

WEEKLY REPORTS

Checklist
2/25/2011

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: GIRO
- ☒ Additional Report: Education
- ☐ Additional Report: _____

CONFIDENTIAL and PRIVILEGED—No Sharing

To: Governor Peter Shumlin
From: Lawrence Miller, Secretary, Agency of Commerce and Community Development
Date: February 25, 2011
Re: ACCD Weekly Report

I would like to call VY and have a quite meeting with HR and purchasing to try and get data for planning. PLEASE ADVISE IF YOU HAVE ANY CONCERNS

Jobs bill set to move out of commerce today with minimal and good changes.

- Jen Hollar met with Chris Saunders and Ted Brady of Senator Leahy's office and a representative from Rep. Welch's office. There is a very real possibility that the federal government will shut down when the current Continuing Resolution expires on March 4. **The staffers strongly advised anyone who interacts with a federal agency and needs some action in the coming weeks to make the request as soon as possible.** The discussion also covered the impact of the House passed budget for FFY11 and the President's proposed budget for FFY12. The delegation feels that the real battle will be around FY11 and it will create a new base for budgeting for the next several years. **Congressional staff and housing groups hope Governor Shumlin highlights the impact to Vermont at the upcoming National Governors Association meeting.**
- Jen attended a meeting of the Vermont Fuel Energy Partnership which was established to coordinate funding and expertise for energy improvements to affordable housing projects. **A major concern is the limitations inherent in the screening tool used by the Department of Public Service in determining what efficiency measures can be undertaken.** The group feels it does not allow for deep retrofits because the cost benefits of those aren't realized in the near term.
- Secretary Miller, James Candido and Noelle met with Mayor Lauzon and other city officials in Barre to discuss a possible EB-5 project.
- Given the city's declining population and high vacancy rate, Rutland City Mayor Christopher Louras is concerned about the use of NSP 3 funds to rehabilitate empty multi-family properties. Jen and Noelle met with Mayor Louras to discuss his concern and plans to do a housing needs assessment.
- The City of Newport would like to create a Foreign Trade Zone.
- Secretary Miller, Noelle and Jen attended a meeting of the Homebuilders and Remodelers Association of Northern Vermont. Secretary Miller was the Guest Speaker. The unanticipated hot topic of the evening was conflicting sets of federal and state rules for lead-paint hazard reduction. Permitting challenges and the housing preservation bill were also a key concern for members of the association.

Vermont Economic Progress Council

- On February 24, the Council approved VEGI incentives totaling \$89,220 for Vermont Smoke and Cure for an expansion project that will utilize the former Saputo plant in Hinesburg and create 33 new jobs over five years. The incentives will allow for more immediate growth and investment that will allow the company to produce more product to meet current demand and provide more processing services for Vermont farmers, rather than prolonged incremental growth.
- Fred Kenney met with tax department staff to further improve VEGI program efficiencies.

Vermont Training Program

- **Omega Optical:** VTP will serve 22 New Hires with OJT funds in their new project for 3D glasses manufacturing. The areas of training will be Production Technicians, Production Specialists, Team Leaders and Project Manager. Additionally, we will serve 15 employees in Upgrade Classroom Training for Lean Manufacturing (Lean101, Value Stream Mapping and 5S Workplace Organization).
- **North Hartland Tool:** VTP will serve 4 New Hires with OJT funds in the areas of Bridgeport Operator, CMM Operator, Stock Cut/ Saw Cut Operator and Office Personal Assistant. We will help train 11 employees in OJT Cross Training in the areas of CNC Programming, Prototrak, Bedmill, CMM Operator/ Programming and Jig Bore/ Grinding. Additionally, serve 36 employees in Upgrade Classroom Training for Lean Manufacturing (Lean 101, Value Stream Mapping, 5S Workplace Organization and Set-Up Reduction).

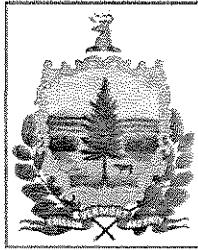
Housing

- **MHP Sale Notices; Rockingham Area Community Land Trust** – Due to the pending merger of Windham Housing Trust and RACLT, RACLT gave notices of their intent to sell three of their mobile home parks; Tuckerville in Ludlow, Red Maple in Springfield, and Evergreen in Bellows Falls.

Historic Preservation

- **Meeting with BGS to work on testimony for House Institutions Re to creation of a dedicated fund and program to improve management of state-owned historic properties:** The Capital Budget requests authorization to create the fund; develop a program to use the fund; dispose of 5 DHP-owned historic properties (Fuller Farm in Hubbardton, Hyde Log Cabin in Grand Isle, Bishop Cabin in Orwell, Eureka Schoolhouse in Springfield, Bradley Law Office in Westminster); and put the proceeds of these sales into the dedicated fund.
- **Telecom MOU for Use of State Properties Update:** Gio and John distributed the draft Programmatic Agreement between the USDA Rural Utilities and the VT SHPO for the VTEL project to Karen Marshall and the VTA team as a possible model for other projects (all of which have federal monies and/or licensing).
- **New VELCO Archeology Publication Hot-Off-the-Press and Available On Line:** DHP's VT Archeology Guidelines require significant public outreach by agencies and developers if important archeological sites are impacted by a project. VELCO discovered many sites and impacted a few as a result of the Northwest Reliability Project upgrades in the Champlain Valley. The new, interesting and useful publication constitutes their significant public outreach. VELCO is planning a big "launch" event in Vergennes in March. Gio worked closely with VELCO on the publication and will speak at the event (Date to be determined). Our VELCO-DHP relationship has significantly improved in the last 2 years and it's been a good partnership. The new booklet is available at <http://www.velco.com/Archeology/Documents/powerfulhistory.pdf>.

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Chuck Ross, SECRETARY

**STATE OF VERMONT
AGENCY OF AGRICULTURE**

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TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: February 25, 2011

Status of Governor's Priorities: Jobs Bill testimony continues this week. Farm to Plate/Agriculture initiatives discussed with House Commerce Committee and House Agriculture Committee. Concern voiced by House Commerce and Agriculture Committee member of need for position of local foods coordinator at the Agency of Agriculture -clarified the need for the position to increase local foods consumption beyond current levels and time constraints on current staff.

Jobs in Agriculture – Cabot Creamery Cooperative is advertising an accounting position in Montpelier. Ben & Jerry's is advertising a Global Senior Innovation Manager in S. Burlington.

Legislative Issues/Contacts:

Secretary asked for language that would exempt DMS from the current milk bonding requirement. Dairy Section Chief Dan Scruton has already drafted something.

Press Issues/Releases/Contacts:

This week we have continued to field numerous media and public inquiries regarding raw milk sales and advertising in Vermont. Other requests from media representatives to meet with Secretary Ross to discuss the future of agriculture for our state.

Northeast Association of State Departments of Agriculture (NEASDA)

Vermont will host the annual NEASDA meeting this year – June 5, 6 and 7. We have investigated a number of facilities and feel that Jay Peak Resort is a perfect representation of Vermont for this group. Details will follow.

Significant Events/Meetings:

Assistant Attorney General Zamos Accompanied ARM Director Leland and Deputy Director Di Petro to a meeting with ANR's DEC Commissioner and staff to discuss issues of overlap between the two Agencies and identify the CAFO permit issue as the top priority. Additional items on the agenda included a general CAFO permit for medium farms, aerial applications of pesticides and an upcoming NPDES permit requirement for specific types of applications, the management of farm structures within the special flood hazard area, vegetative buffers on agricultural lands, and basin planning. The meeting also resulted in a plan for on-going collaboration which will include an annual meeting of the AAFM Secretary and DEC Commissioner as contemplated by the MOU drafted to implement the Clean Water Act responsibilities delegated to ANR by the federal government. DEC Commissioner made it clear he believes that legal input is necessary from both AAFM and DEC to resolve implementation questions. This meeting did not attempt to resolve any of the details rather it was an informational meeting to inform the various divisions within DEC of the on-going priority issues. The staffs at the two Agencies collectively work on a variety of issues beyond those on the agenda throughout the year. This will add significant workload to the AAFM I FTE of legal services.

Green Mountain Federation of Dairy Co-op's held their annual meeting this week. Secretary Ross, Deputy Secretaries LaClair and Bothfeld attended. Questions and answers with the group included the following topics: Bond Statute, water quality, Vermont Yankee and the affect of higher cost power on dairy farms, dairy fee legislation, Seal of Quality and overall staffing and budget for the agency of Agriculture. The Federation sponsored a well attended reception at the Statehouse – one bus load of dairy farmers attended from Addison County. The Keep Local Farms Vermont partners were recognized for their assistance to Vermont dairy farmers at the reception. Partners include Ski Vermont, UVM, St. Michaels College, Champlain College, Billings Farm and Museum, Hannaford's Supermarket, Healthy Living, St. Albans Co-op, Cabot Creamery Cooperative, Ben & Jerry's, Long Trail Ale ad Allen Lumber Company.

AIC Board meeting held on 02/23/11, 9:00 a.m. – 12:00 p.m. in the 4th Floor Conference room of 109 State Street.

Decisions were made to fund six “operational” food centers & food groups around infrastructure needs. Four target areas to be fleshed out more were identified by the board to put the remaining \$118,000 funds into. There areas are:

1. F2P initiatives Implementation
2. Leadership & Network Development
3. Food Hubs strategic assessment/feasibility of current infrastructure capacity
4. SLOW money investment model for renewable energy on farms

Secretary Ross will be putting recommended names forward to the Governor's office for the seating of the Ag Innovation Center Board per H.765.

Board members were given Vermont milk hats, aprons, and t-shirts as a thank-you for their many hours devoted to the Ag Innovation Center. L-R - Dave Lane - VT Economic Development Authority, Ryan Torres - VT Community Foundation, Megan Camp - Shelburne Farms, Dan Smith - VT Community Colleges, Enid Wonnacott - NOFA-VT, Deputy Secretary Jolinda LaClair, Jackie Folsom - dairy farmer, and Eric DeLuca - Food System & Cooperative Economy Development Consultant.

Next Week

March 25 there will be a **Hispanic Labor Meeting** at UVM to discuss research into domestic and migrant farm labor and the current situation on Vermont Farms. Report that ICE may hold raids again on employers in the state including farmers.

Ag Development Board: Meeting March 2nd in WRJct; first meeting since December. Board needs to get up to speed on F2P pending legislative actions and define its role regarding F2P initiatives in general. Question regarding delineation of roles/responsibilities between Ag Development Board, Sustainable Ag Council, VT Sustainable Jobs Fund and Agency of Agriculture is topic of discussion in legislature and amongst these boards.

Evolving Issues:

WRP Easements and Conserved Farmland

There is mandatory language in the federal WRP easements that potentially impacts a farmer's ability to use his or her land for production in the area outside of the WRP easement boundary. The issue came to a head with a farmland conservation project that is about to close. AAFM and VHCB both approved a solution that VLT negotiated with NRCS representatives for the Frederick-Maroney conservation project only. This issue needs attention at a policy level. Language apparently was inserted into Act 110 last year that sets up an interesting policy discussion pitting the leveraging of additional conservation funding against a farmer's ability to use his or her land for production. Farmers who put land into WRP must be fully apprised of the implication because it could significantly impact the economic viability of an agricultural enterprise.

FDA Commissioning of state employees for federal food safety and inspection work

Assistant Attorney General Zamos discussed FDA Commissioning with the Health Department's lawyer. Health Department's lawyer shares Agency's lawyer's preliminary take that the current commissioning process

raises a number of legal issues that need clarity or resolution before either the Agency or the Health Department should consider commissioning state employees to perform federal regulatory work under the FDA's Regulatory Procedures Manual March 2010, Chapter 3. Health Department's preliminary review also indicates the current FDA commissioning process is markedly different from the historical relationship Health personnel has had with FDA.

Raw Milk

Deputy Secretary Bothfeld and Dairy Section Chief Scruton met with Executive Director of Rural Vermont to discuss options for resolving the raw milk issue. Potential language change to definition in statute to include personal consumption – defined in Code of Federal Regulations – and potential definition of class/workshops in statute may resolve the issue. Expect to meet with House and Senate Ag Chairs to discuss Friday, Feb 25.

Summary of Key Agency Department Activity:

Ag Development

VT Farm to School (administered by the Agency of Agriculture) continues to be a leader in the Farm to Institution movement. Saturday, February 12 at the NOFA-VT winter conference VT FEED (Food Education Every Day) lead an intensive Farm to Institution working session. Michael Rozynel, Director of Red Tomato, facilitated discussions with Farm to Institution stakeholders including distributors, food service staff, farmers, food hubs and service providers. The conversation was rich and focused and the bottlenecks within the value chain. The work of VT FEED was made possible with a Farm to Institution Program Development Grant from the Vermont Agency of Agriculture. Over the next few months FEED will continue to work with Rozynel and their advisory board to synthesize the working session discussion and provide recommendations in the fall for improving the existing value chain.

Click the link below to read FOX 44 coverage of Saturday's event.

<http://www.fox44now.com/Global/story.asp?S=14019751>

Assistant Attorney General Zamos made a commitment to train AIC staffer, Deputy LaClair, and the new AIC Board, once seated, on the requirements of Vermont's Open Meeting law.

In re Salvas, Act 250 case. Salvas has filed a Motion for Reconsideration that requires a formal response. Act 250 cases and lack of capacity for more regular legal oversight is a continuing concern.

Deputy Secretary Bothfeld presented Interim Seal of Quality Program Rule to LCAR committee. Interim rule for maple and dairy products was required by Act 78 from 2009-2010 legislative session. Committee approved this rule. Will now be submitted to Secretary of State's office and should take affect by April 1, 2011.

Food Safety and Animal Health

Assistant Attorney General Zamos provided counsel to Division Director on granting a variance to the animal import requirements so a Vermont alpaca farm can hold an annual competition that will attract more contestants from out of state. Currently, and allegedly, the farm says Vermont's animal importation rules are a barrier to out of state participants due to the costs of securing specific testing requirements that has been dropped by other New England states.

Agency of Agriculture Laboratory is determining its ability to continue to maintain certification in Avian Influenza testing. The Ag lab installed equipment with funding assistance from Dept. of Health several years ago and there were federal requirements for testing of domestic and wild birds for this disease. 400 to 500 samples per year funded the needed training and calibration of equipment needed to maintain the program at the Agency Laboratory. At this point yearly sample volume has declined to near 100 samples due to federal cutbacks in testing program for wild birds for Avian Influenza. Agency of Ag is discussing the issue with Health Department to determine the affects of discontinuing the testing program at the Agency of Ag laboratory.

Local Vet contacted agency of Agriculture with results from TB testing as required under Raw Milk Statute. Five cows were tested for TB and one cow showed a suspected positive result. Follow-up testing will be completed within 7 days but the farm is under verbal quarantine for movement or sale of any animals or product from the farm until follow-up testing results are known.

Animal Health Field personnel –

- Conducted 1 scrapie flock certification inspection
- Conducted 4 animal welfare field investigations and 1 animal disease investigation
- Attended the Farmers Assuring Responsible Management (F.A.R.M.) seminar
- Attended a dairy producers meeting entitled “FDA Audits on Farms”
- Attended an in-house training session on proper collection of CWD samples in elk
- Worked with the State Veterinarian and the USDA Veterinarian at the Richard Frost elk farm. Collected samples for Brucellosis and injected TB serum

Assistant State Veterinarian- Dr. Joel Russo

- Investigated an animal welfare /animal husbandry complaint reported to me by a local feed representative. The producer owns a rabbit farm and a rabbit food processing facility and was experiencing a high mortality rate. Provided technical assistance to the producer. Submitted samples from producers flock to the Cornell Diagnostic Lab. Coordinated efforts with VT Meat Inspection to ensure an outside source of rabbits will be used for food processing. Issued a verbal and written quarantine to the producer prohibiting movement of rabbits on or off of farm.
- Attended the Farmers Assuring Responsible Management (F.A.R.M.) seminar. The F.A.R.M. program was created by NMPF and DMI to verify that milk producers are providing the highest standards of animal care.
- Attended an in-house training session on proper collection of CWD samples in elk
- Attended a dairy producers meeting sponsored by a local large animal veterinary clinic that discussed antibiotic issue residues in food producing animals
- Collected blood and performed TB surveillance duties at Richard Frost elk farm

Meat Inspection Points of Interest

Randy Quenneville Meat Inspection Program Supervisor

- Met with Steve Mason, consultant for VT Highland Cattle concerning slaughterhouse development for No. Troy area, also discussed benefits of having a slaughter facility in the Orleans area instead.
- Dealing with rabbit health issue in Orwell, coordinating with AH, HD and FDA. Continuing to work on the Weston rabbit issue concerning sanitation.
- Set meeting with Sean Mosley for possible process, smoking and curing operation in Wolcott
- Met with Robin Morris and his associates concerning state inspected process facility for the Mad River Valley
- Spoke with another individual about possible slaughter establishment for red meat and poultry.
- Met with VT HD sanitarians for correlation of applicable regulations for restaurant and retail outlet curing of meat.

Agriculture Resource Management

Justin Poulin from Brookfield requested that the Agency issue a variance to local building setbacks for a barnyard and fence that he had already constructed and were not meeting local setbacks. Section 4.07(d) of the AAPs requires that local setbacks be maintained when constructing a farm structure unless a variance is granted by the Secretary of Agriculture. Mr. Poulin felt that since he was simply replacing structures that had already been in place for some time (existing non-conforming structures) that he did not need to request a variance from the Agency. However, the Town eventually advised him to do so. Site visit held In re Justin Poulin. AAFM#2011-02-01 SF, which involves a request for variance from the Secretary for an “as built” farm structure in the Town of Brookfield. Two of the three “as built” structures clearly encroach into the town’s road

right-of-way. The Secretary has jurisdiction under Title 24 and the AAPs to grant variances to local zoning setbacks but town road ROWs are regulated under Title 19. The Secretary has no authority under Title 19 to grant permission for a farmer to use the town's ROW. Towns have legal authority to enforce misuse of ROWs. There are allegations from neighbors that could be construed as impropriety and misuse of public authority by the farmer because he is one of three Selectpersons in the Town of Brookfield. Since the Agency only has the authority to issue variances to local setbacks, and not to town rights-of-way, the farmer was advised that the Agency has no jurisdiction in this situation and that authority for the regulation of the structures within the town right-of-way reverts back to the town. A letter to this effect will be sent to Mr. Poulin within the week.

Enforcement Actions: MFO Program

Paul Bourbeau of Swanton was issued a corrective action letter (CAL) on February 11 for violations of the State's Medium Farm Operations General Permit – he does not have the required conservation practices in place to prevent a discharge of silage leachate to waters of the state. Mr. Bourbeau called the Agency on Feb 16 to say that he had received the letter and was committed to having a silage leachate treatment system in place by the date required in the CAL (June 30, 2011).

Jean Denis Michaud of East Hardwick was issued a Notice of Violation on February 10, 2011, with an accompanying penalty of \$4,000.00, for violations of the State's Medium Farm Operations General Permit. There are four separate issues on his farm resulting in discharges of both silage leachate and manure to waters of the state. Mr. Michaud had been issued a corrective action letter in January 2010 requiring Michaud to develop and implement a plan to correct these discharges, but long term solutions to prevent the remaining discharges have not been achieved to date. Mr. Michaud called the Agency on February 22 to request a hearing to discuss the issues on the farm, the proposed penalty, and his plans for moving forward to correct the water quality issues on his farm.

Secretary's Commentary:

Secretary Ross undertook the following activities:

- Returned from NASDA (National Association of State Departments of Agriculture) in Washington DC Friday evening. Ross participated in conversations regarding national dairy pricing, Asian Long Horn Beetle (ALB) infestation threats from Massachusetts, Lake Champlain water quality issues and possible model program with Rock River in northern Vermont. Discussion also touched on raw milk, federal budgets and included a visit to Capitol Hill for a briefing by legislative leaders on the House and Senate Committees.
- Sec. Ross met with USDA officials while in DC including Deputy Sec. Merrigan, Asst. Deputy Sec. Ann Mills and APHIS Director Cindy Smith. He agreed to work with Mills on Lake Champlain/Rock River issues including possible coordination with EPA and Smith on a possible coordinated effort with Massachusetts and APHIS on the ALB infestation.
- Tuesday was the first day for Deputy Sec. Jolinda LaClair.
- Sec Ross did a site visit on a possible local AAP (accepted agricultural practice) issue in Brookfield and determined it was not an AAP matter and the Agency has no jurisdiction.
- Ross and deputies Bothfeld and LaClair met with the Board of the Green Mountain Dairy Federation (organization representing the four major Coops in Vermont). Ross spoke and answered questions for 1.5 hours which were well received.
- Ross attended and spoke to the Dairy Producers Conference in Burlington attended by over 200 people. His remarks were similar to those made at the St. Albans Coop meeting. They were well received.
- Ross joined Sec Miller in addressing the Specialty Food reception organized by Jim Harrison in the State House cafeteria.
- WCAX interviewed Ross about a possible conflict of interest relating to his family renting to a raw milk dairy, Family Cow Farm owned by Lindsay Harris and Evan Reiss, who has been spokesperson's for the

raw milk producers represented by Rural Vermont. Ross said he has recused himself from the conversation and tasked Diane Bothfeld with the responsibility of representing the Agency in these matters.

- Met with Len Bull, Robert Foster and Ralph McNaull on a range of matters but mostly as a relationship building effort.

Major Themes of week:

- Move the raw milk discussion toward a point of resolution. This conversation is being managed and led by Dep Sec Bothfeld.
- Outlining an approach with the Vermont Coops on a legislative remedy to address questions as to who should bond for milk marketed by DFA, Dairy Lea, St Albans Coop and Dairy Marketing Services (DMS). This has been an outstanding question for over 18 months and leaves many producers' milk receipts exposed to any possible disruptions in payment by milk processors like Dean Foods. The Agency is developing a house keeping bill that can be used as a vehicle for this legislative fix.
- The Agency has continued to support the Jobs Bill and the elements relating to agriculture.
- Developing a management approach to help implement the elements of Farm to Plate.

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To: Governor Peter Shumlin
From: Lawrence Miller, Secretary, Agency of Commerce and Community Development
Date: February 25, 2011
Re: ACCD Weekly Report

Status of Governor's Priorities:

Legislation:

Evolving Issues:

Commissioner MacKay and Deputy Commissioner Hollar

- With housing groups, Jen met with Chris Saunders and Ted Brady of Senator Leahy's office and a representative from Rep. Welch's office. There is a very real possibility that the federal government will shut down when the current Continuing Resolution expires on March 4. The staffers strongly advised anyone who interacts with a federal agency and needs some action in the coming weeks to make the request as soon as possible. The discussion also covered the impact of the House passed budget for FFY11 and the President's proposed budget for FFY12. The delegation feels that the real battle will be around FY11 and it will create a new base for budgeting for the next several years. Congressional staff and housing groups hope Governor Shumlin highlights the impact to Vermont at the upcoming National Governors Association meeting.
- Throughout the week, Noelle and Jen with Kiersten Bourgeois supported Secretary Miller and Deputy Secretary Moulton Powden in the House Commerce Committee as it took testimony on and marked up H.287, the jobs bill.
- Noelle and Jen continued to have introductory meetings with staff individually and began conducting annual evaluations.
- On behalf of ACCD, Noelle met with the Governor, members of his staff and municipal officials from Brattleboro to discuss a range of community and economic development issues.
- Jen attended a meeting of the Vermont Fuel Energy Partnership which was established to coordinate funding and expertise for energy improvements to affordable housing projects. A major concern is the limitations inherent in the screening tool used by the Department of Public Service in determining what efficiency measures can be undertaken. The group feels it does not allow for deep retrofits because the cost benefits of those aren't realized in the near term.
- Noelle and Gio testified before the House Corrections and Institutions Committee in support of the DHP's items in the capital bill. Earlier in the week, they met with BGS Commissioner Obuchowski and his staff to prepare for the hearing.
- Noelle and Gio held a conference call with Mark Hudson, Director of the VT Historical Society, to discuss details of the MOU relating to the proposed move of the Archeology Center to the VT History Center in Barre.

- The House General Housing and Military Affairs Committee took testimony on H.216, the housing preservation bill, this week. Noelle, Jen and Julie Kelliher continued to talk housing agencies, advocates and property owners about their concerns with and need for the legislation. The housing groups will meet next week in an attempt to develop a common position.
- Secretary Miller, James Candido and Noelle met with Mayor Lauzon and other city officials in Barre to discuss a possible EB-5 project.
- Given the city's declining population and high vacancy rate, Rutland City Mayor Christopher Louras is concerned about the use of NSP 3 funds to rehabilitate empty multi-family properties. Jen and Noelle met with Mayor Louras to discuss his concern and plans to do a housing needs assessment.
- The City of Newport would like to create a Foreign Trade Zone. Noelle met with City officials to learn more about the possibility and how ACCD might help.
- Senator Hinda Miller, D-Chittenden, is ACCD's liaison on the Senate Appropriations Committee. Noelle and Jen will meet with her and the rest of the ACCD management team to review the agency's FY12 budget request on Friday afternoon.
- This weekend, Noelle will meet with officials from the National Association of Development Officials on their upcoming review of the Vermont Association of Planning and Development Agencies.
- With Arthur's assistance, Jen responded to requests from Senator Sara Kittell and citizens for assistance with housing issues.
- Secretary Miller, Noelle and Jen attended a meeting of the Homebuilders and Remodelers Association of Northern Vermont. Secretary Miller was the Guest Speaker. The unanticipated hot topic of the evening was conflicting sets of federal and state rules for lead-paint hazard reduction. Permitting challenges and the housing preservation bill were also a key concern for members of the association.

Business Support

- **Advanced Illumination:** Ken Horseman received a call from the business regarding plans to expand into another Rochester location that may be vacated. Appropriate referrals will be made.

Vermont Economic Progress Council

- On February 24, the Council approved VEGI incentives totaling \$89,220 for Vermont Smoke and Cure for an expansion project that will utilize the former Saputo plant in Hinesburg and create 33 new jobs over five years. The incentives will allow for more immediate growth and investment that will allow the company to produce more product to meet current demand and provide more processing services for Vermont farmers, rather than prolonged incremental growth.
- Fred Kenney met with tax department staff to further improve VEGI program efficiencies.
- Fred Kenney testified in House Commerce regarding the VEGI amendments in the Jobs Bill.

Vermont Training Program

- **Omega Optical:** Phil met with Jennifer Locascio, Human Resources Director, to sign the Training Contract. VTP will serve 22 New Hires with OJT funds in their new project for 3D glasses manufacturing. The areas of training will be Production Technicians, Production Specialists, Team Leaders and Project Manager. Additionally, we will serve 15 employees in Upgrade Classroom Training for Lean Manufacturing (Lean101, Value Stream Mapping and 5S Workplace Organization). VTP share of the training will be \$38,750.00, contract duration 1 December 2010 to 31 December 2011.
- **North Hartland Tool:** Phil met with John Mullen, President, to sign the Training Contract. VTP will serve 4 New Hires with OJT funds in the areas of Bridgeport Operator, CMM Operator, Stock Cut/ Saw Cut Operator and Office Personal Assistant. We will help train 11 employees in OJT Cross Training in the areas of CNC Programming, Prototrak, Bedmill, CMM Operator/ Programming and Jig Bore/ Grinding. Additionally, serve 36 employees in Upgrade Classroom Training for Lean Manufacturing (Lean 101, Value Stream Mapping, 5S Workplace Organization and Set-Up Reduction). VTP share of the training will be \$38,115.00, contract duration 1 February 2011 to 31 January 2012.

Housing

- **MHP Sale Notices; Rockingham Area Community Land Trust** – Due to the pending merger of Windham Housing Trust and RACLT, RACLT gave notices of their intent to sell three of their mobile home parks; Tuckerville in Ludlow, Red Maple in Springfield, and Evergreen in Bellows Falls. Arthur reviewed the notices and unfortunately, the Evergreen notice had a mistake and was not valid. RACLT is resending the notice to Commissioner Noelle Mackay. The 45-day notice period for Tuckerville and Red Maple runs through April 4, 2011. It is our understanding that other nonprofits are looking at buying one or more of these parks.
- **Barber's Pond, Pownal (park sale):** Arthur also received a park sale notification for this small 8 unit park from the owner's attorney, however, the Notification form and other information was omitted so the notice is not valid. Arthur wrote to the attorney and enclosed the required form.
- **RFP for Analysis of Impediments to Fair Housing Choice** – Arthur posted the RFP and the Legal Notice on the Fair Housing Page of our website for Julie Kelliher. If necessary, a special page can be created to post any written questions from consultants, and our responses.
- **Technical Assistance**
 - Arthur provided background information about two mobile home parks to ANR Environmental Enforcement Officer Tim McNamara relating to a case in Athens, Vermont. The alleged violations don't specifically involve the mobile homes but are located on the same property.
 - Arthur received a few more calls from condominium owners and/or associations looking for advice. While we are happy to call them back, the Department has no jurisdiction over condominiums and often we can do little more than suggest that they get legal advice.
 - Arthur explained the eviction process and steps for dealing with abandoned mobile homes in parks to Mark and Mary Grise.

Historic Preservation

- **Meeting with BGS to work on testimony for House Institutions Re to creation of a dedicated fund and program to improve management of state-owned historic properties:** Giovanna, Noelle, and John Dumville met with Commissioner Obie and BGS staff to discuss this new fund and program in detail. The Capital Budget requests authorization to create the fund; develop a program to use the fund; dispose of 5 DHP-owned historic properties (Fuller Farm in Hubbardton, Hyde Log Cabin in Grand Isle, Bishop Cabin in Orwell, Eureka Schoolhouse in Springfield, Bradley Law Office in Westminster); and put the proceeds of these sales into the dedicated fund. We will be meeting again to further discuss how BGS works with the requirements of 22 VSA 14, review the 2006 MOU, and funding the dedicated fund.
- **House Corrections & Institutions Committee Testimony on Friday Feb. 25:** Giovanna, Noelle, and John Dumville, with BGS as partners, will be providing testimony on the above parts of the Capital Budget.
- **Historic Preservation Plan 2011-2015 Update:** Giovanna completed revisions to the final draft Plan, incorporating public comments, and formally submitted it to the National Park Service for their review and approval. The NPS informally approved the first draft in November 2010 so this should go smoothly. The Plan serves as the basis for DHP's federal annual work plan for the Historic Preservation Fund monies.
- **Telecom MOU for Use of State Properties Update:** Giovanna reviewed and commented on the final draft, prepared by John Kessler. Gio and John distributed the draft Programmatic Agreement between the USDA Rural Utilities and the VT SHPO for the VTEL project to Karen Marshall and the VTA team as a possible model for other projects (all of which have federal monies and/or licensing). Devin is preparing summaries of the various telecom projects now in the DHP review pipeline so we can keep them straight. We will share with other ACCD teammates.
- **New VELCO Archeology Publication Hot-Off-the-Press and Available On Line:** DHP's VT Archeology Guidelines require significant public outreach by agencies and developers if important archeological sites are impacted by a project. VELCO discovered many sites and impacted a few as a result of the Northwest Reliability Project upgrades in the Champlain Valley. The new, interesting and useful publication constitutes their significant public outreach. VELCO is planning a big "launch" event in Vergennes in March. Gio worked closely with VELCO on the publication and will speak at the event (Date to be determined). Our VELCO-DHP relationship has significantly improved in the last 2 years and it's been a good partnership. The new booklet is available at <http://www.velco.com/Archeology/Documents/powerfulhistory.pdf>.
- **Preservation Roundtable Hold Quarterly Meeting:** Giovanna, Nancy, and Diane attended the meeting here in Montpelier. Agenda includes review of projects of mutual interest, updates on programs (like the upcoming April 29 Downtown-HP conference), legislative updates, and issues of mutual concern.
- **Heritage Tourism & Media Contacts:** Giovanna was contacted by author of the 4th edition of a popular guidebook titled "*Motorcycle Journeys Through New England*" for information on the new Lake Champlain Bridge. Elsa helped him and also provided information on the state-owned historic sites. The Publisher of the *Valley News* contacted Giovanna for a story he's writing on the Native people and archeology of the Upper Connecticut River Valley.

- **Certified Local Government:** Diane has been working on updating all forms and manual information for the CLG Program. With many new communities applying for certification, current information and instructions will stream line the process. Diane is also making sure the NPS Yearly Products Report is filled out by all participating CLGs. In the past, these forms were underutilized. Using performance measurements can benefit those requesting funds to further program development.
- **Bennington Battle Monument:** After many days of counting and sorting the inventory for the Bennington is finally done many pages of work Mary Lou can now move on to the Value Stream Mapping project and getting ready for the season it's almost April. Also, BGS had corrections shovel the three feet deep snow away from in front of the gift shop to prevent further damage to our floor and ceiling. Hopefully the knee deep snowfalls are over for the season.
- **Contract training:** Elsa attended the two day performance based contract training in Waterbury last week.
- **Chimney Point Talk at Ethan Allen Homestead:** The Ethan Allen Homestead tavern room hosted a full house of 30 or more people on Sunday afternoon when Elsa gave an illustrated talk as a volunteer on "Chimney Point: What Lies Beneath." She discussed the 9,000 year human history of Chimney Point, sharing information learned from the Lake Champlain Voyages of Discovery project and the recent archeological finds. One attendee provided a tip on one of the mystery items uncovered last year. This program was part of the Homestead's winter third Sundays lecture series.
- **Chimney Point and Bridge Project:** Flatiron placed the five short girders that spring off the Vermont abutment late last week, using the huge crane in the driveway. They managed their work so they didn't have to build the temporary road on the Chimney Point lawn--hurrah. Now they are installing and tightening all the rivets, while more work continues on building the piers in the water. The scene has been enlivened by several bald eagles, which are attracted to the open water around the ferries and the ducks and geese ready for the eating who also love the open water.
- **National Register:** Nancy updated the list of historic districts in Vermont for posting on the Division website, and sent designation letters for several nominations to owners and local officials.
- Nancy met with the consultant working on revisions to the Darling Estate Historic District nomination to resolve issues on documentation of the landscape and new boundaries of the District.
- Nancy drafted a scope of work for updating National Register historic district nominations and adding them to the HSSS database. It will be used to guide the SEP project that will update the 25 year old West Dover Historic District nomination, a project defined as mitigation for an Act 250 violation – an unpermitted adverse effect to an historic building in the District.
- **Tax Credit Project, Newport:** In a strongly worded request, Nancy asked the National Park Service to reconsider their denial of eligibility of a building on Main Street in Newport for the historic tax credit, based on additional information provided by the owner's consultant. The building had to be determined individually eligible for the National Register of Historic Places to enable the owner to use the 20% federal credit to rehabilitate the building for affordable housing. The Park Service reversed its opinion and approved the building.
- **Environmental Review: Ryegate Paper Mill:** Tonight Devin and Julie will be attending a site visit and Act 250 hearing on the proposed demolition of the historic Ryegate Paper Mill complex in East Ryegate.

- **VT Army National Guard:** Devin, Judith and Giovanna met with Kim Wittorff of the Vermont Army National Guard to discuss a proposed nationwide programmatic agreement for the maintenance and repair of Army National Guard Readiness Centers throughout the state. Adopting the PA will streamline the review process for the VTARNG and DHP.
- **No Effect/No Historic Properties Affected**
 - Williston, Catamount Family Center Solar Panel Installation, 106/DOE ARRA project
 - Underhill, 380 Poker Hill Road Solar Panel Installation, 106/DOE ARRA project
 - Ferrisburgh, 851 Stage Road Solar Panel Installation, 106/DOE ARRA project
 - St. George, 5635 Route 116 Solar Panel Installation, 106/DOE ARRA project
 - Williston, 3188 South Brownell Road Solar Panel Installation, 106/DOE ARRA project
 - Bennington, Vermont Veterans' Home Network Upgrades, 106/VA
 - Randolph, Ridge Road Quarry, Act 250
 - Multiple, Streamgage Removal Project, 106/USGS ARRA project
- **No Adverse Effect**
 - St. Albans, Willard Mill Housing Solar Installation, 106/DOE ARRA project
 - Winooski, 220 Main Street Lead Abatements, 106/HUD
 - Burlington, 111 Charlotte, Street Lead Abatement, 106/HUD
 - Grafton, Town Hall Energy Efficiency Improvements, 106/DOE ARRA project

Commissioner Smith

- Megan is still spending considerable time out in the field. Stowe Area Association and Rutland Chamber invited her to speak last week and this week she visited St. Albans, Swanton and the Lake Champlain Islands for 5 meetings with various tourism and business groups. Planning a follow up in March. Megan also plans to attend the Run Vermont Board of Directors Meeting on Friday to reach out to the group and see if there are opportunities to expand their roll.

Marketing

- Below are VDTM's marketing campaign performance results from direct mail and online advertising of www.PathToVermont.com. This campaign is performing very well with strong growth throughout the life of the campaign. The use of social media to enhance paid advertising has had a very positive effect on performance.

Week 1

4393 completed entries

1729 included the DM code, 2664 without DM code

2308 male, 2083 female

693 Connecticut, 2023 Massachusetts, 270 New Jersey, 744 New York, 216 Rhode Island

Week 2

8312 completed entries

3929 entries including a DM code, 4383 entries without DM code

3924 female entrants, 4388 male entrants

1222 Connecticut, 3355 Massachusetts, 156 New Hampshire, 831 New Jersey, 1842 New York, 150 Pennsylvania, 298 Rhode Island

Week 3

10,168 completed entries

5706 w/o DM code, 4462 w/DM code

4894 female, 5274 male

1391 Connecticut, 4024 Massachusetts, 203 New Hampshire, 1029 New Jersey, 2262 New York, 204 Pennsylvania, 348 Rhode Island, 219 Vermont

- **CBS.com & Boston .com site domination:** VDTM executed an online marketing campaign on CBS.com in New York and Boston .com promoting Vermont winter activities and a contest to win a Vermont Vacation. Note Screen Grab below:




Notes from the Web


- Working with various partners across the state (internal State of Vermont partners as well as public sector partners), we are promoting multiple online contests all geared to help people get to Vermont – Path to Vermont, Vermont Fuels your Vacation and Go Fishing in Vermont (not yet live).
- The social media team is expanding to gain a wider voice and broader perspective (Erica will be posting as well as Patrick).
- Soon plan to have a Mobile version of VermontVacation.com in development for consumers and travelers.
- VermontVacation.com will lightly transition to a Spring/Maple look and feel in the first week of March.

Feb 16, 2011 - Feb 21, 2011
Comparing to: Feb 9, 2011 - Feb 14, 2011


VERMONTVACATION.COM



8,558 Visits
Previous: 7,668 (+11.32%)


28,966 Pageviews
Previous: 26,550 (+9.10%)


3.38 Pages/Visit
Previous: 3.45 (-1.99%)



43.16% Bounce Rate
Previous: 43.72% (-1.27%)



00:02:51 Avg. Time on Site
Previous: 00:02:47 (+2.40%)


78.20% % New Visits
Previous: 77.28% (+1.29%)


VERMONTLIFE.COM



715 Visits
Previous: 705 (+1.42%)


1,636 Pageviews
Previous: 1,378 (+18.72%)


2.29 Pages/Visit
Previous: 1.95 (+17.06%)


56.64% Bounce Rate
Previous: 62.70% (-9.85%)


00:01:59 Avg. Time on Site
Previous: 00:02:23 (-16.58%)


61.96% % New Visits
Previous: 63.68% (-2.72%)

FACEBOOK.COM/VERMONTTOURISM

Users [See Details](#)

New Likes ²	Lifetime Likes ²	Weekly Active Users ²
120 ↑ 114%	38,887	3,934 ↓ 2.4%

Interactions [See Details](#)

Post Views ²	Post Feedback ²
25,595 ↓ 15%	131 ↓ 29%

Travel Trends

- **Weather Trips January Enplanements at BTV:** A series of mid-January, weather related flight cancellations left enplanement down -3.45 percent for the month; apparently, morning departures were most affected by the weather events as deplanements (arrivals) were down only -0.63 percent from January 2010. According to the BTV administration, the impact of weather cancellations on outgoing flights was very similar to what occurred in December 2010 when enplanements were off -2.51 percent while deplanements were down just -0.93 percent
- **National Survey on Leisure Travel Expectations:** Overall, leisure travel expectations are much the same as February 2010, but are up over expectations reported in October 2010:
 - Most (80%) past 12 month travelers expect to take a leisure trip within the next six months.
 - Although somewhat less than last year, job worries still abound; many (11%) plan to stay home for economic/job related reasons.
 - Generally, travel expectations improved several points from the October 2010 survey, especially for households with incomes above \$76,000 (84 percent expect to make leisure trips in the coming 12 months) and demographically those over 60 (86 percent expect to make leisure trips in the coming 12 months). -- *Source, Travel Expectations: February 2011 TNS Omnibus Survey*

This can be taken as a positive indicator for the coming spring – fall seasons as both visitation and visitor spending during 2010 grew substantially over 2009, though they did not recover to the record levels of the first six months of 2008.

- **November Room Sales Strong:** Although November is not among the busiest months for tourism, the preliminary tabulation of taxable receipts from the sale of Rooms showed a dramatic increase over both 2008 and 2009, up nearly 17 percent over 2009 and 6.5 percent above 2008. At the same time sales of Meals and Alcohol showed steady growth.

November Taxable Receipts*: % Change 2010/2009/2008						
	Meals	Rooms	Alcohol	MRA Total	Est. Revenue	
2010*	\$ 53,844,939	\$ 14,527,594	\$ 8,853,691	77,226,224	\$	7,038,897.07
2009*	\$ 51,361,719	\$ 12,435,871	\$ 8,322,128	72,119,718	\$	6,573,995.90
2008*	\$ 52,126,011	\$ 13,636,903	\$ 8,488,393	74,251,307	\$	6,767,501.56
2010*/2009	4.83%	16.82%	6.39%	7.08%		7.07%
2010*/2008	3.30%	6.53%	4.30%	4.01%		4.01%

*Preliminary 75 Day Report

- **Communications and Outreach: Summary:** Coverage over the past week in the Boston Globe, New York Times and Chronicle TV in Boston.

Travel-Related Media

- **Boston.com/Boston Globe**

Story about fun things to do during February vacation includes the domino toppling extravaganza at the Brattleboro Museum. Erica assisted with this story.

<http://www.boston.com/travel/explore/specials/family/galleries/febbreak?pg=6>

- **Chronicle (Channel 5 in Boston)**

“Main Streets and Back Roads” feature on Addison County. Erica assisted with this story.

<http://www.thebostonchannel.com/index.html>

- **New York Times**

“A Banner Year for Skiing and Search Parties” mentions Killington and Jay Peak.

http://www.nytimes.com/2011/02/22/us/22ski.html?_r=1&scp=1&sq=killington&st=cse

Local Media

- **Bennington Banner**

Two area residents are claiming to have skied the entire width and length of Vermont.

http://www.benningtonbanner.com/local/ci_17446841?source=rss

VERMONT AGENCY OF TRANSPORTATION

To: Governor Peter Shumlin

From: Brian Searles

Re: Weekly Report

Date: February 25, 2011

AMTRAK-Vermont Rail Systems

We appear to have Mr. Wulfson's attention. He has filed a four-page response to my call for an investigation into his operation on the Clarendon & Pittsford Line that has caused the Ethan Allen Express to be the worst performing train in the AMTRAK system. He essentially blames the State of Vermont and even former Senator Jeffords for not providing him enough money.

Our investigation will involve personnel from VTrans Rail, Finance and Legal offices along with a staff person from the State Auditor's office. We will draw from the audit of 2008 and other reviews from the past few years. As you know, despite the surprise expressed by many at the AMTRAK letter, the performance of the Vermont Rail System, Inc. has been the subject of long-standing concern to the point where its poor performance was almost accepted as the norm. This must end if we are to advance the western corridor rail agenda and file a successful grant application with the Federal Rail Administration. After all, there is \$74 million at stake.

Circumferential Highway

FHWA, Transportation Chairs and IBM have now signed off on the new approach to this project. We will wait for the Record of Decision and then redefine A (road servicing IBM and Williston) and splitting B (the road to the river and the bridge) into a separate phase. A six-month period will follow the issuance of the RoD during which we will engage all stakeholders, including IBM and environmental groups, in the new design process which will result in a much smaller project that actually has a chance of being built!

Lake Champlain Bridge

Chances of completion of this project by the October 9 deadline are in doubt, but the state of New York is not ready to admit it. The contractor, Flatiron, was hoping to finish as early as 62 days ahead of Oct. 9 in order to maximize allowable incentives of \$1.5 million. However, the construction contract had certified that all obstructions caused by the destruction of the old bridge had been removed and that has proved to be an inaccurate assumption. In fact, debris has been encountered in the construction of three different piers and has resulted in significant delays. The result is a \$1.5 million claim by Flatiron in which FHWA and the State of Vermont will not participate. New York DOT has negotiated an additional 65 days for Flatiron to qualify for their incentive in order to remove the threat of a claim. In

an even more curious development the State of New York has asked Flatiron to add additional personnel and equipment to the job in order to make the deadline of October 9 and this will add \$2-3 million to the overall cost.

FHWA has not signed off on this additional cost and we are involved in these discussions. The problem with going beyond the October 9 date is that winter will limit the ability to complete the deck and could delay opening to Spring, 2012. That would be an even more expensive scenario. Beefing up the current effort to meet the deadline of Oct. 9 would cost the State of Vermont about \$725,000.

Morse State Airport – Bennington

As you may have seen in press reports today, *AirNow*, a freight carrier with national scope that had based dispatch and maintenance activity at the Morse Airport, is going out of business due to a loss of contracts with both UPS and FedEx. This is a blow to the economy in Bennington and also threatens the airport as the Fixed Base Operator, *Blue Hill Aviation*, is affiliated with *AirNow*.

Our Aviation Director Rich Turner is in touch with other potentially interested parties in case FBO services are curtailed. Morse is one of the state airports that has self-fueling so private pilots should not be affected in the short-term and closing of the airport is not being contemplated.

Travel Information Council – Clark Trucks, Jericho

VTrans took the heat in the press concerning a decision by the TIC, which came down in May of 2010, about a large digital sign being used to advertise birthdays, anniversaries, etc. in return for money collected by the sign owner and then passed on to charities of his choice. We have a member of the TIC assigned, in accordance with statute, and provide staff and enforcement support as required. Because Mr. Clark was ignoring the law, the TIC brought the matter up again at their meeting of February 24. The decision allows him to promote community events, notwithstanding press reports, but does not allow him to promote other events for money, no matter the eventual disposition of the funds.

Schedule

I will travel to D.C. on Tuesday for a couple of days of meetings with other newly appointed state transportation secretaries and commissioners and a meeting with Secretary LaHood. I will be continuing on to Texas for meetings with a couple of airlines on behalf of the Burlington International Airport and the state. You and I have previously discussed the ongoing discussions with *Southwest* which will continue on Monday the 7th and I will also have a first meeting with a new-start called *Vision* which has announced twelve cities thus far with an Atlanta hub. The state and the airport will share in the cost of this trip and I will be presenting with Denver-based air service consultants Boyd Aviation.

My replacement at BTV has not been named, but I understand that they are down to six finalists and initial interviews will happen on March 15.

END

CONFIDENTIAL AND PRIVILEGED

To: Honorable Governor Peter Shumlin

From: Commissioner Annie Noonan, Vermont Dept of Labor

Re: Weekly Report, Week Ending February 25, 2011

DOL's Budget Issues

We are watching the federal workforce training and education monies debate, and speaking with our congressional delegation on a regular basis. Senator Sanders advised us that a bill might be available in a few weeks for review. As noted last week, VDOL's budget would be significantly impacted by cuts to the programs such as WIA. Our internal review of staff salaries supported in part or whole by WIA monies involves 50 DOL staff. The other component of the discussion in Washington is that the money may become part of a competitive bidding process. Unless there is some protection for small, rural states, Vermont could lose a lot of federal money. This also begs the question of the ability of VDOL (and other state agencies) to do effective grant research and writing. VDOL has no staff specifically assigned to grant writing, but I am working to alleviate some of the administrative tasks done by Greg Voorheis and Chip Evans so that they can begin to focus more energy on this important task.

Legislative

Jobs Bill: Continued to work on the Jobs bill, including testimony in House Commerce. DOL has been working on the edits to the Long-Term Unemployed Hiring and Vermont Internship programs.

There is some controversy about wage levels (average, prevailing, etc), in sections of the Jobs bill, and that the legislature needs to decide if they want State and taxpayer dollars supporting job programs that pay only minimum wage. At House Commerce's request, we gave further information and definition to the Average Wage spreadsheets. I think that even a requirement for a set percentage above minimum is a better statement as to the administration's view of workers and labor.

Senator Illuzzi's committee is working on UI, Workers Comp, Workplace Bullying. DOL staff spent most of the week helping to answer questions and in committee with revisions to the drafts. We also met with some of the union representatives on these same issues.

VDOL has supported the bill for the study committee on how to integrate Workers Comp into the health care reform.

UI Division

UI Trust Fund: Total amount borrowed as of 2/25/11 is \$54,722,228

Call Center statistics for the week ending 02/19/11: the center handled 3,567 calls, processed 1,382 initial and additional claims and paid 14,759 claimants. Adjudications: 435 issues were determined during the week, (active cases 564).

Legal Division

We just received a decision from the Vt. Supreme Court affirming a VDOL decision on Workers Comp, dealing with the overlap of temporary total disability and sick leave.

We also denied a public records request for information on Project WorkSAFE's review of an employer. Beth Robinson was notified in advance of our denial. The attorney has not yet appealed. The federal statutory citations were absolutely clear on this matter.

Workers Comp and Safety Division

WC Division will send out preliminary version of WC Rule 40, and we expect a lot of feedback, particularly from VR Counselors and other stakeholders.

I have been informed that the Howrigan Farm issue has settlement offers on the table, and I will be reviewing that matter today and Monday, in the hopes of resolution.

Okemo chairlift accident has been preliminarily determined as rider error. We are trying to find out info on the health status of the persons injured.

Workforce Development

Director's Office was contacted by Senator Sanders' office regarding WIA reauthorization. They should have a bill by mid March and would like VDOL to provide comments.

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Deborah L. Markowitz
Agency Secretary

Christopher Recchia
Deputy Secretary

State of Vermont
Agency of Natural Resources

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Deborah Markowitz, Secretary, Agency of Natural Resources
Date: Friday, February 25, 2011
Subject: ANR Weekly Report

Status of Governor's Priorities:

- **Kingdom Wind (Lowell):** We successfully completed a stipulated agreement with GMP on the Lowell wind project, signed and filed it on Thursday with the PSB.
- **Telecommunications:** We successfully completed negotiations on the MOU between the Agency and DII on siting and permitting telecommunication facilities.
- **Climate Change:** We began work on coordination of state climate efforts and energy planning with the Department of Public Service, and toward an Executive Order for the Governor creating a Climate Cabinet with ANR stewardship of the effort.
- **Vermont Yankee:** This week, we began sampling oversight of VY's tritium testing (see below). We also received and are evaluating a response to a petition from the Connecticut River Watershed Council calling on ANR to reissue the expired thermal discharge permit. The permit continues under Title 3 (timely reapplication provision) but to re-issue would require considerable staff time and effort. We are proposing to wait to see if VY intends to refuel in the fall and thus apparently challenge its license expiration in 2012 before expending time and effort in processing and reissuance (or denial) of this permit.

Legislative Issues/Contacts:

- **Phosphorus in Fertilizer (H.26):** Passed the 3rd reading in the house today and is going over to the Senate.

- **Management of Wildlife (H.91):** We continue to spend time at the Legislature concerning H.91, the captive hunt/public trust bill, and H.13 deer doing damage.
- **Pharmaceuticals take back (H.11):** Staff attended House F&W&WR committee and testified about the proposed take back study. Also in attendance were reps of the pharmaceutical companies and health care facilities. The committee also has heard from public safety agencies. Concern about security and marginal improvements in environment may alter these stakeholders' views on how to manage the issue of pharmaceuticals.
- **Mercury Lamps (S.34):** Staff attended a legislative hearing at Senate NR. He is scheduled to testify next week, along with manufacturers, retailers, VPIRG and others. One manufacturer of UV disinfection lamps (First Light) in Poultney, testified and expressed concern about the applicability of this law to them and potential costs for participating in a collection program. It appears that the committee was sympathetic to a small manufacturer of specialty lamps and would figure out a way to carve out an exemption.
- **Product stewardship Framework Legislation:** As the above indicates, there is a need for product stewardship legislation that addresses responsibility and methods for addressing proper disposal and management of various products. ANR is working to develop a framework that can serve not only for mercury lamps, but other products, and perhaps packaging, so that individual legislative actions with disparate approaches need not be considered on a case-by-case basis.

Significant Events/Meetings:

- **Fish & Wildlife Board:** The Fish & Wildlife Board met on February 16 and approved the moose and deer regulations. The regulations establish an archery-only moose season to be held in early October (50 permits will be available), and increase the number of deer to be harvested during archery season from two to three to be consistent with harvest limits for muzzleloader season. The rules have been filed with the Secretary of State's Office and will be effective March 3. The Board also took a first vote on a proposal to change the boundaries of Vermont's waterfowl zones and to establish moose permit numbers for the upcoming moose season. Both proposed regulations will be filed with ICAR this week and public hearings will be scheduled for both proposals. The Agency will also be initiating rulemaking to list as endangered two bat species -- the little brown bat and the northern long-eared bat.
- **Eagle Point WMA:** Department staff met yesterday with staff from the USFWS regarding planning for the Eagle Point WMA, which is owned by the USFWS. This is a new 600-acre WMA to be jointly managed by VTDFW and USFWS.
- **Northwest Vermont Landfill (Sheldon)** – This is a long proposed landfill that obtained a solid waste certification in 2005 that the District keeps active even though there are no immediate plans to construct the landfill. The solid waste certification is being renewed and we are working with the solid waste program to update the conditions related to gas collection and control. For landfills that do not trigger federal Title V air permit thresholds we work with the Solid Waste Program to ensure gas collection and control requirements addressing air pollution issues are covered in the Solid Waste Certification rather than issuing a separate air permit.

- **Household hazardous wastes in Essex residence.** We were contacted Friday, Feb 18th, by the Chittenden SW District about getting state financial assistance for a resident who wanted such for removing household hazardous wastes from his garage. The district HHW staff, after a site visit, contacted us to report that there were a couple of hundred small lab sized containers, some unidentified, but some clearly hazardous and potentially explosive (e.g. picric acid, TNP, trinitrophenol, - which, like other highly nitrated compounds such as TNT, can be explosive). We coordinated with VHMRT (VT Haz Mat Response Team – Dept of Pub Safety) and EPA Removals. We also called the resident to advise that a letter is forthcoming, specifying an appropriate schedule for managing the wastes through an environmental contractor experienced in HW management. We advised VHMRT of our contact with the resident and directive to notify the appropriate local public safety officials of the known potentially hazardous materials and the need for stabilization and transport. An initial estimate from one contractor suggested a cost in the range of \$10K to \$20K. Our standard practice, consistent with statute and EPA Removals, is to direct the work be done by the responsible party, and if the RP is unable to, or refuses to conduct the work in a timely fashion, we invoke the authority to conduct the work using the ECF and reserve the right to cost recover. In that event and we are likely to use the ECF and one of our contractors.
-

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

Carris Reels (Rutland) – final operating permit renewal issued 2/11/2011. This is a renewal of an existing operating permit. It does not address the other issue we are working on with them to find an alternative site to burn their plywood scraps.

Monitoring, Assessment and Planning:

- Staff is developing a framework for the forthcoming draft Antidegradation Rule which envisions a higher level of protections for surface waters meeting established thresholds of integrity. Known as “Tier 2.5,” this approach would call out certain surface waters to which additional regulatory protections may be conferred above standard antidegradation protections. This will be relevant to high elevation wind and telecommunication projects, among others.
- Staff continues to field requests from organizations in the Lake Memphremagog International Steering Committee to enter into stakeholder discussions regarding the Coventry Landfill variance request, and the recently awarded permit amendment to allow treatment of leachate from the facility at the Newport wastewater facility. We believe this is at a simmer presently, but may boil over.

Quebec Assistance: Marc Roy and Chuck Schwer responded to questions from Quebec Environmental officials on the operation of the VT PCF. Quebec is in the midst of creating a Fund similar to the PCF to cover uninsured costs for heating oil cleanups. We have been working with the Ministry of Sustainable Development, Environment, and Parks (MDDEP en francais) on this project since 2008.

E-waste update: Staff are preparing a response summary to all the comments received on the draft Procedure for Sound Environmental Management of Electronic Waste. They are receiving questions related to the RFP, and are preparing responses which will be posted online for review and are developing informational materials to post on the program website.

Small Business Compliance Assistance Program - Hazelett Strip Casting – operates a metallographic research laboratory and has been utilizing the federal exclusion under 311(e)(4) and has not been submitting the proper Emergency Planning Community Right-to-Know Act annual paperwork. Staff worked with them to make corrections in the reporting and get on track.

Municipal Compliance Assistance Program: Staff went on a joint on-site visit at the Barry Callebaut Chocolate Plant in St Albans. Barry Callebaut is the world's leading manufacturer of high quality coca and chocolate products with offices in 26 countries including 5 states (CA, PA, NJ, IL) in the US. We were asked to join a plant on-site visit with Efficiency Vermont and VMEC (VT Manufacturing Extension Center) as part of an overall facility evaluation to reduce their energy and environmental footprint, including energy used, waste generated, etc. This is also a pilot, of sorts, for EPA's E3 (Economy, Energy and the Environment) program, to encourage coordinated technical assistance to manufacturers.

Bottle Bill Information: Our new website page is up!
<http://www.anr.state.vt.us/dec/wastediv/recycling/DraftBottleBillRules.html>.

Dufresne Dam Removal Project – The Program is making progress on removal of this dam, owned by the Department of Fish and Wildlife, on the Batten Kill in Manchester. We are working collaboratively on this project with VTrans, which owns a railroad bridge that crosses the impoundment. We are finalizing an agreement with VTrans to issue a joint contract for removal of the dam and stabilization of the railroad bridge abutments, using mostly (80%) federal funds with a 20% state match. This approach will reduce the overall cost of the dam and bridge work, and result in a considerable savings of state funds. Deconstruction of the dam is scheduled to begin this summer.

Dam Safety - Developing issue: The Sweet Pond Dam in Guilford, VT (owner FPR) has been determined to be a high hazard dam, reclassified from a significant hazard dam. This classification combined with structural and spillway deficiencies identified at the dam have led to the need to take short- and long-term actions at the dam to insure it's safety. Dam Safety has briefed FPR on this situation and will be meeting with them again in the near future to help develop an action plan.

Vermont Yankee Tritium Project: ANR staff served in this week's rotation of the State's witnessing of the ground- and surface-water sampling at the plant. Staff accompanied one of the consultants on her sampling rounds at the plant. This was the first day of the State- requested split sampling which requires 4 gallons of sample per site rather than 1 gallon. This greatly extended the day since a number of monitoring wells have low recharge rates.

Fish and Wildlife

Smolt Stocking: Staff stocked 21,000 salmon smolts in the Missisquoi River between Swanton Dam and Highgate Dam. This involved an earlier site visit to find a good location. On the day of stocking, staff went to the site, opened a hole in the ice and built a Salmon "slip and slide" to help transfer the fish to the water.

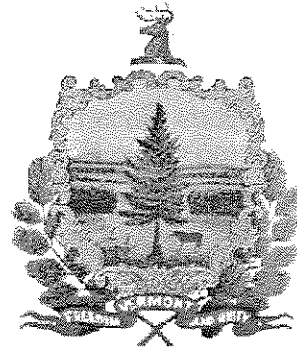


Forest, Parks and Recreation

- **Agency Timber Sales:** Two FPR foresters will be spending next week assisting the State of New York in delimiting its Kingston-area emerald ash borer infestation as part of a regional team mobilized by the US Forest Service Forest Health Protection. We plan a press release about this work detail to increase public awareness about invasive forest pests.
- **Invasive Forest Pests:** FPR is working with UVM Extension and Agency of Agriculture, Food and Markets on a “First Detectors” program, to lay the groundwork for implementing our interagency Invasive Forest Pest Action Plan. In the spring, we will start training community volunteers and help them to plan for the arrival of emerald ash borer, manage its financial burden, and reduce the impact on community trees.
- As part of a national effort to keep forest pests from hitchhiking on firewood, and with assistance from the state’s Marketing Officer, Vermont’s Don’t Move Firewood website www.firewood.vt.gov has been updated, including links to information about firewood restrictions at Vermont State Parks and Emerald ash borer in Canada.

- **Ski Area Leases Audit:** We will be meeting with the State Auditor's Office in the near future to discuss a possible audit of the Department's ski leases. This is not being pursued as a means to address an identified or perceived problem with any particular ski area. Rather, we see the audit as being helpful to the Department in administering the ski leases. A 2007 report of the Department's ski area leases by Economic and Policy Resources, Inc. recommended periodic audits of its ski area leases.
- **Forest Legacy Program:** We have finalized the terms of the Forest Legacy easement for the Farm and Wilderness project, expect to complete the appraisal process within the next couple of weeks, and are on track to close on this project by the end of March. The House version of the federal FY'2011 budget provides no project funding for the Forest Legacy program. **As an example of our concern over federal budget processes, if the House version of the federal budget passes, it would mean that there would be no federal funding available for Vermont Legacy projects that have previously been approved for funding in the President's proposed FY'11 budget.** These projects include multiple forest land parcels within the Northern Green Mountains including the Zach Woods Pond addition to Green River Reservoir State Park.
- **Utility Licenses on Department Lands:** We will be working closely with CVPS and other utilities on developing new license agreements for utility rights-of-way on department lands. These new agreements will incorporate the department's new license fees that have recently been approved through rulemaking.

Memo



TO: Governor Peter Shumlin
FROM: Keith W. Flynn, Commissioner
DATE: February 25, 2011
SUBJECT: Governor's Report

Status of the Governor's Priorities

The Department of Public Safety is zealously reviewing its internal structure and management philosophies to discover efficiencies and cost savings while at the same time being mindful of its obligation to produce improved, measureable outcomes.

- 1) As of Monday, February 28, 2011 the Department will have in place a centralized grant management system. The goal is to create a more interactive, proactive and strategic process to ensure that our grant management financial and programmatic processes are in control and in compliance with all applicable state and federal regulations. As part of this move to centralization we will be removing redundancies that currently exist within the Department and will embed a uniform, consistent manner of dealing with our grants and increase our accountability
- 2) We are moving forward in our pursuit of creating a strategic plan that will increase efficiencies and establish meaningful objectives, goals and performance measures. We have been in contact with the Vermont Quality Council, a facilitator of the Malcolm Baldrige strategic management and planning process, to aid us in this process.
- 3) Conversations with members of the criminal justice community are continuing regarding the management structure of both the Vermont Police Academy and the Vermont Criminal Justice Training Council. The VCrJTC board president has offered a conditional employment offer to a former Police Chief in Bennington without full council approval and, upon information and belief, Administration approval. A financial analysis still supports Department of Public Safety involvement in the management of the Academy. The Police Academy's reputation is important not only to the various departments that send recruits, but also to department's ability to recruit qualified candidates.

- 4) The Department will be moving the Governor's Highway Safety Program from its Criminal Justice Services Division to the State Police. Currently, the GHSP manager is on administrative leave with pay and the need for structured managed is essential. A State Police Lt. will be placed in a leadership position in this area in place of a temporary employee that is currently managing the Program. The investigation involving the employees placed on administrative leave should be finished by next week. The re-structuring within Public Safety will produce a cost savings of approximately \$90,000 with the value added effect of having a clearly defined chain of command for the new manager.

Issue Update

Decriminalization of Marijuana bill was discussed with Rep. Lorber and legislative counsel and a draft of the bill was produced.

Legislative Contacts

Wednesday – February 23

House Judiciary

H.264 – Lieutenant John Flannigan

(DUI bill - Nick's law). Couple of points made;

1. Insurance produced at time of registration - looking at having registration and insurance more closely tied, such as insurance companies notifying DMV
2. Language under having two prior convictions and then convicted of death resulting, minimum of five years - "may be reduced in interest of justice or public safety"
3. Immobilization / Forfeiture change - Good concept; however there are issues to be resolved in this process that exists and rarely used.

Committee is interested in focusing on a few areas regarding DUI.

House Institutions – February 23

John Wood

Merger of the Rutland/Springfield Regional Office

General Information/Other

The Executive Protection Unit needs complete contact information for the Governor and his daughters.

Memorandum

Vermont Department of Public Service

Privileged and Confidential

To: Hon. Peter Shumlin
From: Elizabeth H. Miller, Commissioner
Subject: Weekly Report
Date: February 25, 2011

**Commissioner Report -
Status of Governor Priorities:**

VY:

- We have a further legal strategy meeting set for Monday and have asked CLF to come and provide a briefing of its research and position. I have engaged VPIRG in a few discussions on the topic too.
- We held a VSNAP meeting on Tuesday, February 22nd at the Vernon Elementary School. The meeting went well; about 80 citizens attended. The Panel has renewed vigor; there is interest in reviewing decommissioning and emergency planning at future sessions.
- We have drafted the Reliability Oversight Committee charter and are meeting next week to discuss the candidates and begin selection.
- My staff and I have prepared a response to recent op-eds/letters to editor regarding lack of power supply post-VY shutdown, countering with factual presentation the claim that we don't have an adequate supply of power if VY ceases operation. I will supply to Alex MacLean for review.
- My staff has prepared a short briefing on the relative benefits of the new HQ deal compared to other possible long term contracts, and I will provide to Alex MacLean for her review.
- CV and GMP appear to continue to negotiate a PPA contingent upon new owner; I have a meeting with CV on Friday afternoon and will send an update if anything new arises.
- I communicated with Senator Sanders' office regarding the NRC's response to us on SAFSTOR and have reviewed a letter the delegation plans to send to NRC urging immediate decommissioning. I understand that the federal delegation will request a follow-up meeting with the NRC and likely will invite you to attend.
- VY reported that it plans to test the COB drinking well late afternoon on Friday, February 25th. (I know you are shocked at the timing.) Test results should be available on Saturday; we have requested that the plant send as soon as available. I will pass on results as soon as received. It is possible that the weather tomorrow will delay the testing if the snowfall or precipitation seems to interfere with extraction.

Telecom:

- As previously mentioned, the Department has revised the 2010 Telecommunications Plan, and will release after Karen Marshall reviews.
- FairPoint: We have reached substantial agreement with FairPoint regarding alternative regulation and regarding usage of penalty dollars for broadband buildout. I met this week with Mike Smith and Paul Sunu, after the Governor's Office meeting, to discuss department/FairPoint relations and believe we have a productive framework in place. FairPoint is against the "alternative regulation study" proposed in Sen. Illuzzi's telecom bill and continues to prefer the legislative deregulation solution. I believe FairPoint wants a further opportunity to explain its business case to you or your staff, and probably will be reaching out in the coming weeks to do that.
- We have continued to follow the telecom bill closely at the Legislature and have also continued to offer support to Karen Marshall's position as needed.

Gas:

- As noted at this week's meeting with Don Gilbert of VGS, VGS believes that its best business case is achieved by expansion to Middlebury via a distribution network, extended from a transmission line loop from Winooski to S. Burlington via the Circ Highway ROW.
- VGS indicated that it planned to form community committees to work on the expansion plan messaging/outreach. VGS also indicated that it may, if the business case improves, revisit further transmission line expansion as the matter moves forward; VGS agrees that the goal of getting to Rutland should be kept in sight.

Energy

- Further work on H.56 occurred this week; the Department has provided rate impact analysis and testimony regarding the bill.
- CVPS new CEO/President named, Larry Reilly.
- I am realigning the Planning Division to become the State Energy Policy and Planning Division, allowing me to hire a Director (to replace retiring director Dave Lamont) who will be empowered to take a lead on energy policy – revitalizing the Department's traditional role in that arena. I will work with Alex MacLean on personnel choices.

Legislative Issues/Contacts:

- Senate NR regarding Telecom Bill.
- Senate Appropriations regarding budget
- House NR regarding H.56, through staff
- Senate ED regarding telecom bill, through staff

Significant Meetings/Events:

- VSNAP

- Meeting with Speaker Smith regarding common issues
- Meeting with Beaverwood Energy and Secretary Miller regarding power projects
- Meeting with FairPoint regarding department relations
- Meeting with Michel Guite regarding grants
- Meeting with CV regarding several open issues

Evolving Issues:

- State Energy Plan – I plan in the first two weeks of March to set stakeholder meetings within and outside of state government
 - Vermont Universal Service Fund – the usage of the fund and possible expansion of fund participants continues to be a theme in legislative questions and outside meetings.
 - Personnel: I have chosen to promote Sarah Hofmann to deputy and Jim Porter to telecommunications director (overseeing our regulatory efforts on telecom – he has worked closely with Karen Marshall these past weeks). I must choose a director for energy policy and planning and a director for public advocate soon and will keep you informed of the choices.
-

Summary of Key Department Activity, By Division:

Public Advocacy and Consumer Affairs Division:

General: DPS, the AG's office and CLF will meet on Monday, Feb 28th to discuss preemption issues. Public Advocacy is also wrapping up collection of documents on a public records request from the village of Craftsbury re information on the Lowell Mountain project and agency communications with GMP. This is being coordinated with the Governor's office and ANR.

Tritium investigation at VY – Docket 7600 – Reply briefs are due on March 2, 2010. DPS will address one of the issues in Entergy's brief. Entergy persistently misinterprets the Court's decision in one of the major preemption cases by overstating its scope.

Kingdom Community Wind – Docket 7628 – Our attorneys this week are completing a response to a public records request from the village of Craftsbury re information on the Lowell Mountain project and agency communications with GMP. Our response is due Monday and is being coordinated with ANR and the Governor's office. Lowell Mountain technical hearings resumed this week. DPS and GMP filed a Memorandum of Understanding resolving transmission issues that had been outstanding between us. ANR and GMP also have reached an agreement regarding environmental issues; that MOU has engendered a good deal of press and opposition. The Board did not grant additional discovery on the MOU, however.

FairPoint Alt Reg Successor Plan – No Docket No – FairPoint's Alternative Form of Regulation expires March 31, 2011. Department and FairPoint staff met February 21, 2011, at which time

agreement was reached in concept, regarding a successor AFOR. Counsel for both sides are now working on the written detail. It is expected that the agreements will be filed with the Board the week of February 28, 2011. A part of the agreement will involve the use of certain penalty dollars for FairPoint to deploy broadband at 100% levels to exchanges not currently served or not currently under a regulatory commitment for deployment. It is anticipated that the Board will open a docket shortly after receipt of the AFOR agreements.

Georgia Mountain Wind – Docket No. 7508 – Technical hearings to deal with setback issues are scheduled for 03/10/2011 and 03/11/2011. The Department has no witnesses regarding the issue of setbacks but will participate in the hearings.

Washington Electric Coop Rate Case – Docket 7691 – In mid-November 2010 the Washington Electric Cooperative (WEC) filed for approval of a rate increase just under 24%. The PSB opened an investigation, while the rates went into effect subject to refund. DPS issued an RFP for a cost-of-service consultant, and hired a contractor to assist in reviewing the rate filing. DPS Planning staff reviewed WEC's power costs and with one agreed-upon adjustment there are no issues in that area. DPS intends to explore the effect of WEC's newly-approved marginal cost on its evaluation of efficiency resources. On February 15 the WEC filed testimony in support of its rate request. DPS discovery is due February 22.

Sheffield Wind Project—Docket 7156—Ridge Protectors filed a motion challenging the sufficiency of the Petitioner's blasting plan. Parties have until February 23 to respond. The Department will ask to see the Petitioner's response before filing its comments.

Voice over Internet Protocol—Docket 7316—The Board denied Comcast's motion to reconsider the Board's Order holding that the Board has jurisdiction over VoIP as a telecommunications service under Vermont law and is not preempted by federal law. No word yet on Comcast's next step. If Comcast does not appeal, the Docket will move on to Phase II, where the specific regulatory obligations appropriate to fixed VoIP will be considered.

CVPS acquisition of VMPD—Docket 7660—The Department has reached a final agreement with Omya and CVPS. CVPS reduced its purchase price by approximately \$3.5 million and will keep an additional \$1 million out of rates. VMPD will share about \$1 million of the proceeds of the transaction with its ratepayers; that amount will be used to gradually phase in the rate increase that results from VMPD customers switching to CVPS. Omya will also remain on Rate 5 for a period of time. Omya and CVPS have a chance to earn back some of the price decrease through a Value Sharing Mechanism in the event that the hydro plants perform better than CVPS's forecast. Technical Hearings are going to be re-scheduled for March 17, or possibly later.

CVPS acquisition of Readsboro Electric—Docket 7688— The parties have reached an agreement. CVPS is willing to forego earning a return on the portion of the purchase price above net book value (about \$88K) and Readsboro is willing to devote that sum to energy efficiency projects in town facilities, probably streetlights and efficiency improvements to its town hall or town garage.

VELCO Statewide Radio Project 248a Petition for Tower Reconstruction at Wells, VT (No Docket yet) - The Department filed comments supporting the project, involving land owned by a Russian artist couple. The matter has received significant press attention. The landowners opposition to the project, on aesthetic grounds and based on potential health impacts from microwave emissions, were adequately addressed by the petition filed by VELCO. The landowners filed a motion to intervene and asked the Board to declare the petition incomplete and also requested the Board require additional notice given changes in the project between the 45-day notice and the filing of the petition. However, the petition is very detailed and the changes made to the project were in fact at the request of the local Selectboard and thus it appears unlikely the landowners' requests on incompleteness and re-notice will be granted. The Department will not take a position on intervention.

Southern Vermont Cable Company CPG Renewal - Docket 7633 - Southern Vermont and BCTV have reached an agreement in principle which will provide for BCTV to remain the AMO for Southern Vermont's service area. Southern Vermont filed and was granted a request for an extension in the schedule of 10 business days in order to reduce this agreement to writing. The Department supports this process and believes that this agreement will resolve the remaining issues in the docket so that the CPG can be renewed.

New England Power Company (National Grid) Petition to reconductor and refurbish a portion of its existing 115 kV transmission line within Readsboro and Whitingham - Docket 7709 -The Board has provided notice and an opportunity to comment to statutory parties and adjoining landowners, with comments due by March 2. By separate memorandum, the Board issued a series of questions to National Grid for the purpose of supplementing the prefiled testimony; National Grid provided responses this week and we are reviewing. The Department's engineer has also posed additional questions in an informal discovery process, which questions have and are being answered.

Mark Tucker Complaint Concerning Verizon Wireless' INpulse Prepaid Telephone Service Plan. Docket 7701 - At the prehearing conference, an abbreviated schedule was set, with the matter of state law jurisdiction to be briefed first. Although this sounds minor, this will be a major case for the wireless carriers. It is anticipated that the wireless carriers will engage their governmental affairs representatives to exert pressure where possible. This week, Mr. Tucker has, at the request of the Hearing Officer, submitted documents to the Board outlining his various attempts at seeking relief from the FCC and the Vermont Attorney General's Office, all of which were rejected.

Consumer Affairs: CAPI is putting the finishing touches on the Lifeline Annual Report, due to the Legislature by March 1st. A copy will be available on the DPS website as soon as next week.

Planning and Energy Resources Division:

Energy Efficiency Utility Demand Resources Plan (DRP) Proceeding

- Electric EE Resource Track – Staff presented energy efficiency potential study to Public Service Board. The study shows that there is potential, with 100% incentive levels to save 26% of the 2031 projected energy consumption.

Energy Efficiency Utility Evaluation

- Staff participated in on-site data collection for the Forward Capacity Market verification at Cabot in Middlebury.

Residential Building Energy Standards (RBES)

- Staff is still waiting on changes from the International Code Council (ICC) for the final energy codes and Publishing Agreement due to concerns raised by Legislative Council regarding shared copyright on the Vermont Energy Codes. Staff has repeatedly contacted the ICC regarding this information and hopes to have it resolved by next week.

All Fuels Efficiency Program (funded through RGGI)

- Staff processed an invoice for \$107,058 for work completed last quarter, which included energy efficiency retrofits on 9 low-income multi-family buildings (112 total units).
- Central Vermont Community Action Council has launched their DIY Home Energy Efficiency Pilot Program to train do-it yourself homeowners to undertake comprehensive efficiency improvements in their own homes under the supervision of a Building Performance Institute certified auditor. The goal of the program is to ensure that DIY homeowners receive the training, information, and guidance they need to achieve meaningful energy savings in their homes. A total of 78 individuals attended the Weatherization Skillshops.

Energy Efficiency and Conservation Grant Program (EECBG)

- Approved an invoice of \$11,590 to Town of Westford for their retrofit project in the 1844 Library which had no insulation in its walls and only 5 inches of R11 fiberglass in its attic. The project cites a 75% reduction in air leakage resulting in savings of 300 gallons of fuel oil and \$900 annually. An added benefit is that this savings will make the library sustainable into the future and thus saves this historical building from being abandoned or torn down.
- An inquiry into rates paid to workers by a subcontractor hired for the Town of Westford project revealed a discrepancy with the prevailing Davis Bacon rates. The contractor has been responsive and will pay back wages.
- Approved a final invoice of \$50,000 to City of Winooski for their project to replace 307 lights in the 110,000 sq ft municipal parking garage. They are saving 265,000 kWh, 21 metric tons of carbon, and \$37,000 per year.
- Staff worked with Vermont League of Cities and Towns and Vermont School Business Insurance Trust to ensure current certificates of insurance are on file for EECBG-Muni

grant recipients. We expect the remaining 6 updated COIs imminently; all 124 certificates of insurance will then be up-to-date.

- Staff worked with the Town of Granville to expedite processing of their \$48,930 invoice to prevent the Town from having to take out a loan prior to reimbursement of allowable costs.

State Energy Program (SEP)

- We paid \$4,614 toward VTC's wind anemometry loan program and \$9,515 toward the Powersmith group net metering study.
- Finalized and submitted invoice for Georgia Town School District for Georgia Elementary School Exterior Lighting project for \$49,421.00.

Biomass Energy Development Working Group – Following recent appointment to the Working Group, attended the presentation of the 2011 Interim Report to a joint session of the Senate and House Committees on Natural Resources and Energy. Relayed to the Working Group Chair the interest of the DPS in promoting biomass energy projects in Vermont. Under Act 37, the Working Group has one additional year to complete its research and recommendations to enhance the growth and development of the Vermont woody biomass industry.

Utility Facts – Continued review and update to Utility Facts Handbook. Added recent data releases to appropriate sections and updated graphics. Final round of editing and formatting prior to public release.

Comprehensive Energy Plan 2011 – Team assignment to update the latest CEP continued. Continued update of key energy statistics and metrics across all CEP chapters. Continued review of energy plans by other states and how they are integrated into the state policy making process.

AESC 2011 – Synapse Energy Economics has been chosen to be the contractor for the regional avoided cost study. This is a joint effort among virtually all of the efficiency providers (gas and electric) to develop projections of market costs to be used in evaluating efficiency programs. One interesting note is that the contractor is looking for guidance on whether to include VY in the regional mix or not. A VY closure would result in higher regional market prices, higher avoided costs, and could affect the cost effectiveness of programs or measures applied to efficiency. We are weighing in to suggest that consultant exclude VY.

Telecommunications Division:

Broadbandvt.org – The web site is slated for soft release on February 28. There are minor corrections that have yet to be done but the vendor is working on them over the weekend. Content will be an ongoing project.

PSB Meeting – Attended meeting with PSB regarding its Telecom industry issues. It was said that the PSB would like more interaction with the DPS in the future.

FCC Monitoring – The FCC will hold an open meeting on March 3 and has released the tentative agenda. One of the items is the NPRM on the modernization of USF including reform of the LinkUp/Lifeline program and support for broadband pilot programs.

The Wireless Telecommunication Bureau is seeking comments for a request by Vermont Transco LLC to operate a private land mobile radio system (PLMR) on the Automated Maritime Telecommunications System (AMTS) spectrum. Vermont Transco has Block B spectrum in this band from 2009. Its intended purpose is to provide communication services (voice and data) for electrical distribution operations.

Engineering Division:

ISO Schedule K: The ISO tariff provides for stakeholder participation in work groups performing system needs assessments and studying solutions. The ISO has thus far narrowly defined stakeholders and limited participation on past work groups to transmission owners such as VELCO. The State Energy Office organization, of which the DPS is a part, is drafting a letter of inquiry challenging this approach and encouraging ISO to be more inclusive in selecting participants. This is of particular importance to VT since the current VT-NH Needs Assessment includes a pilot effort guided by the ISO to identify NTA's (non-transmission alternatives) during the investigation and selection of solutions. NESCOE and VT have argued that having only a transmission perspective when evaluating solutions is inadequate and we ask ISO to improve its process.

Advance Meter Infrastructure (AMI): As part of the ongoing Smart Grid deployment effort, the Department is attempting to reach consensus on specification language for AMI vendor performance for “desired functional capabilities” for dynamic pricing and usage data. This standard is important to assure we do not under-power the design and limit future system capabilities. We are working with GMP on prototype language. After other electric utilities and the Department agree on similar language, the plan is to insert it into each vendor's performance standard. These performance standards would assure that the AMI systems purchased by the utilities have the technical capability to implement real-time pricing and allow customers to review their most recent usage data rather than day-old data. Utility needs will then determine how this functionality is offered to customers.

Vermont Underground Facility Damage Prevention Program: The Department was awarded a State Damage Prevention Program Grant in 2010. The grant addresses several congressionally defined requirements that are known as “elements of effective state damage prevention programs”. The grant helps correct gaps in the VT program including developing a Vermont specific underground utility facility damage prevention website. This website is a joint effort with the Department of Innovation and Information (DII). Once launched, we believe our communication and outreach to utilities and stakeholders involved in excavating activity and underground damage prevention will be improved.

Vermont Yankee Operation: The Vermont Yankee nuclear station continues to operate at 100% power. The station has been online for 105 days. VY plans a COB well test on Friday, February

25th. The High Pressure Coolant Injection system at VY is an emergency system used in response to certain abnormal reactor conditions. On February 16, VY conducted a routine quarterly surveillance and discovered a steam leak on a HPCI component. The system was shutdown and declared inoperable under a 14 day Limited Condition of Operability. Analysis found that the steam leak was attributed to a gasket on a steam trap flange that was installed during maintenance about three months ago. This gasket material was evaluated by engineering and judged to be an equivalent to the original. However, it did not perform as expected, possibly due to installation issues. On Saturday, February 19, 2011, a gasket of the original design was obtained and installed. After an inspection on February 19, HPCI was declared operable.

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: February 25, 2011

Vermont Department of Health (VDH)

Status of Governor's Priorities:

Vermont State Nuclear Advisory Panel (VSNAP) meeting. On February 22nd, the VSNAP met for the first time since March 2009, convened by Public Service Commissioner Elizabeth Miller at Vernon Elementary School. VSNAP oversees uses of nuclear power in the state. Radiological Health Chief Bill Irwin is the AHS Secretary's delegate to VSNAP. Most of the meeting was devoted to the groundwater contamination issue. Irwin gave the Health Department's perspective on the investigations, followed by a report from Vermont Yankee officials. There were also presentations on VY docket 7440 for a Certificate of Public Good to continue operating VY after March 2012, and docket 7600 to shut down the plant because of leaks. A consultant to the Public Service Department gave an update on the Comprehensive Reliability Audit of VY. Arnie Gunderson of Fairewinds Associates highlighted reliability issues identified in the most recent Public Oversight Panel report to the Joint Fiscal Office. New England Coalition representatives discussed their concerns about buried electrical cables that may become submerged in water and degrade. The meeting was open for 90 minutes of public comment, with most arguing for a shut down. About 100 people attended.

Legislative Issues/Contacts:

Tobacco Legislation. On February 10th, Deputy Commissioner Cimaglio testified on H.68 and H.116, and H.191 before the House Human Services Committee. The Health Department is supportive of the concepts of all three bills; the first two to prohibit smoking in a vehicle in which there is a child under either 14 or 18; the third to allow ski resorts on public lands to designate their premises as "non-smoking". The difficulty with these bills would be enforcement; however, the Department of Public Safety and the Vermont Ski Association both testified in support of the concepts.

Continuing Medical Education (CME) on Palliative Care and End-of-Life Treatment. On February 22nd, Board of Medical Practice (BMP) Director Herlihy testified to the House Human Services Committee regarding H. 201, which addresses palliative care issues and also would establish for the first time a continuing medical education (CME) requirement for physicians. The Health Department and the BMP recommend addressing maintenance of licensure issues, including CME, in rule rather than statute in order to balance the costs of the CME with the goals of maintenance of licensure requirements and the wide variety of practice specialties.

Press Issues/Releases/Contacts:

Tuberculosis. Susan Schoenfeld, deputy state epidemiologist and TB program manager, did an on-camera interview with WCAX-TV about one case of tuberculosis diagnosed in a student attending Mount St. Joseph Academy in Rutland. A school community meeting was held February 23rd, and more media coverage could result.

Raw Milk. WCAX reporter Gina Bullard scheduled an interview with State Epidemiologist Patsy Kelso to discuss the dangers of raw milk, but later cancelled the request. She asked for the Health Department's last press release on the subject.

Food Safety. We are helping Jennifer Reading at WCAX with a story on food safety. Chief Sanitarian Al Burns will arrange an on-camera inspection at a local (willing) restaurant, and Food & Lodging Program Chief Liz Wirsing will do an on-camera interview about food safety in the setting of a home kitchen (arranged by WCAX).

Obesity. Harry Chen appeared on Vermont Edition with Bill Sorrell to discuss obesity and the recent Healthy Weight Initiative report.

Significant Events/Meetings:

Turning Point Recovery Center of Windham County Receives Grant. Turning Point of Windham County has been awarded a \$7500 grant from the Thompson Trust. These funds will help support the cost of establishing the role of Volunteer Coordinator for the center which serves vulnerable and underserved populations who have been affected by addictions and who are pursuing recovery.

Evolving Issues:

Healthy Hunger Free Kids Act of 2010. USDA Food & Nutrition Services issued policy guidance last week on a provision in the Healthy Hunger Free Kids Act of 2010 (Public Law 111-96) that requires the full use of federal funds. States will be required to amend the federal-state agreement for WIC to support full use of Federal funds provided to the State Agency for the administration of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), no later than March 31st. The agreement requires states to exclude WIC funds from State budget restrictions or limitations including, at a minimum, hiring freezes, work furloughs, and travel restrictions affecting the WIC Program.

Department of Mental Health (DMH)

Legislative Issues/Contacts:

Commissioners Wehry and Oliver and I met with several members of the Senate and House Appropriations Committees about the budget reductions to the Designated Agencies. Committee members (including both chairs) are frustrated with the lobbying efforts of the Designated Agencies but appear to be looking for additional funds to lessen the reduction to some degree.

Commissioner Oliver met with Senator Campbell and Cathy Voyer (parent of a child who took his own life) about their concern and plans related to suicide prevention. Sen. Campbell would like to create a Commission to update the work of the Dean Administration's Commission on Suicide Prevention. In addition, he plans to introduce a bill requiring schools to show films developed by the American Foundation for Suicide Prevention at staff in-service training and in English classes. Commissioner Oliver is also gathering additional information for Sen. Campbell about the goals and outcomes of a Suicide Prevention Grant that DMH works on with the Center for Health and Learning in Brattleboro. The grant is in its third year and there are plans to seek renewal of it.

Commissioner Oliver provided written responses to questions raised by Representatives Donahue and Batchelor about DMH's Budget and expects additional questions to follow. The House Human Services Committee is planning to finalize their recommendations to the House Appropriations Committee by Friday.

Evolving Issues:

Commissioner Oliver continues to evaluate the leadership of the Vermont State Hospital. Significant frustration was voiced by VHS staff (via numerous e-mails to a variety of Administration officials and legislators) about the decision to seek a new Director of Nursing. Commissioner Oliver reviewed that specific decision and is in agreement with it but she remains concerned about the overall leadership and the employment environment at VSH.

Department of Disabilities, Aging and Independent Living (DAIL)

Status of Governor's Priorities:

Jobs. Voc Rehab continues to enjoy success in helping individuals on general assistance return to work.

Significant events/Meetings:

Money Follows the Person grant. DAIL is happy to report that we have received a grant from CMS which is designed to help people who have been in institutions (in Vermont, specifically nursing homes) on Medicaid for 90 days or more (not for short-term rehab) and who want to transition from the nursing home to a community based setting to do so. We will receive and enhanced FMAP for the services provided to people who participate in this program. From our planning for this grant, we have seen that there are specific obstacles that are making that a challenge for the people who are there today. This will afford us the chance to provide enhanced transitional support and to develop additional options/capacity. We will received a 1st year award of \$2.1M and \$18M through 2016.

Before Town Meeting, DAIL provided all town clerks with a few copies of a helpful new resource for people with special needs and their caregivers. The *Just in Case: Be Prepared for an emergency* guide offers information and practical tips on how to stay safe and is available on the DAIL website at <http://www.dail.vermont.gov/dail-resources/emergency-preparedness-assistance>. In an effort to get the word out to as many people as possible, we sent a poster to each town clerk promoting the guide.

Legislative Issues/Contacts:

Commissioner Wehry attended testimony at Senate Health and Welfare on February 24th on impact of the budget cuts. Cuts to IADLs and respite services as well as to the DS designated agencies continue to generate most interest and concern. The Commissioner was asked by Committee to explain why Money Follows the Person (MFP) can't be used to bolster IADLs

Department of Corrections (DOC)

Legislative Issues/Contacts:

On February 23rd Commissioner Pallito testified before the House Committee on the Judiciary regarding DUI – Fatality/Injury and the resulting 5 year sentence.

On February 24th, Commissioner Pallito and Deputy Commissioner Menard testified before the House Committee on Corrections and Institutions regarding H.115, an act relating to driving privileges for offenders on furlough, as well as the history of Corrections work camps.

Other:

Population. The female population has started to tick upward from last week, from 162 on February 16, to 166 on February 22nd. The transition of the South East State Correctional Facility in Windsor from a fulltime work camp to a hybrid is progressing with ten more inmates projected to be transferred this week. Logistical discussions continue in preparation for the changing of roles between the Chittenden Regional Correctional Facility in South Burlington and the North West State Correctional Facility in St. Albans.

The bidding process from prospective contractors for the out of state population is progressing; the current contract expires on June 1, 2011. We have received two bids which meet our needs, one from Corrections Corporation of America (CCA) and the other from the State of Virginia. The Virginia bid offers varying levels of institutional security (minimum security to maximum security), while the CCA bid only offers medium security beds and CCA will not guarantee an out of state housing site. Commissioner Pallito will meet with me and Susan Bartlett within the next week to make a formal recommendation.

Probationer Mr. Antwaun Twitty. Mr. Twitty was on Probation for the charges of Disorderly Conduct; Unlawful Mischief; Violation Conditions of Release and Simple Assault. Mr. Twitty was arrested February 22nd, facing new charges of Aggravated Domestic, Reckless Endangerment and Felony Possession of Cocaine. The domestic involved a firearm. He either fired the weapon at his girlfriend or at the ground near HO Wheeler School in Burlington. He was also found to have felony amount of crack cocaine on his person when taken into custody by PD. He is being held without bail on the Violation of Probation and has \$100,000 bail on the new charges. He may be facing federal charges due to the guns and drugs near a school.

Department for Children and Families (DCF)

Status of Governor's Priorities:

Impact of Federal Cuts. We are still working to assess the impact of proposed federal reductions but one area that will have significant repercussions is in our social security disability determination unit which is 100% paid for by the federal government. A proposed 50% cut to our disability determination unit would have a devastating impact on the Vermonters who are significantly disabled. Their access to Medicaid and social security benefits would be delayed for extended periods because our staff capacity would be dramatically reduced. Providers would not be paid, and important services for some of our most vulnerable Vermonters that are received through the Choices for Care, Mental Health and Developmental Disability waivers would be delayed in some case leading to more costly care in our hospitals and nursing homes.

Evolving Issues:

Update: Urban Institute Grant proposal. Vermont did not receive funding for our proposal submitted in response to the "call for proposals" for "Work Support Strategies" issued by the Urban Institute and the Ford Foundation. The proposal would have addressed the benefit cliffs issues that is a key element in our anti-poverty strategy. The process was very competitive (only 8 projects funded nationwide) and while Vermont did very well, making it to the final selection process, the review team ultimately felt there were states who were more in need of the support than Vermont was. They were very impressed with Vermont's efforts, but there were too many quality proposals and not enough resources to support them all.

The Agency, the department, and the division are decidedly disappointed, but not defeated. We will regroup and figure out how to do the work we envisioned for the proposal.

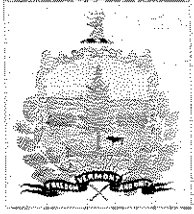
Department of Vermont Health Access (DVHA)

Legislative Issues/Contacts:

Susan Besio testified on February 23rd in Senate Health & Welfare on Catamount to VHAP Proposal and Provider Assessments. Susan also testified in House Human Services on moving the eligibility unit from DCF to DVHA.

Provider Assessments. There has been a great deal of interest, discussion and concern around the provider assessment proposals in the DVHA SFY'12 budget. In the past week alone, testimony has been heard across five different House and Senate committees: House Health Care, House Ways and Means, House Appropriations, Senate Finance and Senate Health and Welfare. The issue has yet to come before Senate Appropriations, but that will be on tap soon enough. Thursday and Friday afternoon sessions in Senate Finance last week were devoted to the issue. Affected health care providers, their professional organizations and advocates have been handing out analyses showing how the proposal will impact their organizations and entities individually. Sen. Ann Cummings has taken a particularly proprietary interest in this topic, and has indicated that, although her committee has not been integrally involved in the past, they plan on having more say over these assessment initiatives going forward. Bills have been introduced in both the House and Senate relating to this new proposed oversight: H.290/S.70 An act relating to hospital and home health assessments.

Palliative Care. H.201, relating to hospice and palliative care, is scheduled to be voted out of the House Human Services Committee this week. Most of the implications of work to be done in this bill lie with DAIL and VDH, although the committee did want to hear from DVHA that the children's palliative care program waiver was on track for submission to CMS. Betsy Forrest testified on the 22nd and followed up with the committee chair on the 23rd that the waiver (per the committee's request) will be submitted separately from the Catamount-to-VHAP waiver request, and that it would be submitted within the next two weeks. The committee chair expressed her appreciation, and indicated that she would like to be copied when the waiver is sent to CMS.



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

Memo from Commissioner Steve Kimbell

CONFIDENTIAL AND PRIVILEGED – NO SHARING Report to the Governor for Week Ending 02/25/2011

Governor's Priorities

Health Care Initiative

The Department continues to provide legal support to the health care initiative. Department personnel have been actively testifying before Legislative committees, providing information to committees and providing support to the joint fiscal office and members of the administration on the health care initiative.

Evolving Issues

(Banking) Seller Financing

An issue has come to light with new federal and subsequent state legislation regarding seller financing of residential real estate. Senator Illuzzi held a hearing this week on the topic. The Vermont Bar Association was asked by the Senate Economic Development, Housing and General Affairs Committee to provide BISHCA with a list of examples that have been troubling attorneys, and then the implications of the new laws would be analyzed and remedied if possible.

Legislative

(Banking) PACE Legislation – H. 155

The House Natural Resources Committee voted out the PACE legislation. The bill will now go to the House Commerce Committee.

(HCA) Rules

We are preparing drafts of Rules A (mental health review agents) and C (external appeals) for filing at ICAR.

General Information

(Banking) Northern Lights Federal Credit Union

BISHCA staff will meet with the Board of Directors of Northern Lights Federal Credit Union to discuss

that federal credit union converting to a state charter. This credit union has offices in Vermont and New Hampshire. If the charter change is completed, this will be our second credit union with offices in both Vermont and New Hampshire.

(Banking) Potential New Independent Trust Company Charter

BISHCA staff has been negotiating with an out of state independent trust company to change their charter to Vermont. They have an office in Vermont at this time. The Department is also working on another request for an Independent Trust Company charter. Legislation is included in the BISHCA Housekeeping bill to accommodate the assessment of these charters.

(Banking) Outreach

Banking Division staff will be on the program of the Vermont – New Hampshire Mortgage Bankers Compliance Conference next week at Lake Morey. We will appear on the Thursday evening panel of regulators and on Friday on a program updating the industry on new licensing and legislation for mortgage lenders, mortgage loan brokers, mortgage loan originators and mortgage loan servicers.

(Captives) Licensing Update

Gables RRG was licensed this week. This is #913 for VT and #2 for 2011.

(HCA) Health Care Expenditure Analysis

The Vermont 2009 Health Care Expenditure Analysis will be published next week with distribution planned for March 4th.

(HCA) VHCURES Data

HCA is using the VHCURES claims data set to develop analysis and reporting on the self-insured segment of the commercial insurance market in Vermont. Self-insured employer health benefit plans represent about 30 percent of the total private health insurance market. HCA is also managing the contract to map and integrate the Medicaid eligibility and claims data into the VHCURES data warehouse by or before August 2011 to support analysis and reporting. HCA is coordinating with the Blueprint to get approval from CMS to gain access to the Medicare claims data for Vermont beneficiaries on a timely basis and in a format compatible with the VHCURES data warehouse. CMS officials are scheduling the next discussion on this for next week.

(Securities) Weekly Statistics

Broker-Dealer Firm Approvals	0
Broker-Dealer Agent Manual Approvals	58
Investment Advisor Representative Manual Approvals	0
Complaints Opened	0
Complaints Closed	0
Securities Registration (Reviews)	1
Receipts (processed)	\$318,740

(Securities) Investor Education

We have upcoming events scheduled with Vermont Public Television and Champlain College.



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Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin
FROM: Secretary Jeb Spaulding
DATE: February 25, 2011
SUBJECT: Confidential Report to the Governor

CONNECT VT

Status of Governor's Priorities:

Progress was made within the past week on pole attachment, with gathering of 50 providers/ pole owners hosted by DPS. Outcome of the meeting was a commitment to project management, and a working group that will consider bottom position and back of pole attachment. The next area demanding attention is gaining discreet knowledge of route build out from providers.

Karen is working weekly to socialize the Connect VT plan to every group that is interested. The common question for her is: when will my house/ constituent be hooked up? She viewed the beta website for www.broadbandvt.org this week, a joint project of Vermont CGIS and VTA. It will soft launch on Monday February 28. This consumer facing site will demonstrate coverage at different speeds across the state, allow consumers to enter a home address and find provider choices and also allow consumers to list their location as "unserved" thereby creating a potential database for us to use as service rolls out. This is a very good tool, makes our initiatives tangible and where we will be able to demonstrate that progress is being made. Full rollout is planned for 3 weeks from now, which will be press worthy.

Legislative Issues/Contacts:

S 78: The Telecommunications bill passed out of Senate Economic Development on Wednesday this week and includes a majority of our desired language that will support broadband and mobile build out through 2103. Key provisions that are favorable include: 1) extension of Act 248A through July 1, 2014 2) creation of three categories of application and revised, shortened timelines for de minimus and limited

size and scope applications. These two new categories should allow for a more streamlined application from providers for the installation of equipment on towers and structures. Further, with a “limited size and scope” application a tower of up to 140 feet in height can be considered and approved on a 45 day timeline. 3) 248 A consolidation of appeals to Public Service Board versus environmental court 4) a revision to act 250 language that removes fiber and wire attachment and pole replacement as items considered for acreage and 5) elimination of municipal regulation of installations of ancillary equipment, wires/ cables and pole replacement; allowing for pole attachment to proceed without stalling at the local level.

Questionable: 1) the VTA is reconstituted with a smaller board (Treasurer, SOA, governor/senate/house appointee and limited powers. It still retains investment ability but, adds a first layer of approval with powers granted to JFO, Chair of SED, Chair Housing and General Affairs and House Commerce (negative). We will work to recast this language through the process. 2) Bill adds a provision to 248A that mandates consideration of “scenic highways to include I 89 and I 91”- entire corridor and others; a step way above the aesthetics criteria already in place and will hamper tower build for wireless.

Karen appeared in Senate Economic Development throughout the week, and gave our initial testimony in Senate Natural Resources, where the bill is overall favorably received.

DEPARTMENT OF BUILDINGS AND GENERAL SERVICES

Status of Governor’s Priorities:

- The Governor’s priorities are intact thus far.
- BGS is helping both Institutions Committees understand and feel comfortable with the two year budget concept.
- Developed and supplied leadership with decision making spreadsheet.

Legislative Issues/Contacts:

- Held weekly meetings with Speaker, Chairs Emmons and Hartwell.
- Met with Reps Bob South and meeting with Rep. Butch Shaw Friday morning.

Press/Media Notes:

Patrick McCardle with the Rutland Herald inquired regarding permit application progress on Bennington Rest Area. The renovation of 120 State Street for DMV was the subject of inquiry by FOX44’s Lesley Engle.

Significant Events/Meetings:

- Met with Historic Preservation regarding funding proposal in capital construction bill.
- Met with Pat Sears regarding parking lot near Hebard SOB.
- To meet with Speaker’s office regarding energy efficiency program proposal.
- House and Senate Institutions have provided us authority to proceed with the design of a “new health lab” and staff has been directed to proceed – in anticipation of September ground breaking.

Evolving Issues:

DPS fire safety consolidation move to Ludlow from Rutland and Springfield locations is causing a stir in Rutland City.

DEPARTMENT OF FINANCE AND MANAGEMENT

Legislative Issues/Contacts:

Deputy Commissioner Susan Zeller testified before the House Government Operations Committee on behalf of Finance & Management and the Department of Human Resources (DHR) concerning the Vermont state employees' cost-savings established in Act 149 (S.97) of the 2010 legislative session. Currently program management is manual, with paper forms and tracking. A meeting has been scheduled for next week to develop on-line forms and a shared tracking database documenting the approval process and status of each request. This database will enable a report to be posted to the DHR website.

The Budget Analysts continue to monitor agencies' and departments' FY 2012 Budget testimony before both Appropriations Committees and committees of jurisdiction, such as Transportation and Institutions. This monitoring will continue throughout the legislative session.

DEPARTMENT OF HUMAN RESOURCES

Status of Governor's Priorities:

Efforts to Save Labor Cost in FY12

Commissioner Duffy has scheduled two meetings with the VSEA and the VTA to address some of the Governor's proposals to save labor costs without requiring reduction in force layoffs. First, Commissioner Duffy, along with DHR employees responsible for benefits administration, will meet with the VSEA's Benefits Advisory Committee to establish a timeframe and framework to discuss the redesign of the State's health care plan. Second, Commissioner Duffy and members of DHR's Labor Relations team will meet with VSEA members to discuss voluntary reduced working schedules for certain state employees. A draft proposal on voluntary reduced working schedules will be vetted with the Secretary of Administration prior to these discussions.

Legislative Issues/Contacts:

Testimony/House General, Housing and Military Affairs

Commissioner Duffy was asked to testify regarding H.42, an act relating to employment decisions based upon credit information. Commissioner Duffy stated that the Department of Public Safety does credit checks on prospective employees, in accordance with federal law governing such checks, but to her knowledge no other agency or department requires credit checks of employees. Commissioner Duffy noted, however, that she had not done a full survey of all state agencies and departments and could envision instances where a credit check might be done. For example, the judicial branch could conduct a credit check prior to appointing a judge. She suggested that the Committee might want to include a general exemption for bona fide business reasons. The Committee Chair asked Commissioner Duffy to make contact with representatives from judiciary and DPS and have them contact the Committee, which she has done. The Committee also asked for more general information regarding background checks, and the information will be provided as soon as possible.

H.97/ Creation of Bargaining Obligations

Commissioner Duffy attended committee hearings on H.97, which would require the State to bargain collectively with early education centers, home child care providers and after school programs if they unionized. The State's obligation under the bill as it is currently drafted is unclear and no one has estimated the potential costs associated with the bill. Of particular note,

the bill would require bargaining on “health care, disability, retirement and related benefits.” DHR is attempting to assess the potential cost that this obligation could impose on the State and will provide this information to the Secretary of Administration.

DEPARTMENT OF LIBRARIES

Status of Governor’s Priorities:

Fiber Broadband: Marty Reid met with Deb Shannon (VTA), Peter Drescher (DOE) and others to discuss the possibility of creating a Vermont Education Network. There are good models in other states for networks that include schools, colleges and public libraries. The lack of state funding to support public libraries is a major hurdle in VT, but Libraries will continue to explore this idea. This week the Bill & Melinda Gates Foundation issued a white paper “Connections, Capacity, Community; Exploring Potential Benefits of Research and Education Networks for Public Libraries.” Marty has not had a chance to read it yet; forwarded copies to Karen Marshall (ConnectVT) and Chris Campbell (VTA).

Libraries had a conference call this week with Karen Perry (Gates Foundation) to update her on the progress of Vermont FiberConnect (VTA/Sovernet). We expect to have a written agreement signed with VTA by next week and will release the first payment of matching funds (Gates Foundation grant) to VTA once that is signed. The FiberConnect project includes 53 public libraries. Chris Campbell has been in contact with Karen Perry this week as well.

Legislative Issues/Contacts:

Separate meetings with House Commerce/Economic Development Committee members: Bill Botzow, Ernie Shand and Sam Young, and Michelle Kupersmith to talk about the VTA FiberConnect project in libraries and to introduce the idea of a wide area network (WAN) for project libraries (or a broader educational network). These were informal “educational” conversations. The FY12 budget does not include funding to support a library WAN.

Evolving Issues:

E-Rate Consultant: Libraries has contracted with E-Rate Elite Services, Inc. and this week they filed a 470 form for the federal E-rate reimbursement program on behalf of our department and 53 libraries in the Vermont FiberConnect project. (This contract is funded by the Gates Foundation.) Reimbursements this year will focus on telephone service, but in 2012 they will start to include fiber optic cable costs in the E-Rate application process.

Vermont Public Library Foundation (22 VSA 610): This week Libraries awarded \$30,296 in grants to 21 libraries with funds from the Winnie Belle Learned (WBL) Fund of the Foundation. This fund is made possible with donations from Dr. Burnett Rawson of Essex. Grants made from the WBL fund are designated for youth services in public libraries.

Other:

Meeting with Matt Dunne: Marty Reid set up a meeting with Matt to introduce herself and to talk about broadband in libraries. They discussed the Vermont FiberConnect project, emerging technology trends, and the potential uses of broadband in public libraries. One of the challenges is to help libraries see a new vision for service in the 21st century with high speed, high capacity broadband. One area of potential: community video conferencing in libraries.

Vermont Library Association (VLA): The Department of Libraries has joined with VLA and the Vermont School Library Association (VSLA) on a marketing campaign for National Library Week (April). They contributed \$3,000 to the project that will be used for TV spots and newspaper ads to promote Vermont libraries. Following the campaign Libraries will be able to use video and print content on library websites and in future promotions of state's libraries (school, public, academic.)

Marty Reid met with the VLA Legislative Committee to update them on Department of Libraries' projects and vision.

Institute for Museum and Library Services (IMLS): Libraries federal funding agency and source of their federal library LSTA (Library Services and Technology Act) funding. No final word on FFY2011 funding levels, though we are hoping for level funding. Libraries expect there will be cuts for FFY2012 but don't know how this will impact their budget. (Note: Salaries/benefits of 20 of our 26 employees are paid in part with these federal LSTA funds. Other uses for these funds: VT Automated Library System, Library for the Blind & Physically Handicapped; library consulting and continuing education for public libraries, Vermont Online Library, summer reading program for children.

DEPARTMENT OF TAXES

Status of Governor's Priorities:

The Commissioner attended a conference for incoming Tax Commissioners sponsored by the Federation of Tax Administrators and the Multistate Tax Commission. Many relevant issues were discussed, including Amazon bills and litigation, increased compliance efforts and information technology projects, as further explained below.

Blue Ribbon Tax Commission: The Tax Department continues to support House Ways & Means and Senate Finance in their consideration of the recommendations, focused on AGI. It is particularly a challenge to run various models with changing parameters (for example, a typical model can take three hours to construct and run, and then it must be analyzed against assumptions). There was some discussion with legislative leadership that it might make sense at this point to step back and establish some overall principles and objectives, and then design a model accordingly. It is not clear that various goals, such as creating a more competitive system versus maintaining the current tax burden at the highest income levels, can be achieved simultaneously, and should be the subject of a larger discussion.

Entertainment Tickets: Further discussion around this issue led to the discovery that there was confusion created by the bill last year over the treatment of charitable organizations with exemptions under Section 501 other than 501(c)(3). As written, these groups need to start collecting tax on April 1 unless they meet two tests: gross receipts under \$50,000 the previous year AND less than 4 events in the current year. It is not clear that this was the intention of the conference committee, and there may be a proposal in the Senate to go back to just a 4 event threshold. As currently written it is also notable that tax no longer will be collected on municipal events even when put on jointly with for profit groups. Truly an example of a complex tax provision that keeps on giving.

Netting of Business Loss on Household Income: The Commissioner has prepared a draft letter to abate penalty and interest (cost of \$50,000). The Commissioner was contacted by the Tax Preparers Association to say they were still not satisfied, but assuming there is no legislative move on any retroactive fix, the letter should issue next week.

Amazon Bill: The Tax Dept. did present some of the downsides of the bill in the House, which was voted out of Ways & Means. This was a hot topic at the New Tax Commissioner conference. It confirms that states have experienced a revenue loss and/or litigation with either the “click-through” or disclosure type of statute. There was general discussion that some bricks and mortar retailers are becoming more vocal on this issue; Illinois has a statute in front of the Governor despite its budgetary woes and Amazon’s insistence that it will cut off affiliates there. Florida has gone another route, putting an online system in place for the taxpayer to easily pay the use tax, and there was discussion of possible audit routes against taxpayers (purchasing credit card data) – politically challenging. In the meantime, Tennessee is a state that is actually courting Amazon with a promise not to force collection even if Amazon builds physical facilities there – likely to be challenged by other Tennessee vendors if it came to pass. There is still a possibility of a test case on the other end of the spectrum, which would be based on an assessment (without a statute) challenging the notion of physical presence as a constitutional requirement, especially given the ease of complying in a state which has simplified its sales and use tax pursuant to streamline. For a state like Vermont, it would appear to be prudent to not wade into the statutory morass, which would be a symbolic gesture with real consequences for our click through affiliates. On the other hand, an online system or a test case if we could get litigation support (given that we are a streamline state in the important Second Circuit) might make more of a meaningful impact.

Education Funding Suite of Proposals: This week the Dept. testified particularly on:

Status of feasibility study on collection of the statewide property tax: The basic message is that the Tax Dept. can work with the Legislature, but there are a number of issues to consider, including the goals, the impacts on the Dept.’s relationships with various stakeholders, the timeline, the resources, and the interplay with other priorities and initiatives.

AGI for Household Income: The Dept. presented testimony on a menu of options for how to design a system for paying education taxes based on AGI rather than Household Income. Although there are some difficult policy issues, simplification would greatly improve compliance and administration.

Unemployed Veteran’s Credit (House 275): Ways & Means added a self-employment provision that while of limited availability may present some administrative challenges (the credit for these start-up businesses turns on certain information not ordinarily collected for tax purposes).

Other Matters

The Tax Department is getting numerous complaints from practitioners that it was late in issuing the specs for vendors to design corporate forms. At this point, some vendors themselves are simply late in their design, however it is true that this is the second year that the Department has failed in its part of the process (with little comfort that the IRS has been late as well with forms this year reflecting the federal tax changes). The Commissioner is assuring the practitioners that this situation will be rectified next year. The Department is exploring whether any accommodations are necessary and possible in the meantime.

On a related note, there was a great deal of spirited discussion online and off at the Commissioners’ Conference with respect to upgrading technology, optimum deployment of staff and resources, use of performance based contracts with vendors, as well as the pros and cons of off the shelf systems versus customization. This is valuable background as the Dept. embarks on much needed projects for a data warehouse and migration/integration of its income tax processing.

To: Governor Peter Shumlin
Cc: State Board of Education
From: Armando Vilaseca, Commissioner
Re: Commissioner's Weekly Report
Date: February 25, 2011

The Vermont Afterschool for All Legislators Day: The Department of Education opened the Afterschool Legislative Day with Deputy Commissioner Rae Ann Knopf offering strong support for afterschool programming and the benefits it brings to all children, especially those living with significant economic and learning challenges. The Department oversees the distribution of 21st Century learning grants throughout the state, which in large part support these efforts. The Department has also been working with Senator Sander's office in successfully bringing additional after school resources to the state through the Office of Juvenile Justice and Delinquency Prevention.

Reauthorization of ESEA: With the reauthorization of ESEA discussion heating up, the Commissioner, Deputy Commissioner, federal liaison, and education associations continue to advocate with our federal delegation for spending flexibility in key federal grant programs and for a long overdue increase in small state minimums.

H.65 Section 56: Next week, Chief Financial Officer, Bill Talbott, and Deputy Commissioner, Rae Ann Knopf are convening a meeting with leaders of VSA, VSBA, VPA and VTNEA to develop a plan to assist school districts in achieving \$23.2m in reduced local education spending statewide by 2013 as defined by H.65 Section 56.

Legislative Testimony: DOE staff members continue to testify and follow several education related bills. Topics this week included statewide governance, changing the appointment of the commissioner and the State Board, the FY2012 Budget, early education, pre-K caps, public funding for independent schools, cuts to Student Assistance Professionals, and more. If you would like further information, please do not hesitate to contact our office at 828-3135.

Commissioner Vilaseca: Commissioner Vilaseca is recovering well and is now at home. We expect him to begin to return to work in mid to late March.

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.

MEMORANDUM TO GOV. PETER SHUMLIN

To: Gov. Peter Shumlin

From: GIRO Staff

Date: February 25, 2011

RE: Weekly Constituent Update

Current Trends:

Student Assistance Program

- Several letters, including more than a dozen from Brattleboro students requesting the restitution of SAP funding.
- Concerns that lack of program will contribute directly to increased rates of drug abuse because of a lack of counseling unavailable from school guidance counselors.
- Overarching theme: students, teachers and principals are worried that budget cuts will have severely negative effects on population.

Corporate Income Tax Returns

- We've received calls from many accountants trying to file corporate income taxes to the state.
- The Department of Taxes has not yet approved certain forms needed to e-file and taxes are due March 15th.
- Overarching theme: many accountants are worried that they won't be able to file state income taxes before the deadline.

Death with Dignity

- Organized effort by those in favor of passing the legislation this year.
- Received many calls thanking Governor for support and urging him to push forward with legislation.
- Although we have seen very few calls opposed to death with dignity, we have seen several letters.

Dentist Tax

- Semi-organized phone campaign by those in opposition.
- Callers mention that they have signed a petition against the tax, although have not said who sponsored the petition.

Clark's Truck Center Sign

- Several calls on this expressing concern that the Clarks will be made to stop advertising charitable causes/town events
- Callers note that the sign is an example of how neighbors should behave

Road Conditions

- Continue to receive calls about the poor conditions of the roads (frost heaves, potholes, etc.) across the state, particularly in the Northeast Kingdom.