

# WEEKLY REPORTS

Checklist  
2/3/2012

Bill Lofy

Agency of Commerce and Community Development – Lawrence Miller

Agency of Agriculture – Chuck Ross

Agency of Transportation – Brian Searles

Department of Labor – Annie Noonan

Alex MacLean

Agency of Natural Resources – Deb Markowitz

Department of Public Safety – Keith Flynn

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

Susan Bartlett

Agency of Human Services – Doug Racine

Sarah London

BISHCA – Steve Kimbell\* (shared with Anya)

Jeb Spaulding

Agency of Administration – Jeb Spaulding

Special Reports

Additional Report: Education

Additional Report: Boards/Commissions

Additional Report: Irene Recovery Office

**To: Governor Peter Shumlin**  
**From: Lawrence Miller, Secretary - Agency of Commerce and Community Development**  
**Date: February 3, 2012**  
**Re: Weekly Report**

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Conducted Community Recovery Partnership meeting for Pittsfield, Stockbridge, Rochester and surrounding towns.

**eCorp English** submitted a plan to the creditors that would have the board injecting another \$600,000 but they wanted that to be in first position. Not happening. They threatened to pursue bankruptcy so that may be what is happening next, or they may put in more cash anyway. DOL is pursuing the wage and hour violations. The company gave an interview to the Addison Independent that fairly matched their communications to us and the board observers.

Rick Cochran and Lawrence had a good call. With Aly we will have a meeting with Harry Chen, VEM, and Vermont Technical College to make sure Mobile Medical is in the mix for future RFP's. Rick did observe that they should have done a better job selling.

**Revision Military** - we continue to follow up Revision's request for us to assist them with stitching suppliers and establishing an AbilityOne facility in Vermont. Also, please note that the company has not yet bid on the contract for helmets; it hasn't come out yet. Referring to this new possible line of business publically might not be advisable -this is the first time that they are bidding on this and they want to be very careful not to tip their hand to competitors.

**Commonwealth Dairy** - On Monday, Kiersten will be in Brattleboro to facilitate a meeting among parties (Town of Brattleboro, Commonwealth, Town of Guilford and their respective attorneys) to hopefully find a reasonable solution to the company's growing wastewater needs. Currently, the company is under an enforcement action from ANR for exceeding their existing permit; we need to get that resolved and discuss future needs. Also Milk.

**WEBiomass** – Kiersten going to visit them next week in Rutland to make sure that they are on more solid footing. They want to do a ribbon cutting event w/ the Governor in early March. They have had a few hiccups, so I want to see first hand what they are up to. (**maybe 10+ down the road...**)

**lbex:** After some phone tag, Pat MP and John Furnsell at lbex have talked and Pat is meeting with him Friday, February 10. John was VERY happy to see Governor Shumlin in Utah at the show. He stated it was great to see the state's commitment to keeping outdoor products companies in Vermont.

We are asking HUD to revise the 80% targeting of funds to Washington & Windsor counties to include Windham and Rutland which more closely follows 80% of severe unmet need. The RPC's, with Windham County RPC acting as the lead, will be distributing a Flood Recovery Un-met Needs Survey to all the municipalities in their regions to help inform the needs and potential uses for the CDBG Disaster Funding.

We just finished a regular CDBG round and approved 6 of the 9 grant applications totaling \$2.2M. The applicants have not yet been informed of the grant award decisions as we are discussing the ability and merits of having an awards ceremony with the Governors' office.



OFFICE OF THE SECRETARY

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**Executive Privilege**

**TO: Governor Peter Shumlin**

**FROM: Secretary Brian R. Searles**

**DATE: Friday, February 3, 2012**

**SUBJECT: VTrans - Confidential Report to the Governor**

**AMTRAK Ethan Allen Express Performance Problems Resolved**

In February of 2011 we were informed by AMTRAK that the *Ethan Allen Express* had the worst performance of any AMTRAK line in the nation. System responsible delays amounted to 11,068 minutes per 10,000 train miles in December, 2010 while the FRA standard is 900 minutes. AMTRAK sent a strongly worded letter to us and we put Vermont Rail Systems on notice that there would be an investigation and that the performance had to improve.

While all aspects of the investigation are not complete, the performance issues have been resolved. In a letter from AMTRAK, dated January 25, 2012, V.P. Joe McHugh reports that "the VRS team are deserving of praise and credit for their response and hard work". There has been a 99% improvement in performance to 135 minutes per 10,000 train miles shaving as much as 25 minutes off the northbound and 15 minutes off the southbound trains.

**Champlain Bridge**

A story that started in the Plattsburgh Press-Republican concerning cracks in the piers of the new Champlain Bridge created a stir in our own press and a bit at the State House. Our engineers joined NYSDOT in doing a routine inspection that had been scheduled to be completed while the contractor was still on site to deal with any unanticipated problems. Hairline cracks, called shrinkage cracks, were discovered that are not a threat to the structure and "are not rare" in "high strength concrete". It is the current opinion that the cracks will not even need to be grouted.

**VTrans Injury and Illness Report (for Work Related Injuries/Illnesses for 2011)**

It might seem counter-intuitive, given the emergencies dealt with in 2011, but as an Agency we recorded 43 such instances, a 33% decrease from 2010. We are very pleased about this outcome but at a loss to explain it as circumstances were ripe for an increase in these events.

### **Project Updates**

VTrans is part of an advisory group for the Vermont Gas Systems Addison Expansion project and that group has been meeting regularly to review alternative routes for the gas line expansion south of Burlington. The Circ alignment between US 7 in Colchester and I-89 in Williston is involved in three of the four short-listed alternatives. Meetings of this group will continue with the next one scheduled on February 8.

We are preparing for the upcoming construction season in hopes that it will be less contentious than last year on the Danville US 2 Reconstruction project. Several project management personnel changes have been made and contractor Pike Industries will be on a very short leash.

To 116 STATE STREET  
MONTPELIER, VERMONT 05620



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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** February 3, 2012

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**Secretary's Top Issues:**

North Springfield biomass facility. PSB# 7833. AAFM legal counsel filed a notice of appearance and attended a pre-hearing scheduling conference. The Agency's interest is to ensure that risk of invasive species of pests on biomass fuel imported to the proposed facility is minimized to the extent possible. Invasive species of quarantined pests are known to occur in those areas identified in the petition as being sources of fuel. These pests have the potential to devastate Vermont's agricultural and forestry sectors. The Agency anticipates working with ANR but it is too early in to tell if ANR can adequately represent all of the state's interests on this issue or whether AAFM will need to expended legal and staff resources. PSB proceedings are time sensitive and resource intense.

State veterinarian participated this week with other state animal health officials from New England and NY in the first planning conference for the New England regional milk movement permitting emergency exercise that is slated for early May 2012. This regional emergency preparedness exercise is supported/funded by the Vermont Homeland Security office, and the lessons learned during it will support the dairy industry's continuity of business planning and ability to ship milk in the face of a highly contagious livestock disease outbreak such as Foot and Mouth Disease (FMD).

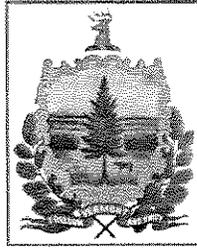
As part of Tropical Storm Irene Recovery Plan - sixteen employees and two Secretaries of VAAFAM attended VEM training on the upgraded version of DisasterLan earlier this week. This training was scheduled by Annie Macmillan, the agency's emergency management coordinator, in order to improve the agency's ability to effectively respond to natural and manmade disasters such as Irene in the future, as is mandated by the SSF11 annex of the State Emergency Operations Plan. There is a second class scheduled where additional employees will receive the same training.

Thursday, Feb. 2: "State of the Meat Industry" Meeting

The Farm-to-Plate Meat Processing Task Force invited industry stakeholders and members of the House and Senate Agricultural Committees to attend a presentation on issues facing the meat processing sector, and the results of the "Vermont Slaughterhouse Financial Assessment," conducted by Nancy Wasserman and financed through the Vermont Agriculture Innovation Center.

Formaldehyde – Agency of Agriculture continues to work with Department of Health, VOSHA and CDC to determine issues with use of formaldehyde on farms. A more extensive review of work is in the extended weekly report.

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**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** February 3, 2012

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**Legislative Issues**

Activity relative to flood related bills in the house and senate over the past week. Most discussions are around how development and other activities in the flood hazard areas should be managed and regulated to meet FEMA requirements in the future. A number of concepts have been considered as ways of addressing "exempt" activities under municipal zoning authorities that require permits or review under FEMA requirements and how this may affect NFIP eligibility.

Genetically Engineered Seed bill introduced this week. The bill addresses a number of issues with GE seed sales, use, liability etc. No testimony sought yet.

**Status of Governor's Priorities:**

Jobs in Agriculture

**Press Issues/Releases/Contacts:**

It was a relatively quiet week, as we wound down from the Farm Show. We received overwhelmingly positive feedback about the event and the Champlain Valley Expo. Overall, it was a success.

We have begun planning a press event to highlight the projects enabled by the Jobs Bill. We have ear marked Wednesday, February 15 from 12 noon to 12:30 pm in Room 11 at the Statehouse for this event. We are hopeful the Governor will be able to attend this event.

Dairy Section Chief, Dan Scruton interviewed with Mark Johnson at the Farm Show.

Press Issues/Releases/Contacts:

Date	Media Outlet	Reporter	Topic	Request	Outcome
2.1.12	NECN	Jack Thurston/Stuart Ledbetter	Maple	Wants to know if any sugar makers are boiling due to warm weather	<a href="http://www.wptz.com/news/30353003/detail.html">http://www.wptz.com/news/30353003/detail.html</a>
2.2.12	WCAX	Kyle Midura	Lack of Vets in NEK	Interested to know more about vet shortages	tbd

**Significant Events/Meetings:**

State veterinarian participated this week with other state animal health officials from New England and NY in the first planning conference for the New England regional milk movement permitting emergency exercise that

is slated for early May 2012. This regional emergency preparedness exercise is supported/funded by the Vermont Homeland Security office, and the lessons learned during it will support the dairy industry's continuity of business planning and ability to ship milk in the face of a highly contagious livestock disease outbreak such as Foot and Mouth Disease (FMD). This multi-state collaboration and exercising of this particular concept is the first of its kind in the country and has been facilitated through the New England States' Animal Agriculture Security Alliance. The goal of the exercise will be to "practice" a New England regional milk permitting strategy that is unique to our region and takes into account the interstate milk movement patterns that must be maintained during the disease outbreak if the Vermont dairy industry is to survive a devastating outbreak such as FMD. The exercise will engage state and federal regulators as well as key industry stakeholders.

The VT Agricultural Development Board (VADB) met Wed. Feb 1 to discuss the Working Landscape bill, On Farm Slaughter, UVM Food System Spires, and the F2P Working Group & Steering Committee updates. The VADB supported Secretary Chuck Ross's position with the Working Landscape bill which included the recommendation for the VADB to become the core of the proposed Working Landscape Enterprise Board (WLEB) and adding in forestry sector representation. VADB Chair, Leonard Bull reported to both House and Senate Ag on Feb. 2 providing an update on the board's activities as well as a budget request for \$22,000 mainly to support administrative support provided by the Vermont Agency of Agriculture and a minimum amount for travel.

### **Evolving Issues:**

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- Meat Program Chief accompanied Secretary Ross to meeting with Governors' representative and Rural VT concerning on-farm slaughter and associated requirements
- Meat Program Chief met with the Vermont Agricultural Development Board to review legal requirements and possibilities for on-farm slaughter. Discussed minimum requirements for facility and related exemptions

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

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#### **Administration**

Preparing for administrative assistant to Secretary Ross, Deputy Secretary LaClair and Deputy Secretary for Dairy Policy Bothfeld to be out of Family and Medical leave for 6 to 8 weeks. Backing filling from within the Agency of Ag but will be a learning curve.

#### **Ag Development**

North Springfield biomass facility. PSB# 7833. AAFM legal counsel filed a notice of appearance and attended a pre-hearing scheduling conference. The Agency's interest is to ensure that risk of invasive species of pests on biomass fuel imported to the proposed facility is minimized to the extent possible. Invasive species of quarantined pests are known to occur in those areas identified in the petition as being sources of fuel. These pests have the potential to devastate Vermont's agricultural and forestry sectors. The Agency anticipates working with ANR but it is too early in to tell if ANR can adequately represent all of the state's interests on this issue or whether AAFM will need to expended legal and staff resources. PSB proceedings are time sensitive and resource intense.

In re: Application of Salvas, A250 (Stowe). AAFM, Salvas, and the NRB executed and filed a settlement agreement with the Environmental Division of the Superior Court. The agreement contemplates dismissal of the appeal and remand to the District #5 Environmental Commission for its consideration and expected approval of an amendment application.

Thursday, Feb. 2: "State of the Meat Industry" Meeting

The Farm-to-Plate Meat Processing Task Force invited industry stakeholders and members of the House and Senate Agricultural Committees to attend a presentation on issues facing the meat processing sector, and the results of the "Vermont Slaughterhouse Financial Assessment," conducted by Nancy Wasserman and financed

through the Vermont Agriculture Innovation Center. This report, which compiles data from 4 participating Vermont facilities, provides insight into the financial state of this sector. Attendees included 5 meat producers and processors, 2 VAAFM staff, 10 representatives of support organizations (e.g. Farm Viability, NOFA-VT, Rural Vermont), 9 members of the House Ag Committee, and 1 member of the Legislative Council.

Recommendations included:

- Addressing rising costs, including workers' compensation and electricity
- Exploring agricultural exemptions for meat processing facilities
- Obtaining clarification from ANR on wastewater requirements
- Providing technical assistance for professionalizing business management and accessing capital for plant expansions

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

Dairy Section Chief Dan Scruton was awarded the Finley Award at the Dairy 'Farmer Banquet at the VT Farm Show. Congratulations Dan.

Sixteen employees and two Secretaries of VAAFM attended VEM training on the upgraded version of DisasterLan earlier this week. This training was scheduled by Annie Macmillan, the agency's emergency management coordinator, in order to improve the agency's ability to effectively respond to natural and manmade disasters such as Irene in the future, as is mandated by the SSF11 annex of the State Emergency Operations Plan. There is a second class scheduled where additional employees will receive the same training. The depth of expertise that will result from the two training classes and the agency-specific exercises that will follow will allow the agency to cover multiple operational shifts at the EOC and perform in a more cohesive manner in the field during the response and recovery phases of future emergencies.

#### Consumer Protection

- Consumer Protection will have a new specialist, Sumner Kuehne, starting on February 12. His field territory will be in Addison and Rutland Counties.
- Hydrometer testing is proceeding at our new lab location in Berlin. Several thousand will be tested for equipment dealers throughout the U.S and Canada.
- Scanner audits by our staff have uncovered several violations to date. Approximately \$20,000.00 in penalties have been issued so far.

#### Dairy Section

- Repeat inspection violation, notice of violation submitted on Wilson Farm in Barre
- Milk handler License application submitted by Five Acres Farm of New York for fluid milk

#### Meat Inspection Points of Interest

- VT is working with USDA on implementation of the USDA Public Health Inspection System (PHIS) for state inspection programs
- Working on documents to aid in the explanation of the requirements for performing exempt slaughter on the farm – requirements include hot and cold running potable water, washable surfaces, Sound construction to preclude contamination by vermin and insects
- Chief continuing communications with a custom plant operator concerning expanding a custom exempt facility to do state inspected processing, the possibility of incorporating curing and smoking operations and to review plans for a mobile red meat slaughter facility This is in Glover, Vermont
- Also discussed development of a custom cutting shop to be developed as part of a retail store operation in Hardwick
- Vermont's on site review by the federal Food Safety Inspection Service has been schedule for June 11 through the 15th
- Meat Inspection new hire has begun 6 month training period for food safety regulatory essentials, as well as livestock and poultry slaughter and processing

- Program is providing assistance to two state inspected processing companies to transition to federal inspection enabling them to expand marketing possibilities outside of VT

### Agricultural Resource Management

Invasive Weed Rule is ready for filing. The rule establishes restrictions on the sale, distribution, and propagation of a number of plant species deemed to be invasive such as Norway maple and burning bush.

Numerous staff attended DLAN training this week in an effort to better prepare for future emergencies such as that caused by tropical storm Irene in 2011. More staff will attend another training later in February.

Manure spreading exemption issued to Randy Quesnel of Cornwall today. Exemption lasts until Feb. 10. Mr. Quesnel was unable to empty his two stage pit in the fall due to wet field conditions. Exemption restricts application to 3000 gallons/acre and a total of 350,000 gallons.

### **Formaldehyde Update: January 31, 2012**

#### 1. Outdoor Ambient Air Quality

##### a. Questions-

- i. Does the disposal of formaldehyde-containing foot baths in manure pits raise the ambient air concentration of formaldehyde once the manure is land-applied?
- ii. If ambient air levels are elevated by this practice, are the levels high enough to be a health concern?
- iii. Which State Agency should regulate this use?

##### b. Issues

- i. The practice of using formaldehyde on animal hooves for the treatment of hairy heel wart most recently came to the attention of the Agency of Agriculture in August 2011 when a woman from Franklin County expressed her concern that spreading manure which may contain formaldehyde from foot baths was responsible for her health condition. She indicated she was exposed during manure spreading operations at a farm near her residence.
- ii. The use of formaldehyde by farms is estimated to be half of the free-stall farms in Vermont, or about 30% of Vermont Dairies, and is currently not regulated by the Agency of Agriculture, or the Department of Health, or VOSHA because it is unclear who is best suited to regulate formaldehyde. It is not registered as a pesticide (economic poison), the Department of Health and the FDA are unwilling to classify it as a new animal drug, and the number of employees on farms do not allow for VOSHA oversight.
- iii. Formaldehyde, like many other chemicals, is hazardous to human health if exposure occurs for long periods of time or at high concentrations. Formaldehyde is potentially more hazardous because it is a known respiratory and dermal sensitizer. This means that if a person is over-exposed to formaldehyde, they may be more sensitive to other chemicals and/or have more severe reactions to smaller amounts of formaldehyde. Formaldehyde is *currently* classified as a known human carcinogen by the Environmental Protection Agency, the National Toxicology Program and the International Agency for Research on Cancer.

iv. Formaldehyde is ubiquitous in the indoor and outdoor environments. Tobacco smoke, automobile emissions and many consumer products are the leading sources of human exposure. Formaldehyde has a very short half-life in the environment and breaks down quickly to less harmful chemicals. The primary health concern regarding agricultural use of formaldehyde is worker safety and proper chemical handling. It is prudent to minimize exposures of workers and the public to formaldehyde.

c. Solutions

i. The current path forward involves continuing to collaborate with the Department of Health and the ATSDR (Agency of Toxic Substances and Disease Registry) to conduct an ambient air monitoring study this Spring or Early Summer (2012), to try and determine if this use pattern results in elevated formaldehyde levels during manure spreading activities. A conference call is scheduled for February 11, 2012 to discuss details. Even if this use is found to have health implications to people living near farms, no authority exists to remedy the situation.

2. Farm Worker Exposure

a. Questions

- i. Does the use of formaldehyde in foot baths to mitigate hairy heel wart create an unsafe working environment?
- ii. Can Formaldehyde be used safely?

b. Issues

- i. In November of 2011, a patient presented with ulcerating dermatitis of the ankles to a health care provider in Franklin County. He was a worker at the same farm which was cited in the August 2011 complaints. The worker indicated the cause of his skin injuries was formaldehyde he used at the farm. The Health Department formally requested the Vermont Occupational Safety and Health Administration investigate the farm for possible sources of formaldehyde exposure and work practices that could lead to worker harm. The VOSHA investigation is closed and the farm has ceased its use of formaldehyde. No air monitoring was done.
- ii. The primary health concern regarding agricultural use of formaldehyde is worker safety and proper chemical handling. It is prudent to minimize exposures of workers and the public to formaldehyde.
- iii. H.545-An Act Relating to the use of Formaldehyde in the cleaning of domestic animals hooves.
  1. This act would ban the use of formaldehyde completely.
  2. This act would give regulatory authority to the Department of Health.
  3. This act prohibits alternative treatments that are carcinogens.
  4. The prohibition of formaldehyde may lead to greater use of alternatives like copper sulfate or other alternatives that also contain heavy metals.
  5. Advocates: Some members of the public and some farm workers who believe they are being exposed to this chemical. Some large-animal veterinarians.
  6. Opponents: Some farmers who find formaldehyde to be a relatively low cost and effective treatment for animal hooves; some producers and vendors of formaldehyde-based products used for the treatment of animal hooves. Some large-animal veterinarians.

7. If the Legislature takes up this bill, the Agency suggests Formaldehyde use be allowed under Veterinarian prescription.

c. Solutions

- i. The Agency has identified three farms willing to participate in an on-farm air monitoring study to address the issue of worker exposure to formaldehyde. Sprague Ranch in Brookfield, Knoxland Farm in Bradford, and Gingue Brothers Dairy in Fairfax will participate in the study. The Department of Health has volunteered to design the study and assist with the sampling. We are also in discussions with current distributors of formaldehyde to discern if the products can feasibly be used safely on the farms that need it. These distributors are reviewing PPE (Personal Protective Equipment) requirements to try and establish the most cost effective method of mitigating risks from formaldehyde use on farms.

**Secretary's Comments**

Secretary met with Rural Vermont to discuss slaughter issues. Agency is working to put together a visual to allow those that have animals to slaughter can navigate slaughter regulations.

Secretary Ross visited House and Senate Agriculture committees to discuss working landscape bill.

Secretary Ross met with VHCB Gus Seilig and VT Land Trust Gil Livingston to discuss conservation issues and potential amendments to easements.

Secretary Ross presented the Agency of Agriculture's Budget to the House Appropriations Committee.

Secretary Ross has been interacting with counter parts in the Northeast to prepare for the upcoming National Association of State Departments of Agriculture meeting next week. The meeting will extensively discuss policy for the Farm Bill. Effort being put forth to have a joint proposal from the Northeast.



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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** February 3, 2012

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**Secretary's Office**

I received a report this week (which was prepared at my request) from Richard Boes and Angela Rouelle (AHS's CIO) concerning AHS IT systems and challenges. It is to say the least disturbing. AHS does not currently have the capacity to keep up with ongoing operations, including compliance with federal laws, let alone do the extra work required by new projects, including health care reform. Even without anything new, we are in a downward spiral. AHS IT is understaffed, losing good employees to higher paying private sector jobs, and suffering from the low morale one might expect in such a situation. In addition, our IT systems are old and difficult to maintain. I knew that we had problems, but this is much worse than I had believed. Jeb Spaulding is aware of the issue.

The recommendation in the report is that we need 70 additional positions. (That is not a typo.) I have asked Richard and Angela to give me plan B, which would be to hire contractors to do most of the work, and then use some reassigned positions to supervise. This is possible but expensive. However, money is easier than positions, even when contracting is more expensive.

Our ability to do the work that will make our promises on health care reform a reality is simply not there at this time. I will continue to work with our IT people to get this under control and look for creative solutions.

**Vermont Department of Health (VDH)**

**Governor's Priorities**

**Portable Hospitals Enhance Statewide Public Health Response Capabilities.** The Department of Health has been working to improve the medical surge capacity of Vermont hospitals. In 2011 the department purchased eight trailers and an inflatable mobile hospital with federal emergency preparedness grant funds providing 440 additional beds. The model and brand of the mobile hospital match one purchased by Central Vermont Medical Center in 2010 to allow for interoperability and connection of the two units into one larger facility. This also permits the training of responders around the State to learn how to set up and operate a single system that could be used anywhere.

**Family Planning.** The Departments of Health and Health Access are working with Planned Parenthood of Northern New England (PPNNE) to create a reimbursement system allowing PPNNE to provide family planning services for Vermont men and women who are ineligible for "traditional" Medicaid or VHAP insurance. The services as provided by PPNNE will include

enhanced outreach to individuals who are potentially eligible for the program, enrollment for the eligible men and women who are seen in PPNNE health centers and provision of family planning services by PPNNE clinicians.

## **Media**

Youth Suicide Prevention Platform. On February 6<sup>th</sup>, the Vermont Youth Suicide Prevention Coalition is holding a press conference to present its new Youth Suicide Prevention Platform, which is intended to guide suicide prevention efforts for the next five years. In addition to you and I, Health Commissioner Chen and Education Commissioner Vilaseca are scheduled to speak in support of this effort along with JoEllen Tarallo-Falk, who is executive director of the Center for Health & Learning (Brattleboro). The Center has served as the AHS lead organization focused on youth suicide prevention, funded by a grant from federal SAMHSA. As part of this work, the Center created the UMatter public information campaign, trained over 500 professionals, developed protocols for prevention and post-vention, engaged 30 school supervisory union teams, and facilitated the coalition, which has 26 member organizations. Suicide survivors and members of the military are expected to attend.

VTDigger is requesting suicide statistics for a story relating to recent suicides among mental health patients.

## **Evolving Issue**

Pertussis Outbreak Response (N). The Health Department continues to address an ongoing outbreak of pertussis in Vermont. In 2011, 94 cases of pertussis were confirmed statewide. Between January 1<sup>st</sup> – 25<sup>th</sup> 26 cases were confirmed. Many additional cases are under investigation. School age children account for 92% of these cases, with cases occurring in at least 10 schools.

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

### **Legislation**

With the passage of H-630 yesterday, we have begun discussions with Senators, and will be providing a packet of information to each of them today in advance of testimony next week. Commissioner Flood has spoken with Senators Mullin, Snelling, Miller and Kitchel this week. So far there seems to be support for a 16 bed facility. Senate Health and Welfare seems poised to hear all over again the testimony they heard in joint hearings with HHS over the past few weeks.

The hospitals are in some disarray at this point. Brattleboro Retreat and Rutland are still on board with the Governor's plan, but FAHC and Central Vermont are pushing hard to maintain the 25 bed (or more) state facility. It is unclear at this time how this will play out in testimony next week. Commissioner Flood is working with Jill Olson from VAHHS to try to come to some agreement.

More problematic is that Senate Health and Welfare also plans on taking testimony on the involuntary medication statutes. Sen. Ayer has been asked to do this by a constituent after conversations with FAHC. Prior to this, no one involved in developing the plan for mental health wanted this issue to come up because it has the potential to derail the whole bill. It is immensely controversial with advocates. However, the hospitals and many psychiatrists think the process should be changed to make it easier and quicker to get an involuntary medication order. If this issue comes to the table, DMH and AHS will be forced to take a position. Commissioner Flood believes our position should be against any changes to the statutes. He will be discussing this with Senator Ayer today and providing further update.

Department Operations. Deputy Commissioner Rebecca Heintz has informed the Commissioner that she will be leaving DMH for a position at BCBS. Her new position will pay significantly more and of course not require late nights and being on call. This is a very big loss. She has shown herself to be very effective and hard working. It will be very difficult to find someone qualified to fill this position.

The good news is that Mary Moulton started this week on a contract from Washington County Mental Health to assist in implementing all the improvements in the designated agency system.

The pressure on the hospital bed supply continues to be a daily challenge. Our care management staff is beginning to have an impact on more timely discharges, but the supply is still incredibly tight.

Morrisville. Commissioner Flood met with BGS yesterday to plan for renovations at the former Morrisville nursing home. The goal is to open it as a temporary hospital within a very aggressive 4 month time frame. A zoning permit has already been submitted, and a hearing will be held on Feb 23. A team from BGS and VSH will be at the site Saturday morning to begin more detailed planning. A cost estimate for renovations should be forthcoming soon, and then needs to be part of our submission to FEMA for “re-location” costs.

The plan for this facility is in two stages. Stage one is to open it as soon as possible as a temporary, state licensed facility, move the individuals from Springfield there, and operate 3-5 additional acute in-patient beds there, to help take pressure off the system. Stage two is to apply for Medicare and Medicaid certification, and if approved, to expand it to 16-20 beds, and no longer rely on the beds at FAHC. Those beds could then return to being used for other patients.

Assault by CRT client. Earlier this week a 39 year old man with a long history of mental illness attacked his father with a knife and seriously injured him. This is reported to be a completely unpredictable attack by someone with no history of violence. He has been arraigned and is currently at the Brattleboro Retreat. At last word the father’s condition was slightly improved. This is not an example of someone who did not receive care and subsequently had a problem. This individual has been a client of the designated agency for many years and is reported to have been compliant with his services, although there is a report he may have stopped taking his medication prior to the incident. His mother has been on the board of the designated agency for years and a strong supporter of community services.

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

### **Jobs**

Diane Dalmasse, Director, Voc Rehab Vermont, was recently elected Regional Chair for New England for the Council of State Administrators of Vocational Rehabilitation (CSAVR). CSAVR is the national organization representing all VR Directors across the country. VR is a state-federal partnership that assists people with disabilities to work successfully in their communities. VR in Vermont consistently ranks in the top five on national program indicators.

### **Ongoing Issues:**

***Adult Protective Service*** The change in leadership at the Division of Licensing and Protection continues to yield positive results, including closing outstanding cases. There is no backlog, queue or overburdening of investigators. Commissioner Wehry appeared on VT Edition to address concerns about APS and was able to counter some misinformation being provided by Barbara Prine at VT Legal Aid. We expect our national consultant's report next week.

### **Legislature**

Commissioner Wehry testified before House Ways and Means in support of H. 582, the fee bill on the rooms & meals tax. The proposed amendments update the language governing application of the rooms and meals tax to ensure consistency with the way long-term care services are delivered in facility-based settings today. These changes will prevent another Gables-type event.

Commissioner Wehry, Deputy Secretary Oliver and I met with Senators Sears and Snelling to discuss Act 63 and 83 reports which recommend changes to the home health system. Both reports envision allowing more competition in the provision of both medical and non-medical services. These changes would be controversial and we are discussing the merits of going forward this year or simply starting the conversion.

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

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

Interview with WDEV. Commissioner Pallito has been invited to the Mark Johnson show on WDEV on February 8<sup>th</sup> at 9 am to give a general update on the DOC. Commissioner Pallito will talk about our recent work on recidivism, population trends and give an update on the Governor's Budget.

### **Significant Events/Meetings**

Meeting with Corrections Corporation of America (CCA). Commissioner Pallito and Deputy Commissioner Menard met with CCA representatives to discuss future bed needs. Of interest is

that CCA is proceeding with the planning of a 1,500 facility in New Hampshire, on the Vermont border. This planning is the result of an RFP issued by the NH DOC for a public/private partnership to build and operate a new facility in NH.

S.130. Commissioner Pallito has been asked to testify along with Senator Sears on S.130, a bill to create green jobs and environments in the DOC Correctional Facilities. This testimony will take place on Tuesday in Senate Institutions and following the testimony from Senator Sears, we will have additional information regarding the intent of this bill. It does seem to be consistent with the direction of green facilities and reducing waste.

## **Other**

Population. As of February 1<sup>st</sup> we have 1,969 males in jail and 146 females in jail for a total of 2,115. Additionally, we have **391** people detained.

The Department's overall population has maintained in the low 2100's for the last week. The female population has maintained in the low to mid 140's, and the overall detention population remains in the upper 300's. The Department is currently supervising 5 individuals on home detention, 34 individuals on home confinement and 63 individuals on re-entry furlough. More significantly, earlier this week, there were **138** women in the Chittenden Facility.

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

### **Legislative Issues/Contacts**

Strengthening Families Grant Program. Senate Appropriations is headed toward targeting special financial relief to two child care programs: one in Richford and the other in Newport Center. The draft language would result in the earmark they want, without naming the programs specifically. We strongly oppose this effort.

### **Significant Events/Meetings**

Disability Determination Services Director Elected NCDDD President. Trudy Lyon-Hart, Director of the Office of Disability Determination Services in the Department for Children and Families, was recently elected President-Elect of the National Council of Disability Determination Directors (NCDDD). Ms. Lyon-Hart will serve as President-Elect until this fall when she will begin a two-year term as NCDDD President.

NCDDD is a professional association composed of the Directors and managers of the Disability Determination Services (DDS) agencies located in each state, the District of Columbia, and Puerto Rico. The mission of NCDDD is to provide the highest possible level of service to persons with disabilities, to promote the interests of the state-operated DDSs and to represent DDS directors, their management teams, and staff.

As a leader in NCDDD, Ms. Lyon-Hart will have opportunities to articulate DDS issues on the national level, working directly with Social Security executives, testifying at Congressional committee meetings, providing input to national advisory panels, and representing NCDDD on national workgroups. Her contacts with all the other DDS Directors will also involve sharing of best practices, which will help to enhance the performance of the Vermont DDS.

New Offender Benefits Enrollment Initiative. On January 30<sup>th</sup> the Department for Children and Families Economic Services Division (ESD), in collaboration with the Department of Corrections, launched a new Offender Benefits Enrollment Initiative. The goal of this initiative is for all newly-released Department of Corrections' residents who are eligible for 3SquaresVT and Health Care benefits to receive those benefits upon the day of, or day after, release from a correctional facility. Receipt of these food and health care benefits is a critical component of the individual's successful reintegration into their community. Representative from ESD, the Department of Corrections, and Field Services have developed a streamlined process for making this happen consistently across Vermont.

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

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

Electronic Health Records and Naturopaths. Hunt Blair testified on Wednesday before Senate Health & Welfare on S.209, Electronic Health Records and Naturopaths. Hunt explained that while the specific wording of the request in S.209 could not be accomplished (because it referenced a loan program authorized by 2009 state legislation but never implemented due to failure to fund the corresponding federal HIT loan program), it is the intent of DVHA to provide support through a combination of loans, grants, and incentive payments, to naturopathic physicians acquisition of EHR systems.

Medicaid for People with Disabilities. Mark Larson is scheduled to testify today before the Senate Health & Welfare Committee on S.89, Medicaid for people with disabilities. A request for additional time before testimony has been made to the committee chair.

Small Businesses and the Exchange. In anticipation of Wednesday evening's public hearing on the Exchanges, legislative leadership requested talking points regarding small business and the Affordable Care Act. DVHA developed a one-pager of facts about what the federal law requires to help educate stakeholders on the background for the Exchange work and H.559.

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

Grandfathered plans. Allan Pennebaker from VT Digger requested information about health insurance plans that have been deemed grandfathered plans. Allan was particularly interested in the status of the state teachers plan.

Burlington Free Press. Nancy Remsen of the Burlington Free Press is writing an "Exchange 101" piece, with the goal of giving a background to the current political conversation on our state

exchange. Lindsey Tucker sent materials created by national organizations on the Affordable Care Act as background and will talk to her on Thursday.

Burlington Free Press. Steve Kimbell and Mark Larson met with Aki Soga to discuss the Health Care Reform Strategic Plan and other health care reform topics.

### **Significant Events/Meetings**

BCBSVT and the Exchange. Mark Larson, Lindsey Tucker and Hunt Blair met with Don George and others at BCBS to discuss design options and planning for the Exchange. Opportunities for shared planning and design were discussed. DVHA explained that we are hiring several consultants to work with us on these design elements and encourage BCBS's involvement.

Vermont Association for Hospitals and Health Systems and provider tax. After discussion with Jim Reardon, Mark Larson spoke with VAHHS and agreed that DVHA would request that the legislature give DVHA more time to work with the hospital association on the issue of inclusion of physical practices within the hospital provider tax. Mark made it clear that if agreement wasn't reached, the DVHA may again ask for the fee bill language related to this issue be included.

### **Evolving Issues**

Insurance Exchange Hiring. The majority of the Exchange grant positions now have job codes, and three have been posted in DVHA: health care policy analyst, health access policy and planning chief, and an executive assistant. Additional positions are receiving job codes, and we hope to post as soon as possible.

Insurance Exchange Contracting. Lindsey Tucker is finalizing DVHA's five consulting contracts and sending to leadership this week for review. There is a conference call scheduled on Monday to approve the contracts. They are:

- Wakely Consulting: Exchange operations and finances; small business exchange design; qualified health plan design, certification and enrollment, insurance market impact
- Pacific Health Policy Group: Exchange integration and administrative simplification
- Bailit Health Purchasing: payment reform
- University of Massachusetts: Wellness and quality
- GMMB: stakeholder engagement; outreach and education plan; development of Navigator program

Stakeholder concerns. At last week's Medicaid Advisory Board meeting and continuing into private conversations this week, advocates have expressed their concern that the Administration isn't discussing individuals at the 200-300% federal poverty level and how to ensure the Exchange is affordable for them. Lindsey Tucker is assuring them that this population is on DVHA's radar. DVHA also heard from the Retailer's Association and BCBSVT that they are concerned about our timeline and ensuring the Exchange is ready to go live on October 1, 2013.

Hopefully, these concerns will diminish over the coming months as our contractors help us shape the Exchange and planning for implementation.

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Deborah L. Markowitz  
Agency Secretary

Christopher Recchia  
Deputy Secretary

**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To:** Governor Peter Shumlin  
**From:** Deborah Markowitz, Secretary, Agency of Natural Resources  
**Date:** February 3, 2012  
**Subject:** ANR Weekly Report

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**GOVERNOR LEVEL ISSUES:**

- **H.258 – Public Participation in Enforcement:** After helpful amendments by the Committee and Sen. Illuzzi, the bill passed the Senate on a unanimous voice vote yesterday. We've requested the house concur with the senate version. I recommend that you hold a bill signing ceremony on this one!
- **H.237 – Current Use:** This bill is presently in Senate Finance and would solve the "parking problem" the Westman amendment attempted to deal with last year. Senators Starr and Kittell are inclined to favor it, and we are working on them to ensure support, as well as with Sen. Westman to address issues he has that we believe can strengthen H.237.
- **Permit Improvement Process:** We are making progress on an agreement between the Chamber and VNRC (among others) on a modified on the record (OTR) appeal to the Environmental Court and are working on what additional measures are needed for VNRC to agree. Attorneys are balking, but their clients are pushing back believing OTR makes more sense from their standpoint.
- **ANR Fees:** Our fee proposal is struggling a bit on the house side.
  - Committees are reluctant to impose a fee of \$1 to remediate old tire dumps, and instead HNRC is proposing to allow use of the Solid Waste Fund to pay for clean-ups, but they were considering adding \$1/ton to the tip fee of MSW to pay for it. The authorization would be helpful, but we told Rep. Klein we could not support the proposed fee increase, and without funds, not much will happen with this.

- We are also working with HW&M committee members for an alternative to the increase in the fee for single walled tanks (\$100/tank to \$1000/tank). A lower fee has been negotiated, but the PCF solvency will not be maintained with the lower fee.
  - Commissioner Ide is informed of and receptive to an additional \$1 on registrations to support climate work. This will likely be proposed by someone on the HNRC or HF&WC. We are waiting for confirmation that -- while we did not propose this increase as part of our fee proposal -- we will not oppose it if the committee wishes to move forward with it.
- **River/Flood Management:** Thanks in large part to meetings led by Alex the last few Thursday mornings, we are starting to sort through the various bills and reach agreement among the agencies about what to support and oppose in the various bills under consideration in both the house and senate. We are also looking for sources of funding to assist us in immediate flood recovery and assistance needs out in the field.
  - **West Windsor Feasibility Study:** The town has reached an agreement with a consultant to conduct an engineering study of the existing Mount Ascutney Ski Area sewer system, which the Town is negotiating to purchase. This work is eligible for a regular SRF Planning Loan. The Town Selectboard has sent a letter to the governor requesting his intervention in securing a higher priority for funding the project. We have told the Town that we have to follow a scoring system and the best way to increase the project's priority is by identifying pollution points which would be corrected by the project.

## **EVERYTHING ELSE:**

### **Other Legislative Issues/Testimony:**

**LCAR – Compost Rules:** A straw poll of the committee yesterday indicates they will object to the rules as presented, again. We are working to find a path forward, but this is the second rule revision in a three-year process to address composting.

**General Permits, House FW&W** - The committee continued to take testimony on the role and use of General Permits. ANR testimony went well with staff doing a good job explaining their programs' need for the continued use of GPs. All witnesses testified regarding this need. Staff had further conversations with the Chair and other members of the committee about professional certifications and engineers and how we are enforcing against these professionals. There is not a specific bill associated with the discussion.

**Drinking Water & Groundwater Protection Division:** Testimony was provided to **Senate Institutions** on the status of the state fiscal year 2012 appropriation for the Drinking Water State Revolving Fund (DWSRF).

**H. 464 (hydrofracking related to oil/gas production/exploration):** This bill, which involves the UIC program, passed the House Fish, Wildlife and Natural Resources Committee. The bill was revised to ban this type of hydrofracking in VT for 3 years. Representative Robert Krebs on the House Fish and Wildlife

Committee requested further information on historic oil and gas exploration wells drilled in VT. In committee, the State Geologist showed a map of locations at our web site: <http://www.anr.state.vt.us/dec/geo/oilandgas.htm>. As Rep. Krebs was interested to know if gas was found, a PDF file was e-mailed that contains articles and older State Geologist reports indicating that gas did appear in certain test wells but not in commercial quantities. The last exploration well to be drilled in VT was in 1984.

**Budget Testimony:** FY13 Budget testimony at House Appropriations for ANR-CO, DFW & FPR went very well. DEC testifies today. Budget materials will be posted on our website.

### **Press Issues/Releases:**

**VY - Geology:** Reporter David Gram contacted the State Geologist about the **tritium issue and the COB bedrock well testing**. Mr. Gram obtained from the Public Service Department, Commissioner Elizabeth Miller's December 27, 2011 letter to Entergy (and their response) requesting sampling of the COB well because a representative grab sample can be taken without purging the well as Entergy has maintained. In the January 20, 2012, Entergy did not agree to testing, sighting a number of reasons. The State Geologist explained to Mr. Gram that tritium had appeared in the COB well and that this did not fit with Entergy's conceptual site model for the bedrock (no tritium should appear as per the model). The State is seeking to better understand the groundwater flow conditions at the site by requesting another tritium test of COB well water.

**Hydrofracking - WAMC:** WAMC in Albany, New York (Pat Bradley) called about Hydraulic Fracturing. A moratorium bill passed out of VT House Fish and Wildlife committee. We explained the nature of the shale in northwestern VT and something about the historic look for oil and gas in the Champlain Valley.

**Growing Up WILD:** A new national environmental education resource is now available to educators through workshops given by the Vermont Fish and Wildlife Department. *Growing Up WILD, exploring Nature with Young Children*, is an early childhood education curriculum guide focusing on wildlife education.

### **Important meetings/events:**

**Sweet Pond Dam:** A public meeting will be held on February 9 at the Broad Brook Grange Hall in Guilford to take comments about the recently completed engineering study of the alternatives available for the future of the dam at Sweet Pond. Public comment will continue to be welcome for an extended period, after which the ANR multidisciplinary District Stewardship Team will evaluate public input and make recommendations for action to the Commissioner and Secretary. Because of the intense local interest in the project, the discussion at the meeting is expected to be lively. There is considerable support for replacing the dam and restoring the pond.

**VT Farm Show:** Staff attended the Farm Show this week to assist the Agency of Ag with their educational booth (Tuesday) and presented a workshop (on Wednesday). We spoke to many farmers while at the booth and assisted 7 farmers while they filled out their plans. We have been asked to attend another workshop that will reach 60-100 attendees February 17th, in Middlebury. After these outreach events, we will leave it to the Agency of Ag and NRCS to provide outreach to farms on this issue.

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## SUMMARY OF KEY DEPARTMENT ACTIVITY

### Environmental Conservation

**Irene “Lessons from Irene: Building Resiliency as We Rebuild” Report a/k/a Tropical Storm Irene By the Numbers.** This report, prepared by Sacha Pealer, has been posted on the Climate Change Team web site. A press release announcing it to the public is planned for the week of February 6.

**Experimental Program to Stimulate Competitive Research:** We had a meeting on “Research on Adaptation to Climate Change” with EPSCoR RACC at UVM on 1/25. The group discussed the storylines and methodologies that would be used to address the climate modeling for Vermont. Specifically they plan to:

- Model two time periods 2035 and 2100, likely coordinating with an established climate modeling center like NASA-GISS on various portions of the modeling effort.
- Consider how to acknowledge the extreme seasonal variability we see from year to year (e.g., this winter vs. last) in the context of the model outputs.
- Get a list of important "variables" from ANR CC Team (e.g., seasonal timing of runoff, seasonal likelihood of extreme precipitation events, etc.) that would be useful outputs from the modeling.
- Have ANR update hydrology data in Vermont. This is important to get a feeling for real extremes in the system seasonally.

**ANR Wind Project Review Revisions:** ANR staff met to discuss development of an approach to review new wind energy projects more consistently, comprehensively, and effectively. This new effort will hopefully incorporate the state of our scientific understanding about how climate change is likely to impact our natural resources, as well as expected reductions in greenhouse gas (GHG) and other emissions associated with wind energy projects.

**ANR v. Brown Enterprises, Inc., Larry Brown d/b/a Larry Brown Excavating, Larry Brown and Steven Brown - AOD entered as a Court Order on January 18, 2012:** Respondents own and operate businesses engaged in sales, rentals, and service of outdoor power equipment as well as construction and excavation. In response to Agency directives, Respondents remediated the property, expending approximately \$65,000.00 for remediation. To resolve both matters, Respondents agreed to pay a \$50,000.00 penalty, comply with applicable environmental law in the operation of businesses and use of its property, and comply with Agency directives as required for corrective action at the properties.

**Brown Auto Salvage Criminal Court Proceeding:** Robert Brown & Brown Auto Salvage - Mr. Brown was arraigned in Barre District Court on several felony and misdemeanor charges related to illegal disposal of hazardous wastes. Several issues were discussed focusing on conditions of release for Mr. Brown. One condition was that he not handle hazardous waste, meaning he would have to shut down his business. In the end, the court did not impose this condition pending the filing of several motions on the statute of limitations. Mr. Brown's attorney told the AG and me that Mr. Brown hoped to sell the businesses and wanted to work with us to make that happen so he would be out of the business all together. We agreed to discuss this further in the future. The court did put a provision into place allowing ANR to inspect the facility without a search warrant and without prior notice.

**FEMA Grant; Dam Emergency Action Plans (EAPs):** Two firms offered packages which addressed all the tasks in our RFP. We selected Dubois & King based on the fact that they offered field surveying of the dams, for which dam break analyses are required, and of their downstream drainage. They also demonstrated a complete understanding of the settings of these dams and likely break scenarios. More detailed field surveys will improve the accuracy of the model analysis for the immediate downstream inhabited areas.

**Waterbury Dam; Broome Gate Issue:** Dam Safety staff has been working closely with Green Mountain Power to develop a plan, and mobilize the proper equipment and personnel to lift the head, or Broome, gate at Waterbury Dam. The gate malfunctioned while being lifted after routine periodic maintenance on the turbine at the Little River power plant. Plans are to use commercial divers to raise the gate to the anchor hooks and then secure the gate in its normal raised position. Once secure, the gate and its mechanical components will need to be thoroughly inspected and repairs completed as needed. State and GMP safety officials are being consulted as plans progress. It is hoped the gate will be lifted and secured next week, once this is accomplished winter drawdown of Waterbury Reservoir will begin.

**Moretown Landfill (MLI):** Program staff met internally to discuss the application for MLI's proposed expansion into Cell #4, and specifically to discuss the application of the GW Public Trust doctrine in that project. We had informed MLI in previous correspondence that that they would have to address GWPT and at a minimum they would have to demonstrate that the GW quality was going to improve as a result of the expansion and continued operation of the landfill. In the meeting with them last week they presented a dual argument, that concludes that the GW quality is improving downgradient of the landfill, but at the same time, the downgradient MWs are substandard and they need to improve the monitoring network with new wells, and monitor for another three years to prove the point. They agree that they will remediate the GW if the demonstration at the end of three years is a failure. We will respond with a letter to this point asking for more details of what constitutes failure and specifying the remedial actions contemplated when they describe capturing and treating GW to meet standards.

**Mercury Lamps:** We expect that the National Electrical Manufacturers Association (NEMA) will submit their mercury lamp collection plan next week, representing most lamp manufacturers required to fund a statewide collection and recycling program at municipal and retail locations. We have had ongoing discussions with NEMA about their concerns for the statutory definition of "stewardship organization." The primary concern is that the stewardship organization (in this case NEMA) applying on behalf of manufacturers is held liable under statute for the actions of manufacturers. They would like to see this aspect of the definition dropped. We are awaiting a proposal from NEMA on how their concerns can be addressed, which may involve statutory changes to the definition.

**LIHEAP Funds for Tank Replacements:** We have heard this week that there is approximately \$100K available from LIHEAP to pay for above-ground heating oil tanks for seasonal fuel and crisis fuel assistance recipients. Staff is working with Richard Moffi on drafting a MOU between DEC and DCF that will enable us to use LIHEAP money to fund replacements under our PCF authority. We had a similar agreement in 2010 for \$50,000. This has been a tremendous boost to the program, especially in the wake of Irene and the new AST Rules. LIHEAP is also streamlining their process to lessen the increase to our workload for processing these grants.

**Burgess Brothers Landfill:** Burgess Brothers, Inc. was notified on January 6<sup>th</sup> that operations and the landfill were to cease on January 9<sup>th</sup>, due to the expiration of the financial responsibility instrument. Contrary to the certification amendment applied for this past summer, the purchase of the Burgess property by Earthwaste Systems (or Elnicki) was never consummated, and there is an ongoing dispute between the two parties. We were informed by Elnicki that, in his opinion, Clyde Burgess remains the property owner. We informed Elnicki that (1) the partially covered waste seen during our recent inspection must be adequately covered, and (2) the certification requires that the landfill be fully closed within 90 days of the cessation of operations. Elnicki asked if operations could resume if adequate financial responsibility was put in effect. We said “yes”, but expressed our concern that the legal issues would take more than 90 days to be resolved.

**E-Waste:** Program staff has been trying to work with Good Point Recycling (GPR) to submit an acceptable closure plan and financial instrument, as required by statute and the contract for managing the state e-waste program. We have asked GPR and the contractor to address this requirement over the past several months. GPR has updated their submittal with an acceptable estimate of amount of waste that could be on site but GPR has not submitted a reasonable estimated cost for managing such waste. While we would like to gain voluntary compliance with this requirement (which was due July 1 2011), it may be necessary to send an NOAV to GPR and a letter of contract deficiency to the contract if this issue is not resolved soon.

**Grant Awarded:** The New Hampshire Charitable Foundation recently announced \$1,164,961 in grant awards from their Upper Connecticut River Mitigation and Enhancement Fund (15 Mile Falls Settlement Agreement). Grants were awarded to 12 projects across the upper Connecticut River watershed (8 projects affecting VT). Over a 15-year period, the fund is expected to provide approximately \$21 million. This is the tenth round of grants awarded from the fund.

**Lake St Catherine:** The Aquatic Nuisance Control permit program held a Public Information Meeting 1/25/12 in Wells regarding an application from the Lake St Catherine Association for a modification of their existing 5-year permit for treating the Eurasian watermilfoil in Lake St Catherine. The current permit allows the use of annual spot treatments with the herbicide Renovate; this permit app is for a one-year use of the herbicide Sonar in the Little Lake portion of the lake system. This is part of highly controversial series of issues about lake management in Little Lake, and we heard comments both against and in favor of the proposed herbicide use.

**Culvert Replacement:** The Shoreland Encroachment Program held a public informational meeting in Addison on Tuesday January 24, 2012, regarding an application from VTrans to replace a failed culvert under Vermont Route 17 and passes flow of Hospital Creek to Lake Champlain. The owner of a marina just lakeside of the culvert is opposed to the project and requested the meeting. VTrans has since suggested that this project should actually be under the jurisdiction of Stream Alteration permits, and the program is looking into this.

**Otter Creek Project:** Discussions with CVPS over operation of the Otter Creek Project under a new FERC license continue. The principal issue still in play is the degree of peaking that will be allowed at Proctor Station. CVPS presented a counterproposal last week which we are reviewing. We have scheduled a follow-up meeting for next month.

## **Fish and Wildlife**

**Ice Fishing:** Staff reported that the ice in Southern Vermont is less than satisfactory. Using extra caution while out on the ice is a priority. The warm weather and rain has limited the access to ice fishing on most bodies of water at this time.

**Predator Attack:** Staff reported that a \$30,000 colt was attacked and killed by two coyotes in Townshend Vermont.

**Calendar Brook WMA Donation:** Staff conducted a site visit of the Scharfenaker/Koehne property in Sutton. They met with the Sutton Select Board to discuss the donation of the Calendar Brook WMA and to get their support. They voted unanimously in favor of it.

**Cold River:** Staff visited storm damaged sites on the Cold River with the District Stream Alteration Engineer and Clarendon Select Board to discuss the need to repair failing stream banks that are threatening a town road.

**Impacts of Flooding:** Staff conducted a presentation on the impacts of flooding on wild trout populations at the request of the Town of Norwich Conservation Commission. Staff also participated in a public forum in Northfield on river dynamics and flooding, hosted by the Towns of Northfield and Berlin, Norwich University, the Friends of the Winooski River, the Winooski Natural Resource Conservation District and the Mad-Dog Chapter of Trout Unlimited.

**Alewife die off on Lake Champlain:** Staff responded to a lakeshore owner on Malletts Bay who had alewife washing up on shore. Email discussions and photos have confirmed that young-of-the-year alewives were dying in Malletts Bay. This is a common occurrence for alewives during the winter when this non-native marine species is present in inland lakes. No other species were dying and no other size classes were observed.

## **Forest, Parks and Recreation**

**State Land Transactions:** The Department has submitted a request for Governor's approval for state acquisition of the Smith parcel in Bolton from the Green Mt. Club and will schedule a closing with GMC on this acquisition as soon as Governor's approval has been obtained. The Department's planned purchase of the Heath property adjacent to Green River Reservoir State Park is now uncertain. The purchase and sales agreement for this parcel has expired and we are waiting to hear from the owner regarding his intent. The Department recently acquired a ROW to Green River Reservoir State Park from Green Mt. Power on a nearby parcel associated with a Lowell Wind fragmentation easement. This ROW only becomes effective upon the State's purchase of the Heath parcel. The Department will soon be submitting a request for Governor's approval of a small donation adjacent to Molly Stark State Park.

**Long Range Management Planning:** FPR and DFW staff will be meeting this week with our Champion Lands Partners (Vermont Land Trust, The Nature Conservancy, Vermont Housing and Conservation Board) to discuss the required updates to the management plan for West Mt. WMA and the Long Term Access Plan for the private working forest lands now owned by Plum Creek Timber. Based on a legal review of the legislation and easements that require these management plan updates, there may not be a

need to amend the Champion Lands legislation to provide for an extension to this planning requirement. The Agency and its partners have initiated the planning process for the updates to the management plans and may soon seek to re-establish the Champion Lands Citizen Advisory Council. Final proposed long-range management plans have been prepared for the Brattleboro Management Unit (Molly Stark, Dutton Pines, Ft. Dummer, and Sweet Pond State Parks) and Roaring Brook WMA. These plans will soon be forwarded to the ANR Secretary and her management team for review and adoption.

**Ski Areas:** FPR staff participated in a ribbon cutting ceremony at Burke Mt. on the morning of Saturday, January 28 to formally dedicate their new high-speed quad lift to the summit of the mountain. We have scheduled meetings later this month at Killington, Bromley, and Okemo ski areas to review ski area work plans and discuss ski area lease issues.

**Name That Cabin Contest:** A contest is underway to select names for two of the new rental cabins at Woodford State Park. Announcement of the contest was distributed through State Parks and VDTM Facebook sites and a variety of other media on Monday of this week. By Wednesday morning there had already been 75 entries received. The winners will not only receive the glory of their victory but will also have a free two-night stay in one of the cabins.

**Champlain Bridge Ceremony:** Parks Division staff will be working with DHP and other partners to prepare for the Champlain Bridge ceremony planned for May 19 and 20 to be held at Chimney Point State Park, Chimney Point Historic Site on the Vermont side and Crown Point on the New York side.

**Property Valuation and Review:** County Foresters met in Bethel last week to hear about the voluntary online application and data management system that the Property Valuation and Review Section of the Tax Department is constructing with DII. Since FPR reviews all the forest management plans and administers the forestry portion of the program, the county foresters will need to access and input data. While maps will not be entered digitally at this time, the hope is that this system will be able to handle map information in the future.

**Invasive Species Website:** Danny Fitzko of the Urban and Community Forestry (U&C) program demonstrated to the County Foresters the new interactive web site for Invasive Species. FPR partnered with The Nature Conservancy and UVM to develop this as a resource to encourage citizens to collect and submit information on invasive plants and insects. It can be found at [www.vtinvasives.org](http://www.vtinvasives.org)

**Taconic Mountain Pilot:** Vermont is a partner with Massachusetts and New York in a grant project to strengthen forest product markets for multiple values and use while protecting forests from threats and enhancing public benefits from trees and forests. This project implements recommendations made by the New England Governor's Conference on Land Conservation (Resolution 200). The participants met recently in Brattleboro to outline some of their tasks working together and with partners on a pilot in the Taconic Mountain area of the three project states.

**Recreation Trails Program:** After consultation with the Federal Highway Administration, this year's FFY 2012 RTP budget will be approximately \$886,764 (compared to \$1.4 million last year). This is a reduction of approximately 40%, impacting spring trail work for FPR and outside partnering organizations. The decrease seen in RTP was due to incorrect non-highway recreational fuel use factor data provided to the Office of the Chief Financial Officer for the purpose of calculating the Recreational Trails Program apportionments in FY 2009. Corrected factor data was then provided and FHWA revised all affected

apportionments accordingly. FPR consulted with FHWA throughout, which resulted in the FFY 2012 RTP budget of \$886,764. From this apportionment, FPR will request \$447,995 for FPR's in-house trail projects.

**Limitations of the Vermont Recreation Trails Fund:** The VT&GC discussed how they can advise ANR to modify state legislation in order to provide more state dollars for recreational trails and statewide recreational trail planning for the state. Since 1993 the Vermont Recreation Trails Fund has been level funded: annually,  $\frac{3}{4}$  of 1% of the gas taxes, not to exceed \$370,000, goes into the VT Recreation Trails Fund. The Council discussed how lifting the limitation, and omitting the words "not to exceed \$370,000", that additional funds would be transferred into the Vermont Recreation Trails Fund, but in order to do so these funds would need to come out of the Transportation Fund at VTrans. A trail funding ad hoc committee will be formed to examine the Vermont Recreational Trails Fund statute and other alternatives more closely so the Council can take steps to advise ANR.

**Update with the Lamoille Valley Rail Trail project:** The Council made a comprehensive presentation; ACT 250 permit is still pending, work plans are on hold due to permitting and federal/state authorization to release funds for this major trail project.

### Information Technology

**NEEILC:** The 1<sup>st</sup> official meeting of the New England Environmental Information Leadership Committee was held on 1/31 in Boston. The group includes IT leaders and program experts from each of the NE states as well as EPA representation. VT's December suggestion that the EPA take responsibility for much of the technology behind the CROMERR requirements was discussed at length. We are very optimistic that the EPA will provide a significant piece of the IT puzzle through a cloud based "software as a service" (SaaS) option.





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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Jeb Spaulding**  
**DATE: February 2, 2012**  
**SUBJECT: Confidential Report to the Governor**

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**CONNECT VT**

**Legislative Issues/Contacts:**

Sen MacDonald: Met to review Target Community data for Orange County. An estimated 750 of 1290 to be served e 911 locations fall in this area. Discussed how we will address and seek out projects to complete the region and provide service.

**Press/Media Notes:**

VPR 10 minute interview on Monday, working on full show with Jane Lindholm in conjunction with release of broadband and cellular status information.

[www.broadbandvt.org](http://www.broadbandvt.org): Served, projects in process and target communities map is posted on site for public use. Letter on broadband progress to be released here.

Community Meeting: Attended a community meeting in Bennington, hosted by Rep. Brian Campion. Residents were by and large from Shaftsbury and North Bennington, majority still on dial up. These meetings are valuable to explain our efforts to get connections made and the progress of projects that will affect these areas.

VTEL: Met with Michel Guite/ Ted Abrams to discuss project progress and risks for Wireless Open World. Site acquisition is proceeding slowly, and there are some concerns arising that the amount of acquisition to be accomplished will present a delay.

## **BUILDINGS AND GENERAL RESOURCES**

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

- Met with Sen. Illuzzi regarding workers compensation.

### **Evolving Issues:**

- Removal of time delays in the VSH bill, including further stakeholder and advocacy participation.

## **FINANCE AND MANAGEMENT**

### **Issues Update:**

FY 2012 Budget Adjustment Bill (BAA): The Senate Appropriations Committee continued its hearings and markup of the BAA bill this week. Commissioner Reardon testified in support of the Governor's version, in particular related to the House's education funding proposal.

Bond POS: Budget & Management staff and Deputy Zeller continue to work on the Preliminary Official Statement (POS) for upcoming Bond issue. In addition to updating the fiscal sections from the previous Official Statement, a new section discussing Tropical Storm Irene damage, recovery including the most current cost and funding estimates has been added.

## **HEALTH CARE REFORM**

Nothing to report.

## **HUMAN RESOURCES**

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

Strategic Planning: Working with Deputy Secretary Clasen, the Department of Human Resources has compiled a draft statewide strategic plan, using the strategic plans submitted by the Agencies and Independent Departments. DHR will work with Agencies and Departments to further refine the plans, particularly the measures that will be used to track progress on each goal. This information will be included in a final statewide plan, which DHR anticipates will be finalized sometime in March.

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

Testimony Before House Corrections and Institutions on H. 630: Commissioner Duffy appeared with Commissioner Flood before the House Corrections and Institutions Committee to address two amendments to H. 630 proposed by the VSEA. The first amendment would require the Brattleboro Retreat, Fletcher Allen and other facilities currently providing services to individuals in the custody of the Commissioner of Mental Health to hire the state employees who now work for the Vermont State Hospital and require DHR to advertise and recruit for any open positions at those facilities. The second

amendment would require the state to reemploy current Vermont State Hospital employees at any new hospital that is state owned and managed. DHR opposed the first amendment and provided revised language for the second amendment that would only extend reemployment rights to employees subject to a reduction in force. At the instruction of the Committee, and with input from the Secretary of Administration, DHR negotiated an amendment that gives some additional reemployment rights to individuals who continue employment with the state over the next three years and extends greater RIF rights to former VSH employees who obtain work with other employers. VSEA agreed to drop its request for an amendment that would compel the hospitals to hire state employees, but retained its right to raise the issue in the Senate.

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

Commissioner Duffy and General Counsel Collier spoke with Andy Bromage from Seven Days regarding personnel investigations conducted at the Department of Public Safety. Commissioner Duffy and Mr. Collier explained the rationale keeping personnel investigations confidential under the Public Record Act.

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

Meetings with VSEA: Secretary Spaulding, Deputy Secretary Clasen, Commissioner Flood, Commissioner Duffy and Labor Relations Specialist Berard met with representatives of the VSEA to discuss their support for legislation imposing an agency fee on state employees who are non-members and exempted from the payment of the fee under the collective bargaining agreement. The parties also discussed the Vermont State Hospital and the reduction in force that the state anticipates will happen in the next few weeks. Commissioner Duffy and Mr. Berard also met with Mark Mitchell, the new Executive Director, to further these discussions. Despite professing a desire to work collaboratively with DHR, the VSEA was not candid about its plans with respect to the Vermont State Hospital. In fact, at the very moment that Commissioner Duffy met with Mr. Mitchell, VSEA introduced amendments to H. 630, without informing the Commissioner. Commissioner Duffy will raise this issue with Mr. Mitchell.

### **Evolving Issues:**

Position Management: Working with the Secretary of Administration, DHR returned all positions that have been vacant for six months or more and that are not under active to the position pool. This will enable DHR to manage positions statewide and may alleviate the need to request new positions from the Legislature. Agencies and Departments are resisting this effort, so Commissioner Duffy is conferring with Agency and Department leadership to address their concerns and explain how the process works.

## **INFORMATION AND INNOVATION**

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

DII Commissioner Richard Boes spoke with Terri Hallenbeck (Burlington Free Press) and she had questions about DMV, Tax and general best practices. Richard kept things very general and high level, so is not expecting any surprises. She asked if the State shouldn't have gone down the DMV road and Boes responded that we were not alone and that many other states chose to pursue the same avenue and that doing something new with technology always had risk, but it also had potential reward. She asked

if departments should be doing technology independently and Boes responded that the risk of one system doing everything for everyone was too complex and too high a risk, but that departments needed to work within a comprehensive information architecture to have systems leverage the capabilities of other systems and be able to integrate those capabilities where there was benefit. She asked about problems with Tax systems and Richard laughed and asked her if she had ever known any technology to work with no problems. She asked some follow on questions about Tax and was told that the systems implemented by Tax only addressed a small part of Tax's technology needs and that DII was working with Mary Peterson on a strategy for moving forward.

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

- DII had another staff give notice this week so he can accept another job locally making 20% more but with less responsibility. In the past 6 months, DII has lost 8 people to resignation (6) or retirement (2) and only successfully recruited 4, for a net loss of 4. We have 11 positions in recruitment, but completing a market factor analysis will be critical to stem the loss of our qualified staff. A SOW to help with this effort was created and submitted to HR for review.

### **Evolving Issues:**

#### Telecom Update

- Consolidation of AHS Corrections staff from various IRENE relocation sites to the 426 Industrial Avenue location is in progress as I type. Both of the Telecom Technicians and A Desktop AHS IT technician are onsite assisting with installation of telephone lines and computer connectivity to the new cubicles.
- Vermont Connect: Sovernet has requested a memo identifying the locations from the original target list generated by VTA to an updated list due to various reasons including lease expiration and SOV evacuation from the facility. This information will be passed to the NTIA to advice of the change to the submitted plan. Additionally they are awaiting pole licenses from CVPS for the Bennington area. Due to the delay here, DII may be forced to order Fairpoint network circuits to meet the needs/timeline of the Agencies moving to the space. Fairpoint network circuits have a minimum life of a year, but can be disconnected sooner with a penalty. They have given Sovernet till the weekly meeting scheduled for Thursday this week before acting.

#### Web/VIC Update

- The Speaker of the House ECMS site is now live at [speaker.vermont.gov](http://speaker.vermont.gov).

### **LIBRARIES**

Nothing to report.

## TAXES

### Legislation:

Cloud Computing: Apparently has Speaker's green light to go through Rules. Have no sense of Ways and Means.

Sunset of Certain Household Income Items: Ways & Means demands an answer by Tuesday on whether the Administration supports continuing the double counting of interest and dividend in Household Income (estimated to save \$3.6M in adjustments) and the limit of adjustment to \$500,000 of house value (estimated to save \$1.5M in adjustments). Both are due to sunset next year without action.

Statewide Collection of the Property Tax: Rep. Ancel is pushing her bill to have the legislature vote its intention to pass a bill, and have the Department work on final legislation and an RFP over the summer. The Department is trying to let this play out, but at least signal that JFO/Leg Council should lead the legislative process, and an RFP is premature.

Meals Tax and Senior Living: The Commissioner testified in Ways and Means that the Administration generally supports the proposed legislation to exempt meal tax at senior living facilities, while acknowledging that the Committee needed to weigh the policy decisions in defining the catch-all provision for unlicensed, for profit facilities. The wrangling immediately began.

Universal Service Fund: Tax is scrambling to catch up on a bill that would extend fee to pre-paid calling services, a big operational change.

Miscellaneous Tax Bill: Department staff met with Department of Liquor Control to discuss Ways & Means concerns about sharing information on delinquent taxpayers. VLCT belatedly has expressed concern over a proposal that would fix an ambiguous property tax exemption for "municipal" property – may not be a fight worth having now, although might end up in litigation some day.

Tax Advisory Board: The Commissioner continues outreach, including to Lake Champlain Chamber and Business Roundtable.

Milton TIF: Ways & Means continues to grapple with the fact that there are no clear next steps. Tax is trying to stay out of the middle. The Commissioner has been researching whether any other states have good statutory provisions – Minnesota actually allows their County Auditors to make adjustments upon findings.

### Operations:

Tax Department Re-Organization: The Commissioner and Deputy met with Michael Clasen and HR staff to discuss the creation of a Policy, Outreach and Legislative Affairs Division. The basic outline is a Director with policy development staff, taxpayer education staff, and a business analyst. The Division would be responsible for policy development, internal and external education, and outreach including traditional media, social media (website, facebook and twitter) and stakeholder meetings. The Division would be responsible for information management, including for example documentation of policy decisions and a wiki application with scripts for staff to answer inquiries. The Director would be an exempt position, filled by shifting Michael Costa (currently filling exempt assistant position). The rest

of the positions would be created by reclassifying current vacancies, including at least three compliance positions. The Secretary, Commissioner, Deputy and Michael Costa met with the Chair and Vice Chair of both Tax Committees to discuss their concerns about recent audits. The re-org plan was generally well received, although Rep. Ancel expressed her intention to have testimony on Tax's budget, this re-org, and the audit positions that were added a couple years ago. She also talked about changing the role of our Taxpayer Advocate, problematic given current personnel.

# Memorandum

Vermont Department of Public Service

Privileged and Confidential

**To:** Hon. Peter Shumlin, Governor & Sarah London, Governor's Counsel  
**From:** Elizabeth H. Miller, Commissioner & Sarah Hofmann, Deputy  
**Subject:** Weekly Report – Priorities Version  
**Date:** February 03, 2012

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**Status of Priorities:**

- GMP/CVPS Merger - DPS responded to discovery requests on Michael Dworkin's testimony is drafting responses to discovery on the balance of its testimony. Discovery on DPS testimony was quite limited, as was DPS discovery served on other non-petitioners. DPS is considering convening a settlement conference to discuss potential uses for the \$21 million due the CVPS ratepayers (the "windfall" recovery). On January 30<sup>th</sup> the PSB issued an order responding to Senator Illuzzi's request to withdraw as counsel for the "Group of 46 Ratepayers." The PSB declined to allow his withdrawal until another lawyer entered an appearance for the Group. DPS is continuing to meet with GMP to discuss post-merger ratemaking issues should the merger be approved.
- Vermont Yankee Preemption lawsuit – Entergy just filed re fees with the court. Entergy estimated that its claim for attorney's fees, expenses and costs will be in excess of \$4.62 million. Entergy asked for a scheduling order from the Court to address further briefing on the issue, recognizing that defendants may appeal. The AG's office will have an opportunity to respond and probably will ask for more time in which to do so.
- Vermont Yankee re-CPG - On January 31, Entergy filed a motion with the PSB to issue a final CPG. The board has set a deadline of March 2<sup>nd</sup> for responses to the motion. The Department will oppose the motion and highlight the facts that have emerged since the record was closed in June 2009.
- Vermont Yankee delist bid – We are still working on a possible settlement of the issues.
- Vermont Yankee operations – Entergy is investigating back pressure in the condenser water box. This week Entergy injected helium into the water boxes to locate what might be a leak causing the back pressure. Although there is no nuclear safety concern this is something that they will have to locate and repair and may cause the plant to limit its power while it looks for a fix.
- Smart Grid - GMP and CVPS are beginning their meter deployment, and have already received opt out requests after sending letters announcing the meter installations (GMP: 33 opt outs/11K letters; CVPS: 170 opt outs/25K letters). DPS has committed to release a smart meter safety fact sheet. We plan to have a table that would cover frequency, transmitter power, distance, exposure level, and an FCC limit comparison for the following devices and distances: smart meter (1 ft and 10 ft), cell phone (1 cm), cordless phone (1 cm), baby monitor (1 ft), microwave (1 ft), and wireless router (1 ft or 10 ft). The table may not cover duration, since that can be a complicated measure to substantiate for many of the devices. Release of the fact sheet is now expected to coincide with the Department of Health's release of its smart meter measurements and literature review on February 10<sup>th</sup>.

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

- The Department has met privately with House Natural Resources members and Aaron Adler a number of times this week to come up with an RPS bill that the committee members and the administration can support. I think Thursday we got agreement on much of our concept that has a true RPS but also some goals. This concept would have an expected NPV cost of about \$253 M over the period 2013-2032 while reducing CO2 emissions by 4.4 M tons over the same period. Max rate impact is 0.7 cents/kWh in 2032 relative to the baseline. The committee members plan to have Aaron present the concept to the committee next week. That means that Aaron may yet make changes but I have told the committee members that it cannot materially change or we won't support.
- Liz met with Reps Klein and Cheney regarding legislation for hydro plants that have expiring PURPA contracts. The purpose of the meetings is to determine a rate or how a rate will be determined. This is an ongoing project but HNR wants to take it up this year.
- DPS has a housekeeping bill in House Commerce that covers a variety of small issues. We have testified a number of times and will do so again next week. No big issues.
- Rep Browning has two new bills out this week: 1) (H.721) that would require legislative approval of utility mergers, not allow alternative regulation; legislative appointment of the public advocate, establish a VT electric power authority; and 2) (H. 693) that has the PSB designing a plan that would put all the VT electric utilities into one statewide electric distribution company.

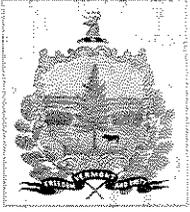
### **Press Issues/Releases/Contacts**

- We fulfilled a public records request for VT Digger for all communication between the DPS and Entergy Corporation regarding the Vermont Yankee nuclear power plant and communication between the DPS and NRC regarding the facility, its license, and any other matters concerning its operation from December 1, 2011 to the present.
- We had the Brattleboro Reformer calling for information on the funding of the CEDF and what would be done to replace the Entergy money.

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

- Liz met with Deb Markowitz and Chuck Ross regarding implementation issues for the Comprehensive Energy Plan and planning for the Climate Cabinet.
- Liz and DPS staff met with VGS to hear the latest on VGS' planning around the expansion. VGS consultants have narrowed down the realistic route choices to four. These four have been presented to the VGS advisory committee that has broad representation on it from advocacy groups and the towns. That group will discuss these further and see if a consensus on the optimal route will develop.
- Liz was invited to a VBSR board meeting to discuss energy and telecommunications.

**Evolving Issues:** Next week Liz and Sarah will be at the National Association of Utility Commissioners winter meeting on Sunday through Weds in Washington DC.



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

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

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

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

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

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

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## **CONFIDENTIAL AND PRIVILEGED – NO SHARING Report to the Governor for Week Ending February 3, 2012**

### Governor's Priorities

#### Health Care Reform

With Mark Larson, Commissioner met with Aki Soga, editorial page editor of the Burlington Free Press to discuss the health care reform strategic plan.

Commissioner and General Counsel testified at various legislative hearings this week related to H. 559 and health care reform issues.

Commissioner participated in meetings with legislative committee chairs regarding ongoing consideration of health care reform.

#### Legislative

The BISHCA housekeeping bill and SAFE Act improvements bill are undergoing legislative committee review. By the end of the week the Senate Finance and House Commerce committees will have heard versions of a bill to require a study of the need for a state bank for Vermont. Vermont foreclosure laws will be improved by the passage of a bill voted out by House Judiciary. A proposed foreclosure mediation bill may be put on hold; extension of the federal HAMP program has automatically deferred sunset of Vermont's mediation law.

#### General Information

A multistate/federal settlement of foreclosure misconduct claims against mortgage-issuing banks is anticipated shortly. Vermont's Attorney General and the Commissioner of BISHCA have been asked to

sign the proposed agreement among state AGs, banking commissioners and the five leading bank mortgage servicers. Under the settlement agreement borrowers will be eligible for compensation; the settlement will also require comprehensive reform of mortgage loan servicing rules. States will receive monies to fund payments to victims and support housing counseling and state-level foreclosure prevention programs.

The Peoples United bank branch in Alburgh will be closed. It is the only bank branch in a town of 1,900 people. BISHCA has received numerous calls from people representing various groups in Alburgh searching for some financial institution to replace the bank.

The CVPS Credit Union, a \$15 million state-chartered credit union, has proposed a merger with the \$185 million Heritage Family Federal Credit Union. Both memberships must vote on the proposal.

Securities Division staff participated in a North American Securities Administrators Association/Bankers meeting held in Portland last week. Securities regulators are close to an estimated \$9 million global (all U.S. jurisdictions) settlement regarding registration of broker/dealers.

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

**CONFIDENTIAL AND PRIVILEGED: NO SHARING**  
**MEMORANDUM**

TO: Governor Shumlin  
FROM: Armando Vilaseca, Commissioner  
DATE: February 3, 2012

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**Thank You:** Thank you for taking the time to meet with me on Wednesday. It was good to be able to discuss education issues with you and it was especially important for me to hear that we are on the same page with school choice.

**State Board of Education - Upcoming Vacancy:** In response to your request for suggestions for filling the State Board of Education vacancy that will result once Fayneese Miller's term expires, I have one to offer. In the spirit of believing strongly that the next appointment should be a person of color and from the Northwestern region of the state, Dr. Sherwood Smith comes to mind. Dr. Smith is the Director for the Center for Cultural Pluralism at the College of Education and Social Services at UVM, where he is also a Lecturer in Integrated Professional Studies. Working with students has been a large part of his life, with experience in student affairs administration at Washington State, Cornell, and Penn State. He loves to travel and has worked in Antarctica, Tanzania, and Kenya. I feel that Dr. Smith would be a good addition to the State Board of Education because of his connection to education through his work at UVM (with expertise in intercultural communication, multicultural education, and professional development) and his experience as a parent of a child in the Burlington School District.

**ESEA Flexibility Waiver Request Update:** Last week we met with a team from CCSSO that included education policy reform leaders, other current and former state leaders, and technical experts to gain support in developing our ESEA waiver application. We were informed that the US ED would not approve our application without the provision of testing every year. I still plan to submit the waiver as it is to make a statement about what we believe is not a necessary goal of annual testing. However, the end result will probably be that we will have to modify our application with their requirement of annual testing. I have a call scheduled with Secretary Duncan to discuss our application.

**Vermont Standards Board for Professional Educators (VSBPE):** On Monday, I attended a meeting of the Vermont Standards Board for Professional Educators. I presented two licensing proposals to this group: 1) that we allow for both DOE and DMV licensed driver education teachers to teach in the schools, paid for by local school budgets; and 2) that we continue to enhance the level of math and science instruction provided to students by offering a specialized math endorsement at the primary level. Of significant note is that the statutes that created the VSBPE require the DOE to fund it and provide administrative support, but give us no direct authority over its policymaking. Big mistake.

**Essex-Caledonia SU Study:** A study will commence on the feasibility of regrouping the Essex Caledonia SU with another neighboring SU or district. I see this as a very inefficient and administrative-heavy SU with only 520 students in the eight town supervisory union. I think that it makes sense that this SU seriously consider regrouping, possibly with the St. Johnsbury School District. In the interim, I have recommended that the SU, in their search for a new superintendent, hire someone for no more than two years so that options can be explored.

**Vermont Technical College (VTC):** John Fischer and I met with Dr. Conroy, President of VTC, Jay Paterson, Executive Director for Strategic College Operations, Patti Coultas, Director of Vermont Career and Technical Teacher Education Program, and Maureen Hebert, Director for Continuing Education & Workforce Development. We discussed college and career-readiness standards, and alignment, and the possibility of convening a Governor's STEM Advisory Council.

**New England Secondary School Consortium (NESSC):** Thursday and Friday I attended the NESSC Commissioner's and the NESSC Council Meeting in Concord, NH. At the Commissioner's meeting we discussed the ESEA Flexibility plans and had state-by-state presentations/discussions. Overlap and next steps were shared in order to support efforts in each state. At the Council meeting, we reflected on the implications of the preliminary findings of the recently completed Donahue Institute site visits, refined our theory of action, and reviewed our organizational design.

**Legislative Testimony:** Topics we have testified on and followed in the legislature this week include school choice, Act 153, H.440, 120 State Street renovations, gun safety, education property taxes and pre-kindergarten.



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**MEMORANDUM TO GOV. PETER SHUMLIN**

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To: The Honorable Peter Shumlin  
From: Susan Spaulding, Appointments to Boards & Commissions  
Date: February 3, 2012  
RE: Board and Commission Update

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You received a very nice, but sad, letter from Mitzi Oaks saying she had to resign from the Governor's Snowmobile Council due to the increasing work as caregiver of her husband Bill who is suffering from Alzheimer's disease. She has been involved in VAST and the Council for 46 years! If you want to call, her phone number is 802-863-2160

Megan Smith wants Willie Docto for the Travel & Recreation Council so I did not call him to see if he wanted to be appointed to the Travel Information Council. Megan suggested talking with Susan Klein from the Mad River Chamber. She has voiced concern that there are no signs on the highway when you approach an exit that leads to Sugarbush or the Mad River Valley.

**Appointments made this week:**

**Board of Land Surveyors:**

APPOINTED: Susan Senning, Duxbury

**Vermont Center for Geographic Information:**

APPOINTED: Peter Telep, Waitsfield

**State Rehabilitation Council:**

APPOINTED: Adam Leonard, Underhill

**Communications Board:**

APPOINTED: Robert T. White, Essex Junction

REAPPOINTED: Dwight DeCoster, Underhill

REAPPOINTED: Al Barber, Hinesburg

REAPPOINTED: Curtis Bradley, St. Albans

REAPPOINTED: William Elovirta, Winooski

REAPPOINTED: James Finger, Rutland

REAPPOINTED: Ronald Gauthier, Essex

REAPPOINTED: Kenneth Morton, Williston

REAPPOINTED: Gene Perkins, Rygate

REAPPOINTED: Jonathan Williams, Montpelier

REAPPOINTED: Curtis Smiley, Fairfax

**Current Use Advisory Board:**

REAPPOINTED: Harold Howrigan, Jr., Sheldon

REAPPOINTED: Bruce Shields, Wolcott

**DAIL (Dept of Aging and Independent Living) Advisory Board:**

REAPPOINTED: Maxwell Barrows, Worcester – (Disability)

REAPPOINTED: James Coutts, Swanton – (Regional)

REAPPOINTED: Rachel Cummings, Charlotte – (Aging)

REAPPOINTED: Harriet Goodwin, Woodstock – (Aging)

**SerVermont:**

APPOINTED: Sherry Knudsen, Waterbury Center

REAPPOINTED: Guy Isabelle, Barre

**Committee on Employment of People with Disabilities:**

APPOINTED: Helen Hipp, Jericho

APPOINTED: Kevin Beal, Northfield

APPOINTED: Stacey Lancour, Rutland

APPOINTED: Don Parrish, Shrewsbury

APPOINTED: Renee Davies, Williston

APPOINTED: Shirley Katz, Williston

REAPPOINTED: Elizabeth Koenigh, Shaftsbury

**Selective Service Board:**

Nominee to the President: Daniel Sayner, South Newfane –

#### IRO Activities:

#### **FEMA/ Feds. :**

- Improvements to VTrans management of FEMA PA to better interface with FEMA and to expedite payments to towns.
- Ongoing interface with FEMA re continuing reports of problems with town & reinforcing our priorities :
  - Expediting to reach 90/10 & supporting cash strapped towns
- Collaborations with Cong. Staff (daily) re FEMA, town issues as well as funding problems and opportunities
- Met with Bill Ducach to better understand BGS needs (complex & VHS) from FEMA. Strategizing better communication with FEMA.
- Collaborating with M. Clasen for better oversight of state contracts & FEMA interface

#### **Media:**

- VPR radio interview (Mon) as intro segment of their Irene/ Housing series this week
- Plans for Vt Strong Plates Presser and ongoing marketing
  - Invited Nick Russo (FEMA) to VT Strong Presser – hoping to build the spirit of partnership
- Press release with Congress. Staff on Human Service/ Case managers award from FEMA (\$2.5 mill) – announcement next week.

#### **Staff Support:**

- Working to access fed grant funds to get support (2 staff) on board for IRO. Goal to have on board next week.

#### **Town Issues**

- Positive meeting with VLCT board with GPS.
- Ongoing reports of FEMA challenges at the town level – working to watch dog & remedy. FEMA responding well at this point.

#### Recovery-related updates from the field below.

#### **Human Services**

- a. FEMA in DC has awarded the long-awaited grant to support the Case Managers state wide. This \$2.5 million grant will provide critical resources for our infrastructure for helping Vermonters in need. It is through this network of case workers that the Disaster Recovery Fund will be granted.
- b. First state wide networking meeting held with Long Term Recovery Committees. Support needs are growing.

#### **Community & Economic Development**

- a. Conducted Community Recovery Partnership meeting for Pittsfield, Stockbridge, Rochester and surrounding towns.

- b. Developing Phase 2 of the vtstrong.vermont.org website.
- c. Attended FEMA's Region 1's National Disaster Recovery Framework Stakeholder Engagement Seminar in Boston. This Framework provides guidance to support disaster-impacted states. It is designed to enable disaster recovery managers to operation in a unified and collaborative manner.
- d. Met with Matt Suchadolski from EDA on potential projects that may be eligible for EDA funding.
- e. Met with RPCs and RDCs in a joint meeting to discuss how best to coordinate community recovery including EDA and CDBG applications.

#### **Housing**

- a. Interviewed by VPR on the CDBG Irene Recovery allocation from HUD
- b. Along with Lawrence and Julie, participated in a discussion on flood related legislation with AOT, ANR and Secretary MacLean.
- c. Continue to work with congressional delegation and ACCD senior staff to understand HUD CDGC Irene Recovery allocation flexibility, and work with staff to develop the public process and timeline

#### **ANR: Debris Management**

- a. ICS team meeting Feb 7<sup>th</sup> at Rock of Ages to discuss next steps. We continue to receive excellent cooperation from VTrans and NRCS, as well as the ANR staff.
- b. Over 95% of potential sites have been inventoried, according to best information. This number has lowered this a little because new sites continue to trickle in at a low, but steady rate.
- c. We have identified 32 (possibly critical) sites as of 01/29/2012. Two of those are new sites we identified this past week. We have looked at 31 of the 32 sites - 18 of the 31 sites have been dealt with, either deemed not critical or work has been completed - work is being planned or is taking place on 8 sites - NRCS has identified 4 of those sites for funding - VTrans is funding 4 sites - 5 sites are being evaluated or awaiting status.
- d. Overall the situation continues to look good. The way this winter is going we are busier than we might have been had we been locked in ice and buried under snow. The good news is we believe we are seeing all the potential problem areas quite well. We continue to hear about a couple new sites each week and work continues on several. Justin and I did have a very positive interaction with a concerned home owner in Marlboro. Justin met him at a public meeting and put him in touch with me. I was able to tell him that we had everything lined up to work on the sites near his house. He was very happy with the state response!

#### **Agriculture**

- a. Another round of grant funding announced from VT Farm Disaster Relief fund - partnership between Agency of Ag and Vermont Community Foundation. Centered on livestock feed emergencies. Deadline late February with checks in March.
- b. At Vermont Farm Show - Alpha Gamma Rho fraternity (AG related) donated \$2,600 to the Farm Disaster Relief Fund.
- c. On January 31, 2012 - 15 Agency of Agriculture Personnel were trained in DLAN by Vermont Emergency Management. Additional training is scheduled for later in February. Excellent training and moving the Agency toward its goal of having more personnel ready if and when there is another emergency. Now need updates on agency computers to be able to use newest edition. Secretary Ross and Deputy Secretary Bothfeld were among the personnel trained.