

WEEKLY REPORTS

Checklist

4/8/2011

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: G720
- ☒ 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: April 8, 2011
Re: ACCD Weekly Report

Status of Governor's Priorities:

Health Care:

After more meetings with business I respectfully continue to recommend developing a position around parameters for paying for health care in the future. Something like: "As I have said time and again, a fundamental objective of reform is to get health care off the backs of business, and make Vermont an even better place to do business, for businesses of all sizes. That objective will obviously also apply to how we pay for it. We need to keep moving, with everyone at the table, as we go through the process of designing the first system in America that gets it right."

VY:

Following our meeting with Stephen Morse I talked to Liz Miller. She has designated Deputy Commissioner Sarah Hofmann to be the lead on decommissioning and the liaison to the community based effort. I have designated Pat to be the participant in their regular meeting. We agreed to support the completion of the Southeast Vermont Economic Development Strategy (SeVEDS) process already underway, but not the other stuff. This has been funded by FairPoint as a pilot program, but funding ends in June. We will approach Mike Smith about continuing support. Senate Economic will be adding a \$50k appropriation to the Jobs Bill to pass through in support of the SeVEDS. This came up last night between Illuzzi and Galbraith while I was there, and Jeb thought it was reasonable so I agreed. We also checked our CDBG reporting and Brattleboro is sitting on \$622,000 in their revolving loan fund from prior CDBG rounds.

Legislation:

Jobs Bill: So far, so good. Waiting for the other shoe to drop in Senate Economic but OK now.

Evolving Issues:

EB-5 Reuters did an article on EB-5 that doesn't look great. <http://www.msnbc.msn.com/id/40780315/ns/business/> and I will bring a physical copy over. Long and short is that the renewal process when the federal program sunsets in 2012 could be unsuccessful if this gets a lot of play. James Candido will be traveling to China later this month in support of our projects, and one of the brokers we will be working with is the subject of the story.

VCET: David Bradbury has three investments he is offering up for your announcement if you choose. I guess he hasn't heard back from the office and they may get stale. **CONFIDENTIAL:** Semi Probe in Winooski, Themal Storage in St. Johnsbury, and APREXIS Health in Burlington. Have scheduling get in touch with David if you want to do these. I recommend.

Randolph: On your visit Monday you will probably be pitched a major project at the exit there, 40,000 square feet first, with a lot more building following on. The pitch is for a public-private partnership, where the state would kick in for a 5,000 square foot welcome center. Transportation would have to reconfigure the exit and do other substantial work. From a land-use perspective there are significant concerns from a number of people. This is a lot of space compared to downtown Randolph, a big commitment for VTrans, and more. I have had a number of people ask me to ask you, PLEASE BE NONCOMMITTAL WITHOUT STAFF INPUT.

Cuba: Torti says you want to consider a trade mission to Cuba on his recommendation. If so I will review with our foreign trade folks and bring you a briefing. Not the largest trading opportunity I can think of though. Let me know.

ANR's implementation of the e-waste bill from last year is garnering a LOT of concern from the industry. We are having good conversations, but it may bubble up to you at some point. My opinion is that we need to strike a balance between global impacts of our electronic waste and the jobs and systems we have in place.

GE has announced they will be building a large solar array plant somewhere in the US, 400 jobs. We are working through our Rutland GE contacts to pitch for the business in cooperation with BDCC.

Appalachian Flooring, Jean Leduc President, is purchasing a building in North Troy and is gathering financing for a significant laminated flooring production facility. NEK Jobs.

Federal Shutdown: We got all our draw-downs done this week for next. Have offered interim customer support to our federal partners.

Commissioner Mackay and Deputy Commissioner Hollar

- After a nasty fall on the ice, Jen is recuperating at home, working via e-mail and catching up on "to read" files. Hopefully Jen will be back in the office by the 18th. Jen is missed.
- A **Statewide Energy Plan** is being led by the Department of Public Service. With creative support from Chris, Noelle developed questions and presentation for the land use portion of the public meeting. She facilitated small groups, provided summary information and gave the presentation at the public meeting held this week. Noelle also met Deputy Secretary Sue Minter and Gina Campoli to discuss the transportation portion of this plan to coordinate and re-enforce each other's presentations. **Liz reported this went well, I have heard lots of good feedback from out in the world on the need for an energy plan.**
- Noelle testified in support of **H. 198**, a bill that modifies transportation policy to require "**complete streets**" or the needs of all users of our transportation system – including bicyclists, transit uses, cars and pedestrians – be considered and accommodated in the state and locally managed transportation projects. The bill was first put forward by **AARP-VT**, has a long list of sponsors and is supported by VLCT, AOT, and Health Department among others.
- The **Chittenden County Regional Planning Commission's HUD Sustainability Grant** could provide guidance for the rest of the state on a variety of issues from economic data gathering and analysis, sustainability indicators and targeted implementation strategies. Noelle and Pat met to discuss the process and ensure message consistency. They also met with Charlie Baker, the RPC's Executive Director to discuss our involvement.

Business Support – NOTE: I usually edit down this section substantially but you have asked "what's going on" a few times lately so including more. Let me know which you prefer.

- **Aunt Sadie's, Inc.:** Steve Patterson and Ken Horseman visited this company that has relocated from retail and production space in Boston. The company has been in business for 14 years with current annual sales of \$750,000 selling custom fragrance and labeled candles. The company is highly motivated to leverage the Vermont brand, and currently sell to customers including L. L. Bean. This company is seeking assistance to gain access to Green Mountain Coffee Roasters for their coffee scent and Lake Champlain Chocolates for their chocolate scent -- as well as several others that may have strong affinity for Vermont companies. Most of their business is private label. Appropriate referrals will be made.

- **Pompanoosuc Mills Corporation:** Joan Goldstein and Ken Horseman visited the company that seems to be weathering the economic storm. The company is considering expanding their retail network with a location in Washington, DC and employment is up to 130. The company had to drop their healthcare benefit in 2009 and is currently without coverage. Joan and Ken discussed several marketing opportunities and areas of assistance and appropriate referrals will be made.
- **PCM - IMAGE - TEK:** Bob Flint and Ken Horseman met with company officials. Business is the highest ever with fulltime employment now at 100 running two shifts. As a result of a Supply Chain Event conducted by the department with Northern Power Systems, PCM has received a \$500,000 contract -- and the company reports having made another contact that will lead to more work. The company is on a pace to do \$20 million in business this year. Hypertherm remains the company's prime contractor as they are now back up to 2008 production levels. Appropriate referrals will be made.
- **Cavendish Game Birds:** Bob Flint and Ken Horseman visited the company which now employs 17 fulltime producing quail and quail eggs for the culinary sector. Demand is far exceeding their ability to supply customers, and the company has invested in a new automated egg line and incubation system. The company's biggest market is in California, and they sell throughout the U.S. H. 52 is a bill that would de-regulate quail and they are strongly in support of the legislation now in the VT Senate. The DOL "Reach Up" program has been a good source of new workers. The company also employs 7 Mexican workers. Appropriate referrals will be made.
- **Swan Valley Cheese, Swanton:** Kiersten met with the owners of Swan Valley earlier this week to learn what their Phase II plans are -- and of their intention to begin them immediately. The facility has been completely improved from floor to ceiling. They are going to conduct some test runs of their product in a couple of weeks. We also discussed their plan to add another line immediately; initially, they were going to begin production and make just mozzarella (they are their own customer), but they have decided to now add a specialty cheese line as well. So their investment has increased by another \$2million in Swanton. As background, the owners of Swan Valley supply all of the cheese to chains such as Red Lobster and Olive Garden. They want to have a grand opening/ribbon cutting event in mid -- June. I will keep you posted.
- **Ecovative Designs, Albany:** Kiersten traveled to Albany, NY with GBIC to meet with a young entrepreneur interested in expanding his company to Vermont. Originally from Bethel, the owner has developed a product using mycelium and various kinds of agriculture waste (like shells from seeds, etc) that can be used for a variety of applications. Presently, the company is manufacturing green (essentially a styrofoam substitute) packaging material for companies such as Steelcase and Dell. They have been extremely successful in winning SBIR awards and other R&D funding from NSF, etc and have about 22 employees at this time. They can also use whey as a substrate for their mycelium products -- so I will connect them with Commonwealth ASAP.
- **Retreat Farm -- Brattleboro:** Kiersten chatted with Dan Normandeau of the Windham Foundation about their future plans for the Retreat Farm in Brattleboro. They are about to embark on a project with Marlboro College that will help them determine the best use of the property; nothing has happened there since the construction of the Grafton Cheese facility. There is great potential: the location and presence of Grafton are both huge assets to the site.
- **Putney:** Kiersten had an interesting meeting in Brattleboro with three gentleman (John Nopper, Josh Lachlan and another) from Putney interested in doing something with the Basketville property (across the street from the retail store). We had a lengthy chat about the feasibility of locating a small biomass/CHP system at the site and its potential benefit to Putney Paper. We plan to regroup in a

couple of weeks after we all complete our assigned tasks. This is very preliminary; they aren't wed to the idea of biomass, but are really focused on doing something with the property. And yes, one of them has spoken to the property owner.

Community Planning & Revitalization

- **Morristown Downtown:** One of MACC's priorities is the redevelopment of the Arthur's building working to keep the 1st floor retail space and VDP staff has been asked to help with this.

Grants Management

- **American Recovery and Reinvestment Act (ARRA) – CDBG-R funds:** Vermont has now expended 93.61% of the funds, leaving small balances remaining to be drawn from the Village of Swanton, Blake Commons Housing Project and the Town of Westminster, Vermont Meats project, and the State Administration funds to continue managing and reporting till all projects are completed and the National Objective has been met (jobs created). CommonWealth Yogurt is in the final construction phase and has hired 29 new employees to date of which 18 have been filled by individuals who were less than 80% of area median income (AMI) at the time of hire. The intention is to "go live" late this month.

Historic Preservation

- **Certified Local Governments:** Diane was asked to present information on the Certified Local Government certification process to Council members in the **City of Newport** on Monday. Diane was pleased that the presentation ended with the City Council unanimously agreeing to begin the certification process through the National Park Service. **I will also get you some updates on the Wal-Mart discussion before your trip to Newport next week.**
- **Telecom Update:** John Kessler, Karen Marshall, Giovanna, Scott, and Devin had a phone conference with a large team from VTel; USDA Rural Utilities' Historic Preservation Officer and their Regional Projects Manager; and Kevin Ellis and Todd Bailey from KSE to discuss Michel Guite's two concerns: 1) that the language proposed in S. 78 would result in DHP having to review every single ("any") VTel action for the rest of time; and 2) that DHP was holding up the RUS Programmatic Agreement. The call confirmed yet again the outstanding level of mis-understanding about the role of the federal agency and the review process. Led by Karen, we explained to VTel that any problems they had with S. 78 they should take up with the legislature but that the last thing anyone intended was to expand DHP's review role. The RUS Historic Preservation Officer offered up that the draft PA was on her desk and she was the sole hold-up. We then attempted to clarify other misperceptions. On-going. **VTel has hired Kevin Ellis for gov relations.**
- **Vermont Telecom Authority:** Scott worked extensively with Jill Dowling, Federal Preservation Officer for the Department of Commerce, to revise the Programmatic Agreement between the National Telecommunications and Information Administration, SHPO, and VTA for the VTA Vermont Fiberlink project. The focus of the revision was to simplify the review process by adding exemptions for replacement poles placed within six feet of existing poles and buried cable placed within ten feet of existing buried infrastructure. The Programmatic was also modified to allow construction to proceed on a faster timeline by reducing the amount of direct consultation necessary with the SHPO once the cultural resource review of any project segment is completed. We are hopeful that these changes will be incorporated into the Programmatic Agreement for the VTel project discussed above to allow similar streamlining for that large project.

- **National Register of Historic Places:** The **Middletown Rural Historic District in Grafton** was listed on the National Register. It was an early settlement that dates to the late 18th century and includes farms and a stone walled animal pound, a rare survivor of a once common property type. It is the third historic district nominated by the Middletown Historical Society, with support from the Windham Foundation. One more, Houghtonville, is underway.

Procurement Technical Assistance Center

- **Semi Probe, LLC:** Megan Rodriguez spoke with Dennis, as he was approached for a sale but the buying Contracting Officer was hoping the company was on GSA. Megan spoke to Dennis about other possibilities that may work for a contract in this sale and also about getting SemiProbe on GSA. It looks like schedule 66 is going to be the best fit for him company. Dennis is going to read over the full schedule and then will meet again with Megan to talk about what is involved. (related to VCDET investment, above)

Tourism & Marketing and Vermont Life

- Commissioner Smith attended 5 focus groups around the state in regards to setting up a “credential” for the hospitality and service industries. This effort is in conjunction with DOL, SBDC and Workforce Development. T&M hopes to use the resources available within our tech schools and the Career Readiness Program to both raise the standards of our service employees but also promote the industry as a good place to work.
- Final plans are being made for the special reception that Vermont is hosting at the Gay and Lesbian travel show April 26th in NYC. T&M is taking 6 of our wedding partners to showcase our state as a Travel and Wedding Destination in the reception and at our regular booth we will be showing the video Governor Shumlin’s interview with the gay tourism journalist that was here in January. This is the beginning of a partnership with our statewide Gay and Lesbian Tourism Association.
- The entire department is gearing up for the Vermont Travel Industry Conference that will take place next week.
- **Southern Vermont Festival’s coop:** VDTM is collaborating with the Mount Snow, Manchester and Brattleboro Chambers as well as Building a Better Brattleboro on a cooperative media campaign to promote Southern Vermont events. VDTM is matching \$4,000 that has been raised by each of these organizations to promote the following summer events:

June 1-5 Vermont's Strolling of the Heifers
 June 11-12 Manchester Antique and Classic Car Show
 July 30 - August 7th Vermont's Deerfield Valley Blueberry Festival
 August 10 - 14 Vermont Summer Celebration
 September 3 - 4 Southern Vermont Garlic Festival
 September - Brattleboro's Swing into Fall
 September 23-25 The Vermont Life Wine and Harvest Festival
 October 14-16 Brattleboro Literary Festival

Cultural Heritage Tourism

- Civil War Sesquicentennial site formally launches April 6th. Material is organized into Places to Visit, Events, History, Resources, Get Involved and Visit Vermont (the latter linking to vermontvacation.com) . It currently provides 23 pages of information and links to a many heritage and culture organizations. Special thanks to Shelly Thayer in IT for working hard to make this deadline and doing a great job. Visit www.vermontcivilwar150.com .

- Catherine worked with Kathy Murphy in preparation for the first State Craft Centers Oversight and Standards Group meeting. The meeting proved to be a positive opportunity for the Standards Group to voice thoughts and concerns, and clearly the new administration is bringing them good new opportunities to make this program grow and have a positive impact on the craft arts "industry."
Leftover problem center. Frog Hollow was not included in last standard round and executive order. Crafts community fragmented and a bit challenging to deal with. Bringing Frog Hollow into the mix. May move new executive order up to this year from next with program changes.

116 STATE STREET
MONTPELIER, VERMONT 05620



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

Chuck Ross, SECRETARY

STATE OF VERMONT
AGENCY OF AGRICULTURE

Confidential and Privileged

TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: April 8, 2011

Status of Governor's Priorities: Jobs Bills very busy this week. Moved from House to Senate and Senate Economic Development Committee very active.

Legislative Issues/Contacts:

S. 105 Dairy Housekeeping bill was passed out of Senate Agriculture and included language on educational materials for composting. Extra materials have been provided to Senator Kittell to report out on this bill on the Senate floor. Hope it will move to the House next week.

Dr. Katherine McNamara gave testimony to Senate Ag. on questions concerning H.52 (quail amenability). Discussed Non compliance reports the plant had and reiterated the Agency's neutral position on the Bill.

State veterinarian testified in front of the Senate Natural Resources committee on April 7th regarding H.91, the bill that transfers authority of the Irasburg captive cervid hunt facility from VAAFM to the Department of Fish and Wildlife. Testimony was supportive of the transfer of authority but stressed that this transfer must be complete with regard to species enclosed within the facility and with regard to the timing of the transfer. Current language in the bill allows for dual regulatory oversight between the months of July and August, 2011, a concept that VAAFM does not support. This was brought to the committee's attention, and they will consider amending that language.

Press Issues/Releases/Contacts:

Media Inquiries

- AP: Raw Milk update – Deputy Secretary Bothfeld discussed S.105 as passed by the Senate AG Committee with Lisa Rathke on April 7.
- WPTZ: Animal Cruelty investigation in Caledonia County
- WCAX: Maple grading – Henry Marckres will be on WCAX on April 8 at 6:25 a.m.
- WCAX: Focus on Agriculture issues throughout May

Releases

- Fuel prices and Consumer protection division (distributed Friday)
- General Permit for Stream Alterations
- Maple season update

PSA's recorded: Stream Alteration permits and Maple Festival

Significant Events/Meetings:

- Dr. McNamara met with Londa Nwadike from UVM extension to further develop material for producers about labeling and slaughter. Also discussing HACCP training to be given this summer.
- Dr. McNamara with Phil Fagan, Beth Demers, Chelsea Lewis, and Kristin Haas about getting the \$50,000 that was statutorily given to the Agency for Humane Handling. The Dept. of Economic, Housing and Community Development is contemplating the amount they are willing to give for the training that meets their guidelines.
- The meat inspection section was nominated for, and received, an award for public service by state employees. They will be honored with a luncheon with the Governor. All members are very excited about this recognition of their service.
- Meat Inspection section is currently working on late notices for license renewals for meat handlers.
- On March 28, Scott Dolan started work as a Consumer Protection Specialist in the Central Vermont area. His duties will include weights and measures, product grading as well as USDA GAP (good agricultural practices) and COOL (country of origin labeling) audits and inspections.
- On March 30, the Consumer Protection section graded 380 barrels of Vermont syrup for a Canadian buyer. The syrup will be trucked to Quebec, packed as Vermont syrup, and sent back to the U.S.
- State veterinarians met with Phil Fagan, Director of the Vermont Training Program, on April 5th to discuss transfer of up to \$50,000 from that program to VAAFM for use in the roll out of the humane handling training program for Vermont-licensed commercial slaughterhouse facility owners and employees. Development of this training is currently underway and is expected to be completed by late spring. VAAFM is contemplating a Vermont visit by the contractor in this project in late June which will include interaction with producers at a kick-off meeting followed by visits to the individual licensed facilities in Vermont to provide one on one instruction.

Evolving Issues:

A delegation from Russia will be visiting Vermont in April. Staff at the Agency of Ag will interact with this delegation providing information on the dairy industry and the regulations governing dairy farms and dairy processing plants. Staff involved include: Kelly Loftus (organizing the visit), Greg Lockwood and Sue James.

State veterinarian continues to collaborate with UVM Extension veterinarian to develop the Animal Health Network emergency alert system for producers within Vermont. This pilot project is expected to be tested in early summer before it becomes fully operational in the state.

Summary of Key Agency Department Activity:

Ag Development

In re Salvas, A250 #5L1149-4. The District #5 Commission issued a ruling denying the applicant's motion to alter the dismissal of her Act250 amendment application. Mrs. Salvas' attorney has already reached out to Agency counsel asking if there is some way to settle the dispute about the proposed development's impact to primary agricultural soils without resort to an appeal, which would undoubtedly be expensive for the applicant because it would involve a de novo appeal to Superior Court, Environmental Division. The original permit issued years ago included a permit condition to protect for agricultural use the meadow and the agricultural soils now being proposed for development. The definition of primary agricultural soils has changed since the issuance of the permit, so compromise is not out of the question. But this is a highly visible tract on the corner of Route 100 and the Moscow Road in Stowe that could potentially support a diversified retail farm operation.

VT Ag Development Board: Secretary Ross, and Lt Governor Scott, met with the Board Wednesday at the State House. Sec Ross has asked the VADB to identify their top ten Farm to Plate priorities. The board has already identified Education, Dairy and Land Conservation as three areas for focus.

Food Safety and Animal Health

State veterinarian participated in the VY emergency exercise this week as a co-rep for SSF11 in the EOC. Challenges still remain that will need to be resolved prior to the graded exercise scheduled for early May. Specifically, these challenges involve the lack of mappable data for farm and other ag-specific infrastructure.

State veterinarian and dairy personnel continue to collaborate with the Department of Health in the milk sampling initiative that is occurring secondary to the ongoing situation in Japan. We will be communicating with producers in three regions of the state to identify farms that are willing to provide milk samples for testing.

- Dairy Section just completed 2 US Public Health ratings on two small butter plants that will be selling butter and buttermilk. Both scored very well.
- Dairy Section had requests for information regarding the Eastabrook cruelty case.
- Dairy Section is dealing with radiological testing and antibiotic tissue residues. Greg Lockwood has been to another possible start-up dairy plant in Huntington.
- Dairy Section acting chief Sue James and Assistant State Vet Russo will attend a FDA listening session in Albany, NY on April 12 to provide Vermont's position on tissue residue situation and FDA's proposed reaction to this issue.

Animal Health Field personnel –

- Performed weekly inspection of a rabbit farm that is under Agency quarantine. Observed sanitary conditions and animal health at the farm. Recorded inventory of rabbits per Assistant State Vet's request
- Conducted 4 animal welfare field investigations
- Inspected 3 Pet Merchants; collected licensing fees
- Attended Addison/Rutland Area Farmer Meeting
- Tested poultry for AI at Maple Meadows Farm and Dresser Hill

Assistant State Veterinarian-

- Sent a letter to Vermont Co-ops and Milk Handlers offering the Agencies availability to provide assistance to them and their producers with issues surrounding antibiotic residues
- Consulted with the FDA on the proper labeling of drugs on a producers farm
- Performed a site visit of a horse farm in Hinesburg. The Agency received a complaint that the horse were thin and not cared for properly
- Provided regulatory assistance to numerous states requesting import permits for livestock
- Followed up with the Cornell Veterinary Diagnostic Lab in regards to the Vermont poultry producer who was experiencing a high mortality rate in her laying hens. Spoke with the producer about the diagnostic results
- Provided information to the Draft Horse Pulling Association on obtaining exhibition permits for the 2011 Pulling Season
- Organized the Animal Health Section licensing procedures for Pet Merchants and Livestock Dealers
- Collaborated with the NY State Veterinarian on the whereabouts of a dairy producer who was charged with animal cruelty in their state. The producer reportedly is in Vermont
- Provided information to the Deputy States Attorney for an animal abuse case he is prosecuting
- Collaborated with Dr. Julie Smith, UVM, on VT Johnes activities

Meat Inspection Points of Interest

- Two red meat plants have had their written humane handling plans approved. One has to resubmit a 3rd time for more information. And we are still awaiting the second submission of 3 establishments.
- 5 poultry written humane handling plans have been submitted and are being evaluated. One establishment still has not submitted its plan.

- The instructors and participant manuals for humane handling of red meat have been completed. The poultry ones are being created.

Meat Inspection Compliance and Enforcement

- **Mr. Doug Flack, Fairfield, VT:** advertising sales of on farm slaughtered animals under contract on Eat Wild website. Sales of meat items to restaurants in Burlington area, not licensed.
- **Price Chopper, Brattleboro, VT:** Ground beef fat violation, letter sent.
- **Shaws Supermarket, Randolph, VT:** Ground beef fat violation, letter sent.
- **Duclos and Thompson Farm, Weybridge, VT:** Mr. Tom Duclos was found illegally applying the federal marks of inspection on uninspected hams that were to be offered for resale at his location in Weybridge, VT

Agriculture Resource Management

Enforcement Actions:

Doug Nelson, Nelson Farms, Inc., Derby Line – will be issued a notice of violation for failing to submit his LFO Annual Report for calendar year 2010. Nelson also failed to submit his Annual Report for calendar year 2009 and was fined \$500.00, which he paid without submitting the report. This Notice of Violation will impose a larger penalty and will include an “additional enforcement remedy” which will require Nelson to submit the report by a certain date, and will impose daily fines for each day past the due date that the report has not been received.

Secretary's Commentary:

Secretary Ross undertook the following activities:

Northeast Association of State Departments of Agriculture (NEASDA)

- The Agency finalized the decision that the NEASDA regional meeting will be held at Jay Peak resort. They are working effectively with Bill Stenger and the date is set for June 5, 6, and 7. Governor Shumlin is invited to attend and speak on Sunday afternoon when the Congressional delegation is invited to attend as well. A reception will immediately follow.

Morgan Horse Farm

- Sec Ross met with members of the Morgan horse community who are very concerned that the official presence of the Morgan horse in Vermont may be lost to Kentucky. He stressed his support for keeping it in Vermont but insisted on the Morgan Horse community in Vermont getting on the same page with the same plan before he will engage this matter seriously. Marilyn Childs and Ann Brown will come back when that has happened.

VLT/VHCB

- Sec Ross spent many hours working with the Vermont Land Trust and VHCB to decide if and how the Agency of Agriculture would support VLT exercising their easement option (OPAV) to buy back a conserved farm outside of Vergennes known as the Tracy Farm. The Tracy farm is headed to foreclosure. VHCB spent money to conserve the land when the Tracy's acquired the farm and Vermont Agricultural Credit Corp (VEDA) spent money to help finance the Tracy's farm operation. A non-farm buyer (Yates) made an offer to buy the farm which the Tracy's have accepted. VLT wants to exercise their right to buy the land and Yates may challenge their effort in Court. After a great deal of deliberation, Sec Ross tentatively concluded the Agency should support VLT's right to exercise their right since the easement was negotiated and agreed to by all parties, the land is considered to be very good farmland and there is interest in the land by other farmers in the area. The Agency will assume as low a profile as possible on this case and his agreement is subject to a clear understanding as to how VLT would expect to include the Agency as this matter moves forward. He expects to learn of VLT intent on Friday.

Jobs Bill

- Sec Ross and Deputy Sec LaClair testified before the Senate Economic Development Committee in support of the jobs bill. He spoke to the Agency leadership role on implementing the Farm To Plate plan and support for the money to help do that and the importance of local food coordinators.

Comprehensive Energy Bill

- Sec Ross spoke briefly at the public meeting the Department of Public Service held on the emerging energy plan. He addressed the important and pervasive role of agriculture in energy matters. He also met with representatives from Commerce, DPS and ANR on how to coordinate matters going forward.

Grass Energy

- Sec Ross met with Adam Dantscher about his work on grass to energy technology and production. Mr. Dantscher is a Vermont who set up and operated a grass to energy facility in PA this last winter with great success. He believes there is great potential in Vermont. Sec Ross agreed to help figure out how to advance this work in Vermont. This could be the next big move in biomass energy with real implications for Vermont

Meeting with Agency of Commerce

- Sec Ross met with Sec Miller and other Commerce staff to explore how to stand up an EB-5 fund for agriculturally oriented businesses. This included consideration of how to help Vermont Smoke and Cure successfully move and expand in Hinesburg.

Vermont Technical College

- Sec Ross attended the reception welcoming President Dr. Conroy to VTC. President Conroy is also very bullish about Agriculture and the role VTC can play going forward.

Agricultural Culinary Tourism

- Sec Ross was briefed on the advancement of a website constructed to advance culinary tourism. The website is well advanced and the Agency staff will be working with the Agency of Commerce to determine how to best integrate it with other efforts and advance the website to help build more business in Vermont and help to strengthen Vermont's reputation as a culinary destination.

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

Executive Privilege

TO: Governor Peter Shumlin

FROM: Secretary Brian R. Searles

DATE: Friday, April 8, 2011

SUBJECT: VTrans - Confidential Report to the Governor

DMV Employee Issues

The search for temporary space has begun for DMV employees in the North Avenue office in Burlington. Employees, and at least one customer, have complained of problems apparently associated with the dust of construction in other parts of the building and the lot it sits on. During the planning for this construction project, it was felt that this would not be a problem so we were unprepared for this move. Sites are being reviewed by the Dept. of Buildings and General Services in Burlington, South Burlington, Colchester and Winooski. The construction is expected to last about 2.5 years so we are looking for a 2-year lease with the ability to extend one or two years.

Transportation Bill

The bill is being marked up by the Senate Transportation Committee today and there appear to be no real problems with the exception of signs. The matter of the Clark Trucking sign in Jericho has provoked much discussion and action by the House to add "birthday greetings" to the messages allowed for on-premises signs. It did not address the issue of the timing of changes in digital messages which is currently a minimum of every 15 minutes. The Senate is considering language that would direct the *Travel Information Council* to study the issue over the summer and fall and report back to the legislature. Chairman Brennan of House Trans is not pleased about the deletion of his language in favor of a study as his committee was focused on making Mr. Clark happy. As that outcome is unlikely in any case, we have advised Chairman Mazza that he should retain the language passed by the House and add a paragraph about the study. We are wary of discussion of this topic because of the potential constitutional issues it could raise in terms of messages, but are resigned to the conversation about safety and aesthetics that seems necessary to update this 40-year-old law that did not envision the emerging technology of signs.

Chester Route 103 Bridge Project – Signage

We have a good plan ready for implementation that provides for digital message boards on I-91 that say “Local Business Open” “Info at Vt Cntry Store” followed by signs that say “VT 103 Businesses Open” with a listing on the signs of 12 businesses with directional arrows and mileage. We have pushed the FHWA envelope on this one, but it looks like a good result.

Testimony before U.S. Senate EPW Committee

I will be testifying on Thursday, April 14, at the invitation of Senator Sanders concerning the Reauthorization bill for highways, bridges, transit and related programs that are currently funded through a Continuing Resolution. I will be speaking specifically to the issues of rural and small states. This could, of course, be delayed if the federal government shuts down.

Circ

Wednesday evening I briefed the Executive Board of the Chittenden County Metropolitan Planning Organization, in executive session, concerning plans to change the subject on the Circumferential Highway, as we know it. Too much time has passed and bits and pieces of this are leaking out and we’re trying to stay ahead of it. I have a conversation scheduled with EPA Region 1 Administrator Curt Spaulding next week and a pending request from Sandra Levine of CLF to talk about this project. They obviously know that something is up. The Record of Decision should be out in a couple of weeks but we need to think about when we want to pull the trigger on convening certain members of the environmental community on this topic. It might be something you want to do with a small group in advance of the Record of Decision. Let us know if you want to consider this slight change in strategy.

By the way, the conversation with the CCMPO went very well and they were appreciative and somewhat relieved that these changes are being considered and they stand ready to play what will surely be an important role in working new projects through the planning process. It’s pretty amazing to me, as a recovering Circ supporter, just how low expectations are even among the most ardent fans of the highway.

CONFIDENTIAL AND PRIVILEGED

To: Honorable Governor Peter Shumlin

From: Commissioner Annie Noonan, Vermont Dept of Labor

Re: Weekly Report, Week Ending April 8, 2011

DOL's Planned Response to Federal Shutdown

The Vermont Department of Labor is 75% federally funded. As you are aware, we have been closely monitoring and quietly preparing for the possibility of federal budget cuts and, most recently, for a shutdown. Here's what we know as of this morning:

The USDOL will continue Employee Benefits Security Administration; Employment and Training Administration (ETA) relating to federal aspects of Unemployment Insurance benefit administration and for Job Corps Centers training and housing for 44,000 students; Mine Safety & Health Administration; OSHA - for "serious and imminent risks to life and health; Workers Comp, generally because of different funding sources; and Wage and Hour Division, only in response to incidents involving serious injury of death of a minor or farm worker. We have also been advised that no foreign labor certifications or TAA determinations will be processed. Federal VOSHIA told us last evening that we have no spending authority for any federal money if there is a shutdown. Our VOSHIA program is a 50-50 federal-state split.

We know that the USDOL workforce of 16,116 employees will be reduced to 2,900 during any shutdown. Only after the final budget deal is struck will we know what funds, if any, remain for Workforce Investment Act (WIA), Summer Youth, Dislocated Workers, and Trade Adjustment Act.

In anticipation, VDOL UI Director Tracy Phillips did draw down federal funds for UI, and included in her calculations a "spike" for federal workers who may be able to draw UI. By VDOL's count, there are nearly 6,500 (as of March 2011) federal employees in Vermont.

At noon today, all VDOL managers are meeting with me to discuss the impact and response to this situation. VDOL Fiscal Chief Charlie Teske will walk us through our current balances - which we know are not strong - and we will then discuss how to respond. I will put out an email to VDOL staff this afternoon that will simply let them know we are 'open for business' and continuing to serve Vermonters, and they should await further instructions if we need to make any adjustments in the days or weeks ahead. I will provide you more information and details as they become known.

I met with the Claims Center management and all CC staff, as well as regional office staff from around the state from 8-10 this morning to discuss the anticipation of increased workload if the federal employees seek UI. Workforce Development and UI staff are meeting to discuss a collaboration regarding an "ERP" project that might allow us to use UI funding to do more extensive outreach to unemployed Vermonters through a telephone center, with staff making calls and talking with/counseling job seekers as to job opportunities, work search strategies, etc. As you know, VDOL regional office staff members also face uncertain job security if the WIA, Summer Youth and other programs are slashed.

Finally, the issues I have noted in previous weekly reports relating to statutory changes needed to give me flexibility around regional office functions, and an additional exemption under eligibility for UI to include a reference to a "VDOL Summer Youth

Program", (which would insulate employers from UI claims if they agree to employ a Vermont youth for the summer through this program), are clearly necessary.

Labor Market Information Division

The Green Team got a no-cost extension for their grant until the end of the calendar year. We were also informed by the feds that unemployment rate statistics may not be ready by Friday, and if a shutdown occurs, we will not have timely estimates for March.

Legislative:

VDOL continues to be involved in the UI and WC bills, the Jobs bill, and various employment related bills pending. Of interest to VDOL is the retirement of John O'Kane from IBM, as he is the head of the Workforce Development Council. I would like to strategize with the Governor about this appointment and several other business seats now open on the WDC so that the Governor's goals and priorities may be better supported by the WDC. House Appropriations asked WDC Executive Director Chip Evans to testify this week about WDC. I attended with Chip to listen to the committee's questions as this may preview where they see this funding headed in the future. We testified in House Commerce this week about Worker Misclassification (and shared a report prepared by the department). I think it went well, although it was during this exchange that WC Director Steve Monahan was asked if "Dr. Hsaio and Jeff Carr and Tom Kavet are covered by the State of Vermont as 'workers' or 'independent contractors', and if they are required to have UI and WC coverage...". We came over to the Governor's office to alert the staff of these questions (clearly asked with an agenda). This Monday evening, from 5:30-7:30, I have set up an 'open forum' for business folks to come talk with our UI and WC staff about questions or concerns with the independent contractor definition, etc. Similarly, labor folks are invited later this month for a similar dialogue. I hope to see if there is any common ground that might result in some compromise next year between the stakeholders. I have been asked to come to SED on the Jobs bill early next week. Senator Miller continues to be asking about H.202/health care with regard to the WDC, WETF money and worker retraining. VDOL had an extension of the previously reported public records request relating to the classification of newspaper carriers as exempt from employment under the "direct sellers" exemption to the UI Law.

UI Division

Trust Fund Borrowing: Total amount borrowed as of April 6, 2011 is \$73,465,964.93.

As of 04/06/11, Vermont has borrowed \$2,479,729 during the month of April. Current estimates indicate we will need to borrow up to \$12,000,000 during the remainder of the month. This projected amount may increase if the Federal government shuts down.

Week Ending March 26: the claim center handled 3,473 calls, processed 1,276 initial and additional claims (down 54 from last week) and paid 14,401 claimants. There are 29 active STC plans with a total of 334 participants.

Workers Comp and Safety Division

AOT v. VOSHA dispute will have a meeting between myself and Sue Minter hoping to settle this matter in a collaborative way. Stop Work Order issued to Mack Farm (its second) because they let W.C. policy lapse for period of approximately 1 month. Order

Rescinded Friday morning when Mack paid past due balance and policy reinstated retroactive to March 8. Rebecca Smith met with Agency of Ag officials to discuss the Howrigan situation. Settlement does not appear likely. VOSHA, Project WorkSAFE and BLS injury and illness survey grant jeopardized by potential federal government shutdown. VOSHA continues its fatality investigation, initial indication does not indicate VOSHA violations just a tragic accident. WorkSAFE staff involved in radiologic response drill - performed well.

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

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

www.anr.state.vt.us



**State of Vermont
Agency of Natural Resources**

Deborah L. Markowitz
Agency Secretary

Christopher Recchia
Deputy Secretary

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Deborah Markowitz, Secretary, Agency of Natural Resources
Date: April 8, 2011
Subject: ANR Weekly Report

Status of Governor's Priorities:

- **Energy and Climate** – We held the second of two public meeting on the Comprehensive Energy Plan with DPS, ACCD and AOT. Attended by about 50 people and organizations.
- **Vermont Yankee** – We contributed to a draft letter that is intended to go to VY from Dept of Health, Dept of Public Safety and DEC regarding the COB (Construction Office Bldg) well, requesting that VY provide access to their hydrogeology experts regarding soon to be announced hydrologic report and their monitoring/remediation plan for the well.
- **ATVs** – An increasing number of editorials are appearing in regional and local papers opposing the rule repeal, including this week an editorial from Senator Illuzzi. Public hearing on rule repeal is scheduled for April 26th. We worked on the map for VASA this week and should be able to get that to them shortly.

Legislative Issues/Contacts:

- **H.332 - Permit Reform** – ANR and NRB both testified this week that a formal Commission was not needed and we were working together on addressing this issue as a priority in the upcoming year.
- **S.77 Testing of Private Water Supply** – The Technical Advisory Committee (TAC) provided comments directly to the legislature on this bill and technical amendments they'd like to see. We gave Department of Health a heads-up, and will work with them on any revisions to this bill in the House.

- **H. 258 – Enforcement** - Voted out of Judiciary on Tuesday with acceptable amendments. On floor for third reading today.
- **S.34 - The Mercury Bill** – Passed the Senate on Thursday, without further amendment,
- **H.155 – Clean Energy Districts** – Passed the House on Wednesday and reported to the Senate NRC on Thursday.
- **JRS.26 – Lamoille Valley Rail for VAST** – Resolution passed the Senate urging Sec of ANR and Vtrans, among others, to support project through Act 250 process.
- **E-waste** – Staff will be meeting with Goodpoint recycling at the request of Rep. Ralston to discuss their concerns with the roll-out of the e-waste program. No legislative action expected.
- **H.9 and S.8 On-farm Composting Facilities**, would exempt commercial composting facilities from municipal review which raises concern about state compliance with the National Flood Insurance Program. The state legislature must maintain municipal and state responsibility, authority, and means to implement the provisions of 44 CFR §60 – the NFIP Program -- including composting facilities being proposed in mapped flood hazard areas. FEMA is aware of H.9 and S.8 and has contacted the State NFIP program about compliance.

Press Issues/Releases/Contacts:

- Commissioner Berry appeared on WCAX's "The: 30" on April 1; Scott Darling appeared as well earlier this week to discuss the decline of bats in Vermont.
- On March 25th, WCAX ran a story about the problems Green Mountain College is having in getting its new Chiptec wood-fired boiler system to operate properly. GMC's problems were apparently brought to WCAX's attention by a former employee of GMC. The issues included problems with the boiler itself (corrosion of some of the tubing), as well as with the fabric filter used to control the boiler's emissions. We provided background information to WCAX for this story, but was not interviewed on screen. On March 30th, WCAX was on-site at Green Mountain College to observe the scheduled emission testing of the boiler (which was delayed).
- The Caledonia Record contacted Catherine Gjessing to discuss the Long Island Sound (LIS) TMDL. The reporter alleged that reductions of N from our WWTF will have no impact on LIS. We stated that the Ct River is thought to be about 12.5-13% of the N loading to LIS based on modeling. He asked for our position regarding the LIS TMDL. It is too early in the discussions to state a position - there is no concrete proposal before us.

Significant Events/Meetings:

- **Fukujima conference call – proposal for background sampling of media** – Dr Bill Irwin conducted a conference call, with a variety of participants in the Emergency Ops Center, about the global effects of the Japanese nuclear incidents. He announced that we were going public with the information about I-131 in

air samples. Although the levels are extremely low, obviously Dept of Health is getting many calls about personal safety measures/travel precautions that can be taken. We discussed getting background samples for a variety of other media – soils, surface water supplies, food products (e.g. leafy vegetation, milk, syrup potentially others). We discussed coordinating the sampling using the Post Plume Sampling Team that is already established for VY events. And since there is a VY drill this week, we will use the team to collect background samples in the central Vermont or Chittenden County area. Water Supply Division arranged with the City of Montpelier to have a sample taken of the raw water in Berlin Pond. We are planning to sample Champlain Water District or Burlington water supplies in the next week or so.

- **Memphremagog International Steering Committee** – Staff met to discuss several items, including the Coventry Landfill Phase V variance request, and a recent authorization to treat 15,000 gallons/day of leachate at the Newport treatment plant. The Memphremagog Conservation Inc. organization opposes the variance request on the premise that leachate which is treated at Newport may have deleterious effects to Quebec drinking water suppliers that withdraw from Lake Memphremagog. The MCI stated preference would be to allow the current unlined cell (that would be remediated under phase V) to remain in perpetuity, even given evidence of leakage into adjacent wetlands.
- **Deer Public Hearings:** The five public meetings have been well-attended. The reception has been mostly positive with the exception of the Springfield meeting.
- **Geology** - The Vermont Geological Survey was an active participant at the Geological Society of America- Combined Northeastern/ North-Central Section Meeting from March 20-22 in Pittsburgh, PA. We were involved in presentations on groundwater quality and quantity and structural geology with our academic partners at Norwich University, Middlebury College, and the University of Vermont.

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

EPA LIS TMDL: There is no consensus between the states regarding the draft EPA LIS proposal for waste allocations under a new TMDL. Disagreements focus on the means for fashioning equitable waste load allocations, the role of atmospheric deposition, the viability of the schedule for completion of a new TMDL.

Green Mountain College's new wood-fired boiler: GMC has been having problems getting its new wood-fired boiler system to operate properly, as noted above. These problems continued through the winter of 2010-11 and caused GMC to violate several conditions of the Air Pollution Control Construction Permit issued in May 2009. Most importantly, GMC operated the boiler for an extended period of time without using the fabric filter intended to control the boiler's particulate emissions, and also failed to perform timely emission compliance testing. The APCD attempted to work cooperatively with GMC to correct the equipment problems, but the problems have continued. The APCD issued a Notice of Alleged Violation to GMC on 3/24/11 listing several violations and requiring corrective actions.

Fulflex Inspection by USEPA: On or about 2/8/11, EPA, Region I, compliance engineers inspected the Fulflex plant in Brattleboro (a.k.a., The Moore Company, Fulflex Division). Fulflex manufactures natural and synthetic rubber and elastic compounds, including rubber threads. Its process emits or has the potential to emit dust, VOCs and various toxic chemicals. In a recent oral report to the APCD, EPA advised that their inspection

revealed that Fulflex was “not following” several state air permit conditions, including some related to recordkeeping. The EPA inspector said the plant was dusty indoors and their operation and maintenance plan was short. EPA indicated they would be sending a Clean Air Act §114 letter to Fulflex to gather more information about possible violations.

Ryegate Associates: Title V renewal had been sent to EPA for 45 day review period but the federal boiler rule came out before period was over so we withdrew the proposed permit in order to add the requirements of this rule and repurposed it to EPA for the new full 45 day review period.

Rhodes Salvage Yard – Tire fire risk complaint: On 3/28/11, we received information that Gilbert Rhoades, a respondent in an ongoing case being handled by the AGO concerning an illegal salvage yard in Milton Vermont, was allegedly preparing to ignite a scrap tire pile containing an estimated 400,000 - 1 million tires. EEOs were immediately dispatched to the site to meet with Mr. Rhodes and assess and diffuse the situation. Our EEOs determined that he was not preparing to purposely ignite the tires, but that his actions could inadvertently do so; he agreed to alter his actions to lessen that threat.

Small Business Compliance Assistance: Staff made a presentation at a Marina Workshop in Burlington sponsored by the Lake Champlain Committee. She spoke on federal and state rules and pending rules impacting marinas. There were about 50 people in attendance.

Merchants Row, Barre City – A meeting was held with the City Manager and City Planner to discuss the status of the project and a variety of issues. This project has multiple objectives – to improve transportation, utility infrastructure, provide green space- and has some significant funding sources and complications, including significant contamination from a former dry cleaner on site affecting much of the project area. The City wants to acquire the property. Besides issues of multiple funding sources (HUD, VEDA, Brownfields, etc.), and known and potential contamination from historical uses, there is a federal lien on the Depot Square site for past removal action there (\$280K), and the SHPO (State Historic Preservation Officer) has asserted that there are historic resources. Nonetheless, there was good discussion of the next steps to address the issues.

Electronic Waste: Bids submitted for the e-waste RFP for the implementation of the state program were opened on March 29th. Three bids were received and are currently being evaluated by program staff. A bid selection committee comprised of interested parties has been organized to assist in the review and selection process. The committee will meet next week.

Lowell Wind Project - An application for a stormwater construction permit was received from Kingdom Community Wind for the transmission line upgrade. This application needs to be assessed in conjunction with their existing draft permit for the on-mountain wind-project work.

Vermont Tissue - We had a productive meeting with Bill Scully and his consultants on Friday. Mr. Scully has engaged an experienced small hydropower consultant/developer who proposed a new approach that should address ANR concerns about bypass flows. We are waiting for more detailed information before we can make a final determination, but the project does seem to finally be moving in a positive direction. Bill Fay, the new consultant, is considerably more knowledgeable and willing to work with the Agency to develop solutions than other consultants we have been dealing with on this project, and that has made a tremendous difference. The positive tone carried over to a meeting with Mr. Scully and legislators on March 25th.

Fish and Wildlife

Communication Towers: The Department received follow-up requests from neighbors of two proposed cell towers who have questioned the Department's statements that these cell tower locations do not impact "wildlife habitat." Department confirmed that "necessary wildlife habitat" was not involved at these sites.

Rattlesnake Research Project: A public meeting hosted by the Fish & Wildlife Department, the Nature Conservancy, The Orianne Society, was held on April 5 in Fair Haven to present a program on rattlesnakes in Vermont (their biology/life history), and included information and discussion on the two-year field research project on this endangered population in Fair Haven and West Haven.

Multi-state Competitive State Wildlife Grant (SWG): Staff met with the Executive Director of Audubon Vermont to begin work on a multi-state competitive SWG. The purpose of the grant would be to unite the New England states and New York with a forest land habitat awareness/management project that focuses on common and not so common bird species. Audubon Vermont currently has a model of such a program it is implementing on a limited scale with the help of USDA-NRCS and the county foresters. \

Eagle Nests: All three nests in the lower Connecticut River region, including the one overhanging Route 5 in Windsor, have an adult displaying egg laying behavior.

Deer: The continued slow arrival of spring has led deer to congregate along the open side hills next to roadways ultimately leading to a very high number of road kills. Some wardens are reporting handling more road-killed deer last week than they handled all winter.

Ice Fishing: Ice fishing is becoming unsafe, although a few risk takers are still attempting it. Wardens are reporting nearly 100% compliance with ice shanty removal from the ice.

Funeral Detail: A contingency of Vermont wardens, along with our color guard, attended a funeral service for a Maine game warden pilot who was killed last week when his plane crashed. Nearly 1000 officers were present along with the Maine governor.

North Springfield Dam: Staff discovered that the U.S. Army Corps of Engineers (COE) drastically lowered the flow at the North Springfield Dam on the Black River to accommodate Comtu Falls hydro station's desire to reinstall its flashboards at low flow. The flow reduction violated minimum flow and ramping standards and was in conflict with consultation requirements. The incident was reported to DEC staff. This is the latest in a long series of COE violations of agreements with ANR and the USFWS, including this exact situation three years ago. After that incident, the COE assured it would never happen again. There is need for appropriate action at a higher level.

Lampricide Treatments: Department staff attended the annual sea lamprey communication and coordination meeting with DEC, DOH, and USFWS staff involved in the Aquatic Nuisance Control Permit process for lampricide treatments. There is not an active permit application this year, so the group reviewed the 2010 Lewis Creek treatment, plans for the fall 2011 Poultney River treatment and other treatments in New York, and a preliminary discussion on a future permit application to treat the Missisquoi River in 2012.

Great Bay Hydro: Staff reviewed Great Bay Hydro's FERC-required draft fish passage facility performance reports for upstream and downstream fish passage on the Clyde River during the 2010 seasons and submitted a

comment letter for ANR to assure that information and conclusions are consistent with Department observations and analysis, in the interest of a fully functioning passage system for salmon and trout restoration in the Lake Memphremagog basin.

Swanton Dam: The Village of Swanton has applied for a preliminary permit to redevelop the Swanton dam for hydropower, and ANR will be submitting comments identifying the potential issues of concern. If the Village decides to go forward with the project, ANR will need to decide whether a Water Quality Certificate can be issued. There is a strong case to be made that it cannot.

Forest, Parks and Recreation

Plum Creek - The Department of Taxes, Division of Property Valuation and Review (PVR) upheld the ANR determination that the term "entire parcel" used in the statute and regulations applies to all 56,000 acres enrolled and not just the 400+ acres subject to the unit management plan. Plum Creek filed a motion to stay the discontinuance pending the appeals and the state is not contesting the stay provided that if the state prevails, Plum Creek will be responsible for paying all taxes back to April 1, 2011. Plum Creek has hired Morris and Demag and have been discussing possible legislative amendments to address this issue with various Senators. An amendment to undue this is receiving some attention in the legislature and needs to be watched.

State Parks - The 2011 version of Venture Vermont was rolled out this week. A mailing is being sent to schools, clerks, recreation committees and others to encourage participation. Staff was interviewed Tuesday on the WCAXtra show about the popular program and about the upcoming State parks operating season in general. The 2011 version of the Check Out the Parks library pass is being prepared and will be sent to over 190 public libraries. This is the third year of the partnership with the Department of Libraries.

U-Tube on Biomass - Paul Frederick of FPR is one of the featured speakers in a video by the Biomass Energy Resource Center (BERC) will release next week. The focus of this 10-minute program is on the woodchip fuel supply chain told through the expertise and experiences of actual industry players. Please click on this link <http://www.youtube.com/watch?v=1XhZ3rmgyfU> to access it from a private YouTube channel. It will be available at this location for about a week, after which time it will be posted to the main channel of YouTube and the BERC website. Let's all hope it goes "viral" in Vermont!

Windsor Integral Sustainability Initiative (WISI) - The Whole System Design team in partnership with Department of Corrections, BGS, ANR and the Town of Windsor held the first public meeting last Saturday for the Windsor Integral Sustainability Initiative (WISI) concerning potential use of the 850 acre Southeast State Correctional Facility land surrounding the Windsor correctional facility. After a short presentation by the consulting team about the project approach, the 70 + attendees broke into small working groups to offer their thoughts about wildlife habitat, education and recreation, farming and forestry and energy and resource management activities that are happening on the property. They also offered ideas about future uses that the property might accommodate. Whole Systems Design team proposed to convene another public meeting in six weeks after they have done additional resource inventory and analysis and considered the public input they received at the first meeting. FW and FPR will be assisting the consulting team as needed.

Telecommunications on ANR Lands - We are working with VTA in providing background information on the Jay Peak electronic communication site and other telecom site and located on ANR lands.

Memo



TO: Governor Peter Shumlin
FROM: Keith W. Flynn, Commissioner
DATE: 04/08/11
SUBJECT: Governor's Report

Status of the Governor's Priorities

Marijuana Dispensaries-

S-17. Spoke with Senator White regarding revisions to the bill based on conversations with law enforcement representatives. Sheriff Marcoux sent an email to the Speaker of the House in support of dispensaries and expects to talk to him today to follow-up the email.

Legislative Contacts

House Appropriations-

Major Goodell and I met with this Committee to discuss dispatch fees and the lack of consistency in the fee structure. Presently, although the Department provides dispatch service for many public safety functions throughout the State, to include fire, ambulance and local police departments, only a very small number actually pay the Department for the service. The concern of the Committee is that the constituents of some of the members of the committee pay for services and others do not. After a great deal of discussion on this topic I offered to convene meetings of a group of public safety providers that use the services and to report back to the committee next year with 2 models to address the fee issue.

Division Activities

Emergency Management

The Department received information from the Department of Transportation that Hazardous Materials Emergency Planning will be reduced by approximately 30%. We are assessing what impact this will have on our program.

We have been having ongoing discussions with our FEMA counterparts relating to a possible Federal Govt. shutdown.

Fire Safety

We have been notified that the Architects Association wants to stop using the NFPA codes and go strictly to ICC codes in this State. We presently use the ICC building codes and the NFPA codes along with the National and Electrical Plumbing codes. Apparently, the Association has contacted Senators Ash and Illuzzi and requested that they form a summer study committee to look at this proposal. Reportedly, the Senators have a bill drafted to form the committee, a 7 member board appointed by the Governor. The Association's rationale for the change is that we do not have sufficient oversight of the current code application. We believe that the Association does not have a good working knowledge of our current process and what we have in place now does facilitate good outcomes.

Robert Howe, Deputy Director of the Division, is retiring after 41 years of State service on April 29, 2011. There will be an open house at the Barre office on that date from 1 to 4 P.M. If the Governor's scheduled permits we would request the Governor to stop by and make a presentation.

Finance

We received inquiries from Commissioner Reardon regarding a 32k grant that in previous years was specifically tagged for the Essex County Sheriff. Earlier in the week Senator Kitchell spoke with me about this matter and I offered to speak with both Senators Illuzzi and Starr. Senator Illuzzi wants the entire amount taken out of our budget and Senator Starr wants it left in. In attempting to broker a compromise I was able to get Senator Illuzzi to agree to leave a reduced amount in with specific performance requirements. Senator Starr is okay with this.

We have scheduled the first date in our strategic planning initiative and our first "Raise the Bar" workshop with the Vermont Council for Quality is set for May 16th.

State Police

Troopers are investigating a burglary at the Armondo Vilaseca residence in Westford. Several search warrants have been issued and the investigation has 2 suspects at this time, investigation of this matter is still pending.

A 2 year old child was accidentally shot and killed by his 4 year old brother in Lowell. According to Det. Sgt. Darren Annis, the 4 year old child gained access to a 22 cal. rifle, found ammunition in a drawer in a bedroom, loaded the gun and then accidentally shot his brother. The victim was pronounced dead later that day at North County Hospital in Newport. The victim's father is an active National Guard soldier, not currently deployed.

Department Requests

A short meeting with the Governor sometime next week to include Sheriff Marcoux and Chief Paul Duquette and the Commissioner to solidify support for the dispensaries legislation.

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: April 8, 2011

Vermont Department of Health (VDH)

Status of Governor's Priorities

Vermont Yankee Drill. The final drill before the full-scale graded exercise in May was held April 5th and 6th. Day one of the scenario involved a radiation release as a result of a crane accident damaging the roof of the turbine building. A site area emergency, then a general emergency and State of Emergency was declared, evacuation ordered for everyone in the six towns of the Emergency Planning Zone, Potassium Iodide (KI) orders were issued for emergency workers and the public, a reception center set up as well as alternate sites, and travel into the six-town zone was restricted. The plume tracking team was at work defining the outer edges of the plume. Day two was focused on the "ingestion pathway" and dose assessment. Vermont Emergency Management leads at the State Emergency Operations Center, with support functions staffed by a variety of agencies including Public Safety, Transportation, Natural Resources, Human Services, 2-1-1 and Health. Health Department staff play major roles in the exercise, and any response to an event at Vermont Yankee, with the Joint Information Center, the Health Operations Center, State Support Function #8 (Medical), subject matter and technical expertise, leading the plume tracking and dose assessment teams, KI distribution and Brattleboro District Office staff at the reception center. The Health Department is using the exercise to take actual environmental samples for lab analysis for radioisotopes coming from Japan. Some state and regional reporters observed parts of the exercise due to heightened interest after the nuclear disaster in Japan.

Synergy Counseling. In follow up to Susan Bartlett's request to assist following the announcement of the imminent closing of Synergy Counseling Center, an opiate treatment practice, the Departments of Health and Health Access convened a meeting with one of the two physicians employed by Synergy. Drs. Esparza and Richter are willing to continue to work with patients on a short-term basis if another management structure can be put in place. Both Howard Center and Community Health Center in Burlington are willing to accept patients and accommodate the staff and physicians temporarily. Plans are proceeding in that direction. The Departments of Health and Health Access will continue to work together with community providers to develop strategies for replacing these services on a long-term basis. Both Howard and Community Health Center deserve our thanks for stepping up and being willing to assist these patients.

Legislative Issues/Contacts

H.99 Vital Records Bill. House Government Operations has taken more testimony from VDH staff this week. These discussions have focused on the many changes that other committees have made to the bill. The Committee plans to adopt this bill as a Committee Bill, assigning it a new number. The Committee hopes to vote it out this week.

H.198 Complete Streets Bill. The House Transportation Committee heard testimony from Commissioner Chen and Attorney General Sorrel on April 6. They testified that the requirements of this bill provide for a range of transportation modes and that it is consistent with principles of healthy community design. This fits with public health's interest in promoting opportunities for physical activity in communities. Complete streets provide for safe use by bicycles and pedestrians as well as for automobiles.

Press Issues/Releases/Contacts

Questions about DUI Testing. Public Health Laboratory Director Stella Celotti responded to questions from Andy Bromage, Seven Days about a legal dispute involving a former lab employee who has called into question the accuracy of datamaster DUI testing instruments, and how the Health Department processes those tests. The Health Department has thoroughly reviewed those allegations and finds no substantiation. The report of the investigation was provided.

Synergy Closing. Deputy Commissioner Barbara Cimaglio talked with Nancy Remsen, Free Press, about the sudden closing of Synergy, and our work with partners to make sure patients continue to receive care. Synergy served patients on buprenorphine. Susan Besio had already done interviews about the closing, which Synergy attributed to lower Medicaid reimbursement.

Manure Stunt. WTNN Eagle Country 97.5 in South Burlington promotions department is planning a contest that invites people to cover themselves in cow manure. What are the health risks? The Health Department discourages this due to potential for infection or ingestion.

Department of Mental Health (DMH)

Legislative Contact

Commissioner Oliver and I contacted Senator Sears to discuss his concern about the replacement of VSH. He is concerned that we are not moving fast enough. I assured him that this is a priority for the Administration, AHS and DMH. Senator Sears may seek to repurpose some of the Telecom dollars in the capital bill to VSH replacement. Jeb Spaulding is aware of this.

Governor Priorities

VSH Replacement. Commissioner Oliver, Mike Kuhn (BGS) and I went to the Berlin Select Board meeting to introduce ourselves and provide preliminary information on our plans to build a state hospital on the expanded campus of Central Vermont Medical Center. The Board

appeared appreciative of our efforts to connect with them and requested to be kept updated on our progress. We also met with Jeb Spaulding to update him on VSH replacement activities. Commissioner Oliver also met with VSEA representatives to touch base on VSH replacement and the mandatory overtime issues. The VSEA is eager to work with the Administration on a replacement facility in Berlin and offered to assist in any way we think would be helpful.

Media Contact

Commissioner Oliver provided data to an NPR researcher regarding the number of forensic admissions to the Vermont State Hospital - 79 (29%) during FY2010. NPR is gathering this information from all of the states.

Commissioner Oliver also spoke to the Waterbury Record about the funding for VHS replacement in the capital bill (for preliminary planning) and steps VSH is taking to address the mandatory overtime issue.

Department of Disabilities, Aging and Independent Living (DAIL)

Status of Governor's Priorities

Jobs.

Vocational Rehabilitation reports that the new GA program continues to exceed expectations. More individuals are entering the workforce and or are being assisted to apply for social security disability benefits. Customer feedback has been very positive.

Legislative Issues/Contacts

Commissioner Wehry contacted the Manes House on behalf of Senator Sears. This residential care facility is seeking financial relief of an unspecified nature due to declining revenues related to lower census. She agreed to meet with a group of residential care providers in Bennington next month.

Senate Appropriations has indicated they will be calling her in next week to address Choices for Care, Money Follows the Person and cuts to the AAAs. We are preparing our response which I will provide to you tomorrow.

Evolving issues

We met this week with three attorneys from Legal Aid, Disability Rights and Elder Law Project to discuss progress being made at Adult Protective Services. They reiterated their wish to find an alternative to litigation and agreed we are making satisfactory progress. We did find common ground on many outstanding issues. Areas on which we do not have agreement are: our timetable for eliminating the backlog; regulatory language in statute to establish an Advisory Board and certain reporting requirements; hiring an outside consultant sooner rather than later.

Department of Corrections (DOC)

Status of Governor's Priorities

Town of St Johnsbury. The DOC has come to an agreement with the Town of St Johnsbury to allow the State to add 12 beds to the current work camp. The DOC will begin work immediately to add those beds and is continuing its work on filling the existing vacant beds in Windsor. We hope to have all beds full by the end of May which will allow for a full year of savings in 2012, as was originally planned.

Legislative Issues/Contacts

On April 6th Commissioner Pallito and Deputy Commissioner Menard testified before the Corrections and Institutions Committee and Senate Judiciary regarding recidivism.

On April 7th Commissioner Pallito returned to the Senate Judiciary Committee to testify on the "War on Recidivism" bill. The committee's concern is the idea of creating new avenues for a model where people can enter corrections facilities for "short hits" (1 or 2 days). This model is counter to the information provided by the Council of State Governments and a new study released by Maple Leaf Farms. These studies show that for lower risk cases, these types of interventions can actually increase negative outcomes. We will continue to monitor this program.

Other

Superintendents of the DOC Correctional Facilities. As you are aware, we have recently requested permission to hire the superintendents of both the St Johnsbury (Northeast regional Correctional Complex) and Springfield (Southern State Correctional) facilities. Thank you for your support. We will announce the hiring of these two within the next week.

Currently we are recruiting for the superintendent of the Newport (Northern State Correctional Facility).

We are also working to attract the superintendents of the South Burlington (Chittenden Regional Correctional) and St Albans (Northwest State Correctional) facilities to switch places when the facilities switch populations. We are doing this in recognition of the experience of the current superintendent at the St Albans facility in working with female offenders.

Finally, Commissioner Pallito is working with the Department of Human Resources on a pay plan for superintendents. This is being done because of the recent small hiring pools for superintendent vacancies and also in recognition that compensating superintendents has been inconsistent. We hope to implement a plan within the next month or so.

Population. The department's incarcerated population spiked over the weekend with a population on Monday of 2156. The surge was in both the sentenced and detained populations in both genders. The surge in sentenced inmates was not caused by field returns; the increase was a result of 10 inmates reporting to serve weekend sentences and new inmates reporting for their sentence. The expanded role of the Windsor Correctional facility has increased the population to the 90 person mark with more inmates scheduled to arrive late this week and early next week.

Department for Children and Families (DCF)

Significant Events/Meetings

Child Development Division Holds Stakeholder Meeting. The Child Development Division (CDD) planned to shift eligibility determination for the Child Care Financial Assistance Program from a network of community providers into a centralized model in February of 2011. Commissioner Yacovone and I requested that an objective analysis of the options be conducted prior to any change in the program. For the past few months, a small group of CDD staff and community stakeholders have been meeting to conduct that analysis. On April 4th, the CDD hosted a Vermont Interactive television meeting across the state. Nine sites were represented and the turnout of interested parties and stakeholders was excellent. The forum allowed for a brief presentation of the analysis work to-date but primarily focused on soliciting feedback, comments and questions from the group. The Agency and the Department are on track to make a decision about where the eligibility function will sit by the beginning of May.

Office of Economic Opportunity (OEO). Currently, the OEO is deeply concerned with the status of the federal budget. With a series of continuing resolutions funding the federal government only a few weeks at a time, it is especially challenging for our Community Action Agencies. Even more challenging are the prospects for FFY 12 as the President's recommended budget includes a 50% reduction of the Community Services Block Grant. This would be particularly devastating to those states like Vermont who fall into the "small state" category and as such receive a disproportionate percentage of CSBG to ensure that we have the minimum amount necessary to continue providing services. The existing CSBG statute guarantees the small states this minimum allocation providing the national funding remains above a certain level. The president's budget proposal falls below that threshold and in the absence of any statutory change would see Vermont's (and the other small states) share revert to a percentage of population formula resulting in a projected 79% reduction in federal funding. OEO is collecting contingency plans from each of the CAP's to address the potential loss of 25, 50 and 75% of federal funding and will be sharing those with the Commissioner of DCF and the Secretary of the Agency of Human Services.

Department of Vermont Health Access (DVHA)

Press Issues/Releases/Contacts

1. Susan Besio was interviewed by phone by WCAX on Tuesday about Synergy closing their doors this Friday.

Here's what Susan said in the interview:

DVHA found out about Synergy's closing this Friday (April 8th) last Friday through informal communication with one of their physicians. Their imminent closure was a total surprise to DVHA, ADAP, the Synergy staff and patients. Their web-site blames Medicaid rate changes on January 1st of this year as the reason; while we did change our reimbursement methodology and adjusted some rates on January 1, 2011, Synergy never approached us with concerns. So we do not know if the closure is just due to our change in rates, but suspect it is a much deeper financial management issue. Regardless, it is irresponsible for Synergy to give one week notice to patients and no notice to us except what we've read on their web site.

DVHA and the Department of Health's Alcohol and Drug Abuse Programs (ADAP) are working with the two physicians who are practicing with Synergy to help them to continue to serve their patients.

2. Susan Besio was interviewed on camera by WCAX on Wednesday regarding our Medicaid rate changes on January 1st of this year and if providers were losing a lot of money because of it. Susan explained that it was a methodology change implemented at the request of the Vermont Medical Society to be more transparent in how our rates are developed and we tried to do it in a manner that was cost neutral at a high level for provider types (but this does not mean that specific providers that do one type of service may not have been negatively affected). Susan also explained how Medicaid rates are different than commercial insurers and that Medicaid rates are based on how much money is available through state and federal dollars, compared to private insurance carriers that negotiate rates with providers and then charge a premium to their members based on how much the provider payments cost. She also emphasized that, although Medicaid rates are low, if we didn't cover these folks, there would be no payment at all – which would drive up health care costs even more.

Meeting with Representative Mark Larson regarding Kids Rehab Gym. Susan Besio met with Mark Larson and a family member regarding a specific issue with Kids Rehab Gym (KRG) regarding co-pays and private insurance coverage. The Kids Rehab Gym serves about 20 patients who have private insurance in addition to Medicaid.

The Rehab Gym wants to bill the private insurers first, which is the proper procedure. The problem is that they also want to collect the copays for this private insurance. Because Medicaid does not allow balance billing to beneficiaries, a provider is not able to collect this money from their patients unless the patients are informed in advance and in writing that the Rehab Gym will not accept their Medicaid insurance. The provider argues that the Medicaid rate doesn't cover the cost of these services and that they need to bill the private insurance and collect the co-pays.

This is forcing the families who use the Rehab Gym families to either 1) sign the form saying the Rehab Gym will not bill Medicaid and that the families are responsible for the co-pays or 2) find another provider. Unfortunately, there are not many Occupational and Physical Therapy providers that have the extensive equipment available at the Rehab Gym. There is no easy solution to this issue, and we are not currently aware of other providers that are blatantly making Medicaid beneficiaries sign such a form or not serve them. If this does become more common

practice, we may need to agree to pay the co-pays for the 7,500 children who have both private insurance and Medicaid, but obviously this would be a fiscal pressure that we have not budgeted. In the meantime, we will meet the Vermont Family Network to talk about this issue and offer to reach out to all the affected families to help them transition to another provider if they so choose.

On another note, we also have been having significant issues with Kids Rehab Gym in terms of following the Medicaid billing and prior authorization rules, despite significant outreach and training over the past two years. This is also most likely a factor in their move to have families agree to not have Medicaid billed as a secondary payer.



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 04/08/2011

Governor's Priorities

Health Care Initiative

We continue to provide data and legal support as well as significant public and legislative outreach in support of H.202. We expect the bill to be taken up in Senate Finance next week.

The Commissioner and members of the General Counsel's office have spent significant time in Senate committee hearings this past week and making public appearances in support of the single-payer initiative.

Evolving Issues

Mac Parker Securities Litigation – The parties have asked for a further 6-months stay while the federal criminal investigation continues.

Marlon Quan/ Stewardship IA/ Thomas Petters- This is a federal criminal matter involving a hedge fund manager feeding investors to a Ponzi scheme perpetrated by Thomas Petters (currently serving a 50-year sentence). The Vermont connection to this matter came to light this week when an investor in the funds reached out to BISHCA. It now appears that several Vermonters invested in the hedge funds managed by Quan/Stewardship. This matter is now in the federal civil courts as the SEC has sued Quan/Stewardship and others. We are following this closely.

Outreach

Legislative

(General) H.438 Housekeeping bill – The bill was voted out of House Ways & Means today on unanimous vote and now goes to House Human Services.

H.155 (PACE legislation) -- The General Counsel of Federal Housing Finance Agency (FHFA) has written "supporting the overall approach of House Bill 155." H.155 amends Vermont's PACE Act and gives primary mortgage liens a priority over PACE assessments making mortgaging and resale easier.

Vermont would be one of maybe two states in the country with FHFA support.

H.202 – Now in both Senate Health & Welfare and Senate Finance.

General Information

BANKING -- Foreclosure Survey for March 2011 – After three months of decline (December 91, January 88, and February 79) the number of newly filed foreclosures jumped to 133 in March. We expected an increase once the Vermont mediation law had time to be implemented, and the mortgage lenders/servicers got their act together on the robo-signing issue; the resolution of the latter may mean continued increased foreclosure activity in the future as a backlog works through.

Federal Credit Union to Convert to State Chartered – Hearing will be held in Saint Johnsbury May 12 to for public comment on the Northern Lights Federal Credit Union conversion to Vermont state charter.

Federal Savings Bank Interest to convert to a State Charter – We have had an inquiry by a federally chartered savings bank to convert to a state charter. A meeting will be held in the near future. As the Office of Thrift Supervision, the regulator of federal banks, is rolled in to the Office of the Comptroller of the Currency, a number of small federal savings institutions are looking at the state charter.

CAPTIVES -- No activity this week, here's a summary of the first quarter of 2011:

We licensed 7 new captives in the first quarter, our best first quarter since 2005, and better than our 30-year first quarter average of 5.2. The first quarter is historically the slowest for new licenses (2nd and especially the 4th are peaks).

The captives consisted of 4 single-parent (pure) captives, 2 Risk Retention Groups, and one Special Purpose Financial Captive.

- The Parent companies included:
- Bass Pro Shops (a major sporting goods retailer and manufacturer);
- Kidz Medical Services (a Florida physicians group);
- BP America ;
- Weingarten Realty (a real estate developer in the south & southwest US);
- A group of New York attorneys;
- Old Mutual Financial Corp (a Maryland life insurance company); and
- Dow Chemical (Dow has a captive here already, and just moved their Bermuda captive onshore)

The new captives will produce an estimated:

- \$437 million in 2011 premiums written (revenue);
- \$231,000 in new premium taxes next March (potentially to be reduced by \$52,500 pending the tax incentive);
- over \$400,000 in fees to local managers, attorneys, and accountants.
- At least one new job at a Vermont management firm

2 captives were dissolved this quarter, one as a result of a Parent insolvency, the other a consolidation with another related VT captive.



State of Vermont
Agency of Administration
Office of the Secretary
Pavilion Office Building
109 State Street
Montpelier, VT 05609-0201
www.adm.state.vt.us

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

Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin
FROM: Secretary Jeb Spaulding
DATE: April 8, 2011
SUBJECT: Confidential Report to the Governor

CONNECT VT

Legislative Issues/Contacts:

Senate Institutions- Hartwell/ Chair. Karen Marshall testified in support of VTA Capital Appropriation of \$13M. Feedback was that the presentation was well received, credit due to the team of Jason Aronowitz, Steve Wisloski, Chris Campbell for helping to inform a clear case for capital investment.

Sen. Campbell/ Sen. MacDonald: Karen Marshall is working through amendment language offered by MacDonald; we have reached acceptable language that he will offer in his amendments. There was significant concern on our part that his language would negatively impact the permitting process for funded projects with the eventual outcome of jeopardizing their success. We have successfully moved him from this language and believe he is pleased with the overall collaboration and outcome.

Telco bill will see additional action this week in negotiation of amendments between Senate Natural Resources and Senate Economic Development and make its way to the Senate Floor on Tuesday of next week.

Significant Events/Meetings:

Vermont State Historic Preservation Office (VSHPO): meeting with RUS representatives, Vtel, VSHPO to review progress on Programmatic Agreement to meet federal Section 106 compliance. VSHPO has been proactive in support of our ARRA funded projects to establish these PA's, define more exemption categories, and engage in expediting the telecommunications build out with due consideration for historic preservation. Both Vtel and Sovernet projects are a

bit slowed by compliance in this arena, more a reflection of slow response at the federal levels within NTIA and RUS than at our state level.

BGS: Very helpful meeting with Commissioner Obuchowski and staff in advance of Senate Institutions. Karen Marshall appreciates their willingness and desire to assist in formulating our strategy.

Vermont Center for Geographic Information (VCGI): ARRA funded broadband mapping effort, they also are the driver behind the www.broadbandvt.org site. Further meetings to create a coordinated database communication program for reported unserved consumers. We have engaged Commissioner Miller and Jim Porter to integrate this function into the Consumer Affairs division at DPS, and have ownership of the program. Met with staff at DPS to formulate the program components that need to be in place prior to May 1 hard launch of the Website.

Department of Public Service: We met regarding broadband site and development of database project.

Vermont Software Developers Alliance: Karen attended a board meeting/ dinner as presenter and had a good open dialogue with this industry group. They represent over 300 businesses in this sector, with priorities for broadband, education of workforce, and finance mechanisms that will support growth. Key takeaways: Speed, affordability, reliability, connections to the backbone of the internet and mobile service are highest priorities that will support the industry sector. They had input to follow up on regarding how white space spectrum fits into our overall strategic plan and the acquisition of additional 700 mghz spectrum.

Evolving Issues:

VTA employee issue was reported in The Rutland Herald and Times Argus with a relatively fair and balanced representation of the issue. It did not seem to have major impact on Legislative proceedings this week. We will watch for reaction as the bill progresses. As an addendum to this, I have asked Chris Campbell to truly vet the VTA organization and seek out any and all issues that could arise that may impact their credibility and the trust that we are working to rebuild.

DEPARTMENT OF BUILDINGS AND GENERAL SERVICES

Status of Governor's Priorities:

4/1 Capital Bill passed House. Senate concerns include District heating project, VTA, state hospital planning and design resources and House proposed energy efficiency language..

Legislative Issues/Contacts:

- Testified before Senate Government Operations regarding S.63 and S.69 preferential purchasing proposals.
- Attended meeting convened by Secretary Spaulding concerning preferential purchasing. BGS charged with development of Administration proposal. Contacted Rep. Botzow regarding H.141 and Rep. Partridge regarding S.99.
- Testified to House Corrections and Institutions committee regarding H.284 State House curator bill.

- Coached Connect VT's Karen Marshal regarding goal to improve content and presentation of testimony.
- Attended meeting on proposed State Hospital with Sec's. Racine and Spaulding and Commissioner Oliver regarding schedule and other matters.
- Attended energy efficiency language strategy meeting with Lt. Governor Scott, Sen. Mazza, Hartwell and Sec. Spaulding.
- Held weekly meeting with the Speaker and Sen. Hartwell and special Capital Bill language session with Hartwell.

Significant Events/Meetings:

- Met with Mel Hawley of Vergennes regarding sludge disposal agreement on state land.
- Met with Treasurer Pearce regarding State Hospital funding in FY 13-15. FY13 need is \$3,000,000 for design and construction plans.
- FY 14 and 15 need is \$60,000,000. Treasurer favors capital GO funding (recommendation of debt affordability committee may be as much as \$170,000,000 for FY 14-15. Other options include dedicating a new revenue or recertification funds to the debt retirement.

Evolving Issues:

ConnectVT/VTa: If not done already, suggest that the Governor quietly convene a meeting of all entities which are recipients of Smart grid, cell and broadband grant monies and read them the riot act. Perception is that this business is being conducted in uncoordinated Wild West fashion.

DEPARTMENT OF FINANCE AND MANAGEMENT

Legislative Contacts:

H.370 – Engineering & Architectural Design Contracts: House Government Operations Chair, Representative Donna Sweaney continues to keep this Bill “on the wall”, pending the successful conclusion of Deputy Zeller’s negotiation with American Council of Engineering Companies of Vermont (ACEC), American Institute of Architects-Vermont (aiaVT), and their attorney. Draft language was developed during a meeting of the parties, Deputy Zeller, AAG Mike McShane, and Risk Management Manager Bill Duchac on Tuesday, April 5, 2010. Acceptance of the red-lined language changes that resulted from the meeting is expected by the end of this week or early next week. Representative Sweaney will withdraw the Bill once acceptance is reached. Next step will be for Deputy Zeller, under the authority of the Secretary of Administration, to direct those departments and agencies that contract for these professional engineering/architectural design services to add the language to their Contracting Plan and ensure that it is used as appropriate and necessary.

H.73 – Transparency & Public Records: This Bill was finally passed favorably out of the House late yesterday; multiple amendments including 6 new amendments proposed yesterday by Rep. Duncan Kilmartin were repelled. The one amendment accepted was the one proposed by Representative Hubert of the HGO assigning the Transparency Study Committee the work of determining how to expand the public records laws to the State’s contractors, providers, grantees, etc. The Bill will be in Senate Government Operations for the first time Friday, 4/8/11 at 1:30 PM - where it will be necessary to monitor the situation even more closely than in HGO. Public Records expansion will likely pass, if not this session, then early next; the challenge for the Administration is how to ensure implantation is achievable, supportable and does not lead to litigation after litigation.

Challenges for Change: The Challenges for Change (C4C) Quarterly Report was published on April 1, 2011.

General Information/Other:

On Wednesday, April 5, 2011, Finance & Management began posting VISION system payment information on a quarterly basis to the website, exclusive of payments deemed "confidential" by federal and state statute or rule. This is the conclusion of one year's worth of work to meet a request from Jack Hoffman and John McClaughry.

DEPARTMENT OF HUMAN RESOURCES

Status of Governor's Priorities:

Finding Labor Savings for FY12

DHR has worked with the VSEA to draft an agreement that will permit voluntary reduced work schedules for certain state employees. DHR hopes to have a final agreement within the next week. If an agreement is reached, DHR will work with VSEA to advertise the program and enroll as many volunteers as possible by July 1, 2011.

Legislative Issues/Contacts:

SELRA

Commissioner Duffy worked with Jes Kraus of the VSEA to come to agreement on revisions to the State Employees' Labor Relations Act (SELRA). Commissioner Duffy will work with Mr. Kraus to present the agreed upon language to House leadership.

Significant Events/Meetings:

Meeting with ANR

Commissioner Duffy and representatives of DHR attended a meeting with Secretary Markowitz and senior level staff at ANR. The parties discussed HR issues generally, in an effort to give new Commissioners a working knowledge of hiring, compensation and labor relations issues. The parties will meet next week to discuss performance management, classification issues, training opportunities and other basic HR issues.

Evolving Issues:

Bargaining with VTA

DHR engaged in further negotiation with the VTA and presented VTA with two agreement options. The first is a one-year agreement that makes the VTA whole. The second is a two-year agreement that makes some concessions in the first year, makes the VTA whole in the second year, and implements a lucrative pay plan in the second year. The initial response of the VTA was not favorable, and DHR anticipates that the VTA will reach out to discuss this directly with the Governor. DHR is scheduled to continue bargaining next week. We will provide updates as information becomes available.

DEPARTMENT OF INFORMATION AND INNOVATION

CIO/DII Commissioner: We are reopening our search, as the two candidates we were excited about chose not to take the position.

Legislative Issues/Contacts:

Ron Petty, Application Support Director, Duncan Goss, IT Manager for LEG and Ruthann Sullivan have been called to House Government Operations on 4/14 to discuss any concerns with a bill to require the Legislators to migrate from their current email system GroupWise, to the DII Microsoft Exchange platform. They have no concerns at this point and expect the session to be short.

Significant Events/Meetings:

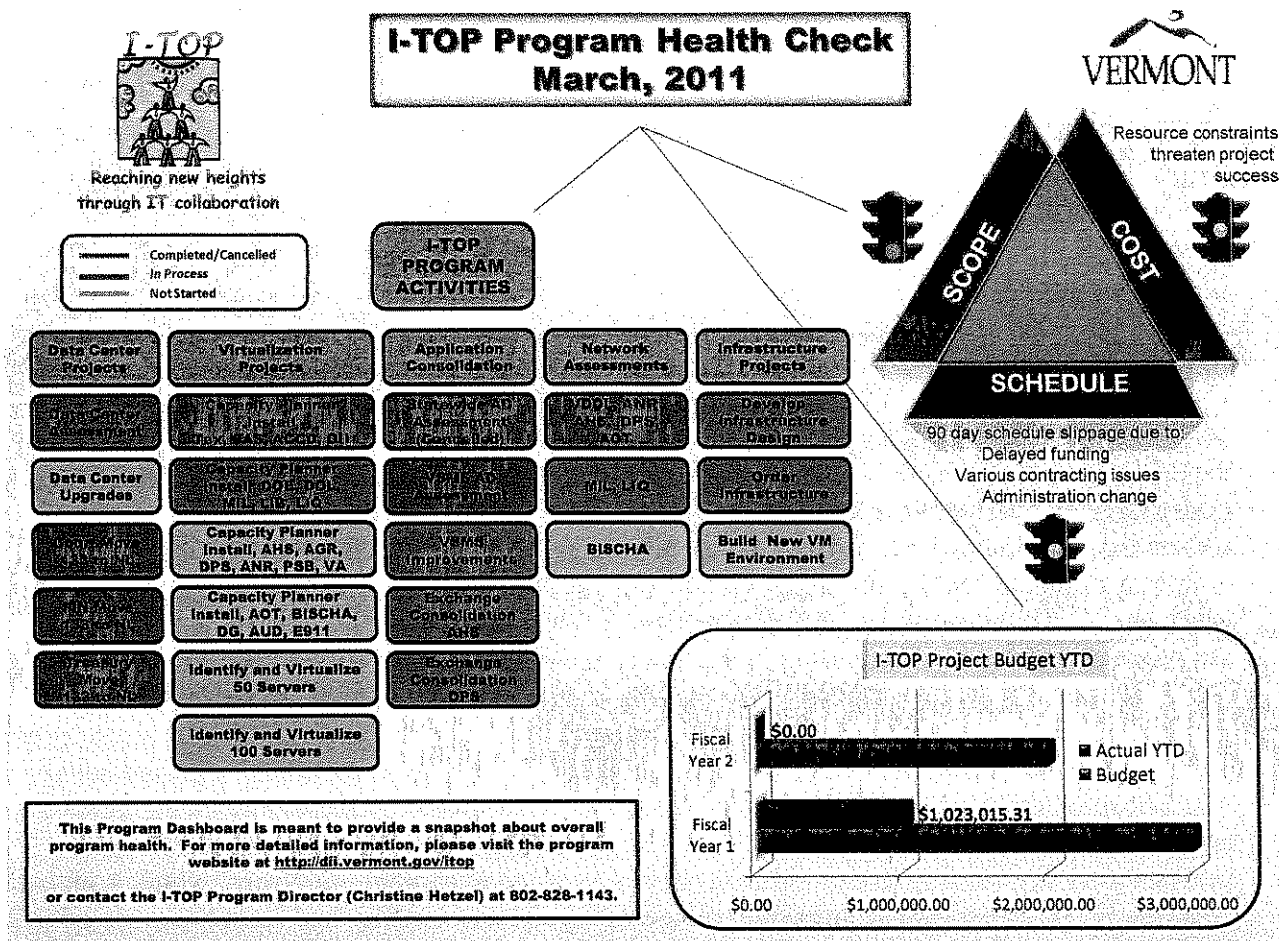
Ruthann Sullivan met with HR Commissioner Kate Duffy and several other IT Senior Management leaders from across the State agencies to discuss issues around hiring and retaining trained, qualified Information Technology resources. All are reporting losses of employee's with critical knowledge due to private organizations ability to provide benefits of working such as telecommuting, bonuses and paid employee appreciation events. All also report a growth in the number of IT projects being requested by their business partners. The group agreed to get back together regularly while reviewing the current IT Job Classifications. It is the first step to crafting a solution. Oddly enough the cover story in ComputerWorld for the week of April 4th discusses this very scenario and indicates is also playing out in the private sector. A quote, "More than half of this year's survey respondents reported being "significantly impacted" by budget cuts and heavier workloads." Another interesting quote from the article is from a senior VP from DICE which is a job search website, "that about 40% of IT professionals say the way to earn more money is to move to another employer" which is an indicator of what the IT Sr. leaders are seeing when their employees start looking and sometimes secure at the business's like Green Mountain Coffee Roasters and others across the State currently recruiting. We as a team also talked about marketing State employment and how best we could put out the message that, State Employee's ROCK and we do a great deal of really important work! Kate Duffy was going to reach out to VSEU and ACCD to investigate the marketing angle further.

Evolving Issues:

The I-TOP Program continues to gain momentum. Project highlights include:

- Completion of the VSMS Active Directory Health Check
- Completion of Treasury move from 133 data center to National Life data center
- Completion of 5 network assessments with 2 other network assessments near completion
- The kick off of the Virtualization Project and the installation of Capacity Planner with 10 State Agencies/Departments
- A wide variety of projects for the Infrastructure Team
- Continued activities around the Exchange Consolidation project

The I-TOP March Status Report, Milestone Schedule and various documentation can be found at the I-TOP website: <http://dii.vermont.gov/itop>. Listed below is the current I-TOP Program Health Check. Overall budget and scope are healthy. Resource constraints and schedule delays have created increased risk to the success of the I-TOP program. These issues are being actively managed to ensure success.



DEPARTMENT OF TAXES

Status of Governor's Priorities:

Misc Tax: Dept. Staff has walked through the bill with Senate Finance. Early indications are that at the very least, we will see from Senate Finance members AAAA provisions – AMT, AGI for Household Income, Amazon, and Auctioneers.

AMT: There is no easy way to do an AMT, and it is not stellar tax policy (besides being complicated, it is both over inclusive of taxpayers who utilize what most would perceive as worthy deductions and exemptions, and under inclusive of aggressive tax planners). Nonetheless, since Sen. Ashe claims he has leadership support to introduce an AMT, and acceptable global tax reform seems unlikely this session, the Tax Dept. will continue its analysis. A piggyback AMT would not be too difficult to administer, would capture some taxpayers who pay disproportionately low amounts and would generate some revenue (at most \$13M, but likely considerably less). The current Senate version has some issues in the details; the Tax Dept. will prepare a draft with the most acceptable ATM provisions and a fiscal note for further consideration by the Administration.

AGI Reform/Household Income/Blue Ribbon Tax Commission: Although an AGI reform certainly appears to be dormant this session, Rep. Branagan stated in Ways & Means on Thursday that there will be a bill. On the other hand, Rep. Ancel and leadership appear inclined to redouble efforts to do

something with a simpler AGI base for Household Income, even at this late date. Staff will be testifying next week. It should be noted that if this moves, there will be numerous decision points on how to structure the income sensitivity to work off a broader AGI base – including questions such as eligibility parameters, limiting house value, raising the base rate, creating a gentler slope. Along the same lines, Republican leadership has been very vocal on the demise of the Blue Ribbon Tax Commission prior to full study of property taxes. There is also some sentiment in the Senate to add some commission language to the study already in the Misc. Tax Bill.

Amazon Tax: The Commissioner participated in a conference call among Tax Depts. to discuss Amazon legislation. Arkansas became the 5th state to adopt legislation, on strong votes with basically no affiliate outcry – not surprisingly, since it hosts WalMart HQ, one of the prime movers behind the bills at this point. MA retailers are pushing a bill this week, while on the opposite front, Nikki Haley has now said she will not veto if SC grants Amazon a pass on collecting sales tax even if it builds a warehouse. Overstock has offered bonus cards to customers in states where it has pulled affiliates.

The call centered on the three issues which are being litigated – and it should be noted, the constitutional issues in the absence of Congressional action are real. To recap: the affiliate approach utilized in NY and copied in our House bill (although NY offers by regulation a safe harbor, which the Commissioner stated was cornerstone to their successful defense in NY state court thus far), a sister company approach also adopted in NY (to target companies that try to segregate their online shops from their bricks and mortars stores, has long checkered legal history – in fact, Vermont lost an administrative appeal on audit of this issue), and a disclosure approach adopted in Colorado (using onerous customer disclosure requirements in lieu of collection, Colorado is expecting to continue to lose on this issue in the lower federal court). The Commissioner solicited response if Vermont adopted an effective date contingent on a number of other states passing like legislation - as expected the reaction from other states was cool.

The Dept. will have draft alternative language for the Administration to consider in its position on Amazon if the measure does not die. For now, the Dept. will continue to assume that the Administration position is concern for Vermont affiliates that will be hurt. (Interestingly, the NY Tax Dept. emphasizes the little known fact that it was targeting non-profit affiliates who tend to be some of the biggest promoters of the Amazon connection.)

Auctioneers: As previously noted, an auctioneer is the latest to bring his case to the legislature after audit. There was a generally constructive discussion in Ways & Means, where the Commissioner laid out the compliance process, and then staff described the particulars of the long standing application of the tax to auctioneers. There was healthy discussion regarding the Tax Dept.'s efforts to publicize rules for various endeavors (regulations, technical bulletins, publication of opinions and letter rulings, outreach to tax preparers and business organizations) and the appeal process. The Tax Dept. emphasized that it was legislative prerogative to respond to a particular sector's desire to operate differently, however the Dept. lacks discretion in enforcement. Unfortunately, the discussion in Senate Finance was even more heated. On a related note, the Dept. has completed its abatement of penalty and interest on the household income business netting issue – an endeavor which resulted in abatements valued at approximately \$42,000 and consuming 160 field auditor hours.

Current Use: Ways & Means took some testimony on a bill modeled on last year's which purportedly has continued support from a coalition (according to Darby Bradley, of VLCT). Sen. Westman also suggested he has an unspecified amendment to Current Use. The Tax Dept. will continue to monitor in the event provisions start moving.

Renewable Energy: We will work with Secretary and DPS on a state solar grant in lieu of tax credit – main Tax Dept. task at this point appears to be drafting language to make state grant non-taxable. The Tax Dept. will also work with DPS on possible acceptable interim property tax rate on solar installations, pending study in Misc. Tax on property valuation of renewable energy projects.

Pets: Sen. Illuzzi and Sen. Campbell requested a meeting with the Commissioner to discuss taxing the sale of pets. The Commissioner dreads that a Fido bill may hold up adjournment. In all seriousness, although doubtless there is some revenue to be had, there would need to be a sizeable exemption to cover the large market in home and non-profit sales.

Other:

Tax Dept Mailings: Secretary Ross has requested that the Tax Dept. explore sending a mailing at Ag Agency cost to sales and use taxpayers who might be expected to use scanners. The Tax Dept. is vetting options in order to aid the Ag Agency in collecting fees to support their weights and measure inspection activities. Rep. Mitzi Johnson also requested that the Tax Dept. explore sending a mailing to recipients of the EITC to inform recipients that they are categorically qualified for the 3Square program. This may be more problematic, especially since it is not directly related to revenue. The Dept. researched the issue and the Commissioner had a productive meeting with Rep. Johnson and advocates, with the outcome that Rep. Johnson would seek legislative authority directing the Dept. to take this action.

Tax Season: The IRS has announced that a shutdown will not interfere with the transmittal of state efiles to the states. There was a real concern of an interruption in that function, now in fact there may be an efile bump since the IRS is urging taxpayers to utilize efile in the event of a shutdown. Fortunately, the IRS also did not move the postmark deadline for paper file.

Data Warehouse: DII, upon review of the contract, proposed that the “environment” set up, including purchase and configuration of hardware and software, be performed by DII. This leaves the vendor responsible only for its proprietary hardware and software, as well as its tech and compliance services. Jaye Johnson from the AG’s office is working closely with the Commissioner and staff in negotiating these changed terms, including developing a MOU proposal for DII, reworking the pricing terms, and hammering out the final legal glitches. Given the terms of the tax department’s technology appropriation in the Big Bill, it should be able to bear the cost of the DII equipment, which results in roughly a \$500,000 savings on the projected vendor recovery in this benefits based contract. The Dept. expects to have a final contract proposal for the Secretary’s review on Monday. In the meantime, with Jaye’s assistance, the Dept. is inching closer to a service contract with Oracle for the enterprise tax management enhancement project. Hopefully both projects will be underway by May 1.

MEMORANDUM TO GOV. PETER SHUMLIN

To: Gov. Peter Shumlin

From: GIRO Staff

Date: April 8, 2011

RE: Weekly Constituent Update

Current Issues:

Health Reform:

- A majority of constituents are questioning how health reform will be financed.
- There has been an increase in e-mails of constituents who are from out of state in support of single-payer and who say they would gladly move to Vermont when it is implemented.

Federal Budget:

- People are worried as to how heavily a shutdown would affect their day-to-day activities, particularly regarding to labor employees.
- We have been using this as an opportunity to highlight how much our state is getting done as opposed to federal legislation.

Vermont Yankee:

- In e-mails there is high support for wood/pellet heat and making sure Entergy does not try to keep Yankee open past 2012.
- People are concerned that food (fish, baby formula, etc.) could have radiation in it from Japan and how that could severely affect our agriculture industry if anything similar happened in Vermont.

Beaver Wood:

- Several calls in support of the Beaver Wood biomass project.
- Mention of a petition in favor of the project, although we haven't received it yet.

Tax Department:

- As tax season ends, multiple people have been calling the office because they do not have push tone phones and cannot get through the departments system.
- This makes it more difficult for their tax questions to get answered and they invariably call here to try and get help.

Taxes

- Received a glut of calls in response to wealthy Vermonters' letter encouraging tax hikes to save social programs

Richards, Alyson

From: Gaidys, Maureen
Sent: Friday, April 08, 2011 1:36 PM
To: Richards, Alyson
Cc: 'sbe@list.education.state.vt.us'
Subject: Commissioner Vilaseca's Weekly Report

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

**CONFIDENTIAL AND PRIVILEGED: NO SHARING
MEMORANDUM**

To: Governor Peter Shumlin
Cc: State Board of Education
From: Armando Vilaseca, Commissioner
Re: Commissioner's Weekly Report
Date: April 8, 2011

Act 153 Small Schools Grant Study Presentation: Section 21 of Act 153 (2009, No. 153 (Adj. Sess.)) directed the commissioner of education to identify school districts with small schools that should be deemed eligible due to geographic necessity, and to recommend a method to gradually withdraw state aid for those schools that were small but not eligible due to geographic necessity. Our Finance Director Brad James, with myself and CFO Bill Talbott as well, presented our recommendations to the House and Senate Education Committees this week. During the fall we had assistance, through a community internship, on this project from Montpelier High School student Gabe Sheier. Read the complete report here:
http://education.vermont.gov/new/html/laws/legislative_reports.html#153-21

Department of Education All Staff Meeting: On Monday the Department participated in an All Staff Meeting, the second of five. There was a panel discussion focused on Goal 5: Policy and Governance, of our strategic plan. Panelists included Representative Peter Peltz, Addison Northwest SU superintendent Tom O'Brien and VSBA Executive Director Steve Dale. Following this, the group broke out by divisions and further addressed the implementation of this goal, by building action plans, specific to that goal.

Legislative Testimony: The Department continues to follow and testify on several pieces of legislation. The small school grant, bullying and harassment and the miscellaneous education bill are some of the topics that were testified on this week. In addition, we continue to follow the House Education bill, which changes the department to an agency and the commissioner to a secretary.

No Child Left Behind Act: We are in the process of drafting a letter, for you signature, to Arne Duncan, regarding our concerns with NCLB and will provide this to your office in the near future.

Homeschooling: I met this week with two homeschool advocates to continue discussions on streamlining the process of registering homeschoolers while having a stronger, more systemic approach to assessing their success.

Federal Government Shut-Down: There is some concern about the possible shut-down of the federal government and the impact and unintended consequences this might have on schools and districts.

Licensing Actions: The department is in the process of calling a hearing to remove the teaching license of Will Parini, music teacher from Addison Northeast Supervisory Union, who was recently indicted on child pornography charges.

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.

The Department is Now on Facebook and Twitter: In an effort to reach a broader audience about the good things happening in Vermont schools, the Department now has a Facebook page and Twitter feed. Follow us at <http://www.facebook.com/VTEducation> or <http://twitter.com/VTEducation>.

Memorandum

Vermont Department of Public Service

Privileged and Confidential

To: Hon. Peter Shumlin
From: Elizabeth H. Miller, Commissioner
Subject: Weekly Report
Date: April 8, 2011

Status of Governor Priorities:

- Energy Plan: We conducted Transportation and Land Use energy planning meetings this week; they went very well. I met with two consultant firms regarding potential help with the CEP process, and have a meeting with Michael Dworkin on the same subject this coming week. I believe we need significant 5th floor support, even as the effort is conducted here and in other agencies/departments, for the energy planning process. I would argue that it should be akin to healthcare in terms of moral support from the 5th floor. There has been a great deal of excitement and interest in getting a new plan launched, at both the agency and stakeholder level. The October 15 deadline is very short, given the scope of the project, and actual upfront support from the governor's office is key to its success in my view.

VY:

- COB well meeting scheduled for end of April with VY officials.
- We've had continued inquiry from legislators and others regarding status of VY issues.

Legislative Issues/Contacts:

- The department has worked with committees of jurisdiction on the energy and telecommunications-related bills, particularly S.78 and H.56. We provided support to the grant in lieu idea also.

Press Issues/Releases/Contacts

- All press contact this week concerned either VY (the recent financial analyst report) or the 0.55 CEDF issue.

Significant Meetings/Events:

- The department hosted a second meeting for the Comprehensive Energy Plan, with very positive and encouraging results. Attendance was solid, and the information promises to enhance the planning process.
- I traveled to WDC for an NGA energy policy advisor meeting; I also met with Senator Sanders and key staff regarding VY and related issues.
- I met with Efficiency Vermont and came to a compromise with it regarding its funding/overhead, bringing EV back to a level in line with the 2006-08 time period.

- Cash Flow Management--The Department was requested to draw down federal grant funds in anticipation of a government shut-down. A draw-down of \$1.2 million was completed.
- In light of the Hardwick Electric Department \$1.6 million embezzlement, it has been determined the department should discuss internal controls and risk management practices with other municipal electric departments to mitigate potential risk associated with a lack of internal controls. A meeting was conducted with VPPSA and Hardwick to discuss plans for assessing internal controls and risk management practices in Vermont's municipal electric departments. Initial action plans are to develop a list of essential internal controls that will be socialized with the municipal electric departments.

Horizon Issues:

- We have a number of issues pending with EV regarding the upcoming budget cycle.
- Smart grid continues to present a number of challenges, particularly regarding pricing decisions and meter opt out.

Summary of Key Department Activity, By Division:

Public Advocacy and Consumer Affairs:

CVPS acquisition of VMPD—Docket 7660—The Board set the technical hearing for Monday, April 11. The parties will respond to questions from the Hearing Officer regarding the MOU. Included in the questions for the Department was a question asking on what basis the Board has authority to approve a transaction between utilities at a price above net book value. CVPS offered to provide its answers in advance in writing; the Department will provide its answers on the stand, or in a brief following the hearings.

Green Mountain Power AMI Plan - Docket 7704 - Right now GMP does not intend to offer any new dynamic or real time pricing until after all meters are installed. In contrast, the CVPS plan requires such pricing to be offered on a voluntary basis upon initial meter install. DPS generally supports the GMP plan and the workshop will explore previously identified areas where the DPS and the Board sought additional detail. The DPS was satisfied with the amended business case filed by GMP on 3/25/11 which corrected errors in the original business case.

VGS System Expansion Fund - Docket 7712 - VGS gave the DPS a brief opportunity to review the proposed notice they were obligated to submit to the Board, announcing the public hearing on the System Expansion Fund Proposal, but did not accept all of the Department's suggestions. The DPS remains concerned that the salient fact of the fund, that it uses monies that would have otherwise been rate decreases, is not clear enough in the notice. The DPS will propose changes to the language on 4/8 by noon and the Board will review all proposed language on the afternoon of 4/8. The public hearing is set for 5/11. VGS has also proposed a draft MOU and that will be circulated to the DPS internal team and discussed at an upcoming meeting.

CVPS Smart Power- Docket 7612 - DPS met to discuss the business case update filed with the Board on 3/24. CVPS disagreed with the DPS suggestion that the update needed a more detailed narrative about the changes, and a less confusing format. DPS will file those suggestions with the Board. In addition, DPS noted that CVPS has consistently requested confidential treatment of all financial information in the plan, despite the fact that data on ARRA funds for example, might not constitute confidential business information. DPS will discuss this issue with CVPS. DPS has reached agreement in principle with CVPS on the inclusion of certain desired technical capabilities in their AMI Vendor contract, so the DPS is virtually certain to sign a letter in support of this major milestone financial commitment by the end of the week. A similar letter for the intermediate backhaul commitment is still under discussion, pending a renewed request from CVPS accompanied by additional detail.

EOS Solar Farm – Docket 7618 – As reported earlier EOS did file a decommissioning proposal which had certain flaws. DPS discussed the filing with EOS counsel and resolved the issues to the DPS's satisfaction. DPS filed its recommendation for approval on March 31. On April 5 the PSB issued a memo raising concerns with the decommissioning proposal and seeking further

comments from the parties. A response to the Board's questions is due from EOS on April 12, with responses due April 19.

Sheffield Wind Project—Docket 7156—The Board granted Ridge Protector's motion and directed Petitioner Vermont Wind to attempt to personally contact all residents within one half mile of potential blasting areas to provide specific information about the pre-blasting survey and to report back to the Board on the results of that communication.

Voice over Internet Protocol—Docket 7316—The Department is filing its docketing statement with the Supreme Court in response to Comcast's appeal. The Department noted the Board's Order was not final, but that the Order should be affirmed.

Kingdom Community Wind – Docket 7628 - Reply brief filed 4/4. DPS recommends approval of project, has recommended risk-based setback of 60 meters, also that Petitioners be given the opportunity to file an alternative lighting mitigation plan if OCAS is not approved by the FAA.

Georgia Mountain Wind – Docket No. 7508 - Brief re: setbacks filed on 4/6. DPS recommends setback of 1.1 times tower height based upon recreational and logging uses near Project, potential for future development near project.

CVPS acquisition of Readsboro Electric—Docket 7688—The parties are awaiting an order from the Board or a notice that a technical hearing will be required.

SunGen Sharon Solar—Docket 7700—The Department is still finalizing its contract with the aesthetics consultant. He will create an aesthetics report which will be submitted to the Board by late April. The current schedule calls for a stipulation to be finalized by April 25 or for parties to file a litigation schedule. Apparently the Petitioner is reaching agreement with the Agency of Agriculture and CVPS. The Department has no issues other than the matter of aesthetics, which is still under review at this point.

Granite Reliable PPAs with GMP and CVPS—Dockets 7589/7590 (and other dockets)—the Board has scheduled a workshop for April 28 to determine the extent to which information in Power Contracts should properly be kept confidential. The Board has requested written comments to be filed by April 18.

Stowe Electric Dept. IRP - Docket 7371 – Stowe is no longer a member of VPPSA, but VPPSA had prepared Stowe's most recent IRP and had been representing Stowe in the review process. However, Stowe decided to retain its own expert and counsel for the IRP review. Stowe filed a request with the PSB to withdraw its previous (1996) IRP due to its increasing irrelevance over time (as did the VPPSA member utilities). DPS supported the requests, and PSB granted the VPPSA request. On March 31 the PSB issued an order approving the request; Stowe must file Stowe's 1996 IRP is no longer in effect, and Stowe is currently without an approved IRP. Stowe shall file its revised IRP by 6/1/11. The Department's recommendations on Stowe's revised IRP shall be filed by 7/1/11.

Catamount/Bolton Water & Sewer LLC – Docket 7722 – a prehearing conference was held April 7 and a schedule agreed to. DPS will work with the company to seek agreement on a rate increase, probably less than the 269% requested. This company is under an EPA order to develop a new source, and a significant rate increase is inevitable. One significant concern of customers is the fact that both water and sewer services are provided by one company; water rates are regulated but sewer rates are not. This creates the potential for the company to negate the effects of rate regulation by increasing its sewer rates at will. One customer enlisted Sen. Lyons' help to propose an amendment to H. 11 that would authorize the PSB "to consider" the effects of its orders on unregulated activities of a utility company. DPS counsel believes the proposed language is ambiguous and ineffective for its purpose.

Consumer Affairs

- CAPI worked with Sprint and gave approval of the new instructional video and cover for the "Don't Hang Up On Me" campaign, which is a DVD that will be distributed to VT businesses. The aim is informing businesses about the Vermont Telecommunications Relay Service, and what to do if they receive a call from a deaf or hard of hearing person using TRS.
- CAPI participated in the three state call with Maine and New Hampshire to discuss the status of the Retail Service Quality audit being conducted by Liberty on behalf of the New Hampshire PUC; the status of the PAP audit New Hampshire will be undertaking; and general FairPoint happenings in each state.
- CAPI staff met with Karen Marshall from the Governor's office and the DPS telecom staff. CAPI will continue to work with Gregg Trask on the technical aspects and will need to further consider how to spread already thin resources in the division.

Planning and Energy Resources:

Comprehensive Energy Plan:

- Another stakeholder meeting was held on April 7th as part of the Department's effort to revise the Comprehensive Energy Plan. This meeting, which focused on Transportation and Land Use, included presentations by the Agency of Transportation, Agency of Agriculture, Agency of Commerce and Community Development, and Agency of Natural Resources. Additional opportunities for public input will continue through the spring and summer.
- PERD staff continued to review & revise assigned sections of plan.

Fuel Survey:

- Continued unrest in the Middle East and the declining US dollar continue to support prices above \$100 per barrel with continued destabilization in the markets. Spot oil this am is \$108.70 trading as high as \$109.37 on Wednesday up over three dollars from last week

- In Vermont transportation distillate prices have risen modestly from the prior week only modest price variance across the state. Heating fuels continues to decline in price due to rising temperatures reducing demand.

	22-Mar	31-Mar	5-Apr
Fuel Oil	-		
#2	11.52%	-12.9%	-0.58%
Kerosene	-2.63%	15.6%	-0.03%
Gasoline	-0.73%	-20.9%	4.63%
Diesel	-0.11%	-0.6%	1.84%
Propane	11.01%	-0.1%	0.33%

ARRA:

- The Quarterly reporting process has begun with the gathering and submittal of data for OMB 10-day reporting for the over 200 ARRA projects. Grant administrators have been following up with grantees to insure reporting information is submitted and complete.
- Finalized a complete draft of the Risk Assessment and Site Visit documents for the Grant Monitoring Plan. Reviewed the documents with staff to explain the new system. Staff are now carefully reviewing the documents with the intention of enacting them at test runs in the next month.

Energy Efficiency and Conservation Grant Program (EECBG):

- Paid \$19,300 to U32 for their project to replace exterior building and walkway/parking lights with LED bulbs. An additional 50% of the purchase price is being held back until the lights have been installed.
- A final invoice in the amount of \$32,488 was paid to Woodstock Elementary School who completed their energy efficiency retrofit of windows and doors. The retrofit is estimated to save more than 111 gallons of oil annually and reduce greenhouse gas emissions by 2,475 pounds of CO2 annually. The retrofit was the next phase in energy management improvements that began in 2009 as part of a long-range building maintenance plan.
- A \$50,000 interior lighting retrofit was completed at Randolph Union High School. The lighting retrofit is expected to result in electricity cost savings of \$12,300 annually. The school replaced inefficient T-12 lamps with 2240 high performance T-8 lamps and 1050 T-8 electronic ballasts.
- We paid \$11,336 for two Regional Planning Commission grantees for energy planning and efficiency work

Clean Energy Development Fund:

- Started review of three new loan applications (SBE electronics, a solar project, and improvements to an existing hydro facility).
- Working with the CED Board and City of Montpelier on the City's unsolicited request for funds in support of the district heating project.

Energy Efficiency Utility Demand Resources Plan (DRP) Proceeding:

- Staff provided supplemental filing for the revised 2012-2014 EEU Evaluation Plan and Budget based on comments from the March 16 workshop. This filing also included justification for the Department to remain the evaluator of VEIC's participation in the FCM. Stakeholder comments are due by April 15.
- The DPS negotiated an agreement with VEIC regarding the total set-aside to collect from ratepayers (operations fee + performance award incentive). The total set aside will be 4.26% of the electric implementation budget. The DPS also agreed to increase the weighting of the operations fee relative to performance award amounts to enhance financial stability and cash flows of EVT. Recommendation forthcoming to the Public Service Board.
- Staff met with VEIC and consultants to discuss resource plan scenario development and develop rate and bill impact analysis. These analyses will be filed April 8.

EEU Evaluation:

- Staff continued to oversee the Business and Residential Energy Efficiency Market Characterization studies being performed by Navigant and NMR consulting.
- Staff reviewed the California Evaluation Framework to inform the development of a consistent, systemized and cyclic approach for planning and conducting energy efficiency evaluations in Vermont.

Other Items:

- The DPS said goodbye to longtime staffer and current Director of Planning and Energy Resources – Dave Lamont. Dave spent 30 years advocating for Vermont ratepayers. His knowledge and good nature will be missed.
- Staff testified before the House Commerce Committee regarding H. 102 as well as three propane bills currently before the Committee.
- Staff collaborated with Efficiency Vermont regarding the Governor's wood pellet incentive – reviewed industry questionnaire and raised potential issues surrounding the usefulness of legislation to clarify authority and possible barrier due to underwriting criteria requiring conventional heating systems.
- Staff participating in meeting with ISO-NE, the PSB, EVT, and BED in regards to the ISO-NE data request to the states in order to help ISO properly treat energy efficiency in forecasting. ISO-NE is requiring much greater precision and accuracy of energy efficiency forecasting than it does of energy consumption forecasting, with no

justification. DPS staff is working with PSB to place EE on an equal footing to other resources.

- Staff met with VPPSA to comment of Hardwick's proposed LED Streetlighting tariff.
- Staff initiated interrogatory discussions with finalists for the Vermont Energy Code Education, Outreach and Training RFP.
- Review and provided discovery on VEC Renewable Energy Pricing Program.
- Attended meeting to review Hardwick's proposed LED street lighting tariffs.
- Attended teleconference to reviewed AESC 2011 Project Deliverable including; the electric forecast assumptions, the gas forecast background and the sector-specific fuel oil forecast – electric generation component.
- Attended a meeting to discuss the potential WEC distribution rate calculations and approach use to support a proposed OATT filing.

Engineering:

Vermont Yankee Operation and Drills: Engineering participated in a VY drill on April 5 as preparation for the VY drill on May 3 that will be evaluated by FEMA. (Note: these VY drills consist of two days, and the Department only participates on the first day. The first day's scenario involves problems at the plant that lead to a release of radiation, and the second day of the drill involves the response in the field to a radiation release.)

Vermont Underground Utility Damage Prevention Program: The US DOT Pipeline and Hazardous Materials Safety Administration has awarded the Vermont DPS a \$43,000 grant to partially fund the CY2011 expenses of the Vermont Underground Facility Prevention Program (Dig Safe program), which the Department administers. This funding will be utilized for Department activities related to 30 VSA §7000 and PSB Rule 3.800, which collectively set forth the legal requirements of Vermont's Dig Safe program. Specifically, these funds will be applied to investigations of damaged underground facilities and violations of the Dig Safe requirements, as well as administrative processing of these cases and related compliance actions. These functions are fundamental elements of an effective program to reduce damages to Vermont underground utilities and the enhancement of reliable service provided to Vermonters by way of these facilities.

UPDATE - VELCO/IBM Line Outage: *This item is an update from the March 23, 2011 weekly report.* On Friday afternoon (April 1, 2011), VELCO completed its work on the K24 line and all systems were tested and returned to service. VELCO presently has three consultants working on the pole fire and this week they are expected to compile all of the analysis into a report. Also, VELCO will be finalizing a draft Root Cause Investigation report on the K24 line relay over-trips early this week. VELCO will share both reports with the Department as soon as they are complete.

Periodic Meeting with Green Mountain Power: Engineering meets periodically (a few times per year) with Vermont's largest electric utilities to discuss upcoming capital projects and any other items relevant to the Department's review of the utility's operation. Engineering is currently in the process of expanding the scope to meet periodically with all Vermont electric utilities

(individually). These periodic meetings serve the purpose of keeping the Department informed of the utility's current and future capital projects and other initiatives, and also allow the Department to provide feedback or express any concerns early in the utility's planning process. Engineering met most recently with GMP, and items discussed included: GMP's overall capital projects plan, a detailed discussion of smart grid capital projects and initiatives, and a discussion of GMP's reliability indices (SAIFI and CAIDI).

Telecommunications:

FairPoint Petition for Approval of a Successor Incentive Regulation Plan – Docket No. 7724 – The Board conducted a prehearing conference on 4/6/2011. Based upon the current schedule, technical hearings will be held the week of September 19, 2011. DPS testimony is due to be filed 7/8/2011.

FairPoint Petition to Amend the Vermont Performance Assurance Plan to Redirect Certain Penalty Monies for Broadband Build-Out – Docket No. 7725 – The Board conducted a prehearing conference on 4/6/2011. This proceeding will be consolidated with Docket No. 7726 (see below). Technical hearings are scheduled for 7/8/2011.

FairPoint Petition to Amend the Vermont Retail Service Quality Plan to Redirect Certain Penalty Monies for Broadband Build-Out – Docket No. 7726 – The Board conducted a prehearing conference on 4/6/2011. This proceeding will be consolidated with Docket No. 7725. Technical hearings are scheduled for 7/8/2011.

VTA Target Communities – The VTA Target Community list, the basis for the VTA Backroads broadband RFP, was prepared based on the areas without service indicated on the 6/30/09 broadband map. DPS staff have determined that the 6/30/10 updated map indicates that some of these target communities are already served, including some areas potentially included in the 2011 VTA funding decision.

Broadband analysis – DPS staff met with VCGI staff to describe a forward-looking analysis. This analysis would start with the 6/30/10 broadband availability map, and then overlay the planned FairPoint and VTEL projects. The result would be a set of census blocks that will continue to have less than 100% availability even following the completion of these projects. In addition to the map, the analysis will produce statistics showing the number of served and unserved addresses in each “unserved” census block. The DPS requested that VCGI prepare the analysis as soon as possible, but before May 1.

Broadband website – ConnectVT staff met with DPS staff from Telecom and CAPI to discuss how to process inquiries from the new broadbandvt.org website. The site will allow Vermonters to submit various inquiries, such as questions about whether service is available at specific addresses. The DPS agreed to develop a process by which such inquiries would be routed to CAPI staff. Many questions remain however, including items such as whether and how various providers of these unregulated services will respond to inquiries from CAPI staff.

Vermont Broadband Consortium – A meeting was held regarding the website and further edits are required by DPS and the design vendor. The marketing Plan is nearly complete. Target for hard launch is May 1 but considered very tentative based on responsiveness of vendor completing list.

BMI Data Collection – The data upload to NTIA is complete. A discussion was held regarding additional verification of data for the next gathering period. The discussion further centered upon the production of .pdf maps and statistics based on the 12/31/10 data set. DPS will coordinate with Connect VT to determine the format for the additional production of data maps.

FCC Tracking – The FCC has issued an NPRM regarding a change to the current rules so that signal boosters can be developed and used to enhance the access of rural customers to voice and data wireless services. Whereas such devices, if operating within strict guidelines, have been proven to assist customers in getting better wireless signals, the potential for interference with other spectrum from improperly operating or poorly designed boosters is extremely high. This NPRM would adjust the rules to allow for these signal boosters to be utilized.

In other wireless action, the FCC has issued an Order making additional spectrum available for mobile broadband networks. They are doing this in a number of ways. First the FCC is adding co-primary allocations in the 2 Ghz band. In addition, the Order extends the leasing policy, procedure and rules standards on licensed terrestrial mobile broadband service. The Order was adopted April 5

A new administrator has been selected to handle the Interstate Telecommunications Relay Service. Rolka Loube Saltzer Associates, LLC, (RLSA) of Harrisburg, PA has been awarded the contract.

Finance and Management:

Regulatory Policy Related Activity:

Three companies are currently developing rate design proposals for LED street lights. There may be a need for discussions next week regarding the proposed LED street lighting tariffs and the policy used for developing rates--marginal cost vs. fully allocated costing.

The Department plans to meet next week to discuss (1) a framework for assessing Smart Grid/AMI plans and (2) when dynamic pricing options should be available for companies implementing Smart Grid/AMI technology.