitts will be charged with any new offenses. The investigation is on-going. Pitts has been arrested for Violations of Parole; not related to the murder investigation.

Population. The department's incarcerated population has maintained in the 2060 range with the out of state population at 487. The female incarcerated population is in the low to middle 130's and the overall detention population is in the 350 to 360 range. The department is currently supervising five individuals on home detention, 43 individuals on home confinement and 58 individuals on reintegration furlough. Combined the department is supervising 9,125 individuals in a field setting.

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

### **Significant Events/Meetings**

Vermont Scores a C. The Children's Advocacy Institute at San Diego released the second in a series of reports that assesses state disclosure laws regarding child deaths. Twenty states were rated as receiving a C plus rating or lower with four receiving D's or lower. The report, which bases its assessments on five areas dealing with disclosure of child deaths, including whether there is a state policy guiding disclosure, whether the process is codified, ease of access, openness of proceeding and scope of information made public. The report concluded that eleven states had made improvements since the original report was issued in 2008. Vermont was one of those states, improving from an F to a C-. The Advocacy Institute penalizes states that have the ability to exercise any discretion over the release of information. We believe in the vast majority of cases full transparency is the proper approach, though there can be instances when parents are in no way responsible for a tragic death and the release of information can be very traumatic and hurtful to them. In that we have the discretion in Vermont to decide what information we release we scored low.

### **Evolving Issues**

Federal Cuts. House Ways and Means has voted to eliminate the Social Services Block Grant. The program's roots go back to 1956. It was converted from an entitlement to a block grant in the Reagan Administration and is one of the most flexible of all federal funding sources. DCF receives \$675,000 from SSBG. Additionally states are allowed to transfer up to 10% of their TANF Block Grant to their SSBG allocation and when they do the TANF funds take on the flexibility of SSBG and can be used for many purposes. Vermont transfers \$4.7 million in TANF to the Vermont SSBG allocation and uses it to help underwrite the costs of our child welfare system of care. We assume this transfer authority will be lost if SSBG is eliminated, creating a \$4.7 million deficit in our Family Services budget.

We reported last week on significant cutbacks the House is proposing to our 3Squares program. We estimate if the cuts are enacted nearly 32,000 Vermonters would lose assistance and benefits coming to Vermont families would be reduced by \$46 million annually.

Children's Integrated Services. Children's Integrated Services (CIS) is a set of prevention and early intervention services that promote a child's growth and development and support families during pregnancy/postpartum and their child's early years. Services include nursing, family support, early intervention, early childhood and family mental health, and specialized child care. Services are provided by community-based organizations and funded through the DCF Child Development Division.

In FY11, we began applying an allocation formula to regional CIS funds in an effort to provide funding based on objective criteria (population, population in poverty, geography). Because we are applying the formula to a set amount of funding (\$10,670,800), this has resulted in 6 regions seeing a decrease in funds and 6 regions seeing an increase over the past couple of years. We have not completed the process yet, but are planning to put a "hold" on any further increases or reductions for FY13, for several reasons:

1. We would like to look at other potential factors to consider in determining allocations, such as kindergarten readiness, CIS performance measure data, and cost of services, to name a few under consideration. CIS will pull together a workgroup of regional partners and state staff to look at this further for FY14.
2. We are concerned about unintended consequences for those regions that have seen continued reductions in their funding levels, which may be impacting services for families.
3. As Integrated Family Services is implemented we need to ensure a consistent funding formula is used to equitably distribute all funds.

The regions that would have seen a decrease in funding for FY13 (Morrisville, Bennington, Springfield, Burlington, Middlebury and Hartford) will be relieved that we are suspending further reductions. The regions that would have seen an increase (Rutland, Brattleboro, Barre, Newport and St. Johnsbury) may express their concern about the continued "underfunding" of their regions. St. Albans was at their formula-based funding level in FY12 and will see no change for FY13.

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

### **Significant Events/Meetings**

Dual Eligible Proposal. The Dual Eligible Steering Committee is continuing to work on revising the proposal and they are responding to public comments this week.

Catamount Blue Rate Filing. On Tuesday Mark Larson and Steve Kimbell met with BC/BS to talk about the Catamount Blue rate filing for next year. The discussion was about whether BC/BS would file for a slight reduction in their rate or continue to keep their rates consistent for another year.

Health Care Ombudsman (HCO). The Department of Vermont Health Access (DVHA) has received the quarterly report for January 1, 2012, through March 31, 2012. The HCO received 308 calls (39.63% of all calls) from DVHA beneficiaries this quarter, compared to 288 calls (39.6% of all calls) last quarter. Access to dental care is a growing concern. 17 beneficiaries identified dental care as the primary reason they contacted the Ombudsman. 40.58% of all calls to the HCO were about access to care; access to care involves situations where the beneficiaries are seeking care and are having difficulty obtaining a provider, services or coverage. Transportation issues were the largest access issue this quarter. The HCO increased its staff this quarter, adding 3 new staff members: one staff attorney and two advocates. They were able to prevent 16 terminations or reductions in coverage for DVHA beneficiaries. 19 claims issues were resolved and they provided 196 beneficiaries with advice or education.

New Director of Payment Reform. DVHA hired Kara Suter, from Washington, DC, on Tuesday and she will be starting in early July.

#### **Emerging Issues:**

Medicaid Coverage of Funeral/Burial Costs. The DVHA is in the process of responding to a letter from Allan Homans, M.D., Division Director, Pediatric Hematology/Oncology, Vermont Children's Hospital at Fletcher Allen Health Care, dated April 10, 2012, requesting that the policy regarding Medicaid coverage of funeral/burial costs be revisited because a patient of Dr. Homans and a Medicaid beneficiary, Dustin Roberts, age 16, recently passed away and the family had limited resources to pay for the funeral/burial.

The response to Dr. Homans will indicate that Vermont's public health care programs, including Medicaid, do not cover funeral/burial costs, and that funeral/burial costs are part of the General Assistance Program administered by the Department for Children and Families (DCF), Economic Services Division (ESD). The criteria for eligibility and coverage are established pursuant to Vermont Statute [33 VSA Chapter 23 Burials at Public Expense]. Changes to eligibility and coverage would require Legislative approval.

Neither DVHA nor DCF plan to propose changes to the criteria for eligibility and coverage in relation to funeral/burial costs.

Provider Tax Update. Mark continued to talk with VAHHS about an agreement to delay the plan to approach CMS for a decision on including the physician practices on the provider tax. DVHA has made a proposal to provide grant funding to hospitals related to Health Information Technology.

## IRENE RECOVERY REPORT

April 25, 2012

### 1) FEMA & 90/10 Cost Share

We are under \$1 million from crossing the \$80 mill. threshold, and FEMA anticipates this occurring by Wed. of next week (!!). I am busy re-working our letter to include a secondary request for the 90/10 cost share adjustment for all 2011 storms. While potentially a long shot, there is precedent for this (Florida 2004), and, with encouragement from Congressional delegation, I recommend we do it. I did discuss this with Nick Russo today, and he accepted this idea as fair game. I will get you a draft to review shortly. Goal should be to have FEMA review on Monday and send out by Wed. Congressional Delegation have been notified and are ready with their letters of support.

### 2) Mobile Home Condemnation

We have worked through "Phase I" of the process – with Sarah issuing condemnation letters for the mobile homes that were deconstructed with assistance from state and CVOEO (Mobile Home Project). To date FEMA has processed 26 out of 40 letters received for a total of \$113,609.06. We are working through the logistics of the next phase, which will be more challenging. We need to reach out to some 200 mobile homeowners who we know from FEMA *might* be assisted through a condemnation & second FEMA review. Before condemnation can be processed, we need to ensure the home is uninhabitable and that there is a plan (and funds) for deconstruction. Finding these funds may be a challenge (any ideas?). Site visits will also be necessary by state (DPS or DPH). ACCD is working with IRO & Sarah on this plan of action.

### 3) Green Up To Recover:

This initiative, launched by GPS 2 weeks ago, is gaining momentum. Good public interest, excitement in the field, and media attention including VPR next week. Unfortunately, I am concerned at this point that SerVermont is not adequately staff to support their part of the mission. Met with Hal today & am working to get them additional support via the DOL grant or Waterwheel. A bit disappointed that we dealing with this at this point in the process, but trying to move this forward quickly.

### 4) Disaster Relief Fund Allocations:

42 cases and \$538,483 allocated to date

### 5) Legislative Issues:

In addition to the policy and budget issues you are all dealing with re Irene, I continue to play a liaison role with many legislators, dealing with FEMA inquiries, cost assessments etc. I am meeting with the "Flood Caucus" on May 1<sup>st</sup>, and will do an update/ summary/ wrap up at that time for them as a group. We will also do some brainstorming about the 1 year anniversary of Irene, which it is time to begin thinking about/planning for.

### 6) IRO Future Status:

While it is clear that the mission is far from over and that we need to keep the IRO going, we haven't made any public statement to that effect. (Recall that I was appointed for 3 months,

which ends this week). I am trying to complete a "Status Report" for Jeb & GPS outlining accomplishments and ongoing needs, and setting forth a justification for continuing my position. When we have time to focus on this (once the legislature is out), it will be important to send out a formal note to VTrans employees, and for Brian to appoint a **temporary** replacement for me. I have stated publicly (WDEV & in response to inquiries with legislators & at speaking engagements) that the needs for the IRO continue and that I will be meeting to discuss my future role with GPS soon...

Additional information from Agencies below:

#### **Community Development**

- Misc. Tax Bill passed out of Sen. Finance with the additional \$500,000 in tax credits for income producing properties in our designated downtowns and village centers that were impacted by Irene. The Downtown Board has been preparing for this and reviewing draft application forms developed by our tax credit specialist. If all goes well, these funds will be awarded at the July Downtown Board meeting.

#### **Economic Development**

- Continuing follow up calls to businesses in Brattleboro after the visit by Senate Economic Development Committee to better understand the impact and current needs. Also working with our on-the-ground partners to develop a response to concerns raised.

#### **Housing**

- Capped collaboration with FEMA and the Congressional Delegation with a press event in Barre at a renovated building that is now home to five households displaced by Irene. The building was renovated through FEMA's multi-family rental repair program at the request of the state's Irene Housing Task Force. [http://www.fema.gov/medialibrary/media\\_records/8346](http://www.fema.gov/medialibrary/media_records/8346)
- Testified and continued work in support of the mobile home bill (S.99) and housing provisions in the miscellaneous tax bill (H.782). The Senate Finance Committee voted to include an expansion of the state's affordable housing tax credit which will help fund a new mobile home financing program to assist Irene survivors and others.
- Met with the Irene Recovery Office, FEMA, the Department of Public Safety, Health Department and Governor's office on the condemnation letters.
- Participated in a meeting of the Vermont Council on Homelessness and provide an update on the CDBG Disaster Recovery allocation.

## TRANSPORTATION

### Finance and Administration Division

Transportation System Recovery Expenditures through April 16, 2012: **\$141,136,456.**

	Totals	Federal	State	Local
	84,982,171.50	72,613,315.64	8,543,495.08	3,825,360.78
FHWA ER	46,769,704.37	46,154,322.04	615,382.33	0
FEMA – 4022	9,384,580.52	0	9,384,580.52	0
	141,136,456.39	118,767,637.68	18,543,457.93	3,825,360.78

### Program Development Division

- Ongoing environmental activities:
  - VTrans HP and Arch Officers are conducting Section 106 reviews for all FEMA projects affecting historic transportation resources
  - Advancing covered, stone arch, truss, and masonry arch bridge repair projects w/ FEMA
  - Coordination with Towns and RPCs for FEMA jurisdiction projects.
  - Working through FEMA's list of town bridges damaged by TS Irene
- Construction
  - STOCKBRIDGE BRF 022-1 (20): The project was suspended due to TS Irene and that suspension has ended. Austin and subcontractor Morrill mobilized to the worksite and work will resume on Monday.
  - Jamaica ER-BRF 013-1(16): Meeting with property owners at this bridge site on May 10th Right of Way is still negotiating with one of the property owners affected by TS Irene. We will not be meeting with them but will meet with the others affected by the construction of the new bridge.

### Operations Division

- Districts 1 through 9: No change in Irene site status

### Policy, Planning and Intermodal Development

- Town of Arlington DDIR for replacement of damaged retaining wall on TH #6. Greg Riley met with Keith Squires, Arlington Selectboard Chair on 4/18. Mr. Squires reviewed and signed the DDIR.
- The aerial photography and LiDAR has been collected for the 7 corridors that are being mapped. Currently imagery has been acquired by the contractor and is being processed for the VT-9 pilot area. Ground control data is being provided by the VTrans Geodetic Survey Unit.

