

# WEEKLY REPORTS

Checklist  
4/29/2011

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 Beth)

Susan Bartlett

- ☒ Agency of Human Services – Doug Racine

Beth Robinson

- ☐ BISHCA – Steve Kimbell\* (shared with Anya)

Jeb Spaulding

- ☒ Agency of Administration – Jeb Spaulding

Special Reports

- ☒ Additional Report: Education
- ☒ Additional Report: GIRO
- ☐ Additional Report: \_\_\_\_\_

\* The final three reports did not come in on time for Friday. will be distributed first thing Monday



# WEEKLY REPORTS

Checklist  
4/29/2011

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 Beth)

Susan Bartlett

\_\_\_\_\_ Agency of Human Services – Doug Racine

Beth Robinson

☒ \_\_\_\_\_ BISHCA – Steve Kimbell\* (shared with Anya)

Jeb Spaulding

\_\_\_\_\_ Agency of Administration – Jeb Spaulding

Special Reports

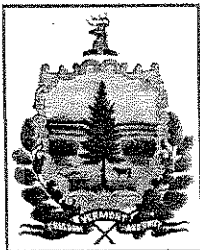
\_\_\_\_\_ Additional Report: Education

\_\_\_\_\_ Additional Report: GIRO

\_\_\_\_\_ Additional Report: \_\_\_\_\_



116 STATE STREET  
MONTPELIER, VERMONT 05620



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

Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** April 29, 2011

---

**Status of Governor's Priorities:** Working with BGS and the Chairs of Senate Appropriations and Senate Institutions to finalize Capital Bill and the Appropriations bill regarding Clean and Clear, Farmers Watershed Alliance and funding for the Agency's work with the upcoming Farm Bill and potential stand alone dairy policy bill.

**Jobs in Agriculture**

- Farm to City Kids is hiring a full time assistant Cheese Maker, Reading, VT
- Pomakala Vegetable Farm looking for 3 full time workers for summer months, Grand Isle, VT

**Legislative Issues/Contacts:**

Dan Scruton worked with the House Agriculture Committee on the dairy housekeeping bill. There were minor changes made but they are acceptable and will accomplish most of what the Agency wanted from the bill and will specifically make changes needed for raw milk product classes and the shift of bonding from Dairy Marketing Service to the companies they sell to that are buying substantial amounts of milk. In discussions with the Senate Agriculture Committee chair it appears we will not need a conference committee so the bill should be passed this session.

Bill review for H-52 completed by Meat inspection section.

Division Director Jim Leland provided testimony with Tim Schmalz regarding H.409 and invasive species. We are proposing to add 4 species to the invasive species list by rule (Norway maple, winged euonymus and two species of barberry). The proposed legislation would establish an invasive species committee that would perform plant risk assessments and make recommendations to Secretary regarding additions to the invasive species list. This would allow the Secretary to amend the list without the time and expense of rulemaking. It is not anticipated that the legislation will be realized until the next session.

Division Director, Jim Leland provided testimony related to H.343; a water quality bill in House Fish and Wildlife on Friday. The bill would require livestock exclusion on all farms, require the agency to revise the AAPs every 5 years among other things. Most of what is being required in this bill is already being accomplished with existing programs. The Agency's ability to enforce water quality programs seems to be a running criticism from various groups and I intend to address that in detail on Friday.

**Press Issues/Releases/Contacts:**

- Greenfields/ Highland farm slaughter issue being covered by WCAX and Hardwick Gazette. Meat Inspection Program Chief interviewed about itinerant slaughter by WCAX, aired on April 28.
- Meat Inspection Program Chief spoke with Jessie North for article on Charcuterie in Vermont

- Meat Inspection Program Chief spoke with Josey Hastings of the Herald in Randolph concerning on-farm slaughter commentary in her column.
- Ag Development Coordinator Lewis was interviewed on VPR VT Edition on Good Meat program.

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

Dan Scruton will attend the National Conference on Interstate Milk Shipments meeting which started on Friday April 29, 2011. The conference debates and makes changes to the Grade A milk regulations for the country. Dan has been coordinating our efforts with other state dairy programs on the potentially sensitive areas and will be representing Vermont at the conference as a voting delegate.

Meat Inspection Program Chief presented 1 hour Webinar for new farmers in conjunction with UVM extension concerning slaughter and labeling.

Chief of the Consumer Protection Section Henry Marckres presented the proposed new maple syrup grading system at Goodrich's Maple Farm Open House on Saturday in Cabot. Several hundred people from four states were present. The concept was well received.

### **Evolving Issues:**

*Dean Foods/DFA Class Action Anti-Trust Litigation.* An article in the St. Albans Messenger quotes language from Plaintiffs' public pleadings related to the proposed settlement with Defendant Dean Foods that is under consideration by the Judge. The quoted language is excerpts from depositions of Agrimark executives that establishes anti-competitive agreements by the various cooperatives, including the remaining defendants.

*The Big E.* The Agency secures vendors through no cost standard state contracts to provide Vermont products for sale at the Vermont Building during the Big E in Springfield, Mass. One vendor with a multi-year contract is purportedly using volunteer help to staff the booth in order to avoid paying travel and housing expenses for its employees. In consultation with Vermont's Department of Labor, the Agency has determined this practice violates fair labor standards and compliance with those standards is a term of standard attachment C.

As a follow up to the joint letter with Animal Health and Meat Inspection pertaining to antibiotic residues in meat, the AH and MI sections will generate a monthly to bi-monthly letter listing the producers with multiple antibiotic residue violations over the previous 12 months. This will be sent to the slaughter establishments in VT. (This information is readily available on the FSIS website, but most establishments in VT do not have internet access.) Historically, the Agency generated this violator list for the plants, but it stopped several years ago. Antibiotic residue in meat is a national issue and Vermont Agency of Agriculture is moving forward to address this issue in Vermont aggressively.

Agency of Agriculture is monitoring a situation in Maine that is beginning to get press in VT. Four towns in ME passed local ordinances that they do not have to follow state or federal law pertaining to the sale of uninspected red meat. The ME Department of Agriculture is responding to this, as it the federal government via USDA Food Safety Inspection Service. Upon inquiry to USDA FSIS about this issue, their policy experts say that these ordinances are based on "false pretense" as a state or local law cannot preempt federal law, and in this case the Federal Meat inspection Act and the Poultry Products inspection Act.

- The gentleman that is a leader in this "Food Sovereignty" movement (Bob St. Peter) is speaking to a large gathering of Rural Vermont members as their key note speaker next week. The Agency anticipates there may be similar actions tried in Vermont in the upcoming year.

---

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

## **Administration**

### **Ag Development**

*In re SunGen Sharon 1.* PSB Case. The Agency stipulated to certain facts in this Certificate of Public Good petition for a solar facility in the old Sharon Industrial Park. There are no issues from the Agency's perspective.

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

### **Animal Health Field personnel –**

- Provided technical assistance to a dairy farmer who is selling his milking herd and is interested in raising heifers
- Collaborated with the Humane Society on an animal welfare case in South Royalton. Referred the case to the local Animal Control Officer (ACO)
- Responded to a consumer complaint at the Hannaford's in Rutland
- Attended the Addison County Farmers meeting
- Contacted a licensed VT Cattle Dealer in regards to an animal welfare complaint.

### **Assistant State Veterinarian-**

- Assisted the VT State Police and the Poultney Constable on an animal welfare investigation
- Provided regulatory assistance to a veterinary practitioner who was caring for a cat that was diagnosed with a highly contagious disease. Consulted with VDH Public Health veterinarians
- Provided public health assistance to a veterinarian who was caring for a horse suspected of having rabies
- Attended a meeting organized by the Capital District (NY) Veterinarians Group. The meeting provided me with valuable updates to the Bovine Johnes Disease Control Program
- Represented the Agency at an animal cruelty workshop sponsored by the Vermont Animal Cruelty Response Coalition

### **Meat Inspection Points of Interest**

- Met with Representatives of Mad River Food Hub and Freeaire Company as construction progresses for state inspected processing plant in Irasville in the Mad river Valley
- Currently reviewing Hazard Analysis Critical Control Point (HACCP) plan for Vermont Salumi as they progress toward obtaining State inspection for value added sausage business in Plainfield
- Currently reviewing HACCP plan for Daisy Hill Farm for state inspected processing plant in Wolcott
- Discussed options with processor in Randolph area for combination retail and custom processing operation to move to a larger location

## **Meat Inspection Compliance and Enforcement**

- Compliance Section following up on activities associated with the Johnson Grand Union which was flooded with 1 ½ feet of river water.

Bulk Syrup Grading – To date, Consumer Protection staff has graded 1,152 barrels of syrup. At \$4.00 per barrel, this has generated \$4,608.00 so far this year. We have two days scheduled this week for up to 1,000 barrels more. The majority of the syrup has gone to Quebec to be packed as Vermont syrup and shipped back to the U.S. for distribution.

## **Agriculture Resource Management**

This week the Agency will Issue 9 Railroad Rights of Way Vegetation Management Permits, 5 Electric Utility Rights of Way Vegetation Management Permits, 4 Highway Guardrail Vegetation Management Permits, 3 Aerial Larvacide Permits and 1 Larvacide Control Permit. These are all pesticide application permits and in the past the Agency has received complaints for these applications.

Agency staff accompanied EPA Region I staff on 4 farm inspections this week. EPA inspects farms for compliance with the federal clean water act. 2 of the farms are small farms in Shelburne. I am not aware of any serious problems observed on these farms. This will conclude EPA inspections for this spring. They intend to perform more inspections in the fall.

#### Enforcement Actions:

David and Cathy Montagne of Swanton will be receiving a notice of violation for violations of the Medium Farm Operation General Permit observed on their Hathaway Point Heifer Facility in St. Albans. Manure is running off from the barnyard to a roadside ditch and then through a culvert to Lake Champlain. The Agency has made numerous site visits over the past year and communicated the problem and suggested corrective actions to the Montagne's and no action has been taken. The notice of violation proposes a penalty of \$1,000.00 and requires that a number of corrective actions be taken to eliminate the discharge of waste to waters of the state.

#### Secretary's Commentary:

Secretary Ross undertook the following activities:

#### NEASDA

Sec Ross continued to work with Agency personnel on the NEASDA conference for June 5 through 8 at Jay Peak. Invitations have been sent and NASDA is raising money. Work continues on constructing the agenda and the content for event. The reception on Sunday night continues to look like it will be a widely attended event and worth attending by the Governor.

#### Vermont Law School

Sec Ross met with Marc Mihaly of VLS and some of his staff. They discussed how the Agency could help set up an agriculturally focused tour for one of the Advisory Groups to VLS. VLS continues to deepen its interest in agriculture and the Agency is actively engaged in helping. In addition to the tour, the Agency managed a VLS intern, has helped with conversations with the Congressional delegation and is in conversation with VLS over a memorandum of understanding between the Agency and VLS. The particulars of the memorandum are only now being developed.

#### Sustainable Agricultural Council

Sec Ross co-chairs the SAC and led the Council in a conversation about Farm to Plate and their role in helping to implementing it. There was also an agreement among the members to take up a quiet and thoughtful discussion of GMOs. Brent Beidler, an organic farmer who is on the Council, is a leader on this issue and meets regularly with conventional farmers to discuss how they can co-exist. Not much is likely to be done until the fall because of work load of summer.

#### Legislative Activities

Sec Ross worked with a wide range of Administrative officials and members of the Legislature to make sure they Dairy Housekeeping Bill, Jobs Bill, the Capital Bill and Appropriations Bill addressed the Agencies concerns in the most constructive manner. By Friday afternoon everything seems to be headed in the right direction. The Agency found 200K to make available in the Capital Bill for other Administration priorities, language was offered for the 25K needed for participation in national dairy and farm bill legislation and agreement appears to be reached about language changes in the Dairy Housekeeping Bill which may be acceptable to the both the House and Senate.

## Meetings

Sec Ross and Sec Miller traveled to Woodstock to meet with Mr. Vincent Galluccio at his farm per the Governor's request. They met for over an hour and reviewed his business opportunities, frustrations and plans and did a tour of the farm. The operation and the plans are impressive and there appears to be a real opportunity given the business acumen of Mr. Galluccio and his focus leveraging Vermont's strengths in his business.

## Bloom

Sec Ross was interviewed on film by the Director of Bloom. He stuck to his basic message of this is a problem that was created over time and will not be solved tomorrow and all of us, Vermont society wide must take responsible for the real issue confronting our waters and Lake Champlain in particular and we must all take ownership for effectively addressing it as we go forward. With respect to farming he emphasized the point that all farms are unique and their management is key so we need to find ways to respond to them as individually as possible. He also pointed out that profitable farms are more capable of addressing their issues, including water quality, than unprofitable farms.

## Congressional Delegation

Sec Ross met with Huck Gutman, COS, for Senator Sanders. He had a broad conversation about agriculture and to a lesser degree about energy. Gutman explained Senator Sanders deep interest in agriculture, especially dairy farming. Ross and Gutman agreed to stay in touch and look for ways to work together.

Senator Leahy's staff came by for a discussion about a range of topics from agriculture to broadband to energy. While there were no specific outcomes the following was learned:

- There will not be any earmarks for at least this year and most likely next
- The Senator and staff are looking for other ways to help
- The Senator and staff are interested in re-emphasizing their role in the Smart Grid activities
- The changes at UVM will be important to watch

It will be important to further discuss Senator Leahy's role in smart grid and some legacy issues in the near future. Sec Ross has some specific recommendations as to how to best engage this relationship.

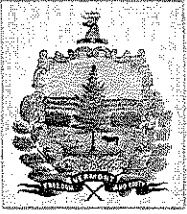
## James Ehlers and David Mears

Sec Ross participated in a phone conversation with Mears and Ehlers around water quality issues. Ehlers is very strong in his belief that much more must be done to protect the Lake and enhance the water quality of the state. The dialogue was open and honest. Much of the time was spent listening to Ehlers talk about the problem and occasionally offer some approaches, many required significant resources. Everyone agreed to stay in dialogue.

## Castanea Foundation

Sec Ross met with representatives of the Castanea Foundation which has been a supporter of Farm To Plate and other agricultural efforts. Most notably they own a slaughter and processing facility in Ferrisburg which is run by Carl Cushing, a former Ag Agency employee. The discussion was a fair and honest exchange about what is going on, their interests in agriculture and possible ways their foundation could collaborate with the Agency. More discussion will ensue.





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

### **Department of Banking, Insurance, Securities & Health Care Administration (BISHCA)**

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

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

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

### **Memo from Commissioner Steve Kimbell**

---

## **CONFIDENTIAL AND PRIVILEGED – NO SHARING Report to the Governor for Week Ending 04/30/2011**

### **Governor's Priorities**

#### **Health Care Initiative**

The Department continues to prepare for the implementation of H.202.

General Counsel continues to work with DVHA, the JFO, and Finance and Management on adjustments to the financing of Catamount.

### **Evolving Issues**

**Health Insurance issue** – As reported last week, the Department has learned of potentially very serious wrongdoing by a company selling health insurance over the internet. This is apparently a national scheme and the Department is preparing action to protect Vermonters.

### **Outreach**

Representatives of the Captive Division will be in Canada attending the Risk & Insurance Management Society annual conference, representing Vermont. The RIMS conference normally attracts 10 thousand or more attendees.

Representatives of the Securities Division will be addressing the Vermont National Guard at several Yellow Ribbon events (the Yellow Ribbon program is to reintegrate Guard members returning from deployment). Expected total attendance will be approximately 1,800.

As part of its consumer outreach efforts BISHCA had a booth at this year's Barre Rotary Expo at the Barre Auditorium. Attending from BISHCA were Kevin Gaffney (Market and Insurance Analyst), George Mitchell (Insurance Consumer Services Administrator) and Tracy Wells (Health Care Administration Consumer Services Specialist). The event included insurance and finance, nonprofit and health care vendors. There were over 100 exhibitors and organizers estimate more than 2,000 persons attended. The majority of questions at this year's BISHCA booth were about the Governor's "Single

Payer" reform. Vermonters took away BISHCA handouts that included the time line on H. 202 implementation, a brief summary of H. 202, and a Q & A about H. 202 written by Anya Rader Wallack and Robin Lunge.

### **Legislative**

**(General) H.438 Housekeeping bill** – Was voted out of Senate Finance 5-0-2, but as of this writing action on the Senate floor has been postponed.

**H.155 – PACE** - May be voted out of the Senate Finance Committee this afternoon with only small amendments not impacting the general concept of the bill. Still should be okay with the Federal Housing Finance Agency (thus Fannie Mae and Freddie Mac).

**S.98 – Owner Financing** – Bill passed the Senate and is in the House Rules Committee.

**H.272 – Private Roads** – The bill was still in House Commerce Committee as of yesterday although a hearing was held on the proposed bill this week.

### **General Information**

**Captives:** License #919 was issued to VGI Insurance, Inc., a new subsidiary of Vanguard Investments, formed to insure certain risks of the parent, and our 9th new captive this year. The pipeline remains steady, with 2 applications currently in process, a steady stream of business plan changes for our existing Special Purpose Financial Captives (those don't add to our license figures, but keep premiums flowing into the captives, thereby keeping our tax revenue steady), and regular preliminary discussions with new applicants, including Walgreens and the United Methodist Churches this week.

**Health Care Administration:** At a meeting of the Act 53 Infection Subcommittee at Fletcher Allen on Wednesday, Lisa McGiffert, national Campaign Director of the Consumers Union Safe Patient Project for Consumers Report, announced a regional initiative named New England Voices for Error Reporting (NEVER) addressing the prevention and public reporting of medical errors. Jeanne Keller is working with this group and is specifically engaging employers in this issue.

HCA has selected a software vendor (Kaufman Hall) to provide improved reporting, analysis, and forecasting services for both the hospital budgets and the Expenditure Analysis. A sole source provider contract and justification letter will be forwarded next week. Plans are to begin development and implementation this June.

Hospital budget instructions and from the Commissioner will go out either today or early next week.

103 South Main Street  
Center Building  
Waterbury, VT 05671-0301

Tel: (802) 241-3600  
Fax: (802) 244-1102

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



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 29, 2011  
**Subject:** ANR Weekly Report

---

**Status of Governor's Priorities:**

- **Entergy/Vermont Yankee (VY):** As part of processing its renewal application for the NPDES thermal discharge permit, staff and legal counsel prepared a letter to Entergy directing the company revise plans to study the extent of the thermal plume in the Connecticut River and to assess possible impacts on Atlantic salmon smolt and American Shad. VY is also being directed to submit two other outstanding study reports by this summer.
- **H.258 Public Participation in Enforcement - *Thank you*** for your assistance yesterday, and helping us find a path forward.
- **ATVs** – The hearing to repeal the rule for ATVs on state lands went very well on Wednesday – very civil, with a few minor exceptions. That said, of the 200 or so people there and 60 or so who spoke, all but a handful were opposed to the rule revocation – not unexpected.
- **Resource Mapping – Energy** – We were successful in getting approval for a \$100,000 grant from ARRA (if possible) or CEDF funds to assist in our resource mapping project designed to help guide, among other things, siting of wind and telecommunication projects throughout the state.

**Legislative Issues/Contacts:**

- **H.91 (captive hunt/public trust)** - passed its third Senate vote, with the lone vote in opposition -- Senator Starr. The bill now goes to conference committee.

- **S.77 Private well testing** - The bill has been redrafted and the latest draft contains most of the Technical Advisory Committee and ANR recommended changes.
- **H.343--** House Fish, Wildlife & Water Resources Committee requested testimony on this bill (the bill requires inspections of all concentrated animal feedlot operations located in the St. Albans watershed). We have contacted Jim Leland in Agriculture who described some of Agriculture's concerns.
- **H.11 – Pharmaceuticals and Slate Quarries** – we believe we will be successful in avoiding an amendment by Senator's Mullen and Carris to exempt slate quarries from regulation onto this bill in third reading. We are working on regulations to address their concerns and have agreed to revisit the issue with them next year if legislation is deemed needed.
- **S.34 Mercury Lamps** -Testimony on S. 34 mercury lamps was wrapped up in House Fish, Wildlife & Natural Resources and the committee is quickly proceeding to mark up on the bill.
- **S.78 Telecommunications** – In a variety of committees this week we answered questions about the DEC stormwater program timing, discussed what was needed to keep the state and communities in the National Flood Insurance Program compliant with Federal law, and tried, to no avail, to deflect the committee's desire to "help" us with a bill-back provision. This eventually got worked out.
- **H.237 UVA Penalties**- we testified in House Ways and Means about this bill which changes penalty calculation on lands removed from the program. With minor edits we supported the concept.

#### Press Issues/Releases/Contacts:

- **Felt-soled Waders/Boots Ban:** A Department staff person appeared as a guest on the WCAX pre-news show "The:30" regarding the ban on the use of felt-soled waders and boots. A number of questions were asked about Didymo and why felt-soled waders were targeted in the effort to reduce the spread of this invasive alga.
- **Flooding/Sewage Treatment Failures** – we responded to various inquiries about flooding, lake water elevation, and river flow and erosion this week, in addition to press about the state of sewage treatment plant failures and overflows.
- **Plum Creek – Current Use Language.** We answered various press inquiries about the legislative action on "Plum Creek" making clear we did not support any kind of retroactivity.

#### Significant Events/Meetings:

- **ATV hearing** – discussed above.
- **Disinfection failure at Burlington's combined sewer overflow facility**—On April 21, the city reported to the WWMD that operator failure had caused 2.5 million gallons of combined sewer overflow (mixture of sewage and stormwater) to be discharged earlier that morning to the Lake without chlorination. It is confirmed that human error was the root cause of the event. A valve that controls the flow of disinfectants into the treatment system was left in a closed position by an operator. This

rendered the disinfection system inoperative. Investigation of this matter is on-going. Once it is completed all information will be examined to determine the appropriate action.

- **VY** - On April 27, Commissioners of Health, Public Service, DEC and staff heard from GZA, the consultant for Vermont Yankee (VY), on COB bedrock well sampling issues.
- **Fish & Wildlife Board:** On April 27 the Fish & Wildlife Board took a first vote on the Department's 2011 antlerless deer permit proposal. The Department is proposing to reduce the number of antlerless permits statewide from 25,600 in 2010 to 9,575 for the upcoming 2011 seasons. The Department is proposing that all Wildlife Management Units (WMUs) be open to taking antlerless deer by means of archery, except WMU E (Northeast Kingdom). There were no changes to the Youth Deer Hunting Weekend regulations. The Board denied a petition by the Vermont Outdoor Guide Association (VOGA) to allow non-motorized commercial vessels the use of statewide access areas. VOGA's Executive Director, Gray Stevens, has petitioned the Board for several years to allow this type of use.
- **Logger Education to Advance Professionalism (LEAP) annual spring workshop series** - Forestry Division and Agency of Ag staff presented a full-day workshop on invasive plants and insects to over 30 loggers and vocational forestry students on April 26<sup>th</sup> at the Hazen Union Campus of the Green Mountain Technical & Career Center.

---

## SUMMARY OF KEY DEPARTMENT ACTIVITY

### Environmental Conservation

- **Goodrich (Vergennes):** Goodrich operates a chromium anodizing operation that is controlled with a 3 stage system, the first being a mist eliminator, followed by a scrubber, which in turn is followed by a HEPA filter. This extensive emission control system was initially used for their hard chrome electroplating operations that have since been replaced with anodizing operations that have less potential emissions. Goodrich is experiencing high pressure drops and would like to explore the option of eliminating the mist eliminator or modifying other components.
- **Vermont Composites, Inc. (Bennington)** – final permit issued 4/20/2011. Establishes emission limits and controls for chromium coatings.
- **ANR Climate Change Twitter account** launched Wednesday on the heels of the ANR Twitter account and in time for Earth Day. We plan to use the Twitter account to promote items on our web site as well as climate change related news and events.
- **Fourth Biennial Report of the Climate Neutral Working Group (CNWG)** is now available on the ANR Climate Change Team website at [http://www.anr.state.vt.us/anr/climatechange/Pubs/CNWG4thBiennialReport\\_FINAL\\_3-18-11.pdf](http://www.anr.state.vt.us/anr/climatechange/Pubs/CNWG4thBiennialReport_FINAL_3-18-11.pdf)
- **ANR v. Northland Distributing & Manufacturing, Inc.: Assurance of Discontinuance entered as a Court Order on April 12, 2011:** Northland is a Minnesota Corporation that sells and distributes outdoor wood-fired boilers (OWB) in Vermont and throughout the U.S. On January 21, 2009 an

inspector from the Air Pollution Control Division determined that Northland had distributed two OWBs to Crosby's which were not certified for sale in the state. To resolve the matter, Northland agreed to pay a \$1,000.00 penalty and comply with applicable Air Regulations.

- **WPL-170-1 Town of Richmond** – Amendment No. 1 to the LASRF loan was approved March 16, 2011 and *Loan Agreement Amendment No. 1* was executed April 4, 2011 in the amount of \$132,500.00 increasing the loan value to \$232,500.00.
- **Vergennes-Panton Water District** held a second pre-Bid conference at the Water Treatment Facility located on the shore of Arnold Bay. The five story facility (two below high lake level) which was built in 1973 will undergo a significant, \$ 4,000,000 upgrade of mechanical, electrical, filtration & treatment process equipment. Bid opening is scheduled for April 28th. Work will progress throughout this construction season with completion anticipated by the first of next year.
- **Alternative Energy – Geothermal:** The Vermont Geological Survey is notified that a supplemental grant application that compliments an on-going Department of Energy geothermal grant is approved. The new award is to collect water temperature in wells and obtain rock samples to test for thermal conductivity and geochemical parameters. Central Vermont Public Service (CVPS) in a Sept 28, 2010 letter supported the application and agreed to provide seed money if the grant is approved.
- **Out-of-Service Underground Storage Tanks (USTs):** Over the past two years (due to the volatile nature of gasoline prices and the overall economic picture) the UST program has noted an increase in the number of facilities putting their tanks out-of-service (OOS). While some facilities are permanently closing the tanks, there are many who are either hoping to resume gas sales in the future, hoping to sell the property w/ the tanks, or simply don't have the funds to pay for tank removal and assessment. The UST Rules require the permanent closure of tanks after they have been OOS for more than a year. The UST program staff are meeting monthly (roughly) to review the cases and make sure that owners/operators are either working toward tank removal w/in one year after going OOS or obtaining written variances (for cause) to this requirement. We currently have 13 facilities that are out-of-compliance w/ the one year rule, and another 15 that have variances to keep the tanks in the ground. Overall, we have seen the number of facilities operating in the state drop from 1140 in 2004 to approximately 980 currently.
- **Proposed Compost Facility:** Solid Waste staff met with Trevor Mance from TAM Waste Removal (a solid waste hauler and transfer station operator in Shaftsbury) to discuss his proposed composting facility. He plans to submit an application next week. There are currently no certified commercial compost facilities in southern Vermont. If the site is permitted, it will fill a geographic void in food waste composting opportunities.
- **E-Cycles Program:** One of the three bids has been conditionally selected, pending contract negotiations, and all bidders have been notified. Staff will soon be working with IT for the on-line registration process for collectors, transporters, and recyclers, as well as modifying the existing registration program for manufacturers.
- **Proctor Water Supply:** Vermont statute allows water systems to abandon users and Proctor has filed with the court to allow them to stop providing water to about 80 users. We have been closely involved with all of the involved towns for several years and repeatedly offered meet with Pittsford or give

assistance in the form of planning loans, but they have shown no interest. The good news is that Pittsford has finally come to us for a \$22,000 planning loan to determine the options available to the users that the court may well allow Proctor to abandon.

### **Fish and Wildlife**

- **Youth Turkey Hunting Weekend:** The youth turkey hunting weekend was quiet for the wardens with very few complaints. Wardens report hunting pressure appeared to be light due to the poor weather on Saturday and Sunday being Easter.
- **Orphaned Bear Cub:** Another orphaned and starving cub bear showed up near some residences in Waterbury. Wardens delivered and dragged two road-killed deer into the woods then slowly coaxed the bear to the road-killed deer locations to see if it would eat. Wardens will monitor the situation to determine if additional intervention is necessary.
- **Springfield Bike Path:** Department staff went on a site visit to the Springfield bike path extension with the Town's representatives and consultants, and other ANR staff. Alternatives were proposed that would protect the existing riparian buffer along the Black River.
- **White-nose Syndrome (WNS)/Bats:** Staff participated in a WNS conference call regarding the spread of WNS to Kentucky and the bat population in that state. Kentucky has some of the nation's greatest cave bat populations – hence this is a significant development.
- **Cormorants:** Cormorant control has begun on Lake Champlain Islands including Sloop Island, Porter Bay, Button Island (State Park), Rock Island, and Mud Island. Many cormorants are on the lake especially in areas where alewives have been seen.
- **Sandbar WMA Monitoring:** Several ospreys have taken over some of the new heron nests. Eagles also caused some abandonment of the rookery this spring. There are still at least 40 herons nesting.
- **Beaver Mania:** The Department is working with VTrans regarding placement of wildlife crossing signs on the Sandbar causeway to alert drivers about wildlife in the roadway. Staff was also interviewed by WCAX and WPTZ on the issue of multiple dead beavers on the causeway road.

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

- **ADA Amended Rules:** working on draft a proposed ANR policy regarding access to ANR lands, facilities and services to be discussed and reviewed agency-wide.
- **West Mountain WMA Camp Lease Issue:** a camp owner sought to add an unrelated third party to their existing lease. Review of the 2006 legislation indicated this was not authorized. VHCB and TNC (easement holders) agreed with this interpretation. This camp owner may decide to sell. This camp is one of two camps on a single road that is located within the Core area and thus is a high priority camp to purchase if funds are available.

- **Plum Creek:** The motion to stay the discontinuance of Plum Creek lands from UVA was granted and the towns were notified. Action continues on the legislative front. FPR will initiate investigations of the heavy cut associated with the same 140 acres in the near future. This may draw additional ire from Plum Creek.
- **Conservation Education** has been busy planning upcoming trainings and workshops. State Park Interpreter training will take place June 15-18 at Kingsland Bay State Park. Sixteen interpreters from state parks across the state will participate. Planning is also underway for a Project Learning Tree facilitator workshop in June at Seyon Lodge State Park. Recently 43 education students at Castleton State College participated in a Project Learning Tree educator workshop.
- **Sweet Pond Dam** - The dam at Sweet Pond continues to occupy considerable energy. The water is being drained now. Consulting engineers are preparing the assessment of options for us to consider. The local Stewardship Team has weighed in on the resource issues related to the existence of the dam over the long term. They will be forwarding a report of the recommendation to the Commissioner soon.
- **Peace and Quiet** - A new web page has been added to the Parks website listing the best known quiet places to sit and relax beside streams in the park system. This was prompted by an individual who donated \$2,000 to the park system.
- **Positively Vermont** - Staff appeared in a 45 minute interview on Positively Vermont (Channel 17/Town Meeting TV). It will be aired eight times throughout the spring. The discussion covered lots of issues but centered on the Venture Vermont Outdoor Challenge program, and our website.
- **Social Media** - State Parks Facebook has reached 7,000 fans and Twitter is up to 1,900 followers.
- **Arbor Day** - Vermont's Arbor Day ceremony is on May 6<sup>th</sup> at 11:00 AM on the Statehouse steps. Joining Governor Shumlin and Secretary Markowitz at the celebration will be the eight winners of our *Growing Works of Art* Contests, recipients of Tree Line, Tree USA and Tree Campus awards from the Arbor Day Foundation, and Bruce Lisman who has generously donated \$75,000 to support tree planting efforts in Vermont Downtown's and Villages. The event will conclude with the planting of a tree on the statehouse lawn. Schools and communities throughout the state will also be celebrating Arbor Day with planting and tree care activities.
- **Prescribed fire** - FPR staff are gearing up for at least four sites this spring. Whether they will be accomplished depends on the weather and staff availability. Burning is necessary to regenerate some tree and shrub species such as blueberries and sand plain vegetation. Most of the burns are planned for early May if all goes well. Staff who work on these must have completed fire training.
- **Telecommunications and Hawk Mtn WMA** - The Department has provided VTA with information on Hawk Mt. WMA. Apparently, there is some interest from a cell provider to locate on state land at Hawk Mt. Such use would be incompatible with the purposes of the wildlife management area and would conflict with federal funding restrictions associated with this site. This site is further complicated by the fact that the timber rights to this property are not held by the state, but by several outside parties. Any clearing for an access road or cell tower would consequently require permission from the owners of the

timber rights. It's not clear at this time whether these concerns will prevent further consideration of Hawk Mt.

- Both FW and FPR staff are scheduled to meet later this week with The Nature Conservancy, Vermont Land Trust, and Vermont Housing and Conservation Board on issues pertaining to the former Champion Lands (West Mt. WMA, and Private Timber Lands subject to easements). Agenda items include road maintenance needs, planned road closures, camp lease issues, required update of management plans.
- We have spent some time calculating the length of CVPS utility lines on FPR lands and will soon be developing a new master license with CVPS incorporating the new approved license fees.

**Financial:**

- We were able to reduce by 40% our original December, 2010 request for funding for the 27th payroll (from \$1,222,440 down to \$741,571). Our reduced request was very well received by the Commissioner of Finance and was promptly approved.
- BGS has been looking to free up some FY12 capital money and may reduce our SRF requested amount by about \$400,000 based on current estimates of reduced Federal funding (needing match).





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

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

*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Jeb Spaulding  
**DATE:** April 29, 2011  
**SUBJECT:** Confidential Report to the Governor

---

**CONNECT VT**

**Legislative issues/ contacts**

S 78 was voted out of House Commerce 10-0-1 with a significant number of amendments; most of which were favorable to our initiative and the VTA; permitting language remained wholly intact. Commerce sought to assure that the VTA had the requisite powers necessary to accomplish the investment of public funds to get the job done. Senator Illuzzi brought several amendments through negotiation, bringing scenic byways language back as criteria in the 248a process. This does create the possibility that tower siting for cellular services will be more difficult with a new, more specific criteria for opponents to object to.

Bill was voted out of House Appropriations, 10-0 accepting Commerce amendments. Illuzzi sought to insert additional amendments via House Appropriations. Anticipate that the House will take up the bill early next week; we will remain vigilant on additional amendment activity that may make its way to the floor.

**Press/Media Notes:**

Valley News, re: AOT fiber build on I 91 and I 89

**Significant Events/Meetings:**

PieMatrix- building project management and reporting tool, anticipate that we will have a draft version by late next week.

Congressional delegation, staff and provider updates: meetings scheduled for May 4, 5 at 5<sup>th</sup> floor. Meetings will be hosted by ConnectVT and staffers from Congressional offices. Attendees will be ARRA funded projects: Smart Grid (VELCO, GMP, CVPS), Vtel, Sovernet/VTa, VCGI, VEC, Council on Rural Development.

Finalizing detail on launch of [www.broadbandvt.org](http://www.broadbandvt.org) to include the Governor as the lead for initial press conference, May 12 at the Statehouse. Working with DPS, VCGI, providers to launch the unserved address" database and response.

#### **Evolving Issues:**

VTa employee issue continues to move with assistance from HR; early indicator is that HR is not finding issue with employee's actions to rent property.

Reviewing VTA FY 12 operating budget, positions, and employees in positions to assure capacity in organization is focused on build.

### **DEPARTMENT OF BUILDINGS AND GENERAL RESOURCES**

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

- Governor's priorities are basically intact per our conversation.
- District heating plant seems more likely with award of funding yesterday.
- Rutland-Springfield consolidation will be tough nut to crack.
- Focus is Capital Bill Committee of Conference.

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

- Held weekly meetings with Speaker, Rep. Emmons and Sen. Hartwell.
- Hosted meeting to outline Administration's position with Rep. Emmons, Rep. Myers and Sen. Hartwell.
- House and Senate conferees met with Larry Copp on district heating project.
- Met with Rep. Bostow regarding procurement issues.

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

- Working on Sam Sammis response.
- Met with Secretary's Ross and Markowitz in search of district heating dollars.

#### **Evolving Issues:**

- Use of Chittick (Waterbury) as project relocation space during several construction projects beginning this summer.

### **DEPARTMENT OF FINANCE AND MANAGEMENT**

#### **Issues Update:**

Finance & Management received a public information request from the VSEA yesterday. This request will be met by running a fairly simple VISION report detailing payments made to Ellis Boxer & Blake attorneys.

Financial Operations has sent out FY 2011 Year End Closing Instructions including deadlines to all departments; the instructions are also posted on the Finance & Management website.

### **Legislative Contacts:**

**H.73 – Transparency & Public Records:** This Bill remains in final mark-up in Senate Government Operations. While the Administration's position on fees was not upheld in the Committee, the question of how to broaden the public records laws remained assigned to the summer study committee. A final Committee vote is scheduled for this afternoon, Thursday April 28, 2011. We do not yet know if the Bill will be amended on the Senate floor, or will a Committee of Conference will be necessary.

**H.441 – FY 2012 Big Bill:** The Bill is now in Conference Committee, having passed the Senate on Friday. The Administration's letter to the Conference Committee was sent on Wednesday April 27, 2011. We continue to follow Conference Committee deliberations.

## **DEPARTMENT OF HUMAN RESOURCES**

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

**Strategic Planning/Retreat:** The Department of Human Resources is working with the Governor's Office and the Secretary of Administration's Office to prepare for the Governor's retreat in June. DHR will lead a strategic planning session during the retreat, with the overall goal of conducting statewide strategic planning over the course of the next year. As part of this effort, DHR will work with the Governor's Office to coordinate a time for the Governor to meet with the individuals who will conduct the training, so that these individuals will have a full understanding of the Governor's mission and values, which will inform agency and department's efforts to craft their strategic plans.

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

**Public Service Recognition Week:** DHR is hosting a luncheon next week to honor state employees who have been nominated by their agencies and departments as outstanding public servants. The Governor and the Secretary of Administration are scheduled to attend, and a general script of the ceremony has been provided to them. Commissioner Duffy will work with Secretary Spaulding to refine the presentation.

**Americans with Disabilities Training:** DHR is also hosting a training session on the Americans with Disabilities Act, which has changed significantly over recent years. David Fram, a nationally expert in the field, will conduct the training. DHR has publicized the training widely and expects 90 to 100 attendees, including key state employees who address ADA issues.

### **Evolving Issues:**

**Equal Employment Opportunity Plan:** DHR, in conjunction with the Governor's Workforce Equity and Diversity Council, has drafted an Equal Opportunity Plan for state government. Beth Robinson has reviewed and approved the Plan, and it will be forwarded to the Governor and Secretary Spaulding for signature, once the chair of the Council has signed it.

**Bargaining with VTA:** DHR reached agreement with the VTA on a new two year collective bargaining agreement. After executing an agreement in principle, however, the VTA made additional demands to accommodate approximately 12 individuals who are currently paid under a pay plan that was grandfathered in 1994. After discussion with Commissioner Flynn and Colonel Tom L'Esperance, DHR formulated a strategy to resolve the issue. A second tentative agreement has been sent to the VTA for execution. We anticipate that the VTA will seek ratification in the next few days, and that ratification will occur within a week. Once the agreement is ratified, DHR will work with Secretary Spaulding to

craft a press release or schedule a press conference and determine whether the announcement should be made jointly with the VTA.

Upgrade of Human Capital Management System: DHR has worked diligently with Deputy Secretary of Administration Clasen and other members of the Agency of Administration to draft a contract with CherryRoad Technologies, Inc. to act as the vendor in the state's upgrade of the human capital management system. DHR anticipates that this project, which will require the commitment of significant resources and time, will start in mid-May.

## **DEPARTMENT OF INFORMATION AND INNOVATION**

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

Ruthann Sullivan and Ron Petty testified at the House Government Operations Committee regarding the proposed migration of Legislators email from their current stand alone GroupWise solution to the State system. They discussed many pros and cons of both solutions. There was some concern noted regarding the Senate's version of the bill having the verbiage regarding the email migration removed. More information was required on that point, but the room wanted to proceed with the discussion. It was agreed that a September 2012 implementation timeline would be realistic for both the Legislators and the Information Technology representatives present.

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

Ruthann Sullivan met with Karen Marshall and Chris Campbell this week to discuss memo's that have been distributed by Sovernet which are requesting site visits at the Funded Grant Anchor Sites as part of their fiber deployment. Sullivan received a call from the CEO of Sovernet Richard Kendall with an apology and agreement that these notes were sent in error to the Correctional Facilities. His team is culling through the data to determine if additional SOV locations received notices and will advise his finding.

The department staff responded to continuity of operations (COOP) events this week. The power breaker situation which impact many State Street and Baldwin Street locations on Monday morning had the team concentrating on the data center located at 133 State. This location house the core network devices which provide statewide GovNet WAN services, the statewide internet, and Enterprise ACD (Automatic call distribution) platform serving the DMV, TAX and DCFS call center environments. The team followed the COOP planning and procedures perfectly and responded as expected. Thursday morning's rain storm caused two COOP watches: the first with Telecommunications at 50 Cherry Street in Burlington Fairpoint lost services to all Centrex telephones at the site. The second involved the flooding at 133 State Street basement where the following assets are located: DII Training Lab with 14 computers, Mainframe team workspace locations, DII storage areas and again a core GovNet networking route were threatened when the tunnel flooding and back corner occurred. The response of the BGS team was exceptional! Notifications went out properly and DII staff responded and offered assistance. Again, COOP procedures and operating procedures were followed as planned and practiced. A special thank you to BGS staff for keeping us dry!

## **DEPARTMENT OF LIBRARIES**

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

Vermont Board of Libraries Names "Doll Peak": At the regular Board of Libraries meeting on April 19<sup>th</sup> the Green Mountain Club addressed their petition for the Board to officially name Doll Peak.

Absent a quorum, the Board called (and warned) a special meeting by conference call on April 21<sup>st</sup> to vote on the matter and this was the result:

In accordance with the provisions of 10 V.S.A. § 151-154, the Vermont Board of Libraries, at a special meeting on April 27, 2011, **voted to designate a mountain peak located in Vermont between the towns of Jay and Richford, in the counties of Orleans and Franklin at coordinates 44-56.827N, 72-32.424W as "Doll Peak" after Charles Doll, a distinguished faculty member at the University of Vermont who served as Vermont State Geologist from 1947 to 1976 and was a charter member of the Vermont Geological Society.** The action behind the petition for naming came from the Green Mountain Club. In 1930 Charles Doll served as a leading builder of the original path of Vermont's Long Trail from Jay Peak north to the trail's terminus at the international border (see *Long Trail Guide*, 27th edition, 2007, p. 30). In honor of Professor Charles Doll's leadership in developing the most northern segment of the Long Trail, the Green Mountain Club Inc., for purposes of its own cartographic publications, had already designated the peak described in the petition as Doll Peak.

**Other:**

Graduate Students from the University of Montreal Library Science Program Visit DOL: Department of Libraries welcomed Réjean Savard, Professeur de bibliothéconomie, Université de Montréal and his class of graduate students to Vermont on April 22 for visits to our department and to Fletcher Free Library in Burlington. Staff made presentations and gave a tour of the State Library.

**April DOL Newsletter now available at:**

<http://archive.constantcontact.com/fs038/1102928001760/archive/1105066269918.html>

**DEPARTMENT OF TAXES**

**Status of Governor's Priorities:**

**Misc Tax Conference Committee:**

Conferees are Cummings, MacDonald, Ashe, Ancel, Sharpe, Branagan

Since Sen. Cummings has health issues, and Rep. Branagan is gone for week, Anne & Janet have been meeting offline. Still no official schedule. Quick rundown.

Cigarette Tax/Revenue Provisions: No early indication.

Amazon Tax: Rep. Ancel indicated to the Commissioner that the House version is personal priority for her, although early betting was that the Senate version might win out (notification rather than affiliate).

Ed. Finance Study: The Commissioner has been expressing her concern that the five person Commission contemplated by the Senate, to report back in January, would be an administrative burden with little hope of a constructive outcome. Early word is that the House alternative version, an outcome based study, could prevail.

Auctioneers and Caterers: Both groups testified to Ways and Means after conference was appointed. Commissioner was omitted from schedule, put on schedule, then skipped over. As that might suggest, Rep. Ancel told the Commissioner that although she was personally sympathetic, there was general House agreement to give a break to both groups. To stop this trend, she suggested some major ideas such as changing the appeals process. The Commissioner emphasized that no one looks good when

special deals are made for certain taxpayers, and conveyed that the Department was willing to explore changes to the process instead. Michael Costa has drafted a proposal for defined statutory duties for the Taxpayer Advocate, modeled on the IRS and other states. We are exploring an independent appeals process, and a shortened audit window for trust taxes.

Plum Creek: Ways and Means also took testimony on this. Sentiment appears to be against any retroactive legislative break.

Veteran's Property Tax: Rep. Olsen in particular is peddling an idea that instead of Sen. MacDonald's complicated reformulation of income sensitivity for disabled veterans, simply give each a fixed amount as an adjustment. Vastly simpler to administer, however apparently Sen. MacDonald is opposed to any such tinkering.

#### **Other Bills:**

AGI Reform: Rep. Ancel expressed frustration that to her mind, an AGI bill was blocked. The Commissioner already has laid groundwork to debrief this issue after the session. One idea that has been received favorably thus far by the Speaker and JFO is for the Tax Department to give JFO an appropriately "fuzzed" data set so that the Legislature is not looking to the Tax Department to model its proposals, which is inappropriate and inordinately time consuming.

#### **Operations:**

Tax Season: The Tax Department processing of both annual and quarterly returns is on pace, and a second Saturday was unnecessary. Progress also is being made on some of the accounting issues encountered in the new ETM system, for example, a transfer of fees to ANR. The pilot voluntary use tax disclosure project is underway.

Technology Modernization Fund/Current Use Modernization: The funding for the Department's general technology projects in the Big Bill, as well as the funding specific to Current Use modernization in Miscellaneous Tax, appears to be without controversy. As further explained below, the Department will be executing technology initiatives immediately which will stretch Department resources in the short term, but ultimately will enable much more efficient platforms for revenue functions and taxpayer interface. The Department will be working with HR to request several new IT positions (quality assurance, business analyst, developer) to carry out the projects tied to the funding.

Data Warehouse: The contract will be signed today; the vendor will be onsite starting Monday with kick off meetings, including the critical task of establishing a committee that will determine the baselines to track enhanced revenue that will be attributed to the project. In the meantime, DII is working to set up the environments for installation of the data warehouse software. DII is drafting Cost Models, and a Service Level Agreement; Jaye Johnson is drafting a MOU to memorialize the understanding between Tax and DII.

Oracle: After a round of calls by the Commissioner, Oracle has sent proposed final terms for the contract to bring a developer for ETM back on site. Jaye Johnson is reviewing. This is a critical need for stabilizing ETM as the end of the fiscal year approaches.



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

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

*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Jeb Spaulding  
**DATE:** April 29, 2011  
**SUBJECT:** Confidential Report to the Governor

---

**CONNECT VT**

**Legislative issues/ contacts**

S 78 was voted out of House Commerce 10-0-1 with a significant number of amendments; most of which were favorable to our initiative and the VTA; permitting language remained wholly intact. Commerce sought to assure that the VTA had the requisite powers necessary to accomplish the investment of public funds to get the job done. Senator Illuzzi brought several amendments through negotiation, bringing scenic byways language back as criteria in the 248a process. This does create the possibility that tower siting for cellular services will be more difficult with a new, more specific criteria for opponents to object to.

Bill was voted out of House Appropriations, 10-0 accepting Commerce amendments. Illuzzi sought to insert additional amendments via House Appropriations. Anticipate that the House will take up the bill early next week; we will remain vigilant on additional amendment activity that may make its way to the floor.

**Press/Media Notes:**

Valley News, re: AOT fiber build on I 91 and I 89

**Significant Events/Meetings:**

PieMatrix- building project management and reporting tool, anticipate that we will have a draft version by late next week.

Congressional delegation, staff and provider updates: meetings scheduled for May 4, 5 at 5<sup>th</sup> floor. Meetings will be hosted by ConnectVT and staffers from Congressional offices. Attendees will be ARRA funded projects: Smart Grid (VELCO, GMP, CVPS), Vtel, Sovernet/VTa, VCGI, VEC, Council on Rural Development.

Finalizing detail on launch of [www.broadbandvt.org](http://www.broadbandvt.org) to include the Governor as the lead for initial press conference, May 12 at the Statehouse. Working with DPS, VCGI, providers to launch the unserved address" database and response.

**Evolving Issues:**

VTa employee issue continues to move with assistance from HR; early indicator is that HR is not finding issue with employee's actions to rent property.

Reviewing VTA FY 12 operating budget, positions, and employees in positions to assure capacity in organization is focused on build.

**DEPARTMENT OF BUILDINGS AND GENERAL RESOURCES**

**Status of Governor's Priorities:**

- Governor's priorities are basically intact per our conversation.
- District heating plant seems more likely with award of funding yesterday.
- Rutland-Springfield consolidation will be tough nut to crack.
- Focus is Capital Bill Committee of Conference.

**Legislative Issues/Contacts:**

- Held weekly meetings with Speaker, Rep. Emmons and Sen. Hartwell.
- Hosted meeting to outline Administration's position with Rep. Emmons, Rep. Myers and Sen. Hartwell.
- House and Senate conferees met with Larry Copp on district heating project.
- Met with Rep. Bostow regarding procurement issues.

**Significant Events/Meetings:**

- Working on Sam Sammis response.
- Met with Secretary's Ross and Markowitz in search of district heating dollars.

**Evolving Issues:**

- Use of Chittick (Waterbury) as project relocation space during several construction projects beginning this summer.

**DEPARTMENT OF FINANCE AND MANAGEMENT**

**Issues Update:**

Finance & Management received a public information request from the VSEA yesterday. This request will be met by running a fairly simple VISION report detailing payments made to Ellis Boxer & Blake attorneys.

Financial Operations has sent out FY 2011 Year End Closing Instructions including deadlines to all departments; the instructions are also posted on the Finance & Management website.

### **Legislative Contacts:**

**H.73 – Transparency & Public Records:** This Bill remains in final mark-up in Senate Government Operations. While the Administration's position on fees was not upheld in the Committee, the question of how to broaden the public records laws remained assigned to the summer study committee. A final Committee vote is scheduled for this afternoon, Thursday April 28, 2011. We do not yet know if the Bill will be amended on the Senate floor, or will a Committee of Conference will be necessary.

**H.441 – FY 2012 Big Bill:** The Bill is now in Conference Committee, having passed the Senate on Friday. The Administration's letter to the Conference Committee was sent on Wednesday April 27, 2011. We continue to follow Conference Committee deliberations.

## **DEPARTMENT OF HUMAN RESOURCES**

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

**Strategic Planning/Retreat:** The Department of Human Resources is working with the Governor's Office and the Secretary of Administration's Office to prepare for the Governor's retreat in June. DHR will lead a strategic planning session during the retreat, with the overall goal of conducting statewide strategic planning over the course of the next year. As part of this effort, DHR will work with the Governor's Office to coordinate a time for the Governor to meet with the individuals who will conduct the training, so that these individuals will have a full understanding of the Governor's mission and values, which will inform agency and department's efforts to craft their strategic plans.

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

**Public Service Recognition Week:** DHR is hosting a luncheon next week to honor state employees who have been nominated by their agencies and departments as outstanding public servants. The Governor and the Secretary of Administration are scheduled to attend, and a general script of the ceremony has been provided to them. Commissioner Duffy will work with Secretary Spaulding to refine the presentation.

**Americans with Disabilities Training:** DHR is also hosting a training session on the Americans with Disabilities Act, which has changed significantly over recent years. David Fram, a nationally expert in the field, will conduct the training. DHR has publicized the training widely and expects 90 to 100 attendees, including key state employees who address ADA issues.

### **Evolving Issues:**

**Equal Employment Opportunity Plan:** DHR, in conjunction with the Governor's Workforce Equity and Diversity Council, has drafted an Equal Opportunity Plan for state government. Beth Robinson has reviewed and approved the Plan, and it will be forwarded to the Governor and Secretary Spaulding for signature, once the chair of the Council has signed it.

**Bargaining with VTA:** DHR reached agreement with the VTA on a new two year collective bargaining agreement. After executing an agreement in principle, however, the VTA made additional demands to accommodate approximately 12 individuals who are currently paid under a pay plan that was grandfathered in 1994. After discussion with Commissioner Flynn and Colonel Tom L'Esperance, DHR formulated a strategy to resolve the issue. A second tentative agreement has been sent to the VTA for execution. We anticipate that the VTA will seek ratification in the next few days, and that ratification will occur within a week. Once the agreement is ratified, DHR will work with Secretary Spaulding to

craft a press release or schedule a press conference and determine whether the announcement should be made jointly with the VTA.

Upgrade of Human Capital Management System: DHR has worked diligently with Deputy Secretary of Administration Clasen and other members of the Agency of Administration to draft a contract with CherryRoad Technologies, Inc. to act as the vendor in the state's upgrade of the human capital management system. DHR anticipates that this project, which will require the commitment of significant resources and time, will start in mid-May.

## **DEPARTMENT OF INFORMATION AND INNOVATION**

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

Ruthann Sullivan and Ron Petty testified at the House Government Operations Committee regarding the proposed migration of Legislators email from their current stand alone GroupWise solution to the State system. They discussed many pros and cons of both solutions. There was some concern noted regarding the Senate's version of the bill having the verbiage regarding the email migration removed. More information was required on that point, but the room wanted to proceed with the discussion. It was agreed that a September 2012 implementation timeline would be realistic for both the Legislators and the Information Technology representatives present.

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

Ruthann Sullivan met with Karen Marshall and Chris Campbell this week to discuss memo's that have been distributed by Sovernet which are requesting site visits at the Funded Grant Anchor Sites as part of their fiber deployment. Sullivan received a call from the CEO of Sovernet Richard Kendall with an apology and agreement that these notes were sent in error to the Correctional Facilities. His team is culling through the data to determine if additional SOV locations received notices and will advise his finding.

The department staff responded to continuity of operations (COOP) events this week. The power breaker situation which impact many State Street and Baldwin Street locations on Monday morning had the team concentrating on the data center located at 133 State. This location house the core network devices which provide statewide GovNet WAN services, the statewide internet, and Enterprise ACD (Automatic call distribution) platform serving the DMV, TAX and DCFS call center environments. The team followed the COOP planning and procedures perfectly and responded as expected. Thursday morning's rain storm caused two COOP watches: the first with Telecommunications at 50 Cherry Street in Burlington Fairpoint lost services to all Centrex telephones at the site. The second involved the flooding at 133 State Street basement where the following assets are located: DII Training Lab with 14 computers, Mainframe team workspace locations, DII storage areas and again a core GovNet networking route were threatened when the tunnel flooding and back corner occurred. The response of the BGS team was exceptional! Notifications went out properly and DII staff responded and offered assistance. Again, COOP procedures and operating procedures were followed as planned and practiced. A special thank you to BGS staff for keeping us dry!

## **DEPARTMENT OF LIBRARIES**

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

Vermont Board of Libraries Names "Doll Peak": At the regular Board of Libraries meeting on April 19<sup>th</sup> the Green Mountain Club addressed their petition for the Board to officially name Doll Peak.

Absent a quorum, the Board called (and warned) a special meeting by conference call on April 21<sup>st</sup> to vote on the matter and this was the result:

In accordance with the provisions of 10 V.S.A. § 151-154, the Vermont Board of Libraries, at a special meeting on April 27, 2011, **voted to designate a mountain peak located in Vermont between the towns of Jay and Richford, in the counties of Orleans and Franklin at coordinates 44-56.827N, 72-32.424W as "Doll Peak" after Charles Doll, a distinguished faculty member at the University of Vermont who served as Vermont State Geologist from 1947 to 1976 and was a charter member of the Vermont Geological Society.** The action behind the petition for naming came from the Green Mountain Club. In 1930 Charles Doll served as a leading builder of the original path of Vermont's Long Trail from Jay Peak north to the trail's terminus at the international border (see *Long Trail Guide*, 27th edition, 2007, p. 30). In honor of Professor Charles Doll's leadership in developing the most northern segment of the Long Trail, the Green Mountain Club Inc., for purposes of its own cartographic publications, had already designated the peak described in the petition as Doll Peak.

#### **Other:**

Graduate Students from the University of Montreal Library Science Program Visit DOL: Department of Libraries welcomed Réjean Savard, Professeur de bibliothéconomie, Université de Montréal and his class of graduate students to Vermont on April 22 for visits to our department and to Fletcher Free Library in Burlington. Staff made presentations and gave a tour of the State Library.

#### **April DOL Newsletter now available at:**

<http://archive.constantcontact.com/fs038/1102928001760/archive/1105066269918.html>

### **DEPARTMENT OF TAXES**

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

##### **Misc Tax Conference Committee:**

Conferees are Cummings, MacDonald, Ashe, Ancel, Sharpe, Branagan

Since Sen. Cummings has health issues, and Rep. Branagan is gone for week, Anne & Janet have been meeting offline. Still no official schedule. Quick rundown.

Cigarette Tax/Revenue Provisions: No early indication.

Amazon Tax: Rep. Ancel indicated to the Commissioner that the House version is personal priority for her, although early betting was that the Senate version might win out (notification rather than affiliate).

Ed. Finance Study: The Commissioner has been expressing her concern that the five person Commission contemplated by the Senate, to report back in January, would be an administrative burden with little hope of a constructive outcome. Early word is that the House alternative version, an outcome based study, could prevail.

Auctioneers and Caterers: Both groups testified to Ways and Means after conference was appointed. Commissioner was omitted from schedule, put on schedule, then skipped over. As that might suggest, Rep. Ancel told the Commissioner that although she was personally sympathetic, there was general House agreement to give a break to both groups. To stop this trend, she suggested some major ideas such as changing the appeals process. The Commissioner emphasized that no one looks good when

special deals are made for certain taxpayers, and conveyed that the Department was willing to explore changes to the process instead. Michael Costa has drafted a proposal for defined statutory duties for the Taxpayer Advocate, modeled on the IRS and other states. We are exploring an independent appeals process, and a shortened audit window for trust taxes.

Plum Creek: Ways and Means also took testimony on this. Sentiment appears to be against any retroactive legislative break.

Veteran's Property Tax: Rep. Olsen in particular is peddling an idea that instead of Sen. MacDonald's complicated reformulation of income sensitivity for disabled veterans, simply give each a fixed amount as an adjustment. Vastly simpler to administer, however apparently Sen. MacDonald is opposed to any such tinkering.

#### **Other Bills:**

AGI Reform: Rep. Ancel expressed frustration that to her mind, an AGI bill was blocked. The Commissioner already has laid groundwork to debrief this issue after the session. One idea that has been received favorably thus far by the Speaker and JFO is for the Tax Department to give JFO an appropriately "fuzzed" data set so that the Legislature is not looking to the Tax Department to model its proposals, which is inappropriate and inordinately time consuming.

#### **Operations:**

Tax Season: The Tax Department processing of both annual and quarterly returns is on pace, and a second Saturday was unnecessary. Progress also is being made on some of the accounting issues encountered in the new ETM system, for example, a transfer of fees to ANR. The pilot voluntary use tax disclosure project is underway.

Technology Modernization Fund/Current Use Modernization: The funding for the Department's general technology projects in the Big Bill, as well as the funding specific to Current Use modernization in Miscellaneous Tax, appears to be without controversy. As further explained below, the Department will be executing technology initiatives immediately which will stretch Department resources in the short term, but ultimately will enable much more efficient platforms for revenue functions and taxpayer interface. The Department will be working with HR to request several new IT positions (quality assurance, business analyst, developer) to carry out the projects tied to the funding.

Data Warehouse: The contract will be signed today; the vendor will be onsite starting Monday with kick off meetings, including the critical task of establishing a committee that will determine the baselines to track enhanced revenue that will be attributed to the project. In the meantime, DII is working to set up the environments for installation of the data warehouse software. DII is drafting Cost Models, and a Service Level Agreement; Jaye Johnson is drafting a MOU to memorialize the understanding between Tax and DII.

Oracle: After a round of calls by the Commissioner, Oracle has sent proposed final terms for the contract to bring a developer for ETM back on site. Jaye Johnson is reviewing. This is a critical need for stabilizing ETM as the end of the fiscal year approaches.

# Memorandum

Vermont Department of Public Service

Privileged and Confidential

To: Hon. Peter Shumlin, Governor & Beth Robinson, Governor's Counsel  
From: Elizabeth H. Miller, Commissioner  
Subject: Weekly Report  
Date: April 29, 2011

---

Status of Governor Priorities:

VY:

- VSNAP meeting held on Wednesday. The agenda was focused on decommissioning, but public comments focused on health impacts and Japan, for the most part. Next meeting will be in July, probably in the Rutland or Montpelier area.
- We had a meeting with Entergy regarding the COB well on Wednesday morning. ANR and DOH also attended. Entergy continues to maintain that testing the COB well risks cross contamination – the issue essentially is that by pumping out of that well for a proper sample, the well pressure will drop, potentially reversing the flow of water from a generally upwards (clean water moving toward contaminated water) flow to the opposite (contaminated water flowing toward lower clean aquifer). We have demanded the raw data in support of the claim; Entergy stated that it would share the data over secure website asap, but no later than one week before the upcoming onsite NRC inspection in mid-May – however, yesterday Entergy announced that the inspection must be moved due to other issues. I believe this is just another delay tactic by Entergy. We will send a request for raw data to be provided on the original schedule set, regardless of new inspection date.
- Entergy has not yet lifted the \$40M parent guarantee but informed me on Wednesday that it would be filing a supplemental letter to the NRC stating that the guarantee would be lifted. I indicated to Entergy that the state would review and respond promptly thereafter; I believe we can hold your letter to the Chairman until we receive Entergy's new filing (particularly because we really do not have a means, in NRC rules, to object to the lifting of the guarantee anyway – a strong objection is nevertheless warranted, but I'd rather do it in response to Entergy than provide Entergy with a preview of our argument before it files a new request).
- I am further investigating the pros and cons of an NRC license appeal; as discussed briefly this week, the AG sees a benefit to an appeal. As noted in my prior weekly report, I have some concerns about pursuing an appeal but believe it may be a worthwhile route to take, so long as it does not change the NRC's view of Entergy's lawsuit against the state and the public messaging is well-understood. I am speaking with our NRC external counsel on the matter, and meeting with NRC Region 1 Director Bill Deen on Monday.

#### Electricity:

- We should expect news in mid-May regarding the new contract opportunity for one of our large utilities, of which you are aware.
- There is a strong possibility that we will have to make some strategic decisions regarding state support for utility mergers in the short term. I'd be happy to provide further briefing to you in person.
- Sandia Labs – the UVM/Sandia partnership, spearheaded by Sen. Sanders, is coming along. It is likely that some form of state support will be requested to help move the project to the next, longer-term phase. I will discuss with Bill Lofy and Secretary Miller.

#### Legislative Issues/Contacts:

The Department budget was passed without change in the Senate along with the Department's capital spending request last week. This week H.441 was introduced where the Secretary of Administration will have the authority (Sec. B.1101) to reduce appropriations for labor savings that are necessary to realize base reductions of \$12 million for FY 12. This has the potential to impact the Department's FY'12 appropriation.

The telecom and energy bills are still proceeding apace without significant trouble this past week. We are working closely with the AG and Legislature on the billback provisions we've requested, related to the Entergy lawsuit, Texas Compact, and the ROC.

#### Significant Meetings/Events:

- Entergy, as noted above
- ISO – board meeting with Louise McCarren scheduled for today; I'll provide briefing next week.
- Otelco – Meeting regarding Shoreham purchase. Staff has significant concerns about Otelco's ability to perform. I will receive further briefing and elevate any policy decisions as necessary thereafter.
- GMP – Very productive meeting this week regarding smart grid and strategic business issues.

#### Issues on the Horizon:

- Burlington Telecom: The department is filing early this coming week a position regarding BT's potential violation of Condition 60 (taxpayer funding of BT) by paying its strategic advisors from the City's general fund. We are attempting to walk a line that will express our displeasure at BT's failure to seek Board order prior to expenditure without creating a ruling that would in essence threaten BT's survival (and therefore its customers' service) by disallowing any further City expenditures "on behalf of" BT. A PSB finding that the CPG was once again violated would open the City to being held in contempt by the Chittenden Superior Court, and could negatively affect its on-going negotiations with CitiCapital as well as the City's, airport's, and electric department's credit ratings.

- Comprehensive Energy Plan: Enthusiasm continues to be high. I look forward to additional meetings with Alex and others regarding the strategic choices we must make in the CEP. I also plan to discuss consultant contracting with Secretary Spaulding; we have funding now secured, but do not have adequate time to go through an RFP for the work and meet the Oct 15 deadline. In addition, the work will be most efficiently done by prior consultants already familiar with the needs. I will therefore be requesting authority to single source contract for the CEP consultant work.
- 

## **Summary of Key Department Activity, By Division:**

### **Public Advocacy and Consumer Affairs:**

VELCO 115/46 kV Substation in Jay, Vermont – Docket 7708 – VELCO and VEC have provided a draft MOU that Staff is reviewing. Only outstanding issue is cost analysis for substation design; Staff is concerned that VELCO is “gold-plating.” If DPS cannot agree that chosen design is appropriate and Board agrees, delay of project could impact the viability of the Kingdom Community Wind Project in Lowell. Staff is working with VEC and VELCO to reach an agreement.

PPA Confidentiality Workshop – No Docket – Board is conducting a workshop to examine the practice of utilities’ seeking confidential treatment of pricing and other terms in Purchased Power Agreements. Utilities and other stakeholders submitted comments. Utilities would like to preserve the status quo, in which the Board performs a case by case analysis of the information, and suggest the treatment remain in most cases for 3 years after approval. VLS and Energize Vermont submitted briefs advocating that information generally be made public. Staff attended the workshop on 4/28 and will follow up as necessary.

CVPS acquisition of VMPD—Docket 7660 — The parties submitted a Proposal for Decision for the Hearing Officer's consideration this week. The Parties also filed responses to the Hearing Officer's questions about the Board's authority to allow utilities to recover in rates acquisition costs above net book value. Both CVPS and the Department emphasized the competitive nature of the power market and the discretion given to the Board by the legislature to give incentives to Vermont utilities to invest in in-state renewable energy, such as VMPD's hydro plants. The Department is still trying to gain approval for Dave Lamont's consulting contract; Mr. Lamont's work on the agreement was crucial to the resolution of issues between the utilities and the Department and his testimony in support of the MOU is an important factor in the Board's evaluation of this unconventional arrangement.

CVPS acquisition of Readsboro Electric—Docket 7688 — As in Docket 7660, the Hearing Officer has asked the parties to provide the basis upon which CVPS may properly recover in rates the \$88K above net book value that CVPS proposes to pay to acquire the Readsboro system. Unlike Docket 7660, the market for transmission and distribution systems is not

competitive. The Department plans to emphasize the public benefit of CVPS buying Readsboro because of Readsboro's poor performance and repeated inability and unwillingness to comply with its regulatory obligations over the years.

Voice over Internet Protocol—Docket 7316 —The Supreme Court ordered Comcast to show cause why the Board's order was final and should be appealed at this time, following the Department's comment in the docketing statement that the order may not have been final. Comcast shared a draft of its filing with the Department. It is fairly persuasive and the Department may indicate that it does not object, or even supports Comcast's filing. The Department does believe that it would be best for the Supreme Court to decide the preemption issue at this juncture and not wait until after Phase II. The Hearing Officer has scheduled a status conference for Phase II in late May.

SunGen Sharon Solar—Docket 7700 —The parties received an extension until May 3 to file their stipulation in this docket. The Department's aesthetics consultant found no major issues with the project. Other state agencies appear to be reaching resolution. CVPS is finalizing its requirements to add the Solar Project to its system.

Green Mountain Power (GMP) AMI Plan - Docket 7704 - GMP filed a draft Proposal for Decision on 4/22; DPS is to file testimony, comments, a revised Proposal for Decision and/or a Memorandum of Understanding by May 6<sup>th</sup>. A tentative follow up workshop has been scheduled for May 12<sup>th</sup>. DPS is meeting with GMP on 5/4 to go over questions and comments about their plan and the MOU.

Vermont Gas System (VGS) System Expansion Fund - Docket 7712 - DPS met internally to discuss proposed Memorandum of Understanding (MOU). Meetings are scheduled for 5/2 and 5/3 to further discuss the MOU with VGS. DPS has several issues it wants further information on, but they are not an impediment to eventually signing an MOU. The Public Hearing on this docket will be held on Wednesday May 11<sup>th</sup>.

Burlington Telecom – Docket 7044 – BT has filed a motion regarding the City's payment of its "workout" consultants from its general fund, seeking either a declaration that this does not violate Condition 60 of its CPG, or PSB approval to continue doing so. The PSB has set a deadline of April 29 for responses to this motion; DPS is requesting a short extension of this filing date. DPS is concerned that the City's conduct does appear to violate Condition 60, but that a PSB finding to that effect could have serious repercussions for BT and potentially affect the credit ratings of the City itself, the Burlington Airport, and Burlington Electric Department.

Washington Electric Coop Rate Case – Docket 7691 – DPS has been conducting discovery on WEC's request for a 23% rate increase. DPS's expert has found adjustments that could reduce the increase to the mid-teens. One significant concern relates to the financial relationship between WEC and the Coventry Clean Energy Corporation (CCEC), WEC's wholly-owned subsidiary that owns and operate the Coventry landfill gas plant. WEC has allocated no costs to CCEC which is clearly inappropriate; moreover, DPS has discovered that WEC is carrying a significant account receivable from CCEC on its books, which appears to be growing larger over

the years without being paid. DPS is continuing to investigate, and is scheduled to file testimony on May 4.

Stowe Electric Dept. Compliance – Docket 7579 – This docket was opened by the PSB when it became concerned that proceeds of a bond issuance that it had approved were used for purposes inconsistent with – and thus in violation of – the order of approval. DPS has taken the position that while Stowe's conduct was a technical violation of the order, ratepayers were not harmed and no penalties were warranted. On April 15 the Hearing Officer issued a Proposal for Decision finding that Stowe had violated the order, and recommending the Board so find and then remand for consideration of an appropriate penalty. Comments on the proposed decision are due April 29. DPS will either file no comments or agree that there was a violation but that no penalties are warranted since ratepayers were not harmed.

CVPS Rate Case – Docket 7694 – DPS raised concerns regarding CVPS's 2011 Base Rate filing, which were subsequently resolved in an MOU that was filed with the PSB six days before the base rates were to take effect. The Board found that it did not have sufficient time to review the MOU prior to the new rates taking effect. At the same time that it allowed the new base rates to go into effect it opened this docket to determine whether further adjustment of CV's rates was needed. The MOU was reviewed in Docket 7627, and approved with a reduction in the return on equity contained in the MOU. After making the required changes to its filed cost of service, CVPS reported that the adjustments netted out so that the rates initially allowed into effect were appropriate. DPS reviewed the calculations and agreed that no further action was warranted. On April 26 the PSB issued an order approving the compliance filing and closing this docket.

### **Consumer Affairs**

- A consumer complaint handled by CAPI resulted in a credit of \$18,811.02 in international charges for a small business. International charges are outside of the jurisdiction of the Public Service Board and, as such, CAPI handles these complaints on an informal basis, with no ability to compel the company to act in any specific manner. While these types of complaints can be referred to the FCC, the consumer complaint process through the FCC is cumbersome and often results in no follow up with the consumer by the FCC. For this reason, if at all possible, CAPI works on behalf of the consumer to provide an informal resolution that is satisfactory to the consumer and the telecommunications company.
- The quarterly meeting of the Vermont Telecommunications Relay Service (VTRS) Advisory Board was held on April 22<sup>nd</sup>. Discussion centered on various relay services in Vermont. After a long hiatus, this is the second meeting of the VTRS Advisory Board this year and with the momentum, new Advisory Board members will be invited to join.
- Due to flooding in the northern part of the State, the scheduled visit/training to Johnson Water and Light scheduled for today has been postponed.
- CAPI generated and distributed the Quarterly Complaint Reports to the utilities of Vermont. The Reports covered escalation and grievance complaints handled by CAPI for the period January 1 through March 31, 2011.

- CAPI continues to work with DPS Attorney Louise Porter on Terms and Conditions Tariffs for the municipal electrics. Discussions with VPPSA's David Mullett center around a proposed requirement that customers be required to sign a payment arrangement agreement before an arrangement is considered finalized. With Public Service Board Rules currently in place that allow electric utilities a streamlined process to disconnect service in the event that a payment arrangement is not kept by a customer, no discernable benefit is gained by the utility with this additional requirement and may present an additional burden to customers in securing a payment arrangement to keep their service on.

## **Planning and Energy Resources:**

### Comprehensive Energy Plan:

- Staff is in the process of finalizing the scope of work for CEP energy modeling.
- Work continued with VECAN to set up regional meetings with energy committee's and planning commissions to discuss the CEP. Four regional meetings will be held in June. Dates are in the process of being finalized.
- Staff began to integrate latest EIA State Energy data releases into selected CEP chapters.
- Initial steps toward the energy modeling section were undertaken. Received and reviewed the CVPS Power Model. We will continue to test the model's ability to estimate wholesale power costs under various conditions and assumptions.
- Developed proposed draft CEP document structure.
- Staff attended the Vermont Clean Cities Coalition Stakeholders meeting.
  - Clean Cities is a national DOE initiative to reduce petroleum consumption.
  - Paul Hines of UVM presented research about the impact of plug in vehicle technology on Vermont electric capacity, prices, GHG, smart metering, and transmission.
  - The Vermont Clean Cities Coalition is expanding to a larger statewide coalition of stakeholders for collaboration on grant opportunities including a planning proposal due this June and a large infrastructure development proposal due next year. Attendees see a need for this stakeholder group to include DPS and utilities and were pleased that DPS participated in this meeting and that there is evidence of growing partnership among state agencies around the energy plan.

### Residential and Commercial Building Energy Standards (RBES & CBES):

- Staff provided feedback on the draft annotation for RBES to the contractor.
- We have been advised by Legislative Council to go forward with our resubmittal to LCAR without resolving the copyright issues with them first.
- Once annotations are completed RBES will be resubmitted to LCAR and CBES will be submitted to Sec. of State and LCAR.

### ARRA Funding/Programs:

- Staff presented to the CEDF Board the history and status of the Monitoring Plan document and our preparation for a federal audit next fiscal year. Staff planned test runs of the drafted procedures for Desk Review and Site Visits for next week.

#### Energy Efficiency and Conservation Grant Program (EECBG):

- Staff is completing the quarterly progress report for DOE, which will be submitted by the 30<sup>th</sup> of this month.
- Approved final payment (holdback) to the Town of Westford. The retrofit project in the 1844 Greek Revival structure housing the Westford Library was evaluated by their volunteer energy auditor who said "The air leakage of the building was reduced by 75% as indicated by pre- and post- blower door testing. This is an uncommonly high amount of air leakage reduction." The project will save the town 300 gallons of fuel oil and \$900 annually. Library staff and patrons all have noticed that the building is warmer and less drafty. The project had several surprises due to the historic nature of the building, which caused additional costly measures for moisture abatement. In the end the town match reached 39% of the total project cost of \$20,059.
- The Town of Townsend received their final payment for their retrofit in their historic 1921 Classical Revival Style Town Hall. The project is saving the town 1,570 gallons of fuel or \$5,000 per year.
- The final invoice to Royalton School District for \$2,543.18 was paid for their retrofit project. The lower cost of the original work scope allowed the school to add additional energy saving measures. The focus of their project was to replace interior lights and add occupancy sensors in every room of the building. The project saves the school 36,421 kWhs in electricity usage, 476 kW in electricity demand, and \$4,814 in cost savings, annually.
- We approved a payment to the U-32 school of \$18,450 for their retrofit project which includes lighting upgrades and installation of occupancy sensor in the cafeteria and gymnasium.
- We approved a \$18,165.33 invoice for Newfane Elementary Schools retrofit project to weatherize their attic and walls.
- We paid about \$15,500 for one Regional Planning Commission grantee for energy planning and efficiency work.
- We executed a new grant agreement for \$219,421 with NeighborWorks of Western Vermont to subsidize loan interest and principal for loans to low-income households for energy efficiency retrofit work.
- There are currently 21 invoices totaling \$732,864 for the municipal grant program being reviewed for processing/payment.

#### State Energy Program (SEP):

- Processed a \$4,800 invoice for the Landmark College biomass campus district heating feasibility study.
- We paid about \$11,900 towards VTC's wind anemometry loan program.

- Staff has been preparing for a 4 day monitoring visit from the DOE SEP program officer next week.
- Staff has been preparing the quarterly performance report for DOE.

#### Clean Energy Development Fund:

- Working on 5 loan applications. One is a reconsideration of a loan previously denied for a new turbine at Bolton. One application went through VEDA underwriting and was approved at the Board meeting (\$225K for a 149kW PV system at a farm in South Burlington).
- Working with SBE (business loan for capacitor manufacturing), Kingsbury Hydro (hydro refurbish), Long Wind Farm (energy efficient greenhouse). Have also been in communication with the Windsor Industrial Park about a possible loan application for a biomass system and two different groups looking at a loan for a PV group net metering project.
- CEDF has been working closely with the City of Montpelier on their unsolicited proposal for \$1.75M from the CEDF in support of the City's district heating project that will be interconnected with the Stat's heating system. The City's request was approved by the Board as a \$1M grant and a \$750K loan at 1%.
- CEDF has been working with the Agency of Natural Resources and their request to the CEDF for \$100,000 in support of natural resource mapping. The project will make such information easier for renewable energy project developers to access and thus, it is hoped, help the permitting process go more smoothly.
- CEDF has continued to respond to requests regarding the Governor's grant in-lieu of tax credit proposal and pending legislation. The CEDF Director will be testifying in Senate Finance on this.
- The South Burlington Hydro study on the feasibility of installing a hydroelectric generation system on the outfall pipe of the Airport Parkway Wastewater Treatment Facility in South Burlington was completed. Processed their final payment of \$5080.
- The Montpelier study grant looking into the feasibility of installing a district energy system was completed this week. Processed their final payment of \$17,460.

#### Sustainable Energy For Homes & Business Project (Sanders DOE Earmark):

- Paid invoices for Vermont Technical College Red School House pellet boiler project(\$59,997.80) and Johnson State College lighting project (\$9,083.43)
- Completed quarterly reporting for the six projects under the SEHB program

#### Evaluation:

- Staff developed a presentation on past, current and future efficiency evaluation activities for a Northeast Energy Efficiency Partnerships webinar next week.
- Staff reviewed and provided comments on NEEP's RFP development process for an Energy Efficiency Regional Online Reporting Database.

- Staff reviewed New Homeowner Phone survey instruments for the Residential Energy Efficiency Market Characterization study and met with contractors to further refine the instrument in anticipation of surveys starting in early May. Staff also met with the contractors conducting the Business Market Characterization study to receive a status report.
- Staff participated in its weekly internal FCM meetings to discuss projects status and resolve issues.
- Staff attended webinar on Evaluation, Measurement and Verification for Demand Response Programs hosted by the EPA's State Climate and Energy Program.
- Staff attended the first meeting of a Strategy Advisory Group for Residential Lighting at NEEP in MA. The goals of the group include;
  - Development of a five year plan to speed market adoption of efficient lighting technologies.
  - Market assessment and remaining opportunities for energy efficiency.
  - Identifying barriers to the adoption of efficient technologies.

#### PSB Workshops on Cost-Effective Screening of Energy Efficiency Measures:

- Staff reviewed preliminary results of the regional Avoided Energy Supply Component study. Avoided Energy Supply Costs are expected to drop approximately 36% from previously adopted levels. This may be mitigated somewhat by higher capacity avoided costs and adoption of an updated value for externalities.
- Staff participated in a Public Service Board workshop regarding the appropriate value for Transmission and Distribution benefits of energy efficiency savings. Staff committed to convening stakeholders to discuss potential methodologies for determining a value, whether there should be statewide or localized values, and the appropriate process moving forward. Status report due in one month.

#### Technical Advisory Group (TAG) and Technical Reference Manual (TRM) review:

- Staff reviewed proposals under TAG for inclusion into the TRM. These issues include the following:
  - Staff provided a response to EVT regarding a cap on the number of lighting units purchased by one customer that can qualify as a prescriptive measure, and a comprehensive quality assurance process. The DPS recommended the adoption of a cap to ensure larger projects are treated as custom projects, ensuring a greater level of scrutiny.
  - Reviewed TRM portfolio updates for lighting that describe the reduced level savings available to be claimed due to higher baselines associated with the EISA 2007.
  - Reviewed proposed new measures for commercial Brushless Permanent Magnet (BLPM) motors in several different applications.
  - Reviewed updated TRM portfolio for agriculture lighting. This update resulted from lessons learned in the past few years in regards what was being replaced as well as the type and number of efficient lighting being installed to replace it.

#### Avoided Energy Supply Costs Study Group:

- Staff participated in an AESC 2011 Project conference call to discuss issues surrounding avoided energy costs.
- Staff received and reviewed from the AESC Study Group: A summary memo of changes to the reference case assumptions based on the April 1st call and the draft findings for Task 7a and b, Draft Forecast of Wholesale Electric Energy Prices, Draft Forecast of Forward Capacity Auction Prices.

#### **Finance and Management:**

##### Regulatory Policy Related Activity:

Carryover from last week--Given the differences in Smart Grid/AMI plans we are seeing, there is a need to (1) develop a framework for assessing Smart Grid/AMI plans and (2) when dynamic pricing options should be available for companies implementing Smart Grid/AMI technology. These items were discussed and assessments of various utility Smart Grid Plans will move forward and be assessed primarily on the basis of net present values and the related supporting detail. Rate design will not be assessed.

##### Legal Proceedings:

##### Docket Activity-State:

##### Rate Cases and Tariff Filings:

Washington Electric Coop rate case-we have received draft testimony and a list of adjustment items that potentially will reduce the 24% rate increase to about 16%; it is currently under review.

Catamount/Bolton rate case--269% rate increase. We received notice this week the Public Service Board has scheduled a public hearing on May 18.

##### Financings, Mergers, Acquisitions, Change of Control:

Met with Shoreham and Otelco officials regarding the sale of Shoreham to Otelco. Otelco plans to purchase all of the stock of Shoreham in a straight cash deal for \$4.5 million. In reviewing Otelco's financials it is highly leveraged, has earned no net income, and is in a financial position that is not totally dissimilar from that of FairPoint several years ago. Our review of its petition for a change of control has just begun.

##### Internal Controls and Risk Management:

Our "internal control assessment" has begun and there have been notable improvements over last year. A completed draft will be completed Tuesday of next week and is scheduled for a review with the Commissioner on Wednesday.

## **Engineering:**

Physical Inspection of Vermont Yankee: During the week of April 18<sup>th</sup>, NRC completed the high-level physical inspection of the Vermont Yankee station per NRC issued Temporary Instruction 2515/183, "Follow-up to the Fukushima Daiichi Nuclear Station Fuel Damage Event." This inspection evaluated preparations for station blackout (loss of offsite and emergency diesel power), severe accident mitigation, flooding, and equipment vulnerability to a seismic event. The inspection report is to be issued by May 13, 2011.

Cooling Tower Safety Cell (CT2-1) Under Repair: On Monday April 25<sup>th</sup>, Vermont Yankee entered into a 7 day Limited Condition of Operation (LCO) to conduct scheduled maintenance on the safety cell for alternate cooling. The alternate cooling is needed in the event that cooling water from the intake water structure at the river is not available or insufficient.

On April 26<sup>th</sup> the Department was notified that a test of a power cable for the safety cell did not meet specifications and the alternate cooling system was declared inoperable. Repairs to a section of the power cable are in progress. The failure mode of this cable is not known at this time but will be determined as this event has been entered into the station's corrective action program.

UPDATE-2 VELCO/IBM Line Outage: *This item is an update from weekly reports of 3/23, 4/6, 2011.* VELCO is currently reviewing two recommended tap structure designs from their consulting engineers for the K21 and K24 circuits. The overall design is similar to what is there now, however with increased insulation, and more thorough grounding, bonding and shielding. The next step is to complete the design drawings with all details, such as the fiber attachments, grounding and bonding.

VELCO has received a preliminary report from the relay manufacturer of the failed AREVA LFZR at Essex and it shows the relay was defective. VELCO is now working on a plan to replace all installations of this relay on its system.

VELCO – VT Yankee: On Tuesday, April 26, 2011, Vermont Yankee was ordered by ISO New England to reduce power to 78% around 3AM due to a 345kV transmission line breaker problem. The line from Vernon (VY) to Northfield tripped out during a thunderstorm and incorrectly locked out the breaker at Vernon. At the same time West Rutland relay tripped on the line toward Coolidge. VELCO is reviewing an apparent communication issue that led to the West Rutland relay trip and is working with Northeast Utilities to resolve joint relay philosophy on the line from Vernon to Northfield where the problem appears to have begun.

While safety and operation are prime concerns, these outages are extremely expensive for consumers as the ISO needs to redispatch the system often incurring large additional expenses. The outage lasted for a period of approximately 2 hours plus ramping time. Engineering will monitor the issue and assure a permanent solution is found.

## **Telecommunications:**

FairPoint Petition to Amend the Vermont Retail Service Quality Plan to Redirect Certain Penalty Monies for Broadband Build-Out – Docket No. 7726 – The Board conducted a prehearing conference on 4/6/2011. This proceeding will be consolidated with Docket No. 7725. Technical hearings are scheduled for 7/8/2011. Comcast has filed a motion to intervene in this docket, citing its financial interest in the Vermont USF. The Department will oppose the intervention of Comcast on this issue but will support the intervention of Comcast for the limited purpose of providing the Department with broadband build out information to assist it in determining unserved areas of the state in which FairPoint may use the PAP MOE money for broadband build out.

Telecom Plan (Broadband) – Edits previously applied in a MS word version of the July 2010 draft of the Vermont Telecommunications Plan (Broadband) have been incorporated into the InDesign desktop publishing version. The edits will be reviewed by Karen Marshall of Connect VT and the Department hopes to present the revised plan to the appropriate legislative committees within the next ten days.

Forward-looking broadband map – Telecom staff have identified free software that can be used to view maps of where broadband will be provided by FairPoint and VTEL. These maps can be used to provide information to consumers who find that the vt broadband.org site indicates that service may not presently be available at their area. The site may eventually host these maps itself, but for now these maps will be available only to the specialists who will respond to these consumer inquiries.

Broadbandvt.org site map – The current broadband availability map on the site shows the percentage of availability for each of the 26,000 census blocks in the state. The program rules for the federal grant that funded the project specify that data with finer granularity may be publicly displayed. Telecom staff has suggested that depicting information with this finer “street segment” granularity would be more helpful for consumers, and will likely result in a lower complaint volume. This issue will be vetted with CAPI and Connect VT.

Smart grid concentrator sites – CVPS & GMP have provided the locations for the proposed smart grid concentrator sites. Telecom staff will compare these sites with the ARRA funded VTEL service territory, to determine the extent that VTEL will expand beyond its ARRA funding as a result of the smart grid cooperation. This will provide insights for the forward-looking analysis that could further reduce the number target areas that require funding to reach.

Vermont Broadband Consortium – Hard launch of [www.broadbandVT.org](http://www.broadbandVT.org) is still on track for 05/01/11 although some items will be uploaded in the following week. Static maps of 12/31/10 data will be added within the next week. That data will be added to the interactive map by 05/09/11 as per vendor.

CDC National Health Statistics Report – The Center for Disease Control (CDC) has released a National Health Statistics Report that says that a nationwide study has determined that 26.6% of adults are living in a wireless only household (meaning that their only phone service is via a wireless handset). This represents an 8 fold increase in the last 6 years. Vermont showed a

substantial increase in wireless only households from 8.2% in 2007 to 20.3% in 2010. This compares to landline only households of 13.9% in 2010 and dual use households of 21% in 2010. The line losses from the landline companies can be expected to have a significant impact in the future.

FCC Tracking – The FCC's Technical Advisory Council (TAC) has forwarded 8 recommendations to the FCC as near term opportunities for promoting innovation, competition, and job creation in the technology sector. These recommendations include promoting small cell deployment, discussing the plans to transition stranded PSTN (Public Switched Telephone Network) investment, and new metrics to measure broadband network quality. Additionally, rapid tower siting and outreach to local and state governments were thought to be desirable.



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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** April 29, 2011

---

**Vermont Department of Health (VDH)**

**Status of Governor's Priorities**

Entergy Vermont Yankee. On April 27<sup>th</sup>, the Commissioners of Health, Public Service and Environmental Conservation met with representatives from Entergy Vermont Yankee. Vermont Yankee's hydrogeological contractor presented its conceptual model and downhole geophysical testing summary in support of its position that Construction Office Building (COB) well testing was unlikely to be useful and could introduce tritium contamination into the well. The Commissioners and their experts understood, but told Vermont Yankee officials that the State had to independently assess the actual data to make its own conclusions. Entergy has started to create a secure file transfer protocol site to allow this. The State requested the data be made available for review no later than one week before an NRC groundwater inspection scheduled for May 10<sup>th</sup> and 11<sup>th</sup>. This will allow the state experts to be better prepared for this inspection to which the NRC has invited them. A COB well decision may be made after these fact-finding activities.

**Legislative Issues/Contacts**

Advance Practice Registered Nurse (APRN) Potential Legislation. In the Senate, the Office of Professional Regulation (OPR bill), H.420, is still in the Senate Government Operations Committee. The Committee took testimony on the proposed amendment to H.420, which would insert the APRN statutory changes into that bill. As of the morning of April 27<sup>th</sup>, a legislative staff member reports that the bill was approved by the Committee, but there is not yet anything posted that would reflect that officially. On April 26<sup>th</sup>, the House Government Operations Committee heard testimony about the amendment, and took an informal straw poll. A clear majority of committee members indicated that they will support the amendment if H.420 passes the Senate.

Board of Medical Practice Statute Revision, H.369. H.369 was passed by the House on April 20. On arrival in the Senate, it was assigned to the Rules Committee and was referred to the Senate Government Operations Committee. In anticipation, the Senate Government Operations Committee took testimony on the bill on the 20<sup>th</sup> and 21<sup>st</sup> of April. It was voted out of Senate Government Operations this week and is expected to appear on the notice calendar by the end of the week.

Children's Food Environment State Indicator Report. CDC released a new report, *Children's Food Environment State Indicator Report, 2011*, which presents state-by-state data on behavioral

indicators (children's consumption of sugar drinks, TV viewing time, and family meals) – and policy & environmental indicators (healthfulness of food environments at child care facilities, schools and in the community). Vermont generally ranks better than the national average, and is generally far from worst or best state on any of the indicators.

Alcohol Testing Program. Fox 44, Brattleboro Reformer, WCAX and Seven Days asked for a response from the Health Department about why the alcohol testing program will be transferred to the Public Safety lab, and if any of the test results were improperly processed by Health Department employees. The following was provided:

*“As Gov. Peter Shumlin announced yesterday, the State is asking for a legislative change to transfer the alcohol testing program from the Vermont Department of Health Laboratory to the Department of Public Safety's Forensic Laboratory. This transfer, which would consolidate DUI forensic evidentiary work at Public Safety, has been under discussion for many years. With the new Public Safety Lab facility in Waterbury, and a new Public Health Lab planned for construction – this is an opportune time to make that change and maximize efficiencies for both agencies. For these reasons alone, the Health Department supports this move. In a message to staff, Health Commissioner Harry Chen, MD praised the skilled and dedicated laboratory staff, who are working every day for the health of Vermonters. The Health Department takes its responsibility to serve the public good very seriously. Allegations of wrongdoing by laboratory staff are unfounded.”*

## **Evolving Issues**

ACA Funds For Home Visiting. In 2010, the federal Affordable Health Care legislation allocated funding to all states to implement home visiting services for at risk families with the requirement that an evidence based home visiting model be used for the service delivery component. The Vermont Department of Health, Division of Maternal and Child Health, is the lead agency for this program and is working closely with the Child Development Division of the Department for Children and Families to implement this program within the existing Childrens Integrated Services (CIS) community systems. Vermont will receive \$500,000 annually for the next four federal fiscal years for this program.

## **Department of Mental Health (DMH)**

A state hospital patient started a fire in his room early Friday morning. The fire department was called and the hospital was evacuated. The response went well and all patients were returned to their rooms. The cause of the fire is under investigation. Sue Allen has been informed.

## **Media Contact**

Commissioner Oliver was interviewed by WCAX regarding mandatory overtime at the Vermont State Hospital (VSH). Mandatory overtime problems remain a priority for DMH and steps are being taken to get it under control. With preliminary actions taken on April 15<sup>th</sup> VSH is already seeing a reduction in mandates.

## **Legislative Contact**

Commissioner Oliver testified in the House Human Services Committee on H.265/S.30 (Enhanced penalties for assault of a health care worker). The bill was initiated as a result of concerns voiced by the Central Vermont Medical Center about the increased violence they are seeing in their emergency department. DMH's concern is that such a penalty could be used in instances where an assault is related to an individual's underlying mental illness (even if legally competent). CVMC wants to avoid this problem as well. Rep. Donahue is seeking additional language in the Judiciary Committee that would provide an affirmative defense against enhanced penalties if the defendant's actions resulted from issues associated with his/her mental illness.

Commissioner Oliver met with Senator Kitchel to address her concerns about a DMH grant currently before the Joint Fiscal Committee that proposes to create an Evidence-Based Practices Cooperative. Senator Kitchel is concerned about creating something that will require continued funding after the grant expires. Christine explained that a large portion of the grant will be used to develop web-based training that will not require additional funding. In addition, the Cooperative would only move forward if there is a business model that will make it self-sustaining (which has been the model in other states).

The House Human Services Committee was asked to weigh in on the change in the classification of the executive director position of VSH. Rep. Pugh informed Commissioner Oliver that the Committee approves of the change.

## **Significant Meetings**

Federal Monitors are on site at DMH to review the Mental Health Block Grant (\$750,000 per year). These visits occur every 5 years. The review appears to be going well. The monitors are very interested in initiatives Vermont has under way and have offered assistance in areas where DMH is looking for guidance.

## **Governor Priorities**

VSH Replacement. The Senate included an additional \$2.6 million in the capital bill for the planning and design of a new state hospital. Commissioner Oliver is following up with Rep. Emmons to determine if there are concerns as the bill goes into conference committee.

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

### **Legislative contacts**

Senator Kitchel and Rep Lippert requested information about the Safe Choices program and Commissioner Wehry forwarded the summary from last week's report.

### **Press**

Commissioner Wehry received a call from a reporter in Windsor writing for the Standard requesting an explanation for the choices for care cuts and whether or not more people would end up in nursing homes. She offered that, faced with difficult choices, these were felt to be most likely to have the least impact. She also added that we could monitor care and mitigate risks of bad outcomes, for example, through use of variance. Commissioner Wehry also pointed out that the House had restored half of the cuts and the Senate added \$200,000 together with language which would restore all of the cuts if the money is there at the close of FY11.

The reporter had questions about eligibility, funding (in DVHAs budget but managed by DAIL); the "freeze" and "carry forward" Nothing new in the questions or the answers,

The Safe Choices program in particular and ACT 248 in general remains the target of criticism in the blogosphere. This is largely generated by Tracy Gilman, the mother and guardian of one of the participants, William Bennet. DAIL has called for a meeting of the treatment team to insure Northeast Kingdom Human Services (NKHS) is providing appropriate oversight. Our legal team is awaiting a judge's ruling on DAIL's petition to have the mother removed as guardian.

Deputy Commissioner Camille George responded to an inquiry from Dan Ambrosio with the Burlington Free Press. He had also been in contact with Donna Jerry at BISHCA, and was simply seeking some additional background information. Deputy Commissioner Camille George directed him to the Rules for the Operation of Home Health Agencies and pointed out the description of the process contained therein for agencies that wish to provide this service. He seemed satisfied with information and had no other questions.

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

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

On April 26<sup>th</sup>, Commissioner Pallito and Deputy Commissioner Menard toured the Chittenden Regional Correctional Facility with Contractor Elizabeth Ready and Special Assistant Susan Bartlett. The purpose of the tour was to continue planning for the transition. Elizabeth is travelling to the Northwest State Correctional Facility on Friday.

### **Legislative Issues/Contacts**

Commissioner Pallito and Deputy Commissioner Menard are continuing to monitor legislative activities regarding the passage of S.108, the War on Recidivism Bill.

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

Commissioner Pallito was the guest on Vermont Edition on VPR on April 27<sup>th</sup>, regarding recidivism and the facility swap.

### **Other**

Population. The department's incarcerated population has reduced to the low 2100's; however the female population has increased; maintaining above the 170 mark for the last week. The driving force of this population is the detention level increasing by 15 females since the beginning of April.

There is good news in that our male numbers are starting to decline again which will help with our goal of achieving savings of \$1.6m in S.108. This bill was changed from the Administration's proposal by both the Senate Judiciary Committee and the House Judiciary Committee. The SJC change was to not divert people from incarceration but rather to allow DOC to release. The HJC change went further to allow judges to weigh in on the release. We believe that we will still be able to make a significant savings with this bill, but because it has created new processes to be used by the Courts, it is difficult to pin the exact savings down. In general, the male population is moving down, so the \$1.6m target is very achievable.

Furloughee James, Richard. On April 26<sup>th</sup> Richard James, D.O.B. 8/22/68 was found dead in his Transitional housing unit at Thatcher House in Bennington in what appears to have been a suicide. Mr. James was found hanging from an electrical cord attached to an external pipe in his housing unit. He was serving a 1y6m – 8y sentence for Grand Larceny; Burglary unoccupied; simple assault. We have turned this incident over to our Investigations Unit to make sure that our staff interacted appropriately in the days preceding this incident.

Furloughee Morin, Danielle. On April 27<sup>th</sup> Danielle Morin, D.O.B. 1/20/84, was found dead in her apartment in Burlington. She was released on April 18<sup>th</sup> to Conditional Re-entry. She was serving a 2 yr10d - 5yr30d sentence for Possession Regulated Drug (F), Uttering Forged Instrument., Prescription Drug Fraud, Forgery, Grand Larceny, Burglary, Identity Theft and Possession of Regulated Drug. The cause of death has not been determined yet.

Furloughee Davis, Jeffrey. On April 26<sup>th</sup> Jeffrey Davis' was involved in a high speed chase with law enforcement officers. Davis is being charged with Aggravated Assault on a Law Enforcement Officer, Driving While License Suspended, Attempting to Elude, Driving in a Careless and Negligent Manner. He is being held without bail. Davis was placed on furlough January 23<sup>rd</sup>. On April 5<sup>th</sup> he was placed on Escape status. He was serving a sentence of 18m – 54m for Escape; Operating Vehicle without consent, Gross Negligent Operating of Motor Vehicle, Resisting Arrest, Simple Assault, and Attempting to Elude. Jeffrey was shot while attempting to ram State Trooper vehicles.

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

Premium Credits Briefing. DCF briefed Representative Ann Pugh regarding the issue of \$600,000 in premium credits that are owed to over 19,000 Vermonters. The problem dates back to 2004 and DCF identified the error and is now fixing it. Representative Pugh wants DCF to testify next week and explain how the problem happened and what can be done to prevent it in the future. DCF is notifying beneficiaries who are owed refunds this week and will be issuing checks within the next 45 days. The Department has also informed stake holders about this error

and the initial reaction is that people are appreciative that DCF has been transparent and is fixing the problem. Press coverage is expected regarding this issue.

### **Significant Events/Meetings**

Federal Sanction. The Federal Children's Bureau has sanctioned DCF for failure to provide the required monthly visits from social workers that children in custody are mandated by the government to receive. In Federal Fiscal Year 2010, only 27% of children in custody received the required monthly visit. While the fiscal sanction is not high (estimated to be \$50,000) the failure to provide the required monthly contacts is not acceptable and something DCF will address. Resources are key and these children require substantive relationships if they are to succeed as adults. The work is complex and our obligation to meet the minimum standards cannot be ignored.

Vermont has failed in its efforts to assure that vulnerable children have enduring and nurturing relationships for some time. As recent as 2007 the federal government said our rate of engagement with children in custody was "unacceptable." As a result, Vermont statutes were changed in 2008 making the target staffing ration 1 to 12. Last year the ratio was 1 social worker for 19 families. We are adding staff but that will only bring the ratio to 1 to 15.

These children, victims of trauma and abuse need more. We know that despite our best efforts too many children in custody fail. Our recent analysis demonstrated that 40% of teens in custody are in prison or on Reach-Up by age 22. One analysis showed that nearly one-third of Vermont prisoners were in DCF custody at one time. It is time to make sure DCF is not a feeder for our Correctional system. Dave Yacovone and I will be working with Cindy Walcott on a comprehensive plan to change the landscape of Child Welfare in Vermont and look forward to presenting it to you. I may recommend increased staffing!

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

An Act Relating to Hospice and Palliative Care. Susan Besio testified in SH&W on April 27<sup>th</sup> regarding Section 3 of H.201. The goal of this section is to require the state to submit Medicare and Medicaid waivers to enable the state to provide "an 'enhanced hospice access' benefit, whereby the definition of 'terminal illness' is expanded from six months' life expectancy to 12 months' and participants may access hospice without being required to first discontinue curative therapy."

This section was added in the House without any input from the Administration. While supportive of the concept, it would require new resources to develop these waiver requests; as such, we have been negotiating alternative language over the past two weeks. We reached an agreement on the following language for this section, and testified that we would need resources (\$100,000 - \$150,000 total) in the SFY 13 budget to do the analyses to be able to submit the GC waiver amendment by the July 1, 2013 date.

Peter Cobb, Executive Director of VAHHA, said that they were going to apply for the ACA SEC. 3140. MEDICARE HOSPICE CONCURRENT CARE DEMONSTRATION and we offered that Administration would write a letter of support for their demonstration application. (The CMS guidance for the demonstration is not expected until this fall.)

New Language:

**Sec. 3. REQUEST FOR A WAIVER**

By no later than July 1, 2012, the agency of human services shall include as part of its application request for a demonstration project from the Centers for Medicare and Medicaid Services to integrate care for dual eligible individuals the additional proposal of allowing the state to provide for an “enhanced hospice access” benefit, whereby the definition of “terminal illness” is expanded from six months’ life expectancy to that of 12 months and participants may access hospice without being required to first discontinue curative therapy. Also, by no later than July 1, 2013, the agency of human services shall submit a Global Commitment Medicaid waiver amendment to provide funding for the same enhanced hospice access benefit.

Exploring Reimbursement for Physicians Telephone Time. Due to a conversation you had with Dr. Norm Ward several months ago, DVHA’s policy, clinical and health care reform staff met with Dr. Ward to hear his concept of physicians being reimbursed for ‘telephonic physician services’. Currently this service is not reimbursed by private insurers or DVHA, but DVHA will research the medical literature to determine if there are pilot projects or other efforts underway to assess the efficacy of this reimbursement practice and to better understand the cost implications for the Medicaid program...

Ryan FY 12 Budget Proposal. On April 27<sup>th</sup>, Congressman Peter Welch convened a group of providers to meet to express their concerns regarding the federal “Ryan FY 12 Budget Proposal”; the National Women’s Law Center produced a document titled “Ruinous Medicaid Cuts in Ryan FY 12 Budget Proposal Threatens Health Care for Women of All Ages” that was circulated to the group:

<http://www.nwlc.org/resource/ruinous-medicaid-cuts-ryan-fy12-budget-proposal-threatens-health-care-women-all-ages>

Meeting attendees included: Dr. Ann Goering, Winooski Family Health Center, Stephanie Beck, Dept of Vermont Health Access, Allison Hicks, Hicks Foundation, Kelly Stoddard, American Cancer Society, Jill Krowinski, Planned Parenthood and representatives from the Burlington Community Health Center.

The concerns expressed are regarding coverage (eligibility, benefits), financing (cost sharing, reimbursement, etc) and that other options should be explored to cover the federal budget deficit.



---

## MEMORANDUM TO GOV. PETER SHUMLIN

---

To: Gov. Peter Shumlin

From: GIRO Staff

Date: April 29, 2011

RE: Weekly Constituent Update

---

### Current Issues:

- **Act 127**
  - Constituents, many of them the parents or grandparents of a child with autism, calling to urge expansion of the bill to provide private insurance for children with autism up to age 22.
- **Cigarette tax**
  - Inundated with phone calls from people in support of raising the cigarette tax by a dollar.
  - Callers note that a tax increase could help prevent smoking
  - Some indication of organization (i.e., "I was told to call this number to comment...", "I was told by a lobbyist that I could leave a message at this number." Several callers have mentioned that the American Cancer Society asked them to call.
- **Health Care**
  - Received a smattering of calls regarding the Senate's approval of H.202.
  - While calls have been generally supportive, several callers have expressed skepticism of the government's ability to contain costs and funding mechanisms.
- **Yankee**
  - Response on your stance on Yankee continues to stay strong in e-mails.
  - People seem to be curious about the next step and how long the legislative process could hinder the closure of Yankee in March.
- **Media Response**
  - Positive response from Rachel Maddow and Diane Rehm shows.
  - Out-of-state and in-state residents have been e-mailing their support.

## **APPOINTMENTS TO BOARDS, COMMISSIONS & JUSTICE OF THE PEACE**

### **Justice of the Peace, Fairfax:**

**APPOINTED:** Lee Minor

### **Human Services Board:**

**APPOINTED:** Charlie Gingo from Bennington, CHAIR

**APPOINTED:** Cara L. Cookson, from Burlington

**REAPPOINTED:** Jan Westervelt from Cabot

### **Unincorporated Town of Somerset -**

**APPOINTED:** Larry Cassidy

### **VT Commission on National and Community Service:**

**APPOINTED:** James Coutts from Swanton

### **Board of Health:**

**REAPPOINTED:** Ragon Wilmuth, MD from Burlington – Psychiatrist

### **Building Bright Futures:**

**APPOINTED:** Judy Adams - Sunderland

**APPOINTED:** Ann Dillenbeck – Colchester

**APPOINTED:** Fred Holmes – St. Alban

**APPOINTED:** Jody Marquis – Newport Center

**APPOINTED:** Linda Michniewicz – Barton

**APPOINTED:** Melissa Riegel-Garret – Waterbury

**APPOINTED:** Barbara Saunders – Middlebury

**APPOINTED:** Mark Sustic - Fairfax

**APPOINTED:** Lisa Ventriss – South Burlington

**APPOINTED:** Tim Volk – Burlington

### **VT Economic Progress Council**

**REAPPOINTED:** Fred Kenney, Jericho – Executive Director

### **Advisory Council on Historic Preservation:**

**REAPPOINTED:** Barbara George from Brattleboro

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

CONFIDENTIAL AND PRIVILEGED: NO SHARING  
MEMORANDUM

To: Governor Peter Shumlin  
Cc: State Board of Education  
From: Armando Vilaseca, Commissioner  
Re: Commissioner's Weekly Report  
Date: April 29, 2011

---

**LDS Financial Support:** On April 28<sup>th</sup> I sent a letter to Secretary Duncan encouraging the USDOE to continue to think of new ways to support rural states like Vermont when it comes to funding initiatives such as Statewide Longitudinal Data Systems. This letter was done in collaboration with and with encouragement from Senator Sander's office and the Governor was copied on this letter.

**Education Spending Budget Collection:** This week we mailed each superintendent the federal jobs fund grant award documents for 271 districts. Districts will be reimbursed up to the award amount for expenditures incurred on anything allowed by the program. Allowed uses are generally for school level jobs and related expenditures such as salary and benefits. Funds can not be used for general administration expenditures such as superintendent salaries and benefits. The grant period began on August 10, 2010 (the date of enactment of the federal program) and ends on September 30, 2012.

**Legislative Testimony:** The Department continues to follow and testify on several pieces of legislation. The miscellaneous education bill seemed to be the most popular topic needing testimony this week, and includes several items the Department is directly involved in. We are also following (and have testified on) the miscellaneous tax bill and the green cleaning products in schools bill.

**Weekly Field Memo:** In case you did not see it, here is the link and list of subjects covered in this week's Weekly Field Memo.

[http://education.vermont.gov/new/html/dept/field\\_memo.html#first](http://education.vermont.gov/new/html/dept/field_memo.html#first).



Confidential and Privileged

To: Honorable Governor Peter Shumlin

From: Annie Noonan, Commissioner, VDOL

Date: 4/29/11

Re: Weekly Report, Week Ending 4/29/11

VDOL Budget: We still have no State specific information on the federal cuts to our budget. The states are being asked to write to USDOL to pressure them to find more information through their federal connections. We have alerted some of the summer youth grant applicants that they will not receive money, but held off on determining that no grant-funding can occur; but we are nearly there. The only positive word we have heard is that VOSHA funding looks 'reasonable', and that UI money seems stable. VDOL has asked for current (real-time) reporting from all staff on expenditures, and our fiscal division is watching our current funds vis-à-vis staffing. It seems clear to me that we have to move some staff out of Workforce Development division to either UI Division or possibly other options.

Legislative:

Workers Comp and UI: VDOL forced conversations between the stakeholders (labor, insurance companies, medical society, NCCI) and hope we are close today to finalizing the bill in House Commerce. I have kept Senator Illuzzi informed of the changes in the House version with the hopes that will facilitate agreement in conference. The substantive changes involve more time for claimants to provide medical records; a requirement that insurance companies actually provide a 'yes' or 'no' answer to doctors seeking prior authorization of treatment; an extension of time for insurance companies to arrange and receive reports from an IME; more protection for claimants' medical records. I believe that the insurance industry will try to scuttle the bill by claiming that 'it's unnecessary' and that it will 'raise WC rates'. In fact, NCCI is supposed to come in this afternoon to testify to their projections on costs. What they will have to address is the fact that WC rates have declined each of the past 5 years.

Because of the stalling on S.95 (UI) in the Senate, the sections of that bill that were truly technical corrections for VDOL have been 'lifted' from S.95 and incorporated into S.96 in House Commerce. Chairman Botzow advised me that he would not take up any other sections of S.95. Senator Illuzzi advises that S.95 will come out today, but I don't know what it will contain.

Jobs Bill will be taken up today in House Commerce for a review of what came out of the Senate, and we will be discussing it this afternoon. Rep. Keenan and I met yesterday on WIB money and WDC issues. The House wants the money for WIBS restored, but the language that requires it to be more competitive (and not simply a hand-out) is good for the process and measurable outcomes.

As a reminder, the WDC chair seat must be an appointment from the business community. I would strongly urge that the Governor interview candidates for this position to make certain the person supports the Governor's priorities and agenda, which has not been the case with the current chairman of WDC.

Miscellaneous: Based upon a number of bills that may pass, VDOL has been assigned a significant amount of work from study committees and new enforcement of different wage and hour issues. As a result, we may need to utilize our misclassification investigators to assist with some of this work. As a reminder, we have only one staff member solely assigned to Wage and Hour compliance, an issue that I am reviewing vis-à-vis departmental needs.

I had a brief conversation with Alex about misclassification and how State government departments and agencies can become more compliant with the law and the Governor's commitment to resolving the problems with the issue.

The meeting with labor, (following the meeting with business and farm representatives) originally scheduled for this Monday, May 2<sup>nd</sup>, has been postponed due to the legislative schedule for Monday. We will reschedule for the following week.

### UI Division

Trust Fund Borrowing: Total amount borrowed as of April 28, 2011 is: \$77,731,860.63.

As of 04/28/11, Vermont borrowed \$6,745,624 during the month of April. We have not had to borrow any funds since April 20<sup>th</sup> and will not need to borrow any more funds this month.

Note from UI Director Tracy Phillips: Feds saying that since the 2010 workload funding was so high (as a result of the economic situation) the feds are not anticipating any issues with the 2011 funding status (even with the 2% reduction). They expect they will be able to fully fund all states with the calculated 2011 funding projections. They also expect to be able to continue to fund Contingency at 100%. Rod also believes that there will even be money left over to support SBR (Supplemental Budget Request's) to states. The likely targets for the SBR grants will be benefit payment accuracy and timeliness (SIDES) and Re-employment activities.

### Workers Comp and Safety Division

AOT v. VOSHA dispute: working over water without a safety skiff, meeting on Monday afternoon.

Dept is still engaged in SWO penalty phase with Starr Trucking. We are issuing the Howrigan Farm penalty this week.

### Workforce Notes

Pouliot & Corriveau, Williamstown: The Barre Office received a request for services from Pouliot & Corriveau. Curt Kreis, manager, called to report the closure of Pouliot & Corriveau. The closure affects 45 employees including one with need for special services. In speaking with Curt this a.m. Pouliot & Corriveau will be liquidating their assets thereby laying off 45 employees. The Company has done extensive outreach with area businesses and believes that the majority 40+ employees may have employment. Bellavance and McDermitt are considering hiring the drivers while other administrative staff may retire. One employee is deaf and will require services from multiple agencies to facilitate re-employment. Barre staff will be onsite tomorrow, 4/29, to meet with the affected workers.

Clearwater Veterinarian Hospital, Richford: The Clearwater Veterinarian Hospital in Richford is closing on Friday, April 29<sup>th</sup> due to lack of business. They have three employees; one veterinarian and two technicians. One person is already filing for partial UI benefits and was picked up by RES. Sheraton Hotel and Conference Center, So. Burlington: The hotel is gearing up for their busy season and is looking to fill a wide array of positions. There are both full-time and part-time openings. The Career Resource Center had 22 job seekers attend this presentation. The company has twelve positions that they need to fill.

Veteran Representatives: VDOL veteran representatives met with Ed Cafferty, Criminal Justice Institute, through Champlain College. To review a new program and how it will benefit our veterans. The certificate program will allow them to obtain PT positions as police officers without having to attend the Police Academy. For FT employment, they would eventually have to attend the VCJTC.

Burlington District Office manager John Vowles met with 18 UVM Graduate Students and their Professor on 4/25/11 to talk about the Resource Center, its mission, what we do, how we work with a diverse population, etc. The students are all studying to be "Counselors" of some kind such as Guidance Counselors, working as Therapists, assisting people with disabilities.

WD Director represented VDOL at PreK-16 Council meeting. Council identified three priorities for future work, including the development of a "Stop-Out" strategy to get under-employed adults with some coursework but no degree or credential back to school.

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

**Executive Privilege**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Brian R. Searles  
**DATE:** Friday, April 29, 2011  
**SUBJECT:** VTrans - Confidential Report to the Governor

**Better Backroads Program**

The Agency of Transportation has partnered for several years with the Northern Vermont Resource Conservation & Development Council, overseen by a volunteer board and under the auspices of the Natural Resources Conservation Service (NRCS) of the US Department of Agriculture, to implement the Better Backroads program. Federal and state funding is provided to advance efforts to correct road-related erosion problems to save towns money on road maintenance and reduce the impact on water quality. Funding is provided for grants with municipalities and technical assistance.

The Agency has been informed that the NRCS affiliation with the Council is ending after 47 years, presumably due to lack of available NRCS funding. NRCS staff member Beth Ann Finlay had been acting in the role of coordinator for the Council until a week or so ago. Agency staff will be meeting with Council staff in the near future to see how this significant change will affect the Council and possibly their ability to continue to administer the Better Backroads program.

**Video Shoot at Springfield DMV**

The DMV in cooperation with the Vermont Film Commission participated in a public service message video recording at our Springfield site. The New York film company has a Vermont connection and their production activities were completed on Tuesday, April 26<sup>th</sup>. The interior of our office was transformed from a Vermont DMV site to a Medicaid Office without any geographic identification. The film spot will be an awareness message for individuals who are coping with the loss of a limb, plus awareness for the general population.

Our operations were slightly disrupted during the day but we remained open and provided services to the public. Although there were 2 members of the public that left unhappy, the vast majority of our customers were supportive and amused by the

experience. The Springfield staff deserves high praise for having the courage to try this activity and their support in making the day successful for everyone.

### **Public Transit Routes Cut**

The following public transit route cuts are being implemented as a result of poor performance:

Effective May 1, 2010, VTrans will no longer be providing operations funding for the Connecticut River Transit (CRT), Dartmouth Hitchcock Medical Center (DMHC) Commuter Connection traveling from Springfield to WRJ, and Lebanon, NH. This route is oriented toward DHMC employees working 12 ½ hour shifts with late arrival/departure times 6:45pm/7:45pm. This is a second year CMAQ funded route.

Effective July 1, 2010, VTrans will no longer be providing operations funding for the Green Mountain Transit Agency's Warren Route in the Mad River Valley. This route is operated with regular rural operating funds. It is a seasonal deviated fixed route between Sugarbush Lincoln Peak and Warren Village along the Access Road and Route 100.

Effective July 1, 2010, VTrans will no longer be providing operations funding for the Stagecoach Transportation Services Inc., Rochester-Rutland Route. This route is operated with regular rural operating funds. This is a once-per month trip from the Randolph area to Rutland oriented toward serving shopping needs.

VTrans is also considering discontinuation of operations funding for Stagecoach Transportation Services Inc., Rochester-Randolph route. This is a once per week service, funded with regular rural operating funds. Public Transit staff will attempt to have a dialogue with STSI management in an effort to identify if there is a more efficient, effective way to serve the needs currently serviced by this route.

### **April 27<sup>th</sup> Storm**

VTrans staff continue to assess damages, not only to State highways and State-owned rail lines, but to town-owned infrastructure as well. Seven sections of State highway remain closed or reduced to one lane as of the morning of April 29<sup>th</sup>. These include Routes 15 in Cambridge, Route 36 in St. Albans, Route 129 in Alburgh, Route 102 in Bloomfield and Guildhall, Route 5 between Newbury and Wells River, and Route 125 in Bridport.

Damages to State and Town highways have been reported in the following counties: Addison, Chittenden, Grand Isle, Franklin, Lamoille, Orleans, Essex, Caledonia, Washington, and Windsor. VTrans is currently tallying damages within these counties to determine if thresholds are met for both a FEMA Public Assistance declaration and an FHWA Emergency Relief program declaration. As conditions and water levels allow, repairs (temporary or permanent) are being made. We will continue to work closely with Vermont Emergency Management, FEMA, and FHWA as we tally up damages in the hopes of hitting the thresholds for both of these federal declarations. High water is hampering some of the damage assessments, but we hope to wrap up our own State

estimates as soon as possible so that we can have VEM ask for FEMA to come up and do the official Preliminary Damage Assessment.

Water levels are coming down in rivers and streams, but rising in Lake Champlain with a reading at 10:00 AM on 4/29/11 of 102.60 feet, breaking both the official and unofficial records, the latter 102.20 feet in 1869.

### **T-Bill**

The Conference Committee was close to agreement this morning and meets again in about an hour from now (11:10 AM 4/29/11).



**CONFIDENTIAL and PRIVILEGED—No Sharing**

---

**To:** Governor Peter Shumlin  
**From:** Lawrence Miller, Secretary, Agency of Commerce and Community Development  
**Date:** April 29, 2011  
**Re:** ACCD Weekly Report

---

**Status of Governor's Priorities:**

**Broadband:** We have tried to help with some conversations around school and library fiber take rates lately, with eVermont coordinator Helen Labun Jordan, State Librarian Marty Reid, and Karen Marshall. Some of our constituents like RDC's and SBDC's are conveying concerns that some of these boards are going to let the opportunity pass due to cost. We will work with our partners and local businesses to help build community awareness and find financial support where necessary and Karen is talking to Sovernet about the issues. This could be a significant complication to the anchor institutions strategy from what we are hearing.

**Health Care:** We should talk about what business message we want to carry after the session. Should we pull together a biz advisory group for Jeb on financing, or leave it a step removed and have them convene here? Or neither: just fold their participation into another channel?

**Legislation:**

Jobs bill was moving fairly easily through finance yesterday, with some fussiness but no major problems. A lot of extraneous stuff came out, including Plum Creek. Need to make sure Budget conferees add \$25,000 to SeVEDS commitment and restore \$25,000 to Ag Farm Bill travel.

Veterans Employment bill in conference. The issue will be adding program elements or completely changing the approach to send funds directly to Veterans rather than through employers. Conceptually, we put this together to encourage employers to hire Vet's, not to create additional jobs.

House Members	Appointed	Senate Members	Appointed
Weston, Rachel	4/26/2011	MacDonald, Mark	4/28/2011
Kitzmiller, Warren	4/26/2011	McCormack, Richard	4/28/2011
Marcotte, Michael	4/26/2011	Westman, Richard	4/28/2011

**Evolving Issues:**

Flooding could be significant. Pat put out a request to RDC's to keep us informed of potential needs early. One complained they were already sending that info to emergency management and why did we need it; another forwarded the info request to WCAX and asked them to get it out to the public. Arrrgh.....

Pat is remaining in close contact on Brooks Fire. Believe owner has \$10mm insurance cap so probably OK based on estimates to date.

**Commissioner MacKay and Deputy Commissioner Hollar**

- The **Downtown Board** met this week and was chaired by Noelle. It reviewed Colchester's designation and re-designated Hardwick and Wilmington. Noelle also participated in the third **Growth Center Roundtable** discussion about streamlining the designation process.

- Four new members will soon be joining the **Vermont Community Development Board** – Angus Chaney, Amelia Silver, Bruce MacLean and Andrea Livermore. Jen met with Josh and Cindy to make plans for welcoming and orienting them.
- Noelle spent Thursday in Franklin County on a **Diversified Agricultural Tour**. She visited Doe's Leap, Maple Organics, Boston Post Dairy and Flack Family Farm.
- Efforts to identify resources to help Brattleboro respond to the **Brooks House** fire continue. Jen worked with Pat and Kiersten and joined a conference call with members of the congressional delegation, the Governor's office and town officials designed to coordinate a response and learn more about the Town's needs. All 80 residents displaced by the fire have been temporarily relocated but will require more assistance to find permanent situations. Businesses are looking for alternative space, but it is hard to find in downtown. In the meantime, the town is working with the owner of the building on options for redevelopment.
- The highlight of the week was undoubtedly the **Historic Preservation and Downtown Conference** presented by our Downtown Program and the Preservation Trust. Historic Windsor and the Division for Historic Preservation sponsored the day-long event in Downtown Poultney and at Green Mountain College. Noelle spoke at the luncheon and Jen was delighted to spend the day immersed in historic preservation and downtown issues.
- Following a planning session for the Governor's Summit on Homelessness, Jen participated in meeting between advocates for the homeless, service providers, funders and **Senator Bernie Sanders** on barriers to housing the state's most vulnerable.

#### **Business Support**

- **Senix Corporation:** Robin Scheu of ACEDC and Ken Horseman met with company officials. Business was up 20% last year and is on the same track for this year. 38% of sales are from exports. Employment is at 8 fulltime. A full review of programs and services was made and appropriate referrals will be pursued.
- **Breen Systems Management:** Robin Scheu of ACEDC and Ken Horseman met with the company. They report that business is difficult with key issues being the acquisition of capital for intellectual property (software development) and difficulty of finding personnel. Employment is at 8 fulltime with all workers home-based. Primary sectors targeted are the granite industry and wine importers for two products they have developed. He expressed considerable concerns over the high cost of taxes in Vermont and high cost of living. Appropriate referrals will be made.
- **Enpro Services of Vermont, Inc.:** Curt Carter of GBIC and Ken Horseman met at the company's Burlington facility. Fulltime employment is at 7 in Burlington and 9 at the Williston waste storage plant. The company is actively working with PTAC and has GSA status. The company finds getting qualified workers to be very difficult, and reported that state contracting language was overly restrictive preventing them from bidding on contracts but resulting ultimately in Enpro being a sub-contractor adding overall cost to the state. Appropriate referrals will be made.
- **American International Development Cooperation:** The company is a full-service fulfillment operation with customers -- primarily book publishers -- including the International Monetary Fund and Cabot Cheese. They receive orders in five languages from all over the world employing 65 fulltime. Upon a review of the variety of areas of assistance they expressed interest in pursuing a couple of avenues, and appropriate referrals will be made.

- **Logic Supply:** Business is booming and fulltime employment is now at 36 fulltime. The company employs an open book management style with profit-sharing for employees. Offices in T: Netherlands have been established, and the company is on an aggressive growth plan. A very successful internship relationship with Champlain College has yielded several new hires. A member of the VT Software Developers Alliance, the company shared a copy of a new glossy publication of the organization called "Tapping Tech" that features several signature high tech Vermont companies. We requested copies for departmental use which they will send along.
- **NEHP:** Annie Noonan, Lawrence, VEDA met with the company and the union local to discuss growth. Great business, great labor example, owner wants to be more involved in community.

### **Community Development Program**

- VCDP staff is working with a number of communities as they prepare applications for the next VCDP Board meeting on June 9<sup>th</sup>. Once again it looks like the funding request will greatly exceed the available funding. We are expecting a good mix of housing, economic and downtown development applications. The funding available at the June 9<sup>th</sup> board meeting is a little in flux, as it could range from \$600,000 to as much as \$1.4 Million depending on the board's interest in recommending funding from next year's allocation. This decision will mostly likely be based on the competitiveness and timing pressures of the applications.
- No major changes have been recommended to the VCDP or HOME programs as a result of the federal budget cuts. However, VCDP will be reducing the number of board meetings from six to five next year due to less funding being available at each board meeting.

### **Community Planning & Revitalization**

- **Morrisville Downtown:** Housing VT is close to purchasing 3 adjacent properties in Morrisville, currently occupied by Authur's store. Their interest is in rehabilitating approx 20 apartments that are currently uninhabitable, but they would also be purchasing around 10,000 square feet of retail space.
- **Downtown Board:** The Board met this week, with Colchester's growth center status report as the primary agenda item. Because development in the growth center was mostly prospective when they were designated 2 years ago, and the Board had substantial question on some of the required elements. So the designation was conditioned on a 2 year report on the status of bike/pedestrian improvements to link the 4 growth center quadrants, the status of bringing transit to the area, and the effectiveness of their strategies to ensure that 50% of growth would take place in the growth center and that rural areas be protected. The Town reported some progress on the first item, but not much on the latter two. The Board noted their expectation that the Town needed to show substantial change on all three concerns when they return for the 5 year renewal process
- **Downtown/Historic Preservation Conference:** Much of the CP&R staff has been involved in final details for the conference this week. Attendance is looking strong, and at this point the weather looks reasonable. This is a great educational opportunity for a number of DEHCD staff, and we look forward to seeing you there
- **VPR/Downtowns:** Leanne joined Paul Bruhn on VPR's Vermont Edition on Tuesday to discuss the state of Vermont's downtowns. The entire session can be heard at <http://www.vpr.net/episode/51014/>

- **Complete Streets:** With legislation on complete streets still moving in the statehouse, AARP is moving forward with several other events to encourage more attention to pedestrian and bike improvements in our communities. They are bringing in internationally recognized Dan Burden for a workshop on May 6 in Burlington to discuss various options and strategies. We are also working with AARP to bring Dan back to Vermont this fall to provide technical assistance to two communities, chosen through a competitive process. Dan will spend one day in each community at no cost, working with the municipality and volunteers, and AARP will also provide a \$3,000 grant to each community to implement Dan's recommendations. More information is at <http://www.blcp.org/walkable>.

### **Historic Preservation**

- **Telecom Update:** Giovanna signed the Dept of Commerce NTIA Programmatic Agreement, developed by the DOC's Historic Preservation Officer in close consultation with us, VTA, and Sovernet. The PA sets out how NTIA and VTA will comply with Section 106 of the National Historic Preservation Act, describes the review process, and streamlines it. Sovernet can start construction any time now that this is executed. Scott did a great job working to satisfactorily resolve some key review issues with DOC and Sovernet. Gio's next step is to assemble the stakeholders to review the PA together, make sure everyone knows what they are supposed to do, and address any lingering questions.
- **Sweet Pond Dam, Guilford:** The Town of Guilford contacted Giovanna and the Preservation Trust of Vermont expressing concern with the "eminent removal" of the 200 year old masonry dam and associated lake, state-owned property that form the heart of Sweet Pond State Park. The town views the dam and lake as significant places to the community. Gio checked in with ANR's Dam Safety Engineer Steve Bushman and Park Director Craig Whipple to gather some facts and better understand where the conversation about alternatives stands. Craig noted that the Town is fully involved in discussions already (although they are having some listening problems) and assured Gio that DHP would be brought into the process shortly by their engineering consultants. The reservoir is indeed being dewatered at this moment as an emergency precaution since the dam was recently rated a "high hazard" dam by ANR. However, removal of the dam itself is not eminent. To be continued.

### **Housing**

- **HUD Consolidated Plan** – Jen, Josh, Ann and Arthur met to discuss whether to change anything in the plan in light of the 16.4% cut to CDBG funds in the FFY 2011 budget. It was decided to make only two minor changes. The number of CD Board meetings will be reduced from six to five. And the requirement that locally funded RLF's contribute 20% to projects will extend to all grant types. We emailed the advisory group to let them know and solicit their input. April 25, 2011 was the deadline for written comments. We received three letters by the deadline including two which objected to extending the RLF requirement to planning grants

### **Vermont Tourism & Marketing and Vermont Life**

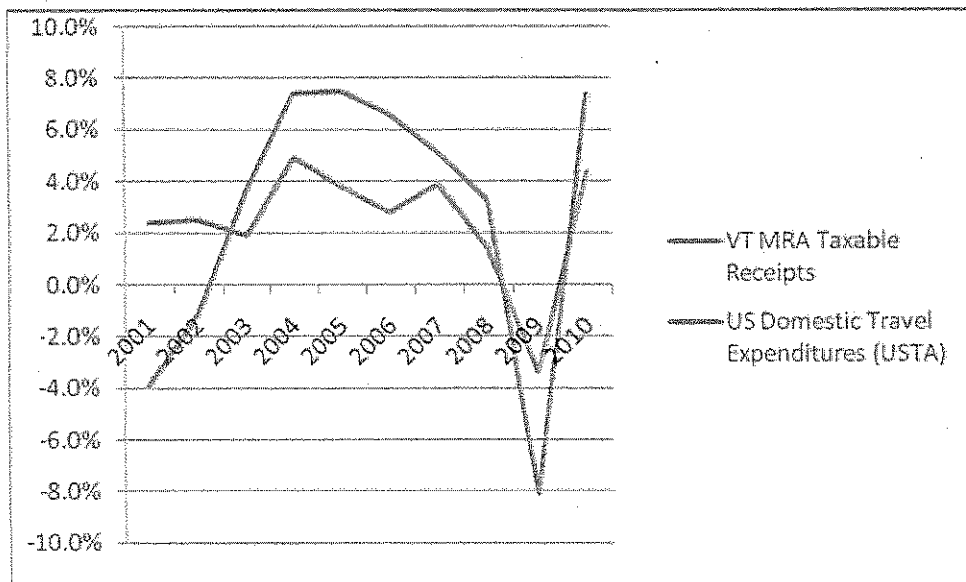
- Megan also met with the Vt. Bicycle and Pedestrian Coalition to discuss a statewide bike map to include road biking and mountain biking. Currently there are approximately 10 different regional maps. The larger non-motorized sports group as another meeting that is working with VAST on the rail trail. Megan is working with just strengthening this group and getting all the players together for a meeting May 16<sup>th</sup>.
- Follow-up with the birding group included a survey to all involved and, as the info comes in, we are incorporating it into our website for this season and then will use the info to package with lodging

properties moving forward. WE are hopeful that some properties will use the info for this late May and June as our birds come back home.

- The VDTM partnered with the Gay Lesbian Tourism Association for a very successful trip to the LGBT Tourism Expo in NYC. We sponsored a hospitality suite and had a large turnout from the media. Bianca Slota represented the Governor's office with a video from an interview he had done with a gay tourism website earlier this year. We will be using the contacts we made to work on a marketing plan for this very important market.
- Megan and Christiane met with the State Chamber to discuss our group travel partnership. We are strengthening that relationship and eliminating the overlap that has been occurring since the chamber took over Vermont Travel Network.
- Susan Murray from the U.S. Export Assistance Center and her Northeast Network Director James M. Cox met with Commissioner Smith to discuss outreach to the countries that we have not current tourism presence. This was a very productive meeting that ended with Susan offering to help get some meetings set up for Megan while at PowWow in May. South America is a market that is very interesting to all of the Vermont resort areas.

#### Travel Trends

- **Vermont Compared with National Trends:** The first table compares changes in Vermont's Meals Rooms Alcohol (MRA) taxable receipts with the overall pattern of US Domestic Travel Expenditures. The comparison is not altogether apples to apples because the national figures incorporate transportation costs while Vermont's transportation component is relatively small.



Still, while Vermont's performance parallels the national trends, it is more stable overall, with the exception of commercial room rentals, which fell 10.1 percent in 2009. Preliminary figures for 2010 show a recovery close to that of the national expenditures (6.96 % Vermont vs. 7.40 percent U.S.).

