

WEEKLY REPORTS

Checklist

4/22/2011

Bill Lofy

- ✓ ✓ Agency of Commerce and Community Development – Lawrence Miller
- ✓ ✓ Agency of Agriculture – Chuck Ross
- ✓ ✓ Agency of Transportation – Brian Searles
- ✓ ✓ Department of Labor – Annie Noonan

Alex MacLean

- ✓ ✓ Agency of Natural Resources – Deb Markowitz
- ✓ ✓ Department of Public Safety – Keith Flynn
- ✓ ✓ Public Service Department – Liz Miller* (shared with Beth)

Susan Bartlett

- ✓ ✓ Agency of Human Services – Doug Racine

Beth Robinson

- ✓ ✓ BISHCA – Steve Kimbell* (shared with Anya)

Jeb Spaulding

- ✓ Agency of Administration – Jeb Spaulding

Special Reports

- ✓ ✓ Additional Report: Education
- ✓ ✓ Additional Report: GIRO
- _____ Additional Report: _____

CONFIDENTIAL and PRIVILEGED—No Sharing

To: Governor Peter Shumlin

From: Lawrence Miller, Secretary, Agency of Commerce and Community Development

Date: April 22, 2011

Re: ACCD Weekly Report

Status of Governor's Priorities:

Everyone is working well together on the Brattleboro fire. We are including VY planning considerations in the current effort. * We hear concern about library take rates for fiber in southern Vermont so have engaged in the conversation with the state librarian Marty Reid and also Helen Labun Jordan and am keeping Karen informed. We will provide support getting towns, chambers, and businesses to support the libraries where needed. Take rates in general seem to be an issue. * More meetings and phone calls on health care. We briefed the biz outreach staff and they seem to be comfortable with the talking points. I would say businesses are more skittish not less but if the current version moves through will settle down. I think the immediate unknowns about what the legislature will do are big. Recommend a business advisory group for Jeb on health care revenue but this may look too tilted. Alternatively I could pull a group together and then communicate internally. * A number of active conversations on slaughter solutions.

Legislation:

H.438 is in Senate Rules and has some important BISHCA stuff including some Captive improvements that we care about. * Jobs bill you know about. * My opinion on the Plum Creek issue (in the jobs bill now) is that ANR should settle the thing in court in a way that is consistent with their suggested changes and not have the current legislation get through. The idea of giving special treatment to large landholders but not smaller landholders is peculiar, but clearly penalty is disproportionate. If they are already working with landholders outside of statute then they should propose improvements to the underlying law consistent with practice. * SAC cut the Windham commitment we made to Morse from \$50,000 to \$25,000, I identified this to Reardon and will restore.

Evolving Issues:

Nothing major.

Commissioner MacKay and Deputy Commissioner Hollar

Collaboration with ANR continues, and will clearly require ongoing effort. Noelle met with General Counsel Jon Groveman to begin planning for their joint May 5th meeting at the Red Hen.

The Governor signed into law **H.85 and H.86**, officially recognizing the Elnu and Nulhegan Native American

Tribes in Vermont. Unfortunately, Diane, who has worked so hard over the past years to support the Commission, had to miss the ceremony due to surgery.

Historic Preservation Awards were announced at the State House to a packed audience. Noelle was there, along with Secretary Miller. Governor Shumlin made a surprise appearance. Community members receiving the awards were so excited to share the story about their historic building. Thanks to Judith and Debbie for organizing the event and Chris for the amazing poster boards. Thanks to Erica H. for helping with the press – coverage of the event was picked up by media outlets around the state. **Partners were thrilled, thanks.**

In yet more action at the State House, the annual **Housing and Wages Report** was released. The affordability gap between wages and the cost of rental housing is growing. Jen provided talking points for Secretary Miller who spoke at the event and highlighted ACCD's work on both sides of the equation – developing affordable housing and jobs with good wages.

Action
The **Executive Order that created the Housing Council** dates back to 1995 and the Dean Administration. Jen worked with a subcommittee of the Council this week on revisions to recommend to the full Council and, eventually, the Governor. **Let me know if you have any advance opinions about this.**

Scheduling
Excitement for the **Historic Preservation and Downtown Conference** is building. Noelle worked with staff from our Community Planning and Revitalization and Historic Preservation divisions in preparation. If you are interested in participating, please let Leanne know! **April 29th in Brattleboro, will fill in. Let me know if you have anything specific you want me to include in remarks.**

In response to staff concerns with the performance of the VCDP-funded **revolving loan fund administered by the Central Vermont Community Land Trust**, Jen met with Ann, Josh and Carl and later has a one-on-one with Executive Director Eileen Peltier.

Business Support

Turtle Fur: The company is now owned by a New York investor and the company employs 45 fulltime. Manufacturing is done primarily in Mexico and in Asia. Turtle Fur is seeking assistance with international trade which is critical to their business. Sales are strong. Appropriate referrals will be made.

Way Out Wax: Moving to new quarters in Morrisville. The company plans to add a retail shop and plans to be in their new quarters by this Fall. Employment is at 10 fulltime. Appropriate referrals will be made.

Brownfields

EPA Meeting: On Tuesday, ten representatives from EPA came to Vermont to meet with all of their grantees - Kiersten and all of the RPCs that have assessment money and/or RLFs. All regions were represented and there was great discussion about some technical aspects of the program - such as performing an acceptable Phase I - but also about creative funding ideas. Kiersten mentioned the idea of a redevelopment authority, which seemed of interest to the EPA team.

Former Vermont Tissue Property: Kiersten is working with the incredibly dynamic owner of the former VT

Tissue property in Bennington. He is going to apply for a loan from the Brownfield RLF to clean-up the building, but the real reason he purchased the property is because there is a dam that he wants to restart. He has been working closely with FERC, DEC and others to move this project along and even got kudos from Rep. Deen.

Fonda - St. Albans: Preliminary work has begun at Fonda. Demo is scheduled for sometime in the next 60 days. They might have a funding cap for clean-up that I have offered to help fill only after the Northwest Regional RPC puts in some \$ from their RLF.

Projects

Connor Homes, Middlebury - Kiersten is meeting with representatives from Connor and Green Mountain Beverage next week to talk about Connor moving to the former Tubbs building in Brandon AND GMB's move to the Connor (former Standard Register) building. Will provide more detail next week.

Arthurs – Morrisville: Kiersten met with a team of folks - including Housing Vermont - to discuss the redevelopment of the soon-to-be former Arthur's Department Store in Morrisville. The property is contaminated and the owners are trying to sell. Housing Vermont may partner with Lamoille Housing, but there are still a lot of unknowns on many fronts.

Community Planning & Revitalization

Tax Credits

Barre: The visit is largely an upshot of the \$20+M streetscape improvement project and many business owners are now planning or considering building improvements (while there's never a good time to make substantial building repairs – the anticipated traffic and business disruptions – makes now a better time than any).

Green shoots: Last year's funding cycle saw a drop off in applicants and the allocations were largely focused on clearing out the back log of projects passed over in prior years. However, evidence of an economic turnaround appeared in January with architectural and engineering firms reporting increased activity (the preverbal canary in the coal mine for the construction sector). We're now seeing further evidence of a recovery with an uptick in tax credit inquiries. At this point, well over 40 projects plan to apply for Downtown Tax Credits (which tracks pre-downturn demand). Chris expects a third of these projects will receive funding.

Historic Preservation

State Historic Preservation Plan update: Diane and Giovanna worked to get print copies and CDs of the plan completed in time for the Downtown-HP conference next week. Steve Cook was very helpful hooking us into a reliable CD duplication firm. Print copies are back from copy center and Gio will get copies to agency staff. The plan is of course on line on DHP's web site.

Housing

North Shore MHP, Bellows Falls (park sale) – Bob Holcomb issued a park sale notice for his park in Bellows Falls. The park was last noticed for sale in 2008 for a substantially higher price. The park was flooded in 1996. The nonprofits were not interested in acquiring the park under the previous sale notices.

Tourism & Marketing and Vermont Life

Commissioner Smith was the guest speaker at the St. Albans Chamber Annual Meeting where the theme was “tourism”. This was a particularly Festive evening due to the business award being given to the Tyler Family from the Tyler Place Resort.

The commissioner also attended the US Travel Directors conference in D.C. The main focus was on what the recovery looks like nationwide as well as tourism budgets. Vermont still has the second lowest budget in the U.S. While in D.C. Megan was able to meet with both Senator Leahy and Congressman Welch. Both reinforced their strong support of the tourism industry.

The tourism department held a meeting of all the key “Birders” in the state. This has potential for May & June business and we are hoping to bring the community together to have a presence on the web to allow lodging properties to package birding tours both guided and self-guided.

Bicycle enthusiasts called on Commissioner Smith to discuss a statewide bike map. Currently there are over 10 maps, several of which are partially funded by VDTM. Megan will work with John Kessler and DOT to determine if the statewide map is a possibility. Currently New Hampshire and Rhode Island have them while the other New England States have several representing portions of the state.

Summer sporting events are gearing up with two new Marathons being held in the Green Mountain State. The Shires Marathon will be May 15th and The Mad Marathon in the valley will be held in July.

Deputy Commissioner Cook met with the Colchester Economic Development Committee to discuss area marketing initiatives and potential cooperative opportunities. The meeting was extremely positive and supportive of the state’s marketing efforts.

Deputy Commissioner Cook addressed the hospitality and tourism department at Johnson State College and discussed careers within hospitality in Vermont. Johnson State College is one of the only colleges in Vermont with a specified Hospitality & Tourism program and the college feels that there is great opportunity for growth in this area.

Communications and Outreach

Summary: This week’s Historic Preservation grant awards receive statewide and regional coverage. Other headlines include: the latest Census number show a declining population in some Vermont’s ski towns; Killington Resort’s plans \$6 million in renovations; tourism experts talk about promoting destinations through social media; out-of-state money helps fuel the arts community; and former Sanders Press Secretary Will Wiquist is the new executive director of the Green Mountain Club.

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin

From: Chuck Ross

Date: April 22, 2011

Re: VAAFM Weekly Report

Status of Governor's Priorities:

Jobs Bill: See Sec Ross' comments below.

Legislative Issues/Contacts:

H.367 (Mandatory Labeling of Genetically Engineered Foods). At the request of the House Agriculture Committee, Agency Counsel appeared and testified on the potential legal hurdles of mandating that foods containing genetically engineered foods be labeled as such if sold in Vermont: federal pre-emption, federal first amendment, and commerce clause. Agency counsel also indicated that colleagues in the Department of Health were interested in joining the conversation because that state entity would be charged with enforcement.

Press Issues/Releases/Contacts:

Press releases/Media Advisories

- Regional Meat Initiative
- Ag & Culinary Tourism update

Media Inquiries

- AP continues to make inquiries regarding raw milk and Rural Vermont classes
- Burlington Free Press - Dairy statistics
- Burlington Free Press - Invasive Species
- Fox 44 - agriculture update and hot topics
- Rutland Herald - Maple Season update

Issues

- Gas prices - we continue to receive calls around the price of gas and how we monitor gas pumps.
- Animal Welfare - a video was released from a Texas ranch that allegedly shows animals being handled improperly. This is similar to the HSUS video filmed at a slaughter facility in Vermont. Talking points will be available today.

Misc

- Secretary Ross will tape a segment for Across the Fence later this month.
- Secretary Ross is scheduled to meet with the editorial board of the St Albans Messenger and similar meetings will be scheduled as time allows.

Significant Events/Meetings:

Delegation from Harbin Institute of Technology, Harbin, China met w/Deputy Secretary LaClair, State and Asst Veterinarian Haas and Russo, to discuss establishing a 'Confucian' institute at VTC which would focus on environmental technologies as well as other fields of study. Former Ag Secretary Roger Allbee began these discussions a few years ago, and is continuing to work to facilitate the prospect. Apparently VTC is competing against MIT. **Agency will follow up to see if there's more we, or the Governor, can do.

The Meat Inspection Section team is scheduled to receive recognition at the Public Service Recognitions awards luncheon on May 2.

Evolving Issues:

VACC v. Tracy – Vermont Land Trust's Intent to Exercise Option to Purchase. Agency counsel is working with co-holders in an attempt to negotiate with the potential buyer of the conserved farm for the orderly litigation of the disputed legal and factual issues on the co-holders' Option to Purchase at Agricultural Value. Latest indication is that a separate lawsuit against all three co-holders by the putative buyer is expected to be filed in mid-May.

Dean Foods/DFA Class Action Anti-Trust Litigation. Update - there is an outstanding question, for which the Vermont Attorney General will seek clarity from the Court, about whether the Judge has completely rejected the proposed injunctive relief as part of the proposed settlement between Dean Foods and plaintiffs. If so, the Attorney General may not spend public monies to hire experts in dairy economics to evaluate the impact of the proposed injunctive relief on members of the putative class who are Vermonters. Also, many public documents from the case are now available on the AGO's website.

The pesticide program chief learned that a July 2010 Public Service Board Order issued a Certificate of Public Good with a condition requiring a pesticide permit from the Agency of Agriculture, Food and Markets. The Agency does not issue the type of permit Ordered. This discovery demonstrates the Agency's historical and on-going need to examine its role, resources, and policy initiatives related to PSB filings.

Meat Inspection Section. The Agency learned of an issue between two neighboring farmers that resulted in an itinerant slaughterer shooting an animal for one farmer at the other's farm in contravention of state law. On-farm slaughter is only allowed on the farm of the person who owns the animal unless there is an approved custom slaughter facility with custom license at the other slaughter location. The itinerant slaughterer will be issued a warning letter.

Summary of Key Agency Activity, by Division

Administration

Budget: Continuous monitoring and calculation to determine impact of federal budget cuts, as well as end of year state budget shortfalls. Budget Director Morrison communicated with finance and management about the Agency's fiscal challenges.

Ag Development

Act 250. Staff met with NRCS representatives about developers who, as part of their Act 250 applications, claim the NRCS' Order 1 soil surveys are not accurate and should be amended. The standards and documentation needed to amend NRCS' presumptive soil survey work, upon which criterion 9(B) (primary agricultural soils) is based, were discussed. The ultimate goal is efficient, sound, consistent and timely decision-making by Agency staff and clear expectations and standards for developers on criterion 9(B).

In re Joan Salvas, Act 250. Applicant has appeal the dismissal of her Act 250 amendment application. Appeal is *de novo* to Superior Court. Applicant has approached the Agency asking if there is a way to compromise and settle the case without either party incurring the expense and time needed for trial.

Public Service Board. VELCO is seeking to build a new sub-station, next to an old one, in Georgia, on soils which are considered primary agricultural soils. In keeping with the prior Secretary's

Food Safety/Consumer/Animal Health

Animal Health and Meat Inspection issued a joint letter to all slaughter establishments concerning antibiotic residues in meat. The letter reiterated the Agency's recommendation for plants to have a residue control program in place.

Animal Health:

- Assisted a veterinary practitioner who reported an animal that tested positive for Brucellosis. Contacted the N.E. Veterinary office and determined the animal was negative for brucellosis on the confirmatory test
- Provided contact information to a goat producer who would like to establish a goat milking herd in Vermont
- Consulted with the CT State veterinarian on Avian Influenza and Salmonella testing strategies in poultry
- Provided regulatory assistance to numerous producers seeking information on Vermont's import requirements for livestock.
- Completed and mailed NOV for producer who illegally imported cattle into VT

Meat Inspection Section.

The Federal FSIS published the final rule about interstate shipment of state inspected product April 20th. Adams Turkey Farm is scheduled to begin operations the week of May 2 and the Spring Hill mobile poultry unit is scheduled to begin operations on May 4. A farm in Wolcott is looking at obtaining state inspected processing license. This farm has been involved with a zoning dispute from neighboring property. A facility in Plainfield has taken a significant step towards state inspection for fresh sausage and eventually salami and dry cured pork products. The section reviewed paperwork for a possible slaughter operation in Milton.

Scheduling

Secretary's Commentary:

NEASDA (Northeastern Association of State Depts of Agriculture): June 5-7, Jay Peak. Annual Meeting hosted by VT. USDA staff as well as Commissioners/Secretaries from 11 northeastern states invited to attend. Expect approx 50 for the entire meeting. House/Senate Ag as well as other Leg leaders, State Agency execs will be invited to join for Ag Policy discussion and Local Foods Reception on Sunday. Invitation forthcoming to Governor Shumlin.

VT Land Trust/VT Housing and Conservation Board: Sec Ross sent a letter to VHCB and VLT explaining his support of their interest and effort to exercise their right to purchase the Tracy farm. He further explained how he would not be interested in exercising the Agency's right to purchase the Tracy farm. This issue is likely headed to some form of litigation as the attorney for a prospective purchaser has indicated he will likely file suit against VLT, VHCB and the Agency. The suit will focus on how the three parties to the OPAV easement are inappropriately interfering with the prospective purchasers ability to rightfully buy the Tracy's farm because said purchaser meets the test of "will be a farmer" as stipulated in the OPAV.

Jobs Bill: Sec Ross worked with Senator Campbell and the Administration to understand the rationale around the Senate Appropriation bill's removal of the travel money for the Agency. Sec Ross explained how critically important this money was to Vermont's active and necessary participation in discussions at the national and regional level on national dairy pricing reform which may be more possible now than ever before.

Dairy House Keeping: Sec Ross testified before the House Agriculture Committee on the Dairy House Keeping bill. He explained a number of technical questions and deferred detailed questions about the raw milk issue to subsequent testimony of other Agency personnel on Friday. It appears there may be some adjustments in the House bill on raw milk but the balance of the bill should be passed largely as it was from the Senate. A Conference Committee is likely.

Meetings:

- Sec Ross met with Sec Miller to discuss an array of legislative matters and Agency collaboration. This included a trip to Vincent Galluccio's farm in Woodstock. Their trip together is in response to the Governor's visit earlier in the year.
- Sec Ross also met with Commissioner Mears to discuss coordinating their respective interviews with the Director of the movie "Bloom". They agreed to coordinate their messaging and will be sharing talking points in advance of the interviews.

Travel: Sec Ross traveled to Iowa for family reasons from Saturday through Tuesday. He stayed with his in-laws who are farmers, deeply involved in Iowa agricultural issues supporting service providers and Coop managers.

OFFICE OF THE SECRETARY

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Executive Privilege

TO: Governor Peter Shumlin

FROM: Secretary Brian R. Searles

DATE: Friday, April 22, 2011

SUBJECT: VTrans - Confidential Report to the Governor

DMV participated in the Brattleboro event on Wednesday to bring services to the Gibson-Aiken building to aid the inhabitants of the former Brooks Building. Commissioner Ide and Director of Operations, Michael Smith represented the Department. It was very worthwhile as we assisted 8 individuals with DMV related issues. Interestingly, there was only one building inhabitant who had lost her document in the fire; we had expected more. There were numerous building inhabitants who were driving on out of state licenses, and we provided information to them as to how to become licensed in Vermont.

New DMV Location in Chittenden County

DMV expects to publicly announce on Monday, April 25th that we will be moving our Chittenden County location from North Avenue to 4 Market Street in South Burlington. Our staff will receive the press release prior to the release to our media list, but the announcement is planned to be released by 8:30 AM. The press release does not include a date certain for the move.

Circumferential Highway

The Record of Decision, a compilation of studies, including but not limited to the conclusions of the Environmental Impact Statement (EIS), was expected to be issued on April 28. However, a new wrinkle has apparently surfaced that puts the U.S. Army Corps of Engineers at odds with the Federal Highway Administration over some language related to wetland impacts and/or mitigation strategies. Feedback from our VTrans Project Manager is that a meeting to discuss the disagreement will likely happen in early to mid-May. Acting Federal Highway District Administrator Larry Dwyer has been out of the country and will not be available to talk about this until next week. We continue to quietly discuss smaller but more feasible projects along the Circ route which could be supported as alternatives.

LVRT

Susan Bartlett and I will attend a meeting of the Board of VAST on Monday night, April 25, at which time they are scheduled to vote on whether to continue managing the LVRT project. The issues are the perceived uncertainty of the Act 250 process, Board concerns about VAST finances, and the apparent uneven support for the project by Board members based on geography.

Transportation Bill

The T-Bill and accompanying spending plan passed the Senate in much the same shape as the House passed version and, thankfully, pretty much as you recommended. The House has the Senate changes on the Calendar for today and I spent some time yesterday trying to allay the fears of certain House members concerning those changes and am hopeful that we might avoid a Conference Committee for the first time in anyone's memory (at least around here).

Complete Streets

This bill, which passed the House on Tuesday, "improves safety and access for motorists, bicyclists, pedestrians and public transportation users of all ages and abilities" by making it policy that we consider those accommodations when designing transportation projects at the state and local level. The Agency of Transportation and the Douglas Administration had questions about the requirements, particularly reporting requirement, in previous years and did not support the AARP led effort.

In this session supporters were able to work with us and the Vermont League of Cities and Towns to improve the bill as it made its way through the House. The bill now goes to the Senate where it is doubtful that the Transportation Committee will have time to take it up this year. However, VTrans will continue to ensure that the goals of Complete Streets are met by considering the accommodation of alternative modes in our planning and design processes.

H.443 FY12 Transportation Budget - Conference Issues

Yellow = Agreed / Identical

Item #	Program / Issue	Project	H. Sec	S. Sec	As Passed by House vs Gov	As Passed by Senate vs Gov
1	Funding of rest area operations; transfer to state police		BB	BB	Rest area operating budget funded with general funds; transfers \$3.99 mill TFunds to GFund; no change to JTOC cap in FY13	Identical
2			--	27	No provision	Directs JFO, BGS and AOT to analyze issue of how rest area operating costs could be allocated between the GFund and TFund.
3	Adoption of state program		1	1	Boilerplate	Identical
4	Transfer to Central Garage		5	7	Transfer \$1,120,000	Identical
5	Town Bridge: Fairfield		2(1) 2(2)	2(1) 2(2)	Delete funding for fed cancelled Fairfield project and then add back in as a new project	Identical
6	Town Bridge: Brattleboro-Hinsdale		--	2(3)	Gov recommend	Cut all funding (delayed by NH)
7	Town Bridge: Stratton culvert		--	2(4)	Gov recommend	Cut TFunds and replace with TIB funds from Brattleboro Hinsdale - source change only.
8	Municipal park & ride program		--	2a	Gov recommend: \$250,000 TFunds	Add \$50,000 TFunds
9	TH Emergency fund		--	2b	Gov recommend: \$750,000	Cut \$15,000 TFunds
10	Rail - Western Corridor project		3(1)	3	Adds western corridor rail project to program and defines the project.	Identical
11	Rail - 3 way partnership		3(2)	--	Cut funding of 3 way rail partnership program	Gov recommend: \$200,000 TFunds
12	Rail - 3 way partnership		4	4	Repeal session law limiting funding to concrete projects.	Identical
13	TH - Vermont Local Roads		--	5	Gov recommend: \$375,000	Add \$15,000 federal (from Brattleboro-Hinsdale)
14	Bike-Ped: Lamolle Valley Rail Trail		--	6	Gov recommend: \$0	Secretary to re-allocate \$10,000 TFunds from within bike-ped program to VAST.
15	Cancellation of projects		6	8	Identical	Identical

H.443 FY12 Transportation Budget - Conference Issues

Yellow = Agreed / Identical					As Passed by House vs Gov	As Passed by Senate vs Gov
Item #	Program / Issue	Project	H.Sec	S. Sec		
16	Rail - Western Corridor federal grant		7	9	Encourages state to apply for grant; authorizes \$15 mill in TIB bonds as match.	Identical
17			8	10	Contingent allocation of FY11 TFund surplus	Identical
18			9	11	Contingent allocation re FY11 TIB surplus	Identical
19			10	12	Contingent authority re FY11 appropriations	Identical
20	Contingent authority to cover TIB bond debt service requirements		11	13	Contingent allocation of change to FY12 TFund or TIB fund consensus forecast	Identical
21			12	14	Contingent authority re FY12 appropriations	Identical
22			13	--	Authorizes waterfall spending on listed projects of FY11 TIB surplus and increase in July FY12 TIB fund forecast plus matching fed funds (waterfall subject to TIB debt service requirements if TIB bonds issued to fund Western Corridor rail grant)	No waterfall
23	Rail Station	Rail - Whiter River Jct. Railroad Station	14	15	Authorizes AOT to seek a fed grant up to \$875,000 for purchase of station. If grant received and requires a match, authorizes match to be taken from rail budget.	Authorizes AOT to re-allocate up to \$875,000 of FY11 or FY12 appropriations from any program for the purchase of the station.
24		Aviation - state airport subsidies	--	16	No provision	Directs AOT to develop a business plan to end subsidies of state-owned airports.
25		Aviation - pass thru of FAA funds	15	17	Authorizes direct pass through of FAA funds to municipal airports	Identical
26		Town Highway Class 2 Roadway program	16	18	Amends 19 VSA 306(h) to increase annual grant total to \$7.3 mill.	Identical
27		Town Highway Structures program	16	18	Amends 19 VSA 306(e) to increase annual grant total to \$5.8 mill.	Identical

H.443 FY12 Transportation Budget - Conference Issues

Yellow = Agreed / Identical

Item #	Program / Issue	Project	H. Sec	S. Sec	As Passed by House vs Gov	As Passed by Senate vs Gov
28	Municipal sidewalks		16-17	18-19	<p>Amends 19 VSA 306(f) to create a new municipal sidewalk grant program. Annual grants of \$200,000 total. Per grant limit \$75,000. Town to match the amount of the grant (50-50 split). Allocates \$200,000 TFunds for FY12.</p> <p>House: (1) Separate program (2) Individual grants capped at \$75,000 (3) 50-50 split up to cap limit (4) \$200,000 in FY12 funding</p>	<p>Amends 19 VSA 306(e) to expand structures program to include sidewalks. Amends 19 VSA 309b(a) to require a 50% local match for a structures grant for sidewalk improvements.</p> <p>Senate: (1) Eligible under structures program (2) General structures grant cap applies to all eligible activities (3) same, 50-50 split for sidewalks (4) No additional funding</p>
29	Federal earmarks - utility adjustments		--	20	No provision	Authorizes the use of federal earmark funds to pay for utility adjustments in state highway right of way provided no state matching funds are required. Exception limited to FY11-FY13
30	Scenic Byways		18-23	21-26	Amends scenery preservation council to add member and allow to meet more than twice; reconstruction of byways and scenic roads is according to Design Standards.	Identical
31	Highway condemnation law study		24	28	Creates highway condemnation law study committee; report due by 1/15/12.	Identical
32	Sign law - exempt signs		25	29	Amends 10 VSA 494(9) to allow certain personal messages (per 495(d), would be allowed in town highway right of way).	Amends 10 VSA 494(16) to allow certain personal messages; clarifies that 2-week limit applies to messages, not signs. Per 495(d), would NOT be allowed in any right of way.
33	Sign law - Travel Information Council		--	30	No provision	(a) Directs TIC to adopt rules by 7/1/12 as to what constitutes flashing lights or moving parts. (b) Directs TIC to study and report back by 1/15/12 on whether list of exempt signs should be amended.
34	TIB gasoline assessment		26	31	Definition of assessment clarified to conform to original intent and administrative practice	Identical
35	Public Transit Advisory Council		27	32	Eliminates executive director of the VT public transit association from council membership.	Identical
36	Public Transit reports		28-29	33-34	Eliminates annual planning report and eliminates reference to short range public transportation plans.	Identical

H.443 FY12 Transportation Budget - Conference Issues

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Item #	Program / Issue		Project	H.Sec	S. Sec	As Passed by House vs Gov	As Passed by Senate vs Gov
	Program / Issue	Project					
37	Weather stations			30	35	Adds agency to list of entities to receive notice of proposed temporary meteorological stations.	Identical
38	Annual program - project born on date			31	36	Directs AOT in the annual program to include the date each project was first included in the state program.	Limits the requirement to projects initially approved after Jan 1, 2009
39	Drivers license - must have when driving			32	37	Clarifies confusing language regarding 14-day grace period and furnishing valid ID in court.	Identical
40	Expired inspection sticker			33	--	Establishes 14-day grace period for expired inspection stickers.	No provision
41	Handicap parking			--	38	No provision	Provides for 24 hours of free parking in state or municipally owned garages.
42	Handicap parking			--	39	No provision	Clarifies existing provision requiring free parking on premises of public buildings.
43	Conservation plates			--	40	No provision	Gives fish and wildlife more discretion over disposition of new and renewal conservation plate proceeds (net of proceeds for T fund)
44	Effective dates			34	41	No disagreement. Final effective dates depend on conference bill.	
45	Repeal			--	42	No provision	Repeals sign law provision authorizing certain personal messages effective 7/1/12.

Confidential and Privileged

To: Honorable Governor Peter Shumlin

From: Annie Noonan, Commissioner, VDOL

Date: 4/22/11

Re: Weekly Report, Week Ending 4/15/11

Incidents of Note:

I was just informed that our Vermont Job-Link system may have been improperly accessed by a phishing company, and that VDOL alerted 700 people that their resumes were probably accessed. I am meeting with staff today to get more information.

We had a regional manager in Barre advise that he was concerned about a client who seemed to be making angry comments about staff and the government and the Governor, so I interviewed all staff that had contact with him recently, as well as the regional manager, and had VSP run a check on the person. Our regional manager gave a statement to Todd Hayes of VSP. I don't believe that the person is a serious threat to our staff or to the Governor, but I put him on VSP's radar.

VDOL Budget: We have had no official word from USDOL about the federal money and our programs. We clearly don't know if the budget cut figure that Finance & Management arrived for VDOL of \$800K is accurate, nor do we have any word yet on summer youth program (we spoke to USDOL on Tuesday and again this morning). We are now running spreadsheets with all workforce development staff, salaries, and remaining program monies to see when and if we will run short.

Legislative:

UI Bill: Voted out of Senate Finance - we were able to suggest language to limit the issue about the newspaper exemption under "direct seller clause" to weeklies and monthlies, which satisfied AFL-CIO, but advised (on the record) that, until the legislature gave VDOL specific direction next session on the daily newspapers, I would not change the interpretation of how VDOL has administered them (i.e. under direct seller), even though it is being argued by Sirotkin and Rainwater that VDOL, under prior administrations, over-stepped its authority to put the daily newspapers there, since the legislature did not authorize or intend that interpretation. Senator McCormack tried to add an exemption for home-care providers for the elderly which would have opened up the entire issue of "independent contractors" this session, but I was able to convince him that this was a 'third-rail' issue this year, and to put it in the study committee. I spoke with Senator Illuzzi who seemed to be fine with the changes from Senate Finance.

WC Bill: In House Commerce. I met with Rep. Botzow and Kitzmiller on Wednesday evening. I think the bill will move through there next week.

Jobs Bill: In Senate Finance and supposedly coming up early next week. I am scheduled to go over it with Senator Cummings before the committee takes it up, to give her the overview. Issues with Jobs Bill: Senator Illuzzi eliminated Workforce Investment Boards (WIBS), but left \$75K (of \$146K) with VDOL to give out to competitive grants in regional areas. This is going to put a strain on 2 VDOL staff salaries which draw from that WIB funding. Secondly, as I told you last week Senator Illuzzi specifically wrote out the job of Workforce Development Council Executive Director Chip Evans. Federal law requires Vermont to have

one statewide WIB (which is what the WDC is, and to have a business community member as the Chair - now John O'Kane), but we are not required to have an Executive Director; and since Senator Illuzzi has apparently been working to eliminate Chip Evans for several years (and believes that Chip ignored Senator Illuzzi's intent to eliminate the WIBs last year), Senator Illuzzi wrote Chip's job out of existence. I was completely unaware that this was being done. After the committee finished that morning, I met with Senator Illuzzi and told him that I wanted to be clear with him that I was not firing Chip, and that I wanted to be upfront about my plans so that he would not say that I ignored his legislative intent. He disagreed with my plan, but acknowledged that I was clear and that Chip was staying at VDOL to perform WDC assistance and other tasks that I assign to him. Chip seems okay with my plan; I think he is relieved to know that he is not being laid off as a result of the bill. Reminder: We need to consider WDC Chair replacement - very important!

Action

UI Division

As you are aware from our press release, Vermont triggered onto "Tier 3 of Extended Unemployment Benefits" effective week ending 03/26/11 --- adding an additional 13 weeks of benefits. Approximately 1,100 claimants may be eligible. VDOL mailed letters to applicable claimants advising of potentially eligibility.

Trust Fund Borrowing: Total amount borrowed as of April 21, 2011 is: \$77,731,860.63. As of 04/21/11, Vermont has borrowed \$6,745,624 during the month of April. Current estimates indicate we may need to borrow another ~ \$3,000,000 during the remainder of the month.

Workers Comp and Safety Division

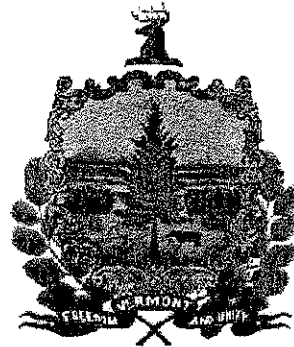
AOT and VDOL met this week and we are trying to work out the VOSHA citation and issue. We are still engaged in SWO penalty phase with Starr Trucking, and no resolution has been reached in Howrigan Farm negotiations for worker death suit.

Workforce Notes

Burlington: ISIS Company, moving to Boulder, CO, is closing on July 1st: 14 employees.
CCV has submitted grant for new educational model for trade-impacted workers which might include a portion of the grant coming to VDOL (perhaps \$150K).
Spherion (temp agency) may be hiring 20 positions for GMCR.
Career Fair on May 19th in Addison County - will send more details.

Scheduling

Memo



TO: Governor Peter Shumlin
FROM: Keith W. Flynn, Commissioner
DATE: 04/22/11
SUBJECT: Governor's Report

Status of the Governor's Priorities

Marijuana Dispensaries-

S-17. I testified before the House Human Services Committee regarding dispensaries. The testimony went well, continued to assert the Governor's position that this bill addresses the needs of those with a debilitating medical condition. Moreover, that the Governor's priority is to utilize the State's resources in attacking the most prevalent problems such as heroin use and prescription drug abuse. My testimony was filmed by News Center 44 and portions were aired that evening.

When asked about my position in support being contrary to Federal Law on marijuana use I explained that Vermont chose to make marijuana legal for medical symptom relief in 2003 under the Douglas Administration and Gov. Douglas allowed it to become law and go into effect in 2004. Therefore, my position in support as the Commissioner is consistent with existing Vermont law.

The previous evening I was interviewed on the WCAX TV show "The 30" and during the interview in addition to talking about the Governor's recidivism position and VSP hiring practices, I spoke about the dispensary legislation.

Evolving Issues

I met with the Vermont Fire Service Council on Monday and an issue regarding the need to replace the "burn house" at the Academy in Pittsford is emerging. This is an issue that we will need to look at within the next couple years.

I met with Kate Duffy regarding the remaining Vermont State Police contract issue and a proposed resolution has been reached. Thanks to Kate and her staff for working through this matter.

We were given a demonstration of the Grantium Electronic Grant Management System and expect to utilize this program in our grant management program within the Department.

Met with Commissioner Chen regarding the Datamaster Program and anticipate that the program will transfer to the Department of Public Safety. We are in the initial process of developing a transfer plan and assessment.

Met with Speaker Smith regarding the Dispensary bill and he is committed to get it to the floor before the end of the session.

Met with Jim Mongeon, Executive Director the State's Attorneys and Sheriffs, regarding S. 108 and the Datamaster program. There is some law enforcement push back to the broad scope of S. 108. I will be reaching to various law enforcement agencies to get an understanding of the scope of the push back.

Division Activities

Emergency Management

- The Emergency Management Coordinator (Bob Weinert) facilitated Disaster LAN Situation Report Template training to volunteers of the SEOC Planning Section. The integration of incoming and outgoing email capabilities for DisasterLAN has been reinvigorated and the electronic mapping capability for DisasterLAN is progressing.
- The State Hazard Mitigation Officer (Ray Doherty) provided technical support for towns submitting FEMA mitigation grant applications; organized working group of State Hazard Mitigation Committee to develop mitigation incentives program for VT communities; provided input to FEMA External stake-holders working group to streamline mitigation plan review process and worked with VT Dept of Environmental Conservation (DEC) to identify critical facilities for landslide/earthquake mitigation studies
- The RERP Planning person (Jaclyn Harman) Made revisions of RERP plans and procedures plus the State/Ingestion consolidated plan had been worked on and finished during February & March so April was primarily getting our (RERP) new revised forms, plans and procedures (Operations, State/Ingestion. Sampling and Tracking Teams) printed and distributed. All State EOC and EPZ Towns VEM forms have been revised and printed in preparation for the May Ingestion/Post Plume Evaluated Exercise.



State of Vermont...

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

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

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

www.bishca.state.vt.us

Memo from Commissioner Steve Kimbell

CONFIDENTIAL AND PRIVILEGED – NO SHARING Report to the Governor for Week Ending 04/23/2011

Governor's Priorities

Health Care Initiative

H.202 passed out of Senate Finance this week on a 5-2 vote.

The Commissioner and members of the General Counsel's office continued to spend significant time in Senate committee hearings or public and private meetings in support of H.202. The Department is also preparing for implementation of H.202.

BISHCA and the JFO submitted its report showing how costs and savings will trend differently under different.

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

Evolving Issues

Marlon Quan/ Stewardship Investment Advisors / Thomas Petters- the Vermont connection to this Ponzi scheme came to light this week when an investor in funds managed Stewardship IA reached out to BISHCA. It appears several Vermonters invested in hedge funds managed by Quan/Stewardship who invested client funds in the Ponzi scheme perpetrated by Petters (currently serving 50 years). This matter is receiving our active attention

Cadaret Grant- the Securities Division found significant supervisory failures on the part of this firm; we are in the process of notifying the firm that absent a prompt settlement we will file administrative charges.

Leslie Sebring – We have filed administrative charges against this Indiana bail bond insurance company for permitting overcharges by its Vermont agents.

Health Insurance issue – The Department has learned of potentially very serious wrongdoing by a company selling health insurance over the internet. General Counsel is working with the Attorney General's office on this.

Outreach

Legislative

(General) H.438 Housekeeping bill – Has been sent to the Senate Rules Committee.

(Insurance) S.36 – The Surplus Lines bill which reforms which states collect premium taxes on these policies was voted out of House Commerce yesterday and now goes to the full House. If reconciled with the Senate, this is expected to increase tax collections by Vermont.

General Information

Captives: Several applications for new licenses received and approaches to the Department about redomestications from Bermuda and Arizona. The Arizona move is motivated by a lack of dedicated captive insurance staff in Arizona and the expense of Arizona examinations.

Richards, Alyson

From: Gaidys, Maureen
Sent: Friday, April 22, 2011 4:02 PM
To: Richards, Alyson
Cc: 'sbe@list.education.state.vt.us'
Subject: Commissioner Vilaseca's Weekly Report

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

**CONFIDENTIAL AND PRIVILEGED: NO SHARING
MEMORANDUM**

To: Governor Peter Shumlin
Cc: State Board of Education
From: Armando Vilaseca, Commissioner
Re: Commissioner's Weekly Report
Date: April 22, 2011

State Board Approves Chittenden East SU Regional Education District Request:

Pursuant to 16 V.S.A. §706c, the State Board of Education approved the report of the Chittenden East SU unified union planning committee, addressing the formation of a unified union district (specifically, a R.E.D.). This is the first R.E.D. request to come before the State Board of Education. The Chittenden East Supervisory Union covers the town school districts of Bolton, Huntington, Jericho, Richmond and Underhill. It also covers Underhill Incorporated School District and Mt. Mansfield UHSD#17 (the latter of which covers all of the involved town school districts). It is anticipated that CESU voters will consider the formation of this unified union district (R.E.D.) in June and if approved, this will result in the elimination of all the above school districts and the creation of a single entity with one common board and administration. To view the CESU Voluntary Merger Planning Committee's report, go to http://education.vermont.gov/new/html/board/packet_archives/archives.html#apr_19

The Board also approved R.E.D. study related timeline extension requests for the Washington South Supervisory Union (Northfield and Roxbury) and the Battenkill Valley Supervisory Union (Arlington and Sandgate).

Release of Latest School Report: The school report contains information about public schools in Vermont. The report has enrollment information, student population breakouts, and education indicators about Vermont schools. These indicators include measures of school performance such as graduation rate, dropout rate, student/teacher ratio, among others. To view the report, go to http://education.vermont.gov/new/html/data/school_district_su.html#school.

Advanced Placement (AP) Fee Reduction Grant for FY11: Once again, the state of Vermont has been awarded an AP Fee Reduction Grant. The purpose of this grant is to pay all of the AP fees on behalf of eligible low-income students who are enrolled in an AP course, and plan to take an AP exam. Qualifying students in

Vermont take the exam at no cost to themselves. Acceptable definitions for determining student eligibility can be found at the following website: <http://professionals.collegeboard.com/testing/waivers/guidelines/ap>. While free and reduced lunch status is the most common gateway for eligibility, any of the other options listed are also acceptable.

Legislative Testimony: The Department continues to follow and testify on several pieces of legislation. Driver's education, educational continuity for military families, NCLB, public funding of independent schools, salary assistance for VT Virtual Learning Cooperative, safe cleaning products, the Special Education Advisory Council and the miscellaneous education bill are some of the topics that were testified on this week. In addition, we continue to follow the House Education bill, which changes the department to an agency and the commissioner to a secretary.

The Roots of Success: This poverty study, completed by the Department of Education in 2009, is the focus of much of the work we are involved in today. Through a large-scale survey of more than 2000 Vermont teachers in 87 schools across the state as well as intensive site visits to three schools that are "beating the odds" (schools whose Reading and Mathematics scores on state assessments defy expectations and exceed those of other schools with similar demographics), the panel discovered a set of attitudes and beliefs as well as specific school practices that are associated with student, particularly low-income, success. These characteristics form the foundation for school effectiveness and are essential to ensuring that all children, regardless of background or socioeconomic status, reach their full potential. You can view this study by accessing the link below: <http://education.vermont.gov/new/html/mainpubs.html>

Weekly Field Memo: In case you did not see it, here is the link and list of subjects covered in this week's Weekly Field Memo. http://education.vermont.gov/new/html/dept/field_memo.html#first.

Maureen Gaidys
Administrative Assistant
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PLEASE READ CAREFULLY: Due to the nature of the Commissioner's duties to the State of Vermont and its citizens, there are occasions when the Commissioner needs to cancel and/or postpone meetings or events in order to attend to pressing state matters. Please keep this in mind when planning for events.

MEMORANDUM TO GOV. PETER SHUMLIN

To: Gov. Peter Shumlin
From: GIRO Staff
Date: April 22, 2011
RE: Weekly Constituent Update

Current Issues:

- **Vermont Yankee:**
 - Received almost 700 e-mails alone in support of your position on Yankee. No opposition e-mails at all.
- **Dept. of Corrections:**
 - Increase in e-mail complaints regarding inmate treatment in out-of-state facilities.
 - We have a proposed letter being edited to be sent out.
- **Miscellaneous Tax Bill:**
 - Response regarding dentist v. cigarette taxes has been split in e-mails.
 - Constituents still don't really understand the way that the dentist tax would've worked to benefit those dentists that are covering Medicaid patients.
 - In terms of the cigarette tax, the argument being made by constituents is that it seems like you support smokers and as you push for preventative changes towards a healthy lifestyle, this tax is retroactive.
 - We have a response and are working to update it after having spoken with you and today's senate decision.
- **Lowell Wind**
 - Supporters of the Lowell wind project have organized since VPT interview.
 - No calls in opposition.
 - Several calls on Friday morning from supporters of the project—many from Lowell and Waterbury.

APPOINTMENTS TO BOARDS & COMMISSIONS

Vermont Enhanced 911 Board

APPOINTED: Tom Bodett from Putney

New England Board of Higher Education

APPOINTED: Thomas Green from Montpelier

Community High School of Vermont

APPOINTED: George Cross from Winooski

APPOINTED: Holly Tippet from Middlebury

Vermont Commission on National and Community Service

APPOINTED: Peter Hayward from Brattleboro

APPOINTED: Meredith Whitney from Waterbury

Dept. of Disabilities, Aging and Independent Living Advisory Board

APPOINTED: Steven Pouliot from South Burlington

Dept of Disabilities, Aging and Independent Living State Rehabilitation Council

APPOINTED: Clayton Clark from Barre Town

Dept of Disabilities, Aging and Independent Living State Rehabilitation Council for the Blind and Visually Impaired

APPOINTED: Donna Stratton from Montpelier

Vermont Agriculture Innovation Center Board

REAPPOINTED: Jackie Folsom from Cabot

REAPPOINTED: Tom Stearns from Wolcott

Vermont Developmental Disabilities Council

REAPPOINTED: James Caffry from Waitsfield

REAPPOINTED: Susan Ryan from South Hero

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Deborah L. Markowitz
Agency Secretary

Christopher Recchia
Deputy Secretary

**State of Vermont
Agency of Natural Resources**

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin

From: Deborah Markowitz, Secretary, Agency of Natural Resources

Date: April 22, 2011

Subject: ANR Weekly Report

Status of Governor's Priorities:

- **Energy and Climate** – We supported your efforts to cover pellet installations as part of the use of RGGI funds announced last week and are following this through legislative action in H.155. We remain committed to a climate cabinet kick-off meeting for May 17, 2011. I will have an executive order ready for your review and approval in advance of this meeting.
- **Telecommunications** – We are pleased to report we successfully avoided ANR issues becoming a sticking point in avoiding a conference committee on this bill, while simultaneously fixing a problem with current statute regarding bill-back. While not our idea to address bill-back, we did work with HF&W and Ways and Means committees to resolve the matter favorably.
- **Vermont Yankee** – The announcement this week that Entergy was going to court was anticipated and is actually a preferred option (to their ignoring us), removing some uncertainty and clarifying the path forward with the AG's office. We continue to assess enforcement opportunities and see below for status of NPDES permit renewal work.
- **Jobs Bill** – We have been successful in avoiding Senators Illuzzi and Starr's proposal to amend the bill to retroactively protect Plum Creek from dismissal from the UVA program due to its violation of cutting plans. The change in the Use Value Appraisal proposed by Senate Ag and expected to be discussed with Finance is OK with us. Ultimately, we expect it will be included in the budget bill as it seems the Jobs bill is not moving.
- **H.258 Public Participation in Enforcement** - We will likely need your help next week asking Senator Sears to move this bill as it came over from the House. Senator Sears is complaining about lack of time and

the need to have a minimized bill, with full agreement of all parties, but that seems an unlikely prospect at this juncture, but getting the bill through is critical to our defense of the petition filed by CLF with EPA to de-delegate our federal water program management under the Clean Water Act.

- **ATVs** – The hearing to repeal the rule for ATVs on state lands is scheduled for next week, 4/26.

Legislative Issues/Contacts:

- **H.155 – Clean Energy Districts** – Passed the House on Wednesday and reported to the Senate NRC on Thursday. This is an important energy provision to support, among other things, pellet stove conversions in residences.
- **H. 258 – Enforcement** - Voted out of House on Wed. As discussed above, we expect it will be referred to Judiciary in the Senate, but it is currently in the Rule Committee. John Campbell does not believe avoiding Judiciary is an option – though it hasn't been formally assigned yet.
- **H.332 - Permit Reform** – ANR and NRB completed a draft resolution in lieu of a formal Commission as the House originally wanted to constitute.
- **S.77 Testing of Private Water Supply** – We coordinated relevant changes to the bill with the Health Department based on the Technical Advisory Committee (TAC) comments sent last week. As of this morning, these had yet to be incorporated.
- **H.91** – This, along with parts of H.13 and H.66, was consolidated by Senate Natural Resources and is up for third read in the Senate after passing second read by a vote of 24 to 4. We are very happy with the bill as it currently exists. Senator Starr will be proposing to change the timeline for compliance from 3 years to 8, which we strongly object to.
- **S.34 - Mercury Program:** The bill on mercury lamps is in House Fish, Wildlife & Natural Resources, and seems to be moving along fine. Testimony is nearly complete.
- **H.11 – Pharmaceutical Waste** - H.11 focuses on the disposal of pharmaceutical waste and is drafted to help to keep this waste out of municipal wastewater treatment facilities and home septic systems. It is up for 3rd read in the Senate, and we are working to avoid an amendment by Senator Carris to exclude slate quarries from being considered “waters of the state” as we are in the middle of a thoughtful rule process to address his concerns.
- **Capital Bill** – We were pleased the Governor's requested \$2.5M/year for ecosystem restoration work was restored in the Senate this week.

Press Issues/Releases/Contacts:

- **Vermont Public Television (VPT) Call-in Show:** F&W staff appeared on a live hour-long VPT call-in show this week.

- **Burlington Free Press:** Staff were interviewed by Lawrence Pyne for his April 17 Burlington Free Press Sunday *Outdoors* column. The topic: improvements in the Lake Champlain salmonid fishery due to successful sea lamprey control, with an emphasis on steelhead rainbow trout.
- **Clean Marinas Program:** A story on our Clean Marinas program was carried on WPTZ this week with an interview of Champlain Marina, the third marina to join the program.

Significant Events/Meetings:

- **Northeast Fish & Wildlife Conference:** F&W Department staff attended the annual conference of the Northeast fish and wildlife agencies to learn the latest approaches aimed at managing, adapting, and responding to rapid change.
- **Weston Rod & Gun Club:** F&W Department staff gave a deer presentation to the Weston Rod & Gun Club at the request of the Club president. Approximately 35 people attended and participated in a discussion about how to improve local deer habitat.
- **TransCanada:** Staff attended a meeting with TransCanada to discuss the upcoming relicensing process for its Wilder, Bellows Falls, and Vernon hydroelectric dams. Major issues include flows, reservoir levels, and fish passage.
- **Fish & Wildlife Board Meeting:** The Department will present its permit number recommendations for the 2011 antlerless white-tailed deer season at the Board's meeting next week. The Board will take a first vote (of the required three) on a rule revision to allow non-motorized commercial use of Department-owned access areas (this rule revision is at the Board's request).
- **Alewife Die-off:** The ice went out on Lake Champlain early in the week and numerous dead alewives began washing up on shore in many areas, particularly in the Inland Sea north of the Route 2 Sandbar Causeway. Alewives are an invasive species, first found in Lake Champlain in 2005. Alewives are extremely prolific and they do not tolerate near-freezing water temperatures well, especially with rapid drops in temperature. Alewives have been dying under the ice all winter, and most of the dead ones washing ashore now were frozen into the ice for some time. There have been significant alewife die-offs every winter and spring since 2008. This phenomenon is likely to remain an annual event.
- **Townshend and Ball Mountain Dams -** Staff met this week with proposers of a total 3MW project on these dams, a subject to ARRA and CEDF funding and FERC timing concerns. The proponents are asking for a letter of support from you which we are drafting for your consideration. The projects have the *potential* to be good, renewable energy on the Southern Loop, but there are unanswered questions.
- **Vermont Precision Tools (Swanton) –** We met with this business which has currently has a small chromium electroplating unit that is only required to use fume suppressants in the electroplating bath to control chromium emissions. Business is going well and they are looking to double production from the electroplating operations. This will require a new hazardous most stringent emission rate review to

determine if the facility is now large enough to also require additional filters to control chromium. An application is expected shortly.

- **Water supply testing related to the Fukushima, Japan nuclear accident** – We continue a coordinated effort of Water Supply Division, Waste Management Division and the Department of Health to conduct sampling and gage any radiological effects in Vermont's surface waters:
 - **City of Montpelier water supply.** Analytical results were received from the Dept of Health for the Montpelier water supply, raw water intake (Source: Berlin Pond) The sample was taken April 6th and all radionuclides, including I-131 which was recently detected in air monitoring stations, were below detection limits - So that's good news. We have also provided analytical results to the City and requested permission to take three more samples over the next 1^{1/2} months in order to obtain a more representative sample of the raw water quality in the spring.
 - **Champlain Water District** – concurrently, the Dept of Health was collecting a sample of the CWD water supply this week to analyze for radionuclides. Again, the plan is to take three more samples in the coming weeks.
- We hosted the spring meeting of the Vermont Campground Association this week. The commissioner of VDTM addressed the group delivering a welcome and powerful message of cooperation and collaboration. VCA is pursuing the idea of having the Governor proclaim June as Great Outdoors Month a planning a Get Outdoors Day celebration on the state house lawn June 11th. Plans are in their infancy at this point.

PRC

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

- **Beaver Wood Energy (Fair Haven)** – we are continuing review of this application for an air permit relating to construction of a new wood burning biomass plant and replied back to the consultant with a request for additional information and clarifications on some items.
- **Update re Robert Elliott d/b/a Elliott's Garage: Motion Hearing and Modified Emergency Order** On 4/6/11, the Environmental Court held a motion hearing by phone in response to the Emergency Order that was issued on 3/24/11. The EO directed the Respondent to remove and properly dispose of the 32 containers of hazardous waste that are currently stored at his facility in Marlboro. The order allowed the Respondent 21 consecutive days from issuance to remove the material. During the hearing the Respondent informed Judge Wright that he no longer desired a hearing and that he needed additional time to secure financing from his bank. The State and the Respondent agreed to a deadline of May 9th for final removal, which the Court will incorporate into a modified order.
- **University of Vermont referral:** On 3/15/11, CED received a program referral from WMD concerning the main campus of the University of Vermont. A RCRA inspection that had been conducted during late August 2010, uncovered a series of violations that varied in severity, but in at least one situation,

involving the release of a hazardous material, a significant threat to human health and safety occurred that was a direct result of the violations discovered during the subject inspection. An NOAV was issued to UVM on 11/24/10, for the subject violations. As of 4/7/11, the referral has been reviewed and submitted for formal action.

- **ANR v. Bruce Tenney and Bruce Tenney, Jr. – Judgment Order issued by Court after Trial:** The Agency initiated an enforcement action against the Tenneys for violations of the Air, Solid Waste, and Wastewater Rules in connection with activities on their property in Athens. The Court conducted a one-day trial in this matter on March 10, 2011. The Court found that the Tenneys violated those rules by conducting and allowing open burning of various prohibited materials; disposing of solid waste, including a tire pile of over 1,000 used tires; and installing two mobile homes on the property without the proper permit. The Court imposed a \$14,700.00 penalty for the violations. The Court also directed the Tenneys to either complete construction of an approved water and wastewater system or remove the homes by October 1, 2011, with an additional penalty of \$7,483.40 if they do not comply.
- **Fullard and Griffen Salvage Yard – Enforcement:** On April 13, 2011, we began our first enforcement matter concerning a salvage yard that is operating without an ANR issued Certificate of Registration in Williamstown.
- **E-Waste Bid Review:** Program staff met with the bid review committee. The committee had representatives from the manufacturers (Erica Logan of ITIC), retailers (Tasha Wallis of the VT Retailers Assoc), environmental and consumer interests (Charity Carbine of VPIRG) and former solid waste district manager (Donna Barlow Casey). Although 3 bids had been received, only 2 were deemed adequately complete. Staff had prepared excellent summaries of the bids (regarding the costs, proposed collection locations, and overall components of the bids), which greatly assisted in comparison of the bids. The committee members expressed both bids have strengths while using different approaches. Rather than using a numerical rating method, the members discussed their preferences and have a recommendation for the Commissioner/Secretary to consider in making the final decision.
- **NEWSVT Variance Application Approval:** An appeal of the ANR denial of a variance request related to Coventry Landfill is currently pending before the Environmental Court. After settlement discussions, NEWSVT filed a new application which meets the variance requirements and reduces environmental and public health risks to surface waters and groundwater. Approval of the variance from the solid waste management rules will be finalized Monday 4/18/11.
- **Vermont Yankee NPDES permit renewal activity:** Wastewater Management Division staff met with the DEC Deputy Commissioner, DEC Counsel and Fish & Wildlife staff during 2 meetings to discuss the steps that will need to be taken during the renewal process for VY's discharge of thermal cooling water. DEC Counsel has consulted with the Attorney General's Office and was told we may proceed with the renewal process but to keep AGO informed.
- **Farm inspections:** Joint inspections with AAFM of some farms began this week.
- The Rivers Program is finalizing the new stream alteration general permit, and we are poised to issue it. It is a necessary component of the regulatory threshold change that occurred on April 1st, which lowered the permit threshold from > 10 mi² to a new threshold of "all perennial streams".

- The most recent federal budget figures out of Washington show a reduction of the national FFY11 appropriation for the Drinking Water State Revolving Loan Fund (DWSRF) from \$1.387B to the \$0.963B. A small portion of the national amount is generally appropriated to certain national set-asides, which amount has not been specified. However, if we assume a typical level, Vermont's 1% share of the appropriation should be ~ \$9.6M. This amount is still greater than historic levels of roughly \$8.3M that we saw prior to the recent federal stimulus appropriations.

The principal impacts of this reduction are:

- (1) less money than would otherwise be available for next year's loans to public water systems, but still more than historic levels;
- (2) less money for set-aside activities than would otherwise be available, which includes funds for DEC's operating budget, but still more than historic levels – plus, it should be noted that these funds won't have a bearing on the SFY12 operating budget since we won't likely receive these funds until SFY13;
- (3) a smaller state match needed for the FFY11 funds than currently included in the state capital bill – a reduction of ~ \$780K.

Fish and Wildlife

- **Lamoille River Drowning/Milton:** One of the Department's wardens is assisting recovery personnel in attempting to locate an angler who drowned in the Lamoille River. Several days of efforts have been unsuccessful; the high water in the river has made the search very difficult. On Friday, CVPS contacted DEC to assist with the search, now to focus on the reach from Clarks Falls Dam to the Milton tailwater. The hypothesis is that the body is trapped somewhere in that reach. In order to conduct the search, it will be necessary to shut down the river at Clarks Falls so searchers can get into the channel.
- **Timber Harvest Review Process:** Staff met with the Burlington Electric Department's forestry staff to discuss a new timber harvest notification and review process recently approved by the Public Service Board. This process streamlines the Department's review of notifications from BED and will be tested for a two-year period. The Department will report to the PSB whether the process provides adequate protection for deer wintering habitat, wetlands, and habitat for threatened and endangered species.
- **Daisy Turner Homestead/Athens:** Commissioner Berry and Department staff met with members of Vermont's Historic Preservation office, VELCO, and the USFWS to discuss a land acquisition the Department wants to complete in the town of Athens of over 600 acres of wildlife habitat that also has historical significance for the Daisy Turner family. This family has roots with the Underground Railroad system, and the site represents the history of a black slave traveling to Vermont and farming the site. The US Army Corps has also been involved in discussions as they are the entity charged with enforcing the restrictive covenants.
- **Update on Orphaned Bear Cub:** The Department's wildlife biologist worked with game wardens to relocate a starving yearling cub that was discovered in Stockbridge hiding in an old barn. The cub was captured by hand and transferred to a bear rehabilitator in New Hampshire where it will be fed in a

remote pen and returned to the wilds of Stockbridge in two-three months. This was a successful outcome to a potentially bad situation (i.e., public relations and/or bear succumbs).

- **One fish, two fish, red fish, GOLD FISH:** Staff responded to a report of goldfish in a small stream in Williston. The stream is more of a drainage ditch for Blair Park (northwest side of Tafts Corners, just north of the big-box stores). Multiple groups of goldfish were observed in the lower end of the ditch in small pools either above or below culverts. Staff continued upstream until they reached the large stormwater pond behind Friendly's Restaurant where three dead goldfish were observed. Roughly less than 50 goldfish were observed, but it does appear the large stormwater pond may be the source. The heavy rains during the week raised the water in the pond and most likely caused it to outflow. Additional examination will occur next week to determine the downstream extent of the introduction.
- **Missisquoi Bay Bridge:** Softshell turtles continue to remain at the wintering site in the waters surrounding the bridge and causeway. Monitoring will cease in May 2012 and a final ten-year summary report will be submitted. Staff have worked well advising VTrans and its contractors on this project and it appears that adequate overwintering habitat for softshell turtles has been maintained at the bridge/causeway site.
- **Moose:** Wardens handled several moose that were found dead for unknown causes. One, a calf in the Bennington area is suspected to have died from parasite infestation (worms). The second in the Derby area is undetermined.
- **ATV Accident/Ludlow:** One of the wardens witnessed an ATV accident when a 13-year-old girl rolled a 700cc ATV over the top of her knocking herself unconscious. The warden immediately called for an ambulance and rendered assistance by stabilizing her spine. It is currently unknown what the long-term injuries, if any, will be.

Forest, Parks and Recreation

- Water behind the Sweet Pond dam is being drawn down starting this week. Local input is still being gathered. Ethan Phelps and Tim Morton met recently with Rep. Hebert and had a very positive and productive conversation about the situation and long-term options. The consulting engineering firm has begun their assessment of options. Their report is expected within a few weeks.
- The Moyer family from Essex Junction is our first 2011 prize winner for Venture Vermont! Rochelle is coordinating the work of 30 photographic interns/volunteers to continue our effort to enhance the photo library.
- Coinciding with Earth Day, Parks and Forestry staff are planting trees at Silver Lake and Camp Plymouth State Parks.
- 200 members of the sophomore class from St. Johnsbury Academy are doing a volunteer project at the Groton parks at the end of April.
- The Smugglers' Notch Partners met recently to strategize ways to keep the funding for Barnes Camp renovation alive. The Federal \$800,000 earmark is in jeopardy for lack of the \$200,000 match to

renovate the building into a visitors' center for the area and for lack of any of the partners to firmly step forward to commit to long-term operation and maintenance responsibilities.

- Spring park preparation is being hampered in a number of areas due to snow (Groton and higher elevation areas), high water (Lake Champlain) and facility emergencies (water system at Jamaica and flooding at Seyon). The basement flooding problem at Seyon has been solved and damage is being assessed. Damage appears less significant than first expected.
- The Forest Biology Lab reports that Vermont's ticks are extremely active after the long winter.
- The popular "Function in the Junction," FPR's annual Forest Insect and Disease meeting was held April 19 in White River Junction, focusing on the Emerald Ash Borer.
- We received written notice from the U.S. Forest Service that they have approved the Department's request for a three month extension (through June) of the Forest Legacy grant for the Farm and Wilderness project. We are now confident that we can complete this project well within this time frame.
- Survey: We have developed a new map that depicts VASA trails and ANR lands.
- We have spent some time calculating the length of CVPS utility lines on FPR lands and will soon be developing a new master license with CVPS incorporating the new approved license fees.

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: April 22, 2011

Vermont Department of Health (VDH)

Status of Governor's Priorities

Entergy Vermont Yankee

- **Hydro geological Conceptual Site Model:** Vermont Yankee provided an in-depth assessment of the conceptual site model created by its hydro geological contractors to a group of state government experts, and Rep. Bob Krebs at a meeting on April 15th. This model uses topographic data, original construction documents, and detailed analysis of well drilling data and site bedrock borings to depict the characteristics of the watershed in Vernon, and groundwater elevations and flows, as well as the interface of bedrock and water within the bedrock with soils and groundwater above the bedrock.
- **COB Well Testing:** State officials requested this meeting to enable state experts to make an independent assessment as to whether the Construction Office Building (COB) well should be sampled further. Since this deep drinking water well was shut down in February 2010, we have requested that it be routinely sampled to help verify that drinking water is not getting contaminated even at this most vulnerable location. A meeting with the commissioners of the health, environmental conservation and public service and the Vermont Yankee site vice president is scheduled for April 27th. Final decisions about sampling the COB well may be made at that time.
- **NRC Groundwater Inspection:** NRC has invited geologists and health physicists from Vermont, New Hampshire and Massachusetts to join them at the next inspection of Vermont Yankee's groundwater protection program, scheduled for May 10th and 11th. The final conceptual site model will be analyzed by NRC geologists and health physicists as a major part of the inspection.
- **Ingestion Pathway Exercise:** Final preparations for the May 3rd and 4th FEMA graded ingestion pathway exercise are being made with our partners at Vermont Emergency Management, the Vermont Hazardous Materials Response Team, Agency of Natural Resources and the Agency of Agriculture, Food & Markets. A decision-makers meeting with the three states that respond to Vermont Yankee emergencies was held in Vernon on April 14th.

Lamoille County Challenges for Change Contract for Public Inebriate Program. According to the Lamoille Community Connections program director, the opening date for the ASAP (public inebriate) program has been delayed due to a permitting issue. The environmental modifications have basically been completed; however, until a permit is obtained the program will be unable to open. The Lamoille staff and their partners did host two community informational meetings last week, with positive reports from those in attendance.

ParentUp! YouTube Videos Help Parents Talk about Alcohol. Four new YouTube videos that show-and-tell parents how to talk to their kids about alcohol are now ready for viewing at www.ParentUpVT.org or via the Health Department at www.healthvermont.gov, www.facebook.com/HealthVermont or www.youtube.com/user/HealthVermont

ParentUp! supports 29 Vermont community coalitions and is funded by the Substance Abuse & Mental Health Services Administration of the U.S. Department of Justice.

Legislative Issues/Contacts

Vital Records Bill. This bill, formerly H.99 but now H.454 was passed out of House Government Operations and Ways and Means and is on the House calendar for April 22nd. Senator Sears has expressed strong opposition to the bill. Commissioner Chen is working on this.

Health Professions Regulated by Medical Practice Board, H.369. H.369 was voted out by House Health Care 9-0-2. After approval by House Ways and Means, and House Judiciary, the bill moved to the floor and was passed by the House on April 20th. The Senate Government Operations Committee took testimony from Commissioner Chen the same day, and discussed the bill again on April 21st.

Testing of Private Wells (S.77) and Green Cleaning Products in schools (S.92). These bills have both passed the Senate and are now in House committees. VDH has been very involved in providing input and suggesting language changes to these bills.

S.74 Animal Neutering. This bill originally proposed to transfer the dog, cat and wolf-hybrid spaying and neutering program (and its special funds) from the Agency of Agriculture, Food and Markets to the Secretary of States office. However, the House, which passed the bill on 4/19, changed the recipient agency to the Health Department. If this is to move into this agency, I believe it belongs in the Econ. Serv. Division of DCF.

Complete Streets (H.198). This bill passed the House on 4/19. The Health Department testified on this bill which requires that transportation project designs include consideration for all uses such as pedestrians, bicyclists, etc. This strategy for built environment is consistent with the public health goal of encouraging physical activity.

Press Issues/Releases/Contacts

Prescription Drug Abuse. Sam Hemingway, Burlington Free Press, is scheduled to talk with Barbara Cimaglio for a status update about the prescription drug abuse problem, Prescription Drug Monitoring System, etc. Barbara Cimaglio also interviewed with Howard Weiss Tisman, Brattleboro Reformer, about new recommendations on how to address the growing problem.

Hospital-Associated Infections. State Epidemiologist Patsy Kelso appeared Friday evening on WCAX's "The 30" to discuss Vermont's collaborative efforts and strategy to control MRSA and

other multi-drug resistant infections.

Lead in Reusable Shopping Bags. Scott Waterman of WCAX called about reports of lead in reusable shopping bags. Under Vermont's Lead in Consumer Products law, the Attorney General's Office is the enforcing agency. The lead in consumer products focuses on children's products, salvaged building products, wheel weights, plumbing fixtures, etc.

HIV/AIDS. Anne Chug, researcher for ABC News Medical Unit is looking into a reported increase in incidence of both HIV and AIDS for 2005-2008. Complacency as well as limited resources have been suggested as possible causes. Asking states and localities if they have seen similar increases and, if so, reasons why. Vermont is a low-incidence state for HIV and AIDS. Vermont's small numbers of cases do not suggest an increase in incidence from 2005-2008. The following are the numbers of AIDS cases newly-reported for each year: 2005 – 6; 2006 – 12; 2007 – 3; 2008 – 3.

Significant Events/Meetings

Infant Immunization Week. April 23rd-29th is National Infant Immunization Week, and the Health Department is using the occasion to focus attention on the importance of protecting children from birth through adolescence against 14 vaccine-preventable diseases. As recently as 2003, Vermont had one of the nation's highest childhood vaccination rates. By 2009, only 60% of young children had received all of the doses for all the vaccines recommended and available for their age group. The national average is 70%. As a result, other states are seeing outbreaks of serious illness and deaths from diseases like whooping cough. We will use a series of news releases, an op/ed, a new Facebook page, and features on our website to focus attention on the need for all children to be fully vaccinated.

Department of Mental Health (DMH)

Governor Priorities

VSH Replacement. Commissioner Oliver and the clinical staff from VSH met with the Brattleboro Retreat and its clinical staff to continue the discussion about the potential to develop some VSH replacement beds at the Retreat. The meeting went well and the prospect of developing 16 beds at the Retreat appears very promising. It should be noted that the number of beds developed at the Retreat will affect the number of replacement beds needed at a new state hospital but it will not likely result in a one to one offset.

VSH is continuing to work to reduce mandatory overtime. Preliminary efforts to implement a system where volunteering for overtime in advance moves an employee to the bottom of the mandatory overtime list are already having an impact. Last weekend there were 22 mandates (down from 36 the previous weekend). In addition, so far this week we have had 7 mandates as compared to 7 per shift which has not been uncommon. Employees from other departments within VSH are also stepping up to offer relief to the direct care staff. For example, the social work department has been taking patients on trips and nurse educators are working on the units.

Legislative Contact

House Appropriations Committee. Commissioner Oliver testified in the House Appropriations Committee about the relationship between DMH and the Designated Agencies and our plans for performance based contracting. The Committee was attempting to gain further background and education on these matters – no action was being considered.

Department of Disabilities, Aging and Independent Living (DAIL)

Legislative report

The Choices for Care (CFC) waiver was the focus of testimony before both House Human Services and Appropriations this week. The program is \$7M under budget raising the possibility of "buying back the cuts". We believe both committees came to appreciate that this was not as simple as an unexpected "surplus" but rather a favorable trend, which if it continues, would make it possible to offset the cut to some CFC services.

Press

The Safe Choices program is back in the news again though exactly why is uncertain. This is a program for adults with developmental disabilities and sexually aberrant or difficult behaviors. Some have been convicted of crimes, others have not. The program has been around for 15 years and is run by Northeast Kingdom Human Services.

Commissioner Wehry learned DAIL investigated the criticisms raised in the 2009 series of articles and made a number of recommendations. DAIL is following up to see how many were implemented.

Participants in the program were recently reassessed by an outside expert consultant as part of Challenges for Change. That report will be available May 5th and will address the issue of whether or not there are people who do not need to be there

Department of Corrections (DOC)

Legislative Issues/Contacts

On April 20th Deputy Commissioner Menard testified before the House Corrections and Institutions Committee and House Judiciary regarding the recidivism bill drafted by Senate Judiciary.

Press Issues/Releases/Contacts

Probationer Roy, Cameron.

Cameron Roy, who is on probation for Aggravated Domestic Assault, was cited after an investigation into a high speed police chase. DOC became aware of the incident when the police informed us a number of days after the chase. Roy has been cited for a number of charges including Careless & Negligent Operation of a Motor Vehicle, Excessive Speed, and Attempted to Elude. A Violation of Probation is being completed.

Other

Population. The Department's incarcerated inmate population has remained high. The male population appears to be stabilizing; the female population appears to be driving the recent increase. The female population reached a high of 174 on April 20th. The female detention population has increased to a high of 41. The department released 16 more inmates into the field than were returned for violating probation last week and the department is on pace to release 20 more inmates than the number the department expects to return to prison for violations this week.

District Manager Michael O'Malley. Mr. O'Malley passed away on the morning of April 17th of a heart attack. Mr. O'Malley was a long time Department of Corrections employee. Numerous staff attended his services on Thursday and the Department was proudly represented by the VT DOC Honor Guard.

Department for Children and Families (DCF)

Significant Events/Meetings

Audit of Title IV-E. The Office of the Inspector General (OIG) is on site in the Family Services Division for the next 4-6 weeks to conduct an audit of the division's Title IV-E training and administrative claims. OIG was last here 6-7 years ago. At that time, there were minimal negative findings; however, the focus of the current audit is different. The OIG will be reviewing our approved training plan, as well as the detail of the learning objectives, curricula and training participants.

The primary partnership is with the University of Vermont's Social Work Program. Through a contract with DCF, UVM provides higher education for social work trainees, staff training and professional development, and training for foster and adoptive parents.

USDA Food and Nutrition Service State Level Program Access Review of Supplemental Nutrition Assistance Program (3SquaresVT) Report. USDA Food and Nutrition Service (FNS) staff visited Vermont to conduct a State Level Program Access Review (PAR) of 3SquaresVT program operations, as well as a local office review at the Barre District Office of the Economic Services Division (ESD) from January 24th – 28th. FNS conducts such reviews approximately every other year. Commissioner Yacovone received the final report for the review and its findings on April 13th. The report contains a formal assessment of program operations, a summary of the work performed, findings, required corrective actions, observations, suggestions, and noteworthy initiatives.

Findings of needed improvements were listed in the areas of client application procedures and timeliness of processing, client notices, paper and online 3SquaresVT application, Fair Hearing Processes, and ongoing evaluation of client complaints. Call center wait times had been a potential area of concern. FNS made some cold calls to the call center in November and had also heard concerns about the call center expressed by advocates. During their January visit, FNS found significant improvement in wait times and noted that ESD had successfully implemented system improvements to effectively address call center issues. ESD is required to propose a corrective action plan to address the report's findings. The plan is due at FNS by May 12th.

Despite the operational findings listed in the report, FNS staff acknowledged the division's commitment to customer service, program access, and program integrity. They also extended their appreciation to ESD staff for helping them to complete their review in a timely and orderly fashion.

Evolving Issues

The Family Services Division is currently working on several priorities.

- Implementing changes at Woodside required to draw down Medicaid funding.
- Supporting the tour of Bess O'Brien's film Ask Us Who We Are as part of our ongoing efforts to publicize the need for foster parents, particularly for teens.
- Reviewing and adjusting hiring, supervision and training of social work staff to respond to the change in the caseload mix towards serving children at home rather than in foster care.
- Supporting professional development for new managers hired as a result of a substantial number of retirements of senior managers over the last year.
- Better use of data to inform decision-making at every level; making internal quality assurance systems more robust.

Department of Vermont Health Access (DVHA)

Commissioner Besio's week was consumed by the budget, tax and health care bills. She also worked out compromise language on H.201, the palliative care bill, removing provisions that would have required extensive work to apply for waivers that would probably not be considered by CMS.

Legislative Testimony

Craig Jones, MD testified in House Appropriations on April 21st on the Blueprint for Health.

Memorandum

Vermont Department of Public Service

Privileged and Confidential

To: Hon. Peter Shumlin, Governor & Beth Robinson, Governor's Counsel
From: Elizabeth H. Miller, Commissioner
Subject: Weekly Report
Date: April 22, 2011

Status of Governor Priorities:

I will focus on VY this week; telecom and energy planning are also on my mind but the week has largely been about the Entergy lawsuit....:

Entergy Nuclear has filed suit in federal district court in Burlington, seeking a declaratory ruling that the State of Vermont is preempted from requiring state approval as a condition of continued operation of Vermont Yankee. DPS will be working with the Attorney General's office to help defend the state's laws; the suit seeks to invalidate not only the legislative action but the entire PSB Certificate of Public Good process, as it would otherwise apply to Vermont Yankee. DPS staff has been advised with respect to preservation of any records relating to the suit, and to refrain from discussing the suit outside of the DPS. We understand that a preliminary injunction motion will be filed shortly, perhaps today.

The time limit for challenging the NRC license runs in approximately one month; prior to receiving Entergy's lawsuit, we had not thought it effective to challenge the federal license for a few reasons: 1) NRC rules do not suspend a license decision pending appeal; 2) a challenge, which would have to be based upon an argument that new facts from the Japanese situation should have been considered and should have caused the NRC to hold the license decision pending review, has a very low likelihood of success in our view; and 3) NRC has been, publicly and otherwise, relatively supportive of the state's position, indicating that NRC would not weigh in and that there are proper jurisdictional roles for states – a decision to appeal NRC's license may change NRC's attitude toward Vermont. I have spoken quietly with some individuals about the perceptions that might attach to the state's appeal of the NRC license. If we were to appeal, we could utilize the Department's outside counsel (or hire other outside counsel), but it would be critical to coordinate with the AG's office of course (and it would be an expense, though NRC appeal costs can be billed back). Overall, I believe there is a good case to be made that appealing the license now might confuse the issues in the minds of Vermonters who otherwise feel that the federal process is done. Although appealing the license would give us a proper forum for complaining about NRC's actions (and raising very legitimate concerns regarding the application of the Japanese situation to our own), it also would draw us into public filings and comments on safety which, even though made in the proper forum at NRC, may add to the impression that the state is using reliability/energy choices/economic/land use reasons in its state process as an excuse for what is in essence an objection to VY's safety. My recommendation is

that we not appeal the license; I am sure, however, that you will want to consider the issue and seek advice of others. If the decision is to pursue an appeal, the Department will be ready and able to lead the coordination.

Legislative Issues/Contacts:

S.78 – Jim Porter, my telecom director, continues to assist in working the telecom bill through the legislature with Karen Marshall and Beth Robinson.

H.56 – Sarah Hofmann has assisted in moving this bill through, and continued this week on the Senate side, although progress was slowed in light of other work taken up by the Senate this week. Sarah is also shepherding the CEDF funding bill, the Department billback on the TX Compact and Reliability Oversight Committee, and the woody biomass energy efficiency amendments. The energy legislation generally speaking appears to be on track for passage this session.

Press Issues/Releases/Contacts

We had a number of press contacts this week, all related to VY – in particular, I appeared on WDEV's half-hour talk radio show on Thursday. We've worked with the AG to communicate regarding press contact.

Significant Meetings/Events:

Sarah Hofmann and I attended Bob Young's retirement dinner (reading your letter of congratulations). We had several meetings related to the comprehensive energy plan and to various regulatory issues, including CV's solar tariff and smart grid issues.

Evolving Issues:

I have a meeting with Alex MacLean this coming Monday regarding the comprehensive energy plan; the planning process was a bit hijacked this past week by the VY litigation but we plan to move forward with certain consultants and other work in the short term.

I am having difficulty finding a Director of Energy Planning and Policy, after the retirement of long-time director Dave Lamont. No excellent candidates have emerged and I need to focus efforts on getting the position filled.

Summary of Key Department Activity, By Division:

Public Advocacy and Consumer Affairs:

Georgia Mountain Wind – Docket No. 7508 - Reply briefs re: setbacks filed on 4/20. DPS has recommended setback of 1.1 times tower height based upon recreational and logging uses near

the Project and potential for future development near project. Reply brief was written in response to argument by Petitioner that imposition of height-based setbacks could violate their due process rights. DPS brief supported Board's authority to set standards and pointed out that hearing process provided sufficient due process.

USEPA Request for Applications: Re-Powering Feasibility Studies – No Docket – The EPA and the Department of Energy are accepting applications for funding for feasibility studies for hazardous waste sites that have potential as sites for renewable energy projects. ANR has identified two such sites in Vermont: the Vermont Asbestos Mine Site in Lowell and the Burlington landfill. DPS will assist ANR in preparing this application.

Voice over Internet Protocol—Docket 7316 — As reported last week, Comcast and DPS have filed docketing statements at the Vermont Supreme Court. DPS noted that the order appealed from may not be a final order. The Supreme Court has issued an order requiring appellant Comcast to show cause why the appeal should not be dismissed for lack of a final order. Comcast must respond by May 2.

Green Mountain Power (GMP) AMI Plan - Docket 7704 - The Public Service Board held an evidentiary workshop on GMP's smart grid AMI plan on 4/14. The plan covers only the meter portion of GMP's overall smart meter implementation project pursuant to the Department of Energy Smart Grid Investment Grant (SGIG), which also includes Grid and Distribution automation and replacement of their Customer Information System. The Board set a schedule that requires GMP to file a draft Proposal for Decision on 4/22; DPS is to file testimony, comments, a revised Proposal for Decision and/or a Memorandum of Understanding by May 6th; and a tentative follow up workshop has been scheduled for 1:30 PM on May 12th.

Vermont Gas System (VGS) System Expansion Fund - Docket 7712 – The PSB issued a notice of public hearing on this docket for 7PM on May 11th at South Burlington High School. DPS is reviewing a draft Memorandum of Understanding proposed by VGS and will meet internally on 4/22 to discuss it. While VGS has also offered to have a meeting with the DPS, due to staff absences this week it will not occur until after the next scheduled Board status conference on this Docket set for 4/26.

Burlington Telecom – Docket 7044 – BT has filed a motion regarding the City's payment of "workout" consultants from its general fund rather than from BT funds, seeking either a declaration that this does not violate Condition of its CPG, or PSB approval to continue doing so. The PSB has set a deadline of April 29 for responses to this motion. Plaintiffs in the civil case against the City and BT have urged DPS to argue that the matter should be left to the superior court; DPS is inclined to believe that the CPG is best construed by the body that issued it (the PSB). DPS has not yet determined its position on the motion.

Washington Electric Cooperative Rate Case – Docket 7691 – Discovery is continuing, with the Cooperative being generally cooperative. The DPS's cost-of-service consultant has voiced concerns that WEC's accounting system appears to be antiquated, with important records being maintained only as paper copies that cannot be readily searched or sorted. The consultant will

provide an issue list and draft testimony next week for DPS review. DPS staff will evaluate these with respect to the likelihood of settling the case, and expect to provide a list of issue to WEC for discussion. DPS testimony is now due on May 4 by agreement with WEC.

Confidentiality of Power Contracts – No Docket – The PSB has routinely granted confidential treatment of various terms, including price terms, in purchased power contracts submitted in connection with rate cases, reviews under § 248, etc. DPS has supported such treatment to avoid handicapping Vermont utilities in negotiations with power suppliers. In response to requests from members of the public, the PSB has scheduled a workshop to consider a number of questions related to keeping such contract terms secret. DPS staff is reviewing the Board's questions and researching the issues. The PSB workshop is scheduled for April 28.

Haskins Gas – No Docket – Staff spoke with Stratton's counsel on 4/21 to discuss possibility of Stratton taking over compliance issues pending the replacement of Haskins as operator. Stratton agreed to do this and asked for the Department's assistance in convincing Haskins that this is the preferred approach. Staff will speak with Haskins' counsel and indicate that it is in his client's best interest to transfer compliance responsibilities on or before 4/30.

EEU 2010-06 - Demand Resource Plan Proceeding - The Public Service Board held a workshop on 4/20 to hear presentations from the Department and Vermont Energy Investment Corporation (VEIC) in their capacity as Efficiency Vermont about the savings goals (in terms of Megawatt Hours) to be set for EVT and BED annually over the next 20 years. The Board will determine how much savings the EEU's should try to obtain and will set budgets based on those targets. A second workshop will be scheduled followed by comments, reply comments and ultimately, a Board decision.

Hardwick Electric Dept. Embezzlement – No Docket – The Hardwick Electric Dept. had about 1.4 million dollars embezzled by its former clerk, who is now the subject of criminal indictment, forfeiture claims, etc. Hardwick has kept the PSB and DPS informed of developments including steps taken to prevent recurrence. Hardwick has met with DPS and has responded in writing to a number of PSB questions. The PSB has asked the DPS for recommendations regarding any steps that the PSB should be taking. The DPS recommendations are due April 29.

Planning and Energy Resources:

Comprehensive Energy Plan:

- Hosted meeting with RAP and Synapse to discuss energy modeling for the CEP.
- Working with VECAN to set up regional meetings with energy committee's and planning commissions to discuss the CEP (to be held in May and June).

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

- The contractor facilitating both of these update efforts is working on completing an annotation for the previous and current energy standards.

- Received a quote from the contractor for the extra annotation work and staff is working on preparing a contract amendment to include this additional task and costs.
- Staff and legal council plan to meet with Legislative Council to resolve the pending copyright questions/issues. Meeting has been delayed due to prioritization of other issues by legal staff, but will take place as soon as possible.
- Once annotation and copyright issues are resolved the RBES will be resubmitted to LCAR and CBES will be submitted to Sec. of State and LCAR.

Act 250:

- Reviewed pending applications for compliance with Energy Codes. – only two commercial project on the agenda as residential development remains in the doldrums:
 - ST. ALBANS -Demolish existing building and construct a new 4,500sf restaurant with side-by-side drive-thru.
 - HINESBURG- Reconstruction and expansion of previously-existing Ballard Store into a +/-4,800sf Jiffy Mart convenience store along with gasoline and diesel fuel sales. Project includes a 1,100sf "Subway" fast food restaurant and 10 fueling positions, and will be served by a new gravity sewer main and municipal water main extension.

Energy Efficiency and Conservation Grant Program (EECBG):

- Following analysis of data submitted for the 120 projects in the EECBG-Municipal program for the quarter ending 3-31-11, 43 projects are 100% complete and are in the final invoicing or close-out processes. An additional 23 projects reported being between 90% and 99% complete.
- We paid about \$6,166 for one Regional Planning Commission grantee for energy planning and efficiency work.

State Energy Program (SEP):

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

Net-metering:

- Staff updated net-metering database with new CPG's issued (total of 53 CPG's issued, 52 of which were PV with a total of 220.9 kWac and 1 Wind at 95 KWac).

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

- Staff participated in two workshops held by the Board on the following topics:
- Externalities – the Department maintained its position that once updated, the values for carbon abatement developed in the Avoided Energy Supply Component for use in

measure screening should be used in Vermont as a proxy for 'externalities'. There was no consensus on this issue.

- Demand Resources Induced Price Effect – The Department maintained its position that DRIPE is a transfer payment and therefore should not be considered when screening energy efficiency measures under the 'societal test' that is used in Vermont. There was near consensus on this issue (with the exception of VEIC). DRIPE should be considered when analyzing rate and bill impacts to Vermonters from energy efficiency investments.

Fuel Survey:

- Crude Oil continues to remain above \$110 (\$111.04/barrel this am). Vermont transportation distillate prices responded to the increase with mid and premium gasoline blends topping \$4.00 and heating fuels are also experiencing small increases from prior weeks.

Distillate Price Change from Previous Week

	31-Mar	5-Apr	12-Apr	19-Apr
Fuel Oil #2	-12.9%	-0.58%	3.06%	0.53%
Kerosene	15.6%	-0.03%	1.46%	0.96%
Gasoline	-20.9%	4.63%	3.45%	1.14%
Diesel	-0.6%	1.84%	1.11%	0.84%
Propane	-0.1%	0.33%	-3.77%	1.82%

Internal Controls and Risk Management:

We have begun preliminary plans to conduct an "internal control assessment" that is required annually by the Secretary of Administration-Finance and Management Office. Additionally, we will be reviewing progress made on improving internal control weaknesses identified in the last assessment.

The collection of the gross receipts tax is winding down and it appears the collection is approximately \$163,000 over our original estimate.

Engineering:

Vermont Yankee Operation and Drills: The Vermont Yankee nuclear station continues to operate at 100% power with no operational issues. The station has been online for 161 consecutive days. Engineering will participate in a VY drill on May 3 that will be evaluated by FEMA. (Note: these VY drills consist of two days, and the Department only participates on the first day. The first day's scenario involves problems at the plant that lead to a release of radiation, and the second day of the drill involves the response in the field to a radiation release.)

NRC Issues Temporary Instruction 2515/183, "Follow-up to the Fukushima Daiichi Nuclear Station Fuel Damage Event": On March 23, 2011, the NRC issued "Temporary Instruction 2515/183, Follow-up to the Fukushima Daiichi Nuclear Station Fuel Damage Event." NRC inspectors are onsite at the Vermont Yankee station this week performing the required inspections per the Temporary Instruction, and the Vermont State Nuclear Engineer is accompanying the NRC on these inspections. The Vermont Yankee inspection report is to be issued by May 13, 2011. In addition, as part of TI 2515/183, the NRC will assess the nuclear industry's preparedness for events that may exceed the design basis for a plant, and is expected to provide recommendations for the entire industry in mid-July. If necessary, a more specific follow-up inspection will be performed at VY at a later date.

FairPoint Dig Safe Violations: FairPoint has received numerous Notices of Probable Violations (NOPV) for violating provisions of 30 VSA § 7006 and PSB Rule 3.800. Many of the violations resulted from FairPoint improperly marking or failing to mark underground facilities, and this resulted in damage to those underground facilities and outages to customers. The PSB issued most of the orders as default judgments against FairPoint because FairPoint did not respond to most of the NOPVs. In the most recent of these NOPVs, the Department asked for and received a PSB Order against FairPoint to increase training and enhance its damage prevention program (DPP). As a proactive measure, the Department has arranged a May 5, 2011, meeting with FairPoint to review its DPP and identify weaknesses.

US DOT Gives Vermont a Grant to Help Improve Pipeline Safety and Prevent Damage: The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) on 4/14/11 announced \$2.010 million in grants for 24 states to improve pipeline safety by establishing or improving underground pipeline damage prevention programs. The Vermont Department of Public Service received a grant of \$99,926 (the maximum grant received by any state was \$100,000). The grants were awarded to projects that involve the key elements of effective pipeline damage prevention programs, including increased communication between pipeline operators and stakeholders, the use of technology in locating pipelines, and partnerships in employee training and public education. This is the third such grant received by the Department. The first two were in partnership with UVM, and this third grant is in partnership with Norwich University to develop "virtual white line", which will be a web-based tool for excavators to mark trench locations on a digital map to send to utilities, rather than physically marking lines in the field.

On April 4, 2011, U.S. Transportation Secretary Ray LaHood launched a national pipeline safety initiative, and called upon U.S. pipeline owners and operators to conduct a comprehensive review of their oil and gas pipelines to identify areas of high risk and accelerate critical repair and replacement work. Secretary LaHood also announced support for federal legislation aimed at strengthening oversight on pipeline safety, as well as plans to convene a Pipeline Safety Forum on April 18th in Washington, DC (attended by Hans Mertens), to gather state officials, industry leaders, and other pipeline safety stakeholders in order to discuss steps for improving the safety and efficiency of the nation's pipeline infrastructure.

Grant recipients under the SDP grant program must provide mid-term and final progress and financial reports to PHMSA that demonstrate completion of their work as outlined in the grant agreements. PHMSA will thoroughly oversee this process to evaluate the expected outcomes of each grant project. These grants complement National Safe Digging Month, held during the month of April. Toll-free state 811 call centers work with pipeline operators and utility companies to mark pipelines before excavators and do-it-yourselfers begin digging projects.

Telecommunications:

FairPoint Petition for Approval of a Successor Incentive Regulation Plan – Docket No. 7724 – The Board conducted a prehearing conference on 4/6/2011. Based upon the current schedule, technical hearings will be held the week of September 19, 2011. DPS testimony is due to be filed 7/8/2011. The Department will retain expert witnesses in the area of service quality, market share analysis and possibly finance. RFPs should be issued by the Department within the next week. FairPoint continues to lobby the legislature in support of its bill that would result in FairPoint largely being deregulated. Of note is that the bill as proposed was written that a company with line losses in excess of fifteen percent in the proceeding twelve months would be eligible for the regulatory exemption. The bill was drafted with the fifteen percent line loss bar with the thought being that only FairPoint was sustaining such losses. The Independent telephone companies testified before the House Commerce Committee that they too were sustaining line losses in excess of that level.

Telecom Plan – As the fate and mission of the VTA has been somewhat fluid this legislative session, and the VTA is referenced several times in the current draft of the revised broadband piece of the telecom plan, the Department has yet to present its revised draft of the telecom plan to the legislature. Anticipating a legislative resolution of the VTA issue soon, the Department will make revisions, if any, to the telecom plan and present its revised plan to the legislature in the next several weeks.

VTA Target Communities – DPS staff have advised VTA officials that the VTA Target Community list includes many locations that the 6/30/10 broadband availability map shows as already having complete coverage, including some that are potentially in the 2011 funding decision.

Broadband Definition – DPS staff reviewed the history of the definition of broadband in various FCC orders since 1996. He determined that the 768/200 definition included in the draft VT Telecom Plan is reasonable because it is the minimum definition included in current FCC and NTIA reporting requirements. Importantly, this is also the service level required by NTIA funding recipients, such as VTEL. Were VT to employ a faster definition, this would lead to VT funding companies to reach subscribers that VTEL is already obligated to serve.

Sharon Verizon Wireless tower – Verizon Wireless filed a 248a petition for a tower to be located in Sharon, Vermont, in December 2010. The proposed project would modify an existing tower by replacing 9 antennas with 12 antennas. The town is opposed to the modification because it believes that the antennas should be flush-mounted instead of on a 12' wide mounting frame at

the 147' AGL level as Verizon Wireless proposes. The town has raised the issue that the original petition, filed in December, did not explain that the antennas would be mounted on the 12' frame but that this information was only offered in February 11 following town intervention.

Gross Receipts tax for Internet – Comcast and Charter pay gross receipts tax on Internet access revenue pursuant to conditions in the respective CPGs, while other Internet service providers do not. Topsham has a new cable CPG and also offers DSL service. Topsham has made the claim that it does not need to calculate gross receipts tax on its Internet revenue, and has asked for the DPS interpretation on this issue. DPS staff is considering the Topsham issue as well as the larger implications of this issue.

Interconnection requirements in NTIA grant conditions – The NTIA awards for broadband service providers include the requirement to offer non-discriminatory “interconnection”. The NTIA has recently posted an opinion that it interprets this requirement to mean that recipients must offer access to these networks at all technologically feasible points, at just and reasonable wholesale rates. The NTIA also requires companies to provide information about the routes served by the networks.

Vermont Broadband Consortium – The hard launch for the website remains scheduled for 05/01/2011. Marketing Partners, the contractor for the project has committed to making additional requested changes so as to fit within the proposed launch schedule. Upload of 12/31/10 maps will be accomplished by 05/09/11. Static maps and statistics are anticipated to be available within the same time frame. Additional drive test maps that augment the report currently online are expected to be available on the site next week.

CAPi has been consulted about the transition to that division of answering inquiries about unserved and underserved areas. Forward looking layers to the maps to assist in answering these questions will be discussed for future implementation on the website, but for now an alternative must be developed. Template letters to inquiries are being developed by the marketing vendor and will include input from DPS, CAPi and the providers before use. ConnectVT will be in contact with providers asking for their cooperation. An internal meeting will be held with the telecom division and CAPi division within the next week to further define what is being contemplated and determine how CAPi can best assist while being aware of its limited resources.

Federal Cyber ID Strategy – The Federal Commerce Commission has revealed the National Strategy for Trusted Identities in CyberSpace (NSTIC) document. This voluntary program is intended to provide a single secure ID that persons can use across many platforms in order to ensure security of their online information. The program is intended to be a public-private endeavor which will allow only the minimum, absolutely necessary amount of information to be released about each user while ensuring that the user is who they say they are. It is expected to take several years to implement.



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Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin
FROM: Secretary Jeb Spaulding
DATE: April 22, 2011
SUBJECT: Confidential Report to the Governor

CONNECT VT

Legislative Issues/Contacts:

The majority of the week was spent in committee on S 78 and VTA capital appropriation.

House Commerce: Has generated several amendments to S 78 and demonstrated a much more positive view of the VTA. Their core concerns were that the bill did not provide for the resources and powers necessary to achieve our telecommunications goals by 2013. They wanted to assure continuity in the VTA board and avoid unnecessary interruption that may serve to delay the mission; delete negative references to VTA accomplishments to date, and modify language that better reflected the universal cellular service goals. Further, they expressed concern that the overall telecommunications mission needed to be solidly funded in AOA and at the VTA. We currently have a 200K/700K split of operational budget in FY 12 under consideration.

One note on House Commerce language: their amendments revise language regarding cellular phone coverage to terms including "near universal coverage" and "universal availability of mobile telecommunication services, including voice and high speed data along roadways and near universal availability statewide by the end of the year 2013". They were particularly sensitive and concerned about using language that overpromised on the mission.

Senate Institutions: Initial recommendation for VTA capital appropriation was 8M revised upward to 11.8M, with a 7M/4.8M split over FY 12/13. This is a win that will be challenged by House Institutions. There is still significant work to be done to counter their view, which has been expressed by Chair Emmons as "far less" than what was approved in the Senate.

Press/Media Notes:

Rutland Herald story on competition in telecommunications, fairly well balanced and captured our position that competition in middle mile is important to the marketplace for two reasons: 1) will drive affordability for service providers who may currently absorb high operating costs for backhaul. These costs serve to limit their ability to provide higher speeds to consumers and build networks out further due to profitability. And 2) provisioning cellular installations to handle greater demand with fiber versus T1 connections. We need to continually reinforce this language in an effort to counter Fairpoint claims of the state being in competition with the private sector. I have been able to begin sensitizing the media to the claim of "unfair competitive advantage" by asking the question: if Sovernet and Fairpoint each were the beneficiaries of a grant of public funds through the VTA, how does unfair competitive advantage exist?

A note on Fairpoint, recent press releases noted a newly announced capital effort to extend fiber to wireless telecommunications facilities, replacing their own T1 connections.

Significant Events/Meetings:

VTA board meeting: overall, they are taking the battering of the VTA pretty well. This week, three board members attended House Commerce sessions and testified about the VTA work to date. This was positively received.

Evolving Issues:

Working to finalize detail on the consumer demand database project, joint effort between www.broadbandvt.org team and the PSD to manage consumer registration of unserved broadband addresses when the site goes "hard" public in mid May. We have made progress and must finalize so that we have a closed loop for consumers when the site launches. We are gaining participation of providers (Fairpoint and Vtel) to inform our outreach to consumers.

DEPARTMENT OF BUILDINGS AND GENERAL RESOURCES

Status of Governor's Priorities:

- Governor's priorities are mostly intact.
- Capital bill passed Senate yesterday without State-Montpelier heating district funded.
- Planning and design of state hospital at Central Vermont funded.
- Burlington transitional housing switched to VHCB, but without additional funds.
- Criminal Justice/Fire Service told to straighten out governance to receive funds.
- Rutland Parking garage feasibility study required.
- No consolidation of Rutland-Springfield fire safety offices till legislative report.
- Study of Redstone required, including upstairs Governor and state guest apartment.

Legislative Issues/Contacts:

- Met with Sen. Hartwell, Rep. Emmons and Speaker for normal check-ins.
- Tracked H. 446 in Senate Institutions and Corrections and on Senate floor and in House Corrections and Institutions.

Significant Events/Meetings:

May 1, 2011 Hartford south bound rest area closes.

Evolving Issues:

Coordination of positions and efforts regarding the Jobs bill, H287, specifically Secs. 42, 46, 70-73 of Senate Economic Development Committee report dealing with CSA's, building codes, net costs of government contracting, econometric modeling and state purchase of food and agricultural products.

DEPARTMENT OF FINANCE AND MANAGEMENT

Issues Update:

We are still in the process of re-verifying that no confidential information is contained in the 6 quarters of VISION payments intended for posting on the web. DCF in particular is still working on this issue. The original intent was to be able to create criteria that would eliminate confidential payments being included in the reports and thereby allowing the reports to be automatically generated. If this continues to be a problem, the final alternative would be for each department to check the report each quarter before posting, and redact confidential lines that were not picked up in the screening criteria. This is not the optimal solution, as it would be extra work, significant for larger departments, and would still not guarantee a confidential item being missed. The Study Committee contained in H.67 (see below), assuming passage, would consider each of the 200+ public record confidential exemptions; any changes could impact what is or is not included in these payment reports.

Attachment D – Engineering & Architectural Contracts: AOT, BGS, and ANR have received the alternate language to be included in contracts as Attachment D - replacing Paragraph 6 of Attachment C [the standard term & conditional for contracts and grants] dealing with the contractor's or grantee's independence, liability and indemnification. The mandatory use of this language in contracts for engineering and architectural services will be written into the Contracting Plans for each agency/department. The alternate language for these licensed professionals was developed to resolve a long standing problem concerning uninsurable contract risk for this industry regarding defense of a third party. H.370 has been killed.

Legislative Contacts:

H.370 – Engineering & Architectural Design Contracts: (see above)

H.73 – Transparency & Public Records: This Bill is in final mark-up in Senate Government Operations and being monitored by Beth Robinson and Deputy Zeller. Discussions continued yesterday about whether State agencies/departments should be able to charge/bill for copying/printing or not; what period of time would be "free" before billing could begin; and what rate would be charged. The Committee also seemed to want to change the House's wording on the court's ability to award attorney's fees from "shall" back to "may" as in current law. The committee did not think it right to dictate this to the court which would actually limit the court's ability to consider mitigating factors. Further mark-up has been pushed off until Tuesday.

H.441 – FY 2012 Big Bill: Senate Appropriations voted the Big Bill out of the Committee yesterday. Deputy Zeller, Budget Director Riven and the analysts are working on explanations for the Senate changes versus the House and Governor's Recommended which will be reviewed by Commissioner Reardon and used to craft the Administration's draft response.

DEPARTMENT OF HUMAN RESOURCES

Status of Governor's Priorities:

Health Care Plan Redesign: DHR has engaged in three weeks of negotiations with the VSEA to redesign the health care plan. After discussions with the Governor, the Secretary of Administration and the Deputy Secretary of Administration, Commissioner Duffy met with Jes Kraus to discuss the redesign. Commissioner Duffy advised Mr. Kraus that additional financial savings in FY12 are required and began discussion of a potential package. This package would increase co-pays in exchange for a dental plan with a ten percent premium. Mr. Kraus agreed to push for all components of the proposed package, with one exception. Mr. Kraus stated that incentives should be given to increase participation in health risk assessments or the State should agree to shut down the Wellness program. Commissioner Duffy advanced the possibility of making incentives available for changed behaviors, including quitting smoking and losing weight. Mr. Kraus stated that he is open to negotiation on this point, but doubted his members would agree to something this limited. Commissioner Duffy is exploring potential options, including the offering of additional coverage for eyeglasses, as a substitute or addition. A refined proposal will be sent to the Secretary of Administration in the next few days.

Legislative Issues/Contacts:

Telecommuting: A section has been added to the Capital Bill to require DHR to conduct a pilot telecommuting program. Given the broad parameters of the legislation, DHR does not oppose the provision, but the VSEA advised Commissioner Duffy that it opposes the provision. The VSEA believes that telecommuting is a subject of bargaining, not legislation. DHR will let the VSEA take the lead in addressing this issue with the Legislature if they choose to do so and will keep the Secretary's office apprised of any changes.

SELRA: Responding to a desire by House leadership and the VSEA to revise the State Employee Labor Relations Act (SELRA) in order to minimize legislative entanglement in collective bargaining agreements. DHR and the Secretary of Administration's Office worked with the VSEA to come up with mutually acceptable language in this regard. This change was added in the House to a must pass bill addressing increased retirement contributions from employees. The Senate has inserted the retirement provisions into the Big Bill without the provisions addressing SELRA. Secretary Spaulding will address this issue with legislative leaders to take steps are required to resolve this issue.

Recruitment Assistance for Legislature: Representative Clarkson asked for DHR's assistance in recruiting a replacement for the Chief Legislative Counsel. DHR normally does not handle recruitment for the Legislature, and the Legislature generally hires corporate search firms. DHR agreed to assist in this case, however, and will meet with Representatives Clarkson and Linda Martin and Senator Ashe this week to prepare a recruitment strategy.

Conversation with Representative Ancel about Health Care Plan: Commissioner Duffy has spoken several times with Representative Ancel about the current requirement that Medicare eligible retirees participate in Total Choice and may not participate in SelectCare. Commissioner Duffy advised Representative Ancel that in light of current discussions with the VSEA about the plan, her concerns could become moot. Commissioner Duffy agreed to reach out to Representative Ancel for further discussion after any changes to the health care plan are ratified.

Significant Events/Meetings:

Meeting with GWEDC: Commissioner Duffy attended a meeting of the Governor's Workforce Equity and Diversity Council. The Council discussed the status of ongoing initiatives, the revision of the State's Equal Opportunity Plan, and the need to recruit additional members for the Council. Commissioner Duffy plans to reach out to the Governor's counsel and others to identify potential candidates. DHR will also finalize the Equal Opportunity Plan and present it to the Governor for signature once the Council has provided comments on the plan.

Evolving Issues:

Bargaining with VTA: DHR reached agreement with the VTA on a new two year collective bargaining agreement. After executing an agreement in principle, however, the VTA made additional demands to accommodate approximately 12 individuals who are currently paid under a pay plan that was grandfathered in 1994. After discussion with the Governor, DHR declined to revise the agreement to accommodate this last minute change. The VTA's counsel stated that this could lead to an impasse, but we have not had any official response to our communication at this point. I will update the Secretary of Administration as information develops.

Public Records Request: DHR responded to a public records request by Jack Hoffman, an analyst with Public Assets Institute. The request asked for the identification of all state employees, as well as their title, department and base salary.

DEPARTMENT OF INFORMATION AND INNOVATION

Legislative Issues/Contacts:

Government Operations Committee is reviewing H. 73 (the transparency bill). Greg Sanford from VSARA has provided the following input to bill.

"In terms of the public records request database we think "register" is a more appropriate word than "catalogue."

The real problem from DII's perspective starts with (d)(1)—and they understand this was added by request. Ruthann Sullivan has made some suggestions in the attached draft.

Here are some general thoughts: As one staff member noted: "We already have the systems to do this work. What we don't have is a workforce (at large) willing to use the system (although we do have individuals within agencies trying their hardest to get there)." We do have a number of such systems, such as SharePoint that can effectively manage digital records. Such systems have been going in under 3 V.S.A 2222 and under some of the Challenges for Change initiatives. The trouble has been that no one wants to take the time to plan, design and manage such systems effectively."

Sullivan would concur that DII has systems that would need to be enhanced to cover requirements as she understand them to be in the verbiage of the bill as currently written, but the word "system" in the bill could be interpreted as a grouping of policy, standard operating procedures and enforcement of process as opposed to the technology solution which houses the data or the information to be presented.

Press/Media Notes:

Press Release deployed from the National Association of States Technology Directors (NASTD) highlighting their upcoming Eastern Regional Conference in Wilmington DE, April 30th through May 4th. Vermont CTO, Mike Morey will be participating in an IT Consolidation panel discussion with the Claire Bailey, CIO of Arkansas and Bill Hickox, COO for the state of Delaware.

Significant Events/Meetings:

The State of Vermont has been named a **Laureate** in the **2011 Computerworld Honors Program**. The program, founded in 1988, recognizes organizations and individuals who have used information technology to promote and advance public welfare, benefit society and change the world for the better. Kris Rowley, Director of Security at DII submitted her case study, "State of Vermont Security Awareness and Training Program: a Multi-Tiered Approach", to Computerworld last year. From the announcement, "The case study won joins 254 others from 23 countries as Laureates in this year's program. It was especially competitive this year because the program received more than 1,000 nominations. All were reviewed for their benefit to society and the results of the technology applied." Ruthann Sullivan has a sample press to review with Michael Clasen.

The VT Criminal Justice Training Council has decided to use the Event Registration tool originally built for ACCD to schedule their training classes. DII is also talking to AHS and Health and Education about possible adopting this technology to schedule their events and training sessions. This would do a great deal to replace antiquated, largely paper based, business processes with eGovernment alternatives.

Ruthann Sullivan recognized the DII Support Teams this month in their internal newsletter. The results from their customer support surveys highlighted the team's commitment to our customer, the employees of the State of Vermont and to DII's Core Values of Communication, Collaboration, Trust, Competence and Teamwork. Find the complete newsletter at http://dii.vermont.gov/DII_Divisions/CIO/Newsletters.

Overall Satisfaction	Satisfaction w/solution	Responsiveness of Team / Agent	Professionalism of IT Specialist	IT Specialist was Knowledgeable	Footprints Overall
100%	100%	100%	100%	100%	94%
Overall Satisfaction Rating					99%

DEPARTMENT OF LIBRARIES

Significant Events/Meetings:

Meeting to Discuss Broadband Projects and Public Libraries (VTA/Sovernet): Marty Reid met with Lawrence Miller, Patricia MoultonPowden and Helen Labun Jordan (e-Vermont Broadband Project). Karen Marshall was not able to attend meeting. Discussion focused on the Vermont FiberConnect Project and plans for broadband connections in 53 public libraries. (DOL is a partner on this VTA project.) Marty Reid provided background about this federal broadband project, about their communication with libraries to date (visits to each library; packets of information; December 2010

conference, etc.), and about the vision of future library services to local communities with expanded bandwidth.

Department of Libraries (DOL) concerns are about the ability of local libraries to pay for broadband, and the pressure Sovernet is giving to libraries to commit to service contracts in order to get the connection on their buildings. The grant includes funding for fiber connections to reach 53 libraries. All but a handful of these libraries have given tentative commitment to purchase fiber service from Sovernet at a rate of no more than \$100/month. (This rate is part of the federal grant for a period of 60 months.) Connections to libraries are supported, in part, with a grant that DOL obtained from the Bill & Melinda Gates Foundation.

This is a middle mile project and Miller and MoultonPowden understand the potential for local economic development using these fiber connections at library buildings for last mile service to business and residents. The Gates Foundation matching funds can be used only for bring connections to libraries – and their interest is in libraries that plan to subscribe to fiber service.

In addition to the monthly cost for fiber broadband, libraries will have to pay for internet (IP) service (from Sovernet or other local providers). Many of these libraries now get high speed internet service free from Comcast, so they will have new costs associated with IP service.

To remedy the cost of IP for libraries, DOL is exploring with DII the possibility of creating a wide area network (WAN) for libraries (similar to the WAN that DII has for the state.) This would allow DOL to aggregate IP service for the libraries with the state paying the cost. An initial estimate for IP service is \$27,000/year and DOL is prepared to adjust our budget to pay this in FY2012. (That \$27,000 does NOT include the cost of setting up and managing the WAN infrastructure at DII.)

Marty Reid has a meeting scheduled later today with DII to discuss the WAN and hope that she will get a realistic picture of the true cost of establishing this IP service to libraries.

Other:

Town Officer's Education Conferences: The annual Town Officer's Conferences, sponsored by the University of Vermont Extension, are taking place this month at four locations around the state (Burlington, Johnson, Fairlee and Rutland) and will end next week. The Department of Libraries (DOL) provides a day of workshops for public library trustees at each location. This year's sessions, presented DOL staff, librarians and trustees, include:

- Tech Trends: New Technologies in Libraries
- Matters of Finance
- Library Board Roles and Responsibilities
- Personnel Issues and Best Practices

Reports are that these workshops have been well-received, but that attendance at this year's conferences has been way down from past years. Registration is \$60.00 per person so Reid suspects that a major reason for the reduced attendance is tight local/municipal budgets.

DEPARTMENT OF TAXES

April income tax receipts: As you know, April is the make or break month for achieving revenue targets, since income tax receipts are by the far the largest source of General Fund revenues. Payments with individual tax returns for the period 4/1 - 4/21 are running 9.5% above last year. However, we need \$21.3M in additional deposits before 4/30 to reach our monthly target for PI paid and \$19.7M to reach to cumulative FY target. The Dept. believes the targets may still be met with the processing days left. Individual income estimated payments for the month are 11.8% above last year and less than a million dollars off target (-5.2%) As noted in later in the weekly report, we are addressing both processing and accounting of corporate income tax and should have information on Monday.

Status of Governor's Priorities:

Misc Tax: All Senate Finance amendments passed on the Floor Thursday except for the \$1 cigarette tax and health care assessment provisions – still in flux as of writing. Other issues that will be in play in conference committee include:

Amazon Tax: Rep. Wilson and some lobbyists suggested to the Commissioner that they still wanted to push the NY style bill to make a bigger point that Amazon was being a bully. The Commissioner pointed out that the disclosure approach (adopted by Oklahoma and South Dakota, and part of proposed Multistate Tax Commission model bill) makes a point while steering clear of the issues in litigation. It might actually bring in use tax and preserves affiliate income.

Property Valuation of Renewable Energy Plants: The Dept. worked with REV to modify the study language slightly, assuming that the House is inclined to go with a streamlined study in conference. Adam Necrason suggested to the Commissioner that REV understood that it was not practicable to develop a rate for solar without study.

Current Use: Senate Finance added Westman proposal that properties permitted for two years are subject to the land use change tax. Ways & Means is still planning to pass a more comprehensive Current Use bill based on last year's provisions, and staff provided more information this week.

Auctioneers: There is language retroactively exempting certain auctioneer sales from the sales tax in the Jobs Bill, the Misc. Bill has "placeholder" language requiring that the Tax Dept. do more education. Sen. Cummings pretty well lambasted the Dept. on the floor, as have members privately to the Commissioner, and there is talk of adding other market sectors, including caterers, to the abatement. On the other hand, Rep. Ancel suggested to the Commissioner that she was troubled with this trend of the legislature stepping into ongoing audits. While the Commissioner already has education and outreach as a high priority for the Dept, there should be some push back in the conference process that the legislature needs to take some responsibility for complications in the code that hamstringing the Dept. The legislature also has to reflect that the vast majority of their constituents do pay their taxes, and there are fairness considerations in intervening mid-process on behalf of some taxpayers. In any event, as the Dept. works on its new initiatives, it will develop strategies to involve legislators in the education.

Plum Creek: This very large landowner had an adverse inspection report, which triggered an automatic determination by PVR that all contiguous land be disqualified from current use for five years. The case is in litigation, and the land remains enrolled pending the outcome. Similar to the Auctioneer provision, Senator Illuzzi has inserted a retroactive provision to undo the determination in the Jobs Bill, although given the other current use provisions, it well could end up in the Misc. mix.

Veteran's Property Tax and Tax Exemption for Emergency Personnel Survivor Payments: Added at behest of Sen. McCormack and the Treasurer respectively. Sen. McCormack's provision estimated to cost the Ed Fund \$250,000. The Treasurer's provision involves negligible cost, although needless administrative burden.

Wood Products: Senate Finance added restrictive language proposed by Econ Dev and the Tax Dept to limit the credit to manufacturers of finished wood products. Late this week Bill Driscoll approached the Commissioner to suggest that he was working with a large manufacturer with two plants currently claiming the credit to determine if the nature of work at both plants qualified under the new language. The Commissioner alerted Econ Dev to this possible issue.

Spirituous Liquors: Sen. Westman had Senate Finance insert a tiered tax structure favoring residents, which is likely unconstitutional.

Other Bills:

Renewable Energy Grants: Ways & Means was still struggling through the measure, and Rep. Ancel admitted that she inadvertently failed to have the language exempting the grants from state income tax added to the draft. There was some discussion of putting it in session law.

AGI Reform/Household Income: Rep. Ancel continued to maintain to staff that she would like some type of committee vote on not yet finalized proposals. An issue for next year is whether the Tax Dept. can develop some set of data for JFO to work from on preliminary proposals since it is apparent that running a great number of models through the Tax Dept.'s full data set has consumed an inordinate amount of resource this legislative session.

Other Issues:

Break Open Tickets: Staff met with the Commissioner of Liquor Control to discuss possible amendment to statute and enhanced regulation of break open tickets and other games of chance. There is no question that the current system is subject to abuse and does a disservice to charities. The Depts will explore the feasibility of bringing forward some proposals.

Operations:

Tax Season: Processing is proceeding relatively smoothly during this busiest week for income filings. The Tax Dept has arranged for special mail delivery and will be processing returns this Saturday. It is also prepared to process next Saturday as well, to insure that all the quarterly filings are captured in the monthly revenue figures. In addition to processing, the Dept. is working to insure that all corporate revenue is properly accounted for reporting purposes. Some collection functions remain suspended as the IT department continues to address issues in the new ETM system. However the pilot voluntary use tax disclosure project should roll out next week.

