

# WEEKLY REPORTS

Checklist  
11/10/2011

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: \_\_\_\_\_

*Schedule  
- Bethel  
- Dec 6 tree*

*- Labor  
- leg guidance  
- St. J. Day*

*- reg/housing  
rent rebate  
reception for  
same year released  
prisoners*



**CONFIDENTIAL and PRIVILEGED—No Sharing**

**To: Governor Peter Shumlin**

**From: Pat Moulton Powden, Deputy Secretary - Agency of Commerce and Community Development**

**Date: November 11, 2011**

**Re: Weekly Report**

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

- Community Recovery Partnership: The first two have been set -- on November 17<sup>th</sup> (for Warren, Waitsfield, Duxbury, Fayston, Moretown) and the second is Dec 6<sup>th</sup> (Grafton, Saxton River, Rockingham and Cambridgeport)

**Housing:**

- Jen Hollar met with Vermont Emergency Management and FEMA to discuss use of CDBG funds through the Vermont Community Development Plan as a match for buyouts funded by the Hazard Mitigation Grant Program. Supplemental CDBG funds for disaster recovery are currently subject to negotiations between the U.S. House and Senate on the THUD FY2012 appropriations bill.
- Met with Gaye Symington to explore possibility of High Meadows hosting a spring conference on alternative housing options and community recovery.
- FEMA grants, approved by VEM, will be available for complete buy-outs of properties that are total or substantial loss. CDBG could be local match. Communities must apply for the funds and purchase the property removing it from all future development and the tax rolls.

**Brooks House:** We had a very teleconference as a preliminary discussion with Jonathan Chase about his redevelopment plans. He has a \$16 million dollar redevelopment plan for a mix of market rate housing and commercial. His insurance will cover approx. \$9 million so there remains a \$7 m gap. Historic Preservation tax credits, New Market Tax Credits, tax stabilization and CDBG could fill that gap. There is more work to be done for sure. This is one of many CDBG needs from the Town of Brattleboro. The congressional delegation was part of the briefing. We have not seen plans or anything specific.

**Southeastern Vermont Economic Development Strategy (SEVEDS):** The SEVEDS plan is finally starting to take shape with more solid goals and strategies. Vital Economy, which Fairpoint paid for but whose contract has long expired, is finishing up work and has been a bit difficult to corral to the finish. Laura Sibilica, formerly with the Wilmington Chamber, now with BDCC has brought full-time work to this and has helped get the plan to this stage.

**Legislation:** Pat MP and Dan Towle (Captives) met with Jeff Lewis and Anna Petropoulous (from the UK, now a Brattleboro resident) about an opportunity to develop a new line of insurance (insurance transfer and reinsurance) in Vermont. We would be the first state in the nation with this line, it is 15 years old in the UK. John Hollar of DRM is working with Anna who administers this line of business in the UK. She lives in Brattleboro by choice and because her partner is there. There is MUCH to investigate but it sounds intriguing. This could be similar to the captive insurance in that there could be substantial fees and/or revenue. It does not have to be tied to captives but could be. We will need to engage BISHCA. Jeff and Anna are meeting with legislators today so it could filter back to you.

**New International Trade Director:** Pat MP has hired Brent Raymond, of Congressman Welch's office as our new International Trade Director. He will start December 12. He has to finish out his duties for the Congressman. This was an amicable separation from the Congressman as Brent was ready for something new and different.

**EB-5:** The Jay Peak Resort will be opening the new water park on December 12<sup>th</sup> along with a section of the new hotel. This project was part of the \$160 Million EB-5 project for Jay Peak that includes a new water park, hotel, golf clubhouse, and hockey arena.

**HISTORIC PRESERVATION: Possible Unmarked Burial Reported Eroding out of Connecticut River Bank in Windsor:** Following state law, the Medical Examiner's office notified Giovanna Peebles, State Archeologist, of an apparent unmarked, pre-Contact, Native American burial site discovered yesterday and reported by local law enforcement. Archeologists made the discovery during an archeological reconnaissance of the Connecticut River banks for TransCanada.

**Economic Development:** Dana Eidsness, Interim Trade Director is off to a trade show in Germany next week. The MEDICA show will be in Düsseldorf, Germany November 14-20. She is staffing the Best of New England Booth in the US Pavilion. IVEK, Numia and Nathaniel Group are exhibiting in the booth. IVEK will bring the director of its new office in Europe to attend.

Dana is also assisting *numerous* companies with trade needs, regulatory training, marketing as well as providing funds through our Leahy earmark to assist with export development

**FILM COMMISSION:** Los Angeles Producers are producing “Family Tradition,” a feature film based on the true story of Jamie Lee Thurston, a country music singer from in Vermont with exteriors in Nashville. The film is scheduled to be shot in and around Vermont next year. The film commission is assisting with locating Executive Producers and start-up funding for the film.

**Vacations:** Lawrence returns from vacation Monday. Pat leaves for vacation on Wednesday.

OFFICE OF THE SECRETARY

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**Executive Privilege**

**TO: Governor Peter Shumlin**

**FROM: Deputy Secretary Sue Minter**

**DATE: Thursday, November 10, 2011**

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

**Transportation Reauthorization MAP-21**

Very good news for Vermont on the federal transportation reauthorization bill: Portions of it have been voted out of the Senate Public Works and Infrastructure Committee. We have been working with Senator Sanders through mark up, and he has provided critical support for our needs. Significantly, Sanders passed an amendment to permit the DOT Secretary to waive the \$100M per state cap under the Emergency Relief program, extend the 180 day period for emergency repairs in years when there is a supplemental appropriation for ER, and allows assistance at increased federal share if the total amount a state receives in ER funds for any single natural disaster exceeds its total annual apportionment for the year in which the event occurred. Finally, and most importantly for our non ER program, this bill sets a funding level for Vermont that is approximately the same as the previous program. This is a huge positive step, relative to what we were concerned might have happened. Nevertheless, this is just the first step in a long march to the finish line. Other than the funding aspect, the bill has several disappointing elements for bike/ped, scenic byways, and Transportation Enhancements.

[http://epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore\\_id=20f89548-8b2e-4498-89f7-c9f4ff22484f](http://epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=20f89548-8b2e-4498-89f7-c9f4ff22484f)

Action by the full Senate is not anticipated before Thanksgiving as Senator Boxer has said she will not move it until Senate Finance identifies funding sources.

**Massachusetts Rail Negotiations**

Chris Cole had an initial conversation with the Rail Program Manager of MassDOT regarding both the future Amtrak costs and revenue sharing arrangements as stipulated within the Passenger Rail Investment and Improvement Act (PRIIA) of 2008. We are pursuing this discussion at this time because the state of MA needs our sign off on their \$72 million FRA grant for track improvements to the Knowledge Corridor. MA is not ready to discuss future Amtrak costs and is not happy that we have not signed onto their grant. However, we see their need for our sign-off as a critical leverage point for the

PRIIA cost sharing arrangement. This issue may rise to your office and Brian and Chris are meeting with Bill next week to discuss.

### **FTA Veterans Grant**

The Vermont Agency of Transportation (VTrans) received a \$352,900 grant from the Federal Transit Administration to develop software and Internet services that will help US veterans and their families access public transportation services that are specific to their needs. The money will be used for several purposes including development of a website that provides veterans specific information about their eligibility for a host of transit services including on-demand rides, the purchase and installation of software that will allow the Disabled American Veterans and the Veterans Administration's independent transportation system be incorporated into the same dispatch system used by all public transit providers in Vermont, and installing GPS location devices in various public transit vehicles – including vans operated by Disabled American Veterans – so that more efficient dispatch decisions can be made.

### **Press Inquiries on Cost Estimates**

There is some ongoing media interest in the matter of our revised cost estimates. We've had a FOIA request (Anne Galloway of VTDigger.org), and VPR (Steve Zind) is doing a radio piece next week comparing the costs of building under emergency measures vs. non-emergencies.



Confidential and Privileged

To: Honorable Governor Peter Shumlin

From: Annie Noonan, VDOL Commissioner

Re: Weekly Report for week ending November 11, 2011

Unemployment Insurance issues:

We did not borrow this week – and are hoping to get through most of the rest of this calendar year without borrowing, as we have \$44+million in funds available for claims. As you know, we instituted the mandatory work search if the claimant's return to work is more than 10 weeks out. Interesting data: In CY2010, 8,446 claimants filed with a RTW 10+ weeks, costing the system \$40,954,711 (or 28% of total benefits paid). In other news, UI Division is preparing for the traditional spike in claims filing, starting next week, continuing through March.

We contacted USDOL because we need to establish an administrative sub-account for our \$9.2M grant for UI Modernization. USDOL has advised that it is a requirement that the funds are legislatively appropriated prior to the establishment of an administrative subaccount. I need your guidance on this.

We clarified that Vermont Department of Labor Board Rule 31 to administer an employer contribution deferment program for 1<sup>st</sup> Quarter contributions is not authorized to take effect until the taxable wage base is "greater than" \$16,000. This may cause some confusion since apparently VDOL's deputy had told legislators that this deferral program was starting this January, which is incorrect. I am circling back to those legislators to clear up the confusion.

Workforce Development:

Dartmouth is laying-off 100 workers. NSA Industries in St. Johnsbury is purchasing the former Lydall Building. NSA employs 250 workers in the region. VDOL is continuing to review NEG Disaster Grants – hoping to work with more municipalities. We are finishing up work on a new H-1B proposal involving IBM, HITEC, AllScripts, Dealer.Com, Green Mountain Coffee Roasters, UVM College of Nursing and Health Sciences, CCV and Champlain College. The proposal is due 11/17. We just approved a WETF grant for Black River Produce and Omega Optical. We are using the new grant document, guidelines and criteria that I implemented in order to critically evaluate whether the grant would create jobs, save jobs, allow the employer to expand and hire, or up-skill the workers to take on new tasks, thus enabling greater business capacity. Veterans Job Fair in Burlington today. On 11/15, Workforce Development Council has invited William Symonds of the Harvard Graduate School of Education. DOE is helping to pay this expense. The meeting is 11/15 at 1:00 to 4:00 at the Wood Art Gallery on the Vermont College.

Workers Comp & Safety:

VDOL held a worker's compensation "boot camp" program for 20 Rutland. VOSHA just calculated the Tramway fees. Van Belanger participated in the quarterly State Emergency Response Commission (SERC) meeting at Waterbury DPS Emergency Operations Center. Project WorkSafe held a farm safety and health meeting this week, with many farms signing up; with Town of Alburg to resolve their town garage hazard issues; and with ANR to determine hazardous waste operations training for contractors.

VDOL Budget, Fiscal Notes

VDOL will meet on Tuesday with Jim Reardon on our budget projections. The biggest question still remains the federal WIA dollars. Our staff person in Road Safe (grant from Public Safety) issue is still pending – we need help in getting a waiver approved (temp employee) but then have to make the proper assignment to his status.

Meetings this week included Adult Technical Education Coordinators; State Apprenticeship Council; Matt Durocher on union hiring halls practices v/v UI; and Educational Wages/UI – summer study committee.

# Memorandum

Vermont Department of Public Service

Privileged and Confidential

**To:** Hon. Peter Shumlin, Governor & Beth Robinson, Governor's Counsel  
**From:** Elizabeth H. Miller, Commissioner, and Sarah Hofmann, Deputy  
**Subject:** Weekly Report - Long Version  
**Date:** November 10, 2011

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**Status of Governor Priorities:**

- Comprehensive Energy Plan - The CEP team is making final edits based on the many public comments. The documents go to Liz as of tonight for her final run through before the entire document is sent to the editor. We continue to talk to groups about the Plan. Sarah spoke to the VT Bankers Association, and Liz spoke at the Green Summit and the Legislative Briefing.
- Vermont Yankee: NRC issued Amendment No.250 to the renewed operating license for Vermont Yankee on November 4, 2011. The amendment provides for revised pressure-temperature limits for the reactor coolant system for the 20 year license renewal period. The curves are identical to the last ones generated in 2006 when VY amended its license for the Extended Power Uprate. The Pressure-Temperature Limitation curves are necessary to prevent non-ductile failure of the reactor pressure boundary. The pressure vessel is subjected to neutron fluence which can affect the ductility of the walls and welds (causing embrittlement of the metal). Vermont Yankee, being a boiling water reactor, is less affected from neutron embrittlement (than a PWR) because there is more material and space between the core and the vessel walls which is why the Pressure-Temperature curves did not change. We are asking Uldis Vanags for more information on this. Uldis and Bill Irwin inspected the rerouting and design features of the AOG pipes in the trench on where the Tritium leak occurred. The trench will be covered within the next two weeks.
- GMP/CVPS Merger –On motion of the DPS, the PSB issued an order on November 4<sup>th</sup> revising the schedule in this docket. Non-petitioner testimony is now due on December 20<sup>th</sup>, with hearings scheduled for March 7<sup>th</sup>, 8<sup>th</sup> & 9<sup>th</sup>. This allows more time for discovery and for discussions with other parties as DPS formulates its positions. We have invited in the utilities who haven't spoken with us yet on the VELCO piece. We have offered the same to the Illuzi group. The Illuzi group has asked the PSB not to decide the Petition to Appoint Independent Counsel until the DPS has filed its testimony. DPS has moved to intervene in the FERC proceeding; WEC and Senator Illuzzi also filed protests and motions to intervene.
- Kingdom Community Wind – The Department filed comments with the Board on November 4<sup>th</sup> stating that a violation of Condition 36 occurred on October 28<sup>th</sup> because people were in close proximity to the blasting area. GMP opposed this filing, claiming

that the blasting area was 200 feet (there were people located 250 feet from the blasting). The Board is considering the filings.

**Legislative Issues/Contacts:**

- We re-scheduled our meeting with Rep. Botzow to discuss the legislative session when he was a no-show this week. We now will meet with him on Dec 7<sup>th</sup>.
- Liz spoke to the legislators at the Legislative Briefing day about the Comprehensive Energy Plan.

**Press Issues/Releases/Contacts:**

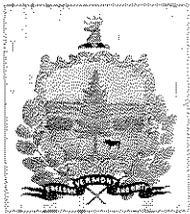
- Alan Panebaker from VT Digger has made a public records request for all communication between the Department of Public Service and Public Service Board and Vermont Gas Systems or its parent company regarding the proposed Expansion Fund that would be used to help VGS expand its natural-gas system in to Vergennes and Middlebury. Because Alan only asked for external communications, it is likely that no exemptions will be claimed. We are gathering the materials at this point. Sarah also spoke to him about the expansion proposal and the CEP.
- Alan Panebaker has also made a request to review the comments received on the CEP. We are arranging to put those on disk.
- Alan Panebaker also asked for information on the GMP/NextEra deal approved by the Board this week.

**Significant Meetings/Events:**

- DPS met with the majority of utility representatives and Gaye Symington about on-bill financing. This meeting was to prepare for our meeting with Senator Sanders on Nov 21<sup>st</sup>. Lots of information exchanged. VGS and BED seem to be ahead of the curve and we talked about them working together on some sort of pilot project.

**Evolving Issues:**

- We are planning to have our fourth VSNAP meeting of the year the week of December 12<sup>th</sup>. NRC will attend.
- VGS is planning its public engagement process for its expansion planning. We have advised VGS that we will be attending all public sessions. VGS may also have an advisory committee of people chosen from many areas, such as environmental, business, planners, that will not be open to the general public. DPS has advised VGS that we will not be able to attend meetings not open to the public as part of public engagement.



## *State of Vermont...*

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

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

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

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#### **CONFIDENTIAL AND PRIVILEGED – NO SHARING Report to the Governor for Week Ending November 10, 2011**

#### **Governor's Priorities**

##### **Health Care Reform**

This week Commissioner Kimbell made health care reform presentations to the Vermont Business Roundtable Board of Directors in Sugarbush and at the Lake Champlain Chamber of Commerce in Burlington.

Commissioner and staff conducted speaker training for potential health care reform speakers. Eleven speakers, senior administration members and Green Mountain care Board members, participated.

Commissioner and staff met with consultants to begin organizing work to be performed under a recently-approved Robert Wood Johnson Foundation grant to BISHCA. The consultants, Wakely Consulting Group, will analyze choices and assist in preparation of a report to the Legislature in January on those choices. The report is a requirement of Act 48.

#### **Evolving Issues**

#### **Outreach**

#### **Legislative**

#### **General Information**



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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** November 10, 2011

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**Vermont Department of Health (VDH)**

**Status of Governor's Priorities:**

Tropical Storm Irene. VDH continues to expeditiously process permits for asbestos abatement for trailers damaged by TS Irene.

Robert Wood Johnson Foundation Community Health Leaders Annual Meeting. A special panel of the Robert Wood Johnson Foundation Community Health Leaders is examining lessons and strategies from leaders regarding health-related disruptions to communities within the context of natural disasters. Commissioner Chen will report on Vermont's experience following Tropical Storm Irene at the Community Health Leaders Annual Meeting in Baltimore on November 11<sup>th</sup>.

**Department of Mental Health (DMH)**

**Governor's Priority:**

Vermont State Hospital License. In order to avoid losing something with the lapse of VSH's license, DMH filed an application by the deadline last week. It has been unclear whether that license, though tied to the Brooks building, would maintain the piece of the license related to the operations of the hospital should another location be identified. Commissioner Oliver spoke with members of the Board of Health to provide the background on where we are today and obtain guidance regarding whether (or how) to proceed with the application. A hearing is scheduled next Friday but Christine expects to hear from the Board prior to that day.

Commissioner Oliver and Deputy Secretary Flood participated in a meeting with peers/advocates about the types of peer services they believe we should be developing. All were excited to hear of the potential funding available for this purpose. In addition, two meetings are being scheduled in the next two weeks for organizations to present their proposals to the peers/advocates with sufficient time for questions and comments.

**Media Contact:**

At Patrick Flood's request, Commissioner Oliver spoke to Fox 44 about the pressure in the system with the loss of VSH. All other media requests to Commissioner Oliver were referred to Patrick.

## **Legislative Contact:**

Commissioner Oliver and Deputy Commissioner Heintz appeared before the Mental Health Oversight Committee along with Patrick Flood. Several handouts were explained that showed:

- The proposals received to date for enhancing the mental health service system
- An Intensive Individualized Plan Update (formerly referred to as WRAPs)
- The data collected in the manual bed board
- A bed inventory of Vermont's mental health system
- A chart depicting the mental health system of care reflecting intensity of services provided at particular types of living arrangements

Testimony throughout the day focused on the need for additional intensive psychiatric bed capacity and a care management system (which would use the information provided by the bed board to facilitate quick placement of individuals in the appropriate setting). The final witness during public comment was a VSH psychiatrist. His testimony was brief but worth mentioning:

- As a result of the flood we lost Vermont's only psychiatric intensive care unit, not just in-patient beds
- In no other area of medicine would this be tolerated
- Quoting Jim Leddy, "if we can build a bridge so lickety split we can build a hospital for our most vulnerable Vermonters".

Senator Fox ended the meeting with a discussion about their next meeting on December 13<sup>th</sup>. She believes the Administration will have a more specific proposal (interim and long-term) out by that day. The Committee is also considering sending criteria for us to consider in developing a proposal but are not sure how quickly they can get it done.

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

Health Care. At the request of Commissioner Larson, Commissioner Wehry is participating in health care reform speaker training this week.

## **Ongoing Issues:**

Adult Protective Services. The Adult Protective Services Program (APS) continues to work on filling its remaining two vacant permanent investigator positions. Harmony Solutions has been selected to provide the case tracker data management system. Commissioner Wehry and I met with attorneys who are party to the corrective action plan and agreed a successor agreement may be in order when the current agreement expires in December. Progress is being made on eliminating the backlog which is the one remaining major issue to be resolved.

Melissa Maynard, a staff writer with Stateline, a Pew Trust organization, is investigating adult protective service programs across the country. She is coming to Vermont the week of November 29<sup>th</sup> to do a story on Vermont's APS.

### **Evolving Issue with Media and Legislative Attention:**

The Gathering Place Adult Day Center. We continue to receive letters from interested parties about the transition in leadership at The Gathering Place adult day program in Brattleboro. DAIL continues to maintain our position that it is not within our purview to become involved in the personnel matters of private organizations. Nonetheless, the Commissioner or Deputy Commissioner of DAIL will personally visit soon.

Commissioner Wehry and I met with Virginia Renfrew and Peter Coutu from the Adult Day Association. They continue to assert that the intention of the legislature was to provide an additional \$100,000.00 to the Adult Days. Ms. Renfrew states that Senator Kitchel and Representative Heath have told her they made a mistake. I have not heard from either chair. All are in agreement that DAIL is acting in accordance with the appropriation and the instructions in the Big Bill. We agreed to work toward a better understanding in FY13.

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

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

Joint Fiscal Committee Meeting. Commissioner Pallito appeared in front of the Joint Fiscal Committee to address how Justice Reinvestment Funds have been spent over the past three years.

Meeting With UVM Professors. Commissioner Pallito met with two UVM professors to discuss intersects between UVM and the DOC regarding adult learning and higher education.

#### **Other:**

Population. The department's overall population has remained steady over the last week; however the female population has increased to a high of 180 on Wednesday morning. The department was able to reduce the population to 173 by the end of the day with combined assistance from the drug court in Rutland and the use of other options to incarceration. The department is vigorously reviewing the sentenced population in attempts to reduce the population while still managing the risk to the community. The department has also generated a list of female inmates for the defense attorneys, the courts and the prosecutors to assist in identifying potential home detention candidates.

Untimely Death of Offender Christine White, November 4, 2011. Christine White, 48 years old, was sentenced July 1<sup>st</sup> to serve a probation sentence for Careless & Negligent Operation and Driving under Influence. Offender White had a severe drug and alcohol addiction. She recently attended Valley Vista – released from there on October 4<sup>th</sup> – but did not complete. Probation and Parole Officer had filed a Violation of Probation with the Court. Her mom called Probation and Parole Officer Gontheir to let her know Christine was found dead at her home the morning of November 4th. Milton police believe it to be an overdose.

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

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

Funding for Child Care Providers. Senator Sara Kittel and Representative Chuck Pearce met with Deputy Commissioner Reeva Murphy to discuss funding for Child Care providers. Representative Pearce feels more money should have gone to Tammy Rhea and Jody Marquis, providers in his area. Senator Kittel wants to advocate for more money for child care providers.

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

CIS/Early Intervention (Part C of the Individuals with Disabilities Education Act – IDEA). The Federal Government requires states to identify children under the age of three who have developmental delays so that services may be started and these children enter school ready to learn. The Department for Children and Families Child Development Division's work in this area has begun to decline, especially in the Counties of Rutland, Washington, Caledonia and Orleans. DCF/CDD is targeting these areas to identify and improve outreach in order to address this downward trend. Potentially, DCF could face fiscal fines if it does not improve its indicators. At this phase, the Department does not anticipate sanctions but it will take a concerted effort to avoid.

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

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

The Green Mountain Care website has been updated. Additionally, in response to constituent requests, paper applications are now available, in addition to the on-line application.

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

Mark Larson participated in a conference call this week with staff members of Vermont's congressional delegation. They covered the potential impact of enactment of a blended Medicaid rate (which would lower federal participation in Medicaid) and proposed reductions in the allowable rate for the provider tax. They also spoke about the need to get clarity about a range of CMS regulations.

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

NESCSO. Mark Larson attended the fall meeting of the collaboration of New England States Consortium Systems Organization (NESCSO). DVHA is currently working with NESCSO on an analysis of the duals population across New England and also the collaboration on developing a system for the health insurance exchange that could be shared between willing New England states.

## Evolving Issues:

Payment Reform. Richard Slusky and Craig Jones joined members of the GMC board in a meeting with FAHC about proposals for a global value based reimbursement method on November 9<sup>th</sup>.

### McGregor's Transition Update.

#### *Week 1 (starting 11/2):*

- DVHA sent letters to 637 Medicaid beneficiaries informing them that as of 12/3 McGregor's pharmacy would no longer be a Medicaid provider.
- DVHA simultaneously notified McGregor's pharmacy manager and their counsel that the letter was being sent in the mail. DVHA also contacted the local medicine on time (MOT) pharmacies letting them know that they may be getting calls from beneficiaries.
- DVHA staff and the Medicaid Fraud and Residential Abuse Unit (MFRAU) engaged in several discussions with McGregor's and their counsel regarding the beneficiary notification. McGregor's asked for the names of the beneficiaries that were notified and after consultation with legal counsel we provided McGregor's with a copy of the beneficiary list.

#### *Week 2 (starting 11/7):*

DVHA pharmacy staff re-contacted the other MOT pharmacies to assure that they still felt comfortable with taking on new patients because McGregor's said that other pharmacies were concerned about the volume of patients. The response from the other MOT pharmacies was they could service MOT patients.

- DVHA sent a letter to all providers whose patients appear to be current McGregor's patients letting them know that McGregor's will no longer be a provider as of 12/3.
- Additionally, DVHA member service is contacting all the beneficiaries who are affected to assure that they are transitioned to a new pharmacy.
- DVHA has contacted all 637 beneficiaries and we will continue to try to make telephonic contact with them this week.
- DVHA has contacted the Governor's hot line today to notify them that McGregor's has sent a letter to their clients informing them that they are appealing the decision of being disenrolled and that they should contact the Governor's hotline. The letter gave inaccurate information stating that DVHA had said that this was McGregor's choice when in fact DVHA did not.

#### *Week 3 (starting 11/14):*

- On November 14<sup>th</sup>, DVHA will send letters to the beneficiaries we haven't reached in person. At the end of the week, we will send a letter to the providers of the beneficiaries we haven't been able to contact.

- DVHA's counsel will be sending a letter to McGregor's counsel in response to a three page letter from McGregor's pharmacists implying that there is wide-spread panic and hysteria caused by DVHA's letter to the beneficiaries. The letter will also ask them to cease and desist the inaccurate information and to inform us on how they will do this.
- MFRAU will be contacting providers to obtain affidavits because DVHA have been informed that McGregor's is telling patients and providers that the letter DVHA sent was a misunderstanding.



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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Jeb Spaulding  
**DATE:** November 10, 2011  
**SUBJECT:** Confidential Report to the Governor

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**CONNECT VT**

Nothing to report this week.

**BUILDINGS AND GENERAL RESOURCES**

**Significant Events/Meetings:**

- BLDG 617 may become home for both FEMA and Skypoint.

**Evolving Issues:**

- Disposition of historic artifacts, papers, photos and furnishings from Vermont state hospital.
- Vending machine sale of VT lottery tickets at rest areas.
- State House Christmas Tree: BGS feels they have found the perfect tree in Barre, but will continue to investigate the other candidate. We are hoping the Governor will be available December 6<sup>th</sup> to help with the lighting of the tree.

## **FINANCE AND MANAGEMENT**

### **Issues Update:**

Unexpended Bond Proceeds: Financial Operations is working with the Treasurer's Office and BGS to clean up old unexpended bond proceeds. Although unlikely to occur, the purpose is to avoid arbitrage penalties.

New Budget System: We have successfully concluded the contract negotiations with CGI Group, Inc. for our new ERP Budget System. The contract is currently in the sign-off stage and we expect to be able to have a fully executed contract by close of business today. CGI project staff will be on site on Monday, November 14, 2011.

Legislative Update: Deputy Zeller will be joining Chief Fiscal Office Steve Klein in an update for the Legislature today on the FY 2013 projected budget gap analysis.

## **HEALTH CARE REFORM**

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

Finance Committee: The dates for the finance forums are posted on several websites! There are 4 forums – 3 of which are scheduled – in Burlington, Brattleboro, Rutland, and St. Johnsbury. The Tax Dept. has been very helpful in organizing and structuring the forums. The forums will include an informational presentation on current financing in health care, as well as tax sources, and there will be break out sessions for people to engage on general principles of financing and other ideas.

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

Robin Lunge and Representative Mike Fisher went to an HHS Listening Session on the Essential Benefits package, which took place in Boston MA at the Regional Office.

Robin Lunge is doing a presentation on health care reform to the general assembly on Nov. 10 and then will speak with the House Health Care Committee afterwards on health care reform.

Robin Lunge spoke with Rep. Janet Ancel about the financing forums and has been trying to reach Senator Cummings. The Speaker and Pro Tem's staff suggested inviting the whole general assembly with reminders to local members.

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

Robin spoke with Forbes about the Dartmouth Masters Degree program and the single payer benefit package design, which is the project.

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

- Robin Lunge is meeting with Delta Dental's legislative committee to talk about the Exchange.
- Robin Lunge testified to the Green Mountain Care Board and gave an overview of the Affordable Care Act and Vermont's Health Benefit Exchange.

- Robin Lunge was on a panel at Johnson State College on health care reform with Deb Ritcher, Floyd Nease, and Concept 2's human resource director, which will be televised on local access. Three Johnson students asked questions of the panelists and each had an opportunity to respond.

### **Evolving Issues:**

Provider Tax: Commissioner Larson is in process of finalizing settlements with Gifford.

## **HUMAN RESOURCES**

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

Meeting with Executive Director of Human Rights Commission: Commissioner Duffy and Labor Relations Specialist John Berard met with Robert Appel, the Executive Director of the Human Rights Commission (HRC), to discuss issues within the HRC's jurisdiction. Specifically, Mr. Appel raised concerns about the state's failure to recruit and retain diverse employees and requested that the state make additional efforts on this front. Commissioner Duffy noted that the state is far from satisfied with its diversity recruitment and sought guidance from Mr. Appel on ways to improve the state's efforts. Mr. Appel also raised issues pertaining to the state's efforts to accommodate individuals with disabilities and the role of the state's Reasonable Accommodations Committee. Commissioner Duffy advised Mr. Appel that the state is revising its policies and forms to be consistent with updates to the Americans with Disabilities Act (ADA) and will provide additional training to ensure compliance with the ADA.

Testimony before Government Accountability Committee: Commissioner Duffy and Director Rose Gowdey testified before the Government Accountability Committee on the statewide strategic planning efforts now underway. Commissioner Duffy described the process engaged in by the Governor, the cabinet, and each agency and department as well as the timeline for the completion of the project. Director Gowdey discussed the benefits of strategic planning and the lessons learned from this effort. Both Commissioner Duffy and Director Gowdey stressed the efforts to create performance measures that will provide meaningful information to the legislature, the executive branch and the public.

### **Evolving Issues:**

Bargaining with VSEA: The tone of the discussions with the VSEA has improved, and the parties have discussed treating the bargaining efforts in the next week as if the parties were engaging in mediation in order to reach a quicker result in a more respectful manner. The Governor has agreed to this approach, and DHR will work with its counsel to formulate a bargaining strategy consistent with this approach.

Relocation of Vermont State Hospital Employees/Proposed Stipulation: DHR continues its efforts to enter into a stipulation with the VSEA regarding the relocation of Vermont State Hospital employees. Commissioner Duffy and Labor Relations Specialist John Berard also met with Deputy Secretary Flood, Commissioner Oliver and Deputy Commissioner Heintz to assess the employment needs of the hospital and determine if it will be necessary to engage in a reduction of force (RIF). Deputy Secretary Flood has indicated that AHS does not believe it is appropriate to RIF anyone in the near term future, even if those employees are not currently working. He believes that a strategy will develop by December on the interim plans for the hospital, and the question of RIFs should not be addressed until that time. Commissioner Duffy expressed concern that the state continues to pay employees who are not working and requested that decisions on RIFs be made as quickly as possible.

## INFORMATION AND INNOVATION

### Status of Governor's Priorities:

Organization and Funding of IT: Talk of potential organizational change between DII and AHS IT has, unfortunately, been reported to Secretary Racine as being much further down the process than it really is. Richard Boes has promised to have a proposal put together before the Christmas holiday, so discussions will need to ramp up to get that accomplished. Commissioner Boes has requested a follow up meeting with Secretary Racine (through Angela Rouelle) to make sure we understand his concerns and address them in our proposal.

AHS Email Migration Project: The AHS Email migration is getting smoother, and we have now migrated 50% of AHS users to the centralized email system. While there are still a few false starts, they are much less frequent and we continue to preserve email connectivity throughout the process.

### Significant Events/Meetings:

- The Speaker of the House has a public facing website that was malfunctioning for a 24 hour period, during which only 1/3 of users could access the site. It was resolved yesterday afternoon.

### Evolving Issues:

#### Web/VIC Update:

- A meeting has been scheduled with the Speaker of the House's Office to begin the creation of a Web site in ECMS.
- The forms on the Governor's page to support the new constituent management system were completed. The system is scheduled to launch 11/10.
- The DMV point of sale system being developed by VIC was approved by the Web Portal Board in 2009. An updated version of that proposal is being prepared for presentation to the Governor so it can then be forwarded to JFC, as per statute. The Commissioner of DMV will be providing a written request for approval as well.

#### Telecom Update:

- Sovernet site visits are complete in the White River area. The team has scheduled the same site reviews for the Montpelier/Berlin area next week. Additionally access to the DPS Mountain sites is trying to be scheduled. 3 wheeler and snowmobile access are required. Site reviews the of Bennington are scheduled for the last week of November. AOT has advised of potential delays in laying conduit for Sovernet ahead of snow season. Sovernet is concerned as this delay will impact their ability to connect the St. Johnsbury sites.
- Northern Power Building, Rt. 100 Waitsfield – Peck Data has the cubicle work and will begin on Thursday 11/10 in order to prep cables before the new furniture is put together on 11/14 and 11/15. Waitsfield Telecom is advising that they are not going to meet the states schedule in installing the pbx. They are advising completion by 12/1. This is not acceptable and they are reviewing options to cut the gap in the timeline.

## LIBRARIES

Nothing to report from Libraries – Marty Reid is traveling.

## TAXES

### Revenues:

Ed Fund Outlook: The estimating team is still hung up on analyzing data to determine why property tax adjustments were \$10M less than estimated last year. The problem is that the Household Income ingredients are changed every year. So last year was the first year that taxpayers had to add back in “Line Q” adjustments that the federal government allows in determining AGI – however for next year the legislature put in an exception for self employed health insurance. It looks like the add back may have disqualified a large population – however insurance was a big component, so they might be back in next year. All a good argument for simplifying Household Income when we do tax reform. In the meantime, the estimate seems to be landing at .02 increase under current law. To hold lower, the Administration could recommend limiting the increase in the base payment (affects income sensitized negatively, non-residents positively), and not fully filling the reserve.

### Legislation:

Prisoner Re-Entry and Renter Rebates: On the same subject of complications in adjustments, prisoners do not qualify for renters rebate in the year of release since the statute requires a full year of rental – Rep. Ancel and Lorber have asked if the Administration will propose an exception, and the Commissioner referred the question to Susan Bartlett.

Abatements: Steve Jeffrey and now Rep. Manwering have pointed out a problem with the abatement proposal. We used the 50% loss in value threshold, but apparently this is the FEMA tipping point for imposing stricter rules on replacement versus repair. As previously noted, Waterbury also apparently believes only 1 of its 35 requests for abatement would qualify for reimbursement. On the other hand, when the Commissioner testified to Joint Fiscal about the criteria this week, there were no questions or suggestions from legislators.

Tax Computer System Modernization Fund: The Commissioner also testified to Joint Fiscal on its two compliance initiatives and the purchase of technology to date. No questions. The Commissioner did use the opportunity to introduce Commissioner Boes and emphasize our close collaboration – that seemed to be appreciated; there was a comment that we are keeping DII busy. In fact, a key Tax IT employee left this week to take a DII position – we will have to continue to use him if we are to keep our data warehouse project on track and DII seems amenable to that. In general, the vendor and Tax IT staff has been very impressed with DII service recently.

### Operations:

Misclassification of Workers: The Commissioner, Deputy and Compliance Director participated in a meeting convened with DOL regarding enforcement rules on employers misclassifying employees as independent contractors. The Department had contemplated piggybacking on an IRS voluntary settlement program that had generous income tax terms to entice employers into compliance. However

it was agreed at the meeting that this would be at cross purposes with DOL's tough enforcement stance for unemployment and workers comp. The Commissioner conveyed this to practitioners and suggested that they be in touch with DOL to discuss the various definitions for tax and labor purposes – no response thus far. DOL suggests that practitioners can be the problem in giving their clients bad advice, particularly since there are nuances in the definitions for different purposes.

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

**CONFIDENTIAL AND PRIVILEGED: NO SHARING  
MEMORANDUM**

TO: Governor Shumlin  
CC: State Board of Education  
FROM: Armando Vilaseca, Commissioner  
DATE: November 10, 2011

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**Personal Leave:** I am out of the country this week on personal leave and will return to the office on Monday, November 14, 2011.

**Implications for Towns Affected by Irene:** We have been working with the tax commissioner and the secretary of the administration to understand the cash flow implications for towns affected by Irene created by the December 1 education fund payments they must make to the state under the education funding law (32 VSA § 5402(c)). When this law was written there was some reluctance on the part of a few towns to make these payments, so the language was written narrowly without much flexibility. The situation caused by Irene is a much different context. Given this special context we are looking to see what flexibility there might be.

**Renovations to 120 State Street:** Recently, my two deputies and I met with the commissioners of BGS and DMV to talk about renovations to the building on 120 State Street. As you know, we share this space with DMV and DMV feels they need additional space. We too, feel we need additional space as we currently operate out of two sites, the 4<sup>th</sup> and 5<sup>th</sup> floors at 120 and at 1311 Route 302 in Berlin. Operating our department at two sites is very challenging and we are hoping we can be brought together at one site as soon as possible. Our business office, school financing units, the IT unit, and the educator quality unit (teacher licensing) are located in the Berlin office. Staff members are regularly driving between the two sites to conduct our work, making communications challenging and consuming valuable time. During the legislative session, various staffers are constantly driving between Berlin and Montpelier to attend committee meetings. And of course, parking makes this even more difficult. We use technology to manage this challenge as much as possible. I am hoping the administration will support our efforts to house this important department at one location. We also discussed our location needs in the context of the greater challenge of relocating the AHS. One option that came up was the possibility of having a State Government complex which would include AHS, DOE and DMV (and possibly others) and may in fact be less expensive overall than the cost of upgrades, renovations and potential expansion for 120 State Street. BGS said they are exploring that option.

**Educator Effectiveness Task Force:** Deputy Commissioner Knopf discussed the impending plans for a waiver to NCLB requirements under ESEA with members of the Educator Effectiveness Task Force. As part of this discussion, several educators from Supervisory Unions who are implementing the Common Core College and Career Readiness Standards and piloting new evaluation systems that are informed by student progress and growth presented their work to the group. They reported that the newly defined evaluation systems for teachers and principals result in educators being better informed throughout the year about how students they teach are responding to instruction. The teachers and principals present reflected that this "real time" feedback and support helps them to be better focused in addressing the needs of individual students, and provides opportunities for them to collaborate with their peers and seek professional learning opportunities to improve their own practice. These Supervisory Unions are doing this work as part of a continuous school improvement process.

**State Board of Education:** The State Board of Education's monthly meeting is scheduled for Tuesday, November 15, 2011 at 9:30 AM at College Hall Chapel, Vermont College of Fine Arts, 36 College Street, Montpelier, VT. As part of this meeting, the Board will be joining the Workforce Development Council meeting to hear Dr. William Symonds, Harvard Graduate School of Education, share his *Pathways to Prosperity* Report. For a complete agenda, click [here](#).

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



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## MEMORANDUM TO GOV. PETER SHUMLIN

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To: The Honorable Peter Shumlin  
From: Governor's Information and Referral Office  
Date: November 10, 2011  
RE: Weekly Constituent Update

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### Current Issues

- There is a call campaign related to DVHA dropping McGregor's Medicine on Time in Winooski as a Vermont Medicaid provider. We've spoken with Bill Clark at DVHA and received details on the situation. Among other things McGregor's was overcharging the state with unverified "administrative fees" and overcharging patients through co-pays. Both of these facts have been verified through independent audit. McGregor's sent a letter to all their patients encouraging them to call our office to appeal this decision. There is no appeal process, though McGregor's is in the process of suing the state. We've been trying to explain to constituents why keeping McGregor's is not in their best interest, most have been responsive. For more information on this please contact Carolyn. **About 20 calls over 2 days.**
- There is a second call campaign about Vermont house bill H. 97 (and S. 29). The callers are Vermont residents but they seem to be run through a call center in Maine. These bills lay out the groundwork for early educators and childcare providers to form their own statewide union in Vermont, among other things. The bill ended last session in committee. Not sure who is sponsoring the call campaign or why now. Most constituents don't seem to know exactly what they're all in support of. **Roughly 50 calls over 3 days.**

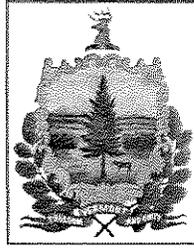
### IQ Update

- IQ is up and running. Over the next several weeks, users are in the process of learning the system and converting necessary data. Learning the system will take time and patience, but we expect it to greatly improve business processes. We have changed the preferred method of contacting the office from email to web form, which can be found on the contact section of the website.

### No Appointments this week



To 116 STATE STREET  
MONTPELIER, VERMONT 05620



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

Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** November 10, 2011

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**Secretary's Top Issues:**

State veterinarian and AAG finalized a draft of the MOU btw VAAFM and Fish and Wildlife that outlines the inter-agency communication and clarifies the authority for disease surveillance tasks on the two captive hunt facilities in Vermont. A final draft was forwarded to VT F&W on Nov 10<sup>th</sup> for their consideration. It is anticipated that the MOU will be finalized and signed by the end of November.

Lawson Farms v. AAFM 34-10-02 Oscv. The Orleans Superior Court convened a status conference this week. This case is a consolidated appeal of three agency administrative water quality enforcement actions. The amount of outstanding unsuspended administrative penalties is \$2750.00. The Judge made it clear he wants this case settled. Lawson's attorney will send an offer.

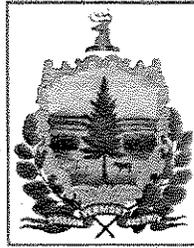
The Agency's attorney met with representatives of the Vermont Law School Land Use Clinic, which represents the Vermont Planners Association. VPA is again proposing amendments to Vermont's laws related to development activities in flood plains (Title 24, Chapter 117 and various section of Title 10.) The amendments propose the transfer of regulation of farm structures and activities in flood plains to municipalities and/or the ANR. Currently, farming and farm structures are exempt from municipal zoning regulation. The Agency's Accepted Agricultural Practices Regulations, however, deal with the issues and there is inter-coordination through an MOU with ANR that continues to evolve. The Irene Event during the height of harvest season and the resulting floating round hay bales will likely be used as "reason" for the jurisdictional transfer.

After a very competitive application and interview process, Alison Kosakowski of Richmond, VT will join the VT Agency of Agriculture as the Marketing and Promotion Administrator on Wednesday, November 30th. Alison's background in marketing, brand development and communications will support our efforts to raise the Agency's visibility across divisions, working hand in hand with our Ag Development and IT team.

Irene Recovery – Deputy Secretary Bothfeld met with Partner organizations that work with farmers to discuss Irene recovery efforts. Money and feed at the two main issues at this time. A workshop will be held at the end of November to discuss Federal Crop insurance for fruit and vegetable producers – why insurance works, what is available and options after Irene Flooding.

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TEL: (802) 828-1619  
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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** November 10, 2011

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**Status of Governor's Priorities:**

Jobs in Agriculture

**Press Issues/Releases/Contacts:**

After a very competitive application and interview process, Alison Kosakowski of Richmond, VT will join the VT Agency of Agriculture as the Marketing and Promotion Administrator on Wednesday November 30th. Alison's background in marketing, brand development and communications will support our efforts to raise the Agency's visibility across divisions, working hand in hand with our Ag Development and IT team.

Press Issues/Releases/Contacts:

**Significant Events/Meetings:**

Irene Recovery – Deputy Secretary Bothfeld met with Partner organizations that work with farmers to discuss Irene recovery efforts. Money and feed at the two main issues at this time. A workshop will be held at the end of November to discuss Federal Crop insurance for fruit and vegetable producers – why insurance works, what is available and options after Irene Flooding.

Secretary Ross and Deputy Secretary Bothfeld attended the annual meeting of the New England Dairy Promotion Board. Two day meeting covered activities in generic promotion of dairy products in the New England states. All expenditures on promotion programs are approved by New England Dairy farmers.

**Evolving Issues:**

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State veterinarian spent a considerable amount of time this week compiling records to respond to the office of the state auditor's request for records pertaining to the VSNIIP program. These records will be submitted to the auditor's office no later than November 18<sup>th</sup>, as per his request.

A written quarantine was issued on November 10<sup>th</sup> to a property in Swanton as follow up to an animal welfare livestock seizure that took place on November 9<sup>th</sup>. The quarantine was issued because the horse that was seized was transferred to the authority of a new owner without having a negative test result for Equine Infectious Anemia. A blood sample has been drawn from this animal, and results are pending at this time.

State veterinarian worked with USDA regional staff and a Vermont accredited veterinarian to ensure that feeder calves being exported to Canada are meeting the requirements of international movement.

State veterinarians continue to coordinate efforts to ensure that the state's administrative penalty system can be effectively implemented for any producer whose animals are found to have violative antibiotic tissue residues. It is anticipated that a system will be in place and operational to pursue these issues at the state level before the first of the year.

Vermont was notified by USDA this week that it has exceeded the minimum number of slaughter surveillance samples for tuberculosis for CY 2011. This allows Vermont to continue to be compliant with federal requirements in that area.

State veterinarian and AAG finalized a draft of the MOU btw VAAF and Fish and Wildlife that outlines the inter-agency communication and clarifies the authority for disease surveillance tasks on the two captive hunt facilities in Vermont. A final draft was forwarded to VT F&W on Nov 10<sup>th</sup> for their consideration. It is anticipated that the MOU will be finalized and signed by the end of November.

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

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#### **Administration**

Lawson Farms v. AAFM 34-10-02 Oscv. The Orleans Superior Court convened a status conference this week. This case is a consolidated appeal of three agency administrative water quality enforcement actions. The amount of outstanding unsuspended administrative penalties is \$2750.00. The Judge made it clear he wants this case settled. Lawson's attorney will send an offer.

In re Salvus 56-4-11 Vtec. Act 250 appeal. AAFM met at the site with the applicant earlier this week in an effort to try and resolve the case without resort to a de novo hearing in court.

In re: A. Johnson Co. #9A0091-5 Act 250 application for a 43 lot subdivision in East Middlebury. The second day of contested evidentiary hearing on whether the site has 49.8 acres of primary agricultural soils will not occur until December. The District Commission heard 8 hours of testimony last week. The site is currently covered with mature forest but the underlying soils are rated as important land farmland by the USDA NRCS.

In re: EBWS, LLC d/b/a Strafford Organic Creamery 20011-10-01 DY. An administrative hearing on the facility's 2011 re-application for a milk handler's license was held. The Dairy Division alleges the facility has not provided the financial documents required by statute for re-licensure and it has not provided a bond for the Vermont-sourced milk it buys or otherwise adequately demonstrated it is exempt from the bonding requirement. This is the only milk handler license that is an issue for 2011. The Dairy Division has made multiple attempts to get the facility into compliance and eligible for re-licensure.

#### **Ag Development**

Representatives from division attended Northeast Sustainable Ag Working group conference in Albany, NY. Group discussed increase of local food consumption in schools, institutions and sustainable farming practices in the Northeastern states.

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

##### Meat Inspection Points of Interest

- Working on self-assessment documentation for "at least equal to status" with USDA
- Jim Cameron of Animal Health visited a farmer in Georgia in connection with a complaint of on-farm slaughter and the sale of livestock. No evidence found as to the slaughter
- Program chief and compliance specialist have been in consultation with Dept of Public safety and Orange County Sheriffs Dept. as well as VT health Dept. concerning Door-to-Door retail meat and seafood sales

## Meat Inspection Compliance

- Letter of warning sent to Wayside Country Store in Arlington for the sale of misbranded meat products
- Consumer complaint received from individual that sent live animals to Westminster Meats and was told his animals escaped and are still allegedly running free.

## Ag Resource Management

### Farming activities and farm structures in floodplains

The Agency's attorney met with representatives of the Vermont Law School Land Use Clinic, which represents the Vermont Planners Association. VPA is again proposing amendments to Vermont's laws related to development activities in flood plains (Title 24, Chapter 117 and various section of Title 10.) The amendments propose the transfer of regulation of farm structures and activities in flood plains to municipalities and/or the ANR. Currently, farming and farm structures are exempt from municipal zoning regulation. The Agency's Accepted Agricultural Practices Regulations, however, deal with the issues and there is inter-coordination through an MOU with ANR that continues to evolve. The Irene Event during the height of harvest season and the resulting floating round hay bales will likely be used as "reason" for the jurisdictional transfer.

## Secretary Comments

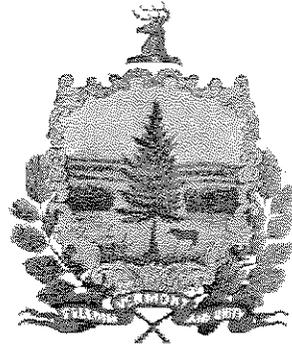
Secretary Ross, Deputy Secretary LaClair and Business Manager Mary Morrison met with Dr. Sumner and his assistant from the Department of Health, Bob Rea from BGS and Chris Cruthers who contracts with BGS on environmental matters. The group discussed ongoing air quality issues within the building after Dr. Sumner toured the building and spoke with staff about their ongoing concerns and complaints about the air quality in the building. A number of employees have been suffering a range of reactions for the work being done on the building. Dr. Sumner observed the reactions were largely upper respiratory reactions to air contaminants including dust, lower levels of mold spores and other exhaust from machines working around the building. He does not believe there are imminent risks to health and most of the people who have reacted have an elevated sensitivity to air issues. All agreed to work on a mitigation plan to be discussed on Monday and that the plan will be focused on thoroughly cleaning the building, doing follow up testing on the air and the work will focus on the work areas of the sensitive staff.

Sec. Ross continues to work with Commissioner Miller to explore how the Sustainable Jobs Fund and Energy Action Now could collaborate with the state to become an expression of part of the implementation strategy for the Comprehensive Energy Plan.

The Agency continues to work with ANR on enforcement matters relating to water quality. There will be a few higher profile cases that are likely to be pursued with the help of the Attorney General's office. These will cases are likely to serve as further notice that compliance will be insisted on by the Shumlin Administration's Agencies and are likely to generate some press. Sec. Ross will be in touch as these enforcement actions continue to evolve.

It appears from newsletters and word on the street that the on-farm slaughter issue will become the focus of some farm advocacy groups and their supporters in the upcoming months. It may be pursued as an independent issue or part of the "Food Sovereignty" movement. Both issues are good vehicles for political activism but require close examination on the facts and underlying issues. Upon further examination it may be discovered the request for policy changes may not be advisable.

# Memo



TO: Governor Peter Shumlin  
FROM: Keith W. Flynn, Commissioner  
DATE: 11/15/11  
SUBJECT: Governor's Report

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## STATUS OF THE GOVERNOR'S PRIORITIES

**Correctional Recidivism-** Implement a sustained interdepartmental approach to reduce recidivism and the overall need for corrections resources. Invest corrections savings into early childhood education.- Planning a meeting with Commissioner Palito to discuss the value of Impaired Driving Courts as part of a comprehensive plan to reduce recidivism.

**State and Government Employees-** Improve the effectiveness of state government by support of a motivated and healthy workforce through greater accountability, performance measurement, and focus on customer service. – We are working with our Finance area to develop a web based training for all sub-grantees relating to DPS grant policy. In addition, we are also continuing to build our centralized grant management protocol.

**Safe Communities/Strong Schools-** Prioritize our resources to ensure our children's future in safe, prosperous communities, thereby supporting improvement in performance and economic sustainability of our schools.- Working with the Governor's Highway Safety area to better get our message to high school students of the dangers of alcohol/drug impaired driving.

## DIVISION ACTIVITIES

### **State Police**

**A Troop – BCI**    □ Suspect interview completed on South Burlington sex assault, male National Guard members at yellow ribbon party admitted to having sex with a female friend after she passed out due to alcohol. He will be flash cited this week.

**B Troop – Field Force**    □ Lyndon Mother found sexual recording of her 14 y/o daughter and learned her daughter had been raped for the past 2 years by mom's boyfriend, who also forced the girl to engage in child pornography. Benjamin Weisinger was arrested and lodged.

□ Intel received on possible meth target in Island Pond. Contacting possible helper and locating target residence.

### **NORTHWEST UNIT**

□ Worked on information received on a possible load of 10 grams of heroin to St. Albans.

### **Diversion Unit**

□ Report of a male subject in Bennington County getting prescriptions from eleven (11) different doctors also using many pharmacies. Case referred from Commissioner of Health. We have learned that the Accused here is now seeing a suboxone doctor in New York.

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### **Fire Safety**

- Boiler decal and electrical work notice revenue for the quarter 7/01/2011 – 09/31/11 was down compared to previous years. Research of the program funds history was done and although low for the quarter these programs were well on target in comparison with calendar year total. Some short fall on electrical work notice receipts may be contributed to Irene.
- We received 17 new state of the art computers which are being distributed to office users.
- Three administrative fine appeal hearings were conducted and resolved at this level.
- The Homeland security coordinator position closed yesterday 6 applications were received and will be reviewed tomorrow.
- On November 5, Joe Benard investigated a fire in Rutland involving a house where the basement was flooded. The owner was trying to get heat into the building with a faulty damaged heating system that had not been serviced. Damage estimated at \$100,000.00
- On November 1, Joe Benard investigated a fire in Winhall involving a vacant second home. The house was destroyed and the fire was intentional. This is just one of the many fires in the Londonderry area this year.

## Vt. Criminal Justice Services

### Marijuana Dispensaries

Still working on the dispensary rules and will be working on getting a draft ready for circulation. We have a meeting scheduled with Virginia Renfro who represents the HIV community. She wants to participate as part of a group to review and provide input on the rules. We compiled the results of the marijuana survey. On its surface I think it may be controversial. An example is the answers to the first question which seems to indicate that people are using marijuana for a variety of illness or symptoms that may not be lawful. Individual patients may have answered this question based on what they perceive their illness to be and the benefit marijuana has on them, not what their physician has identified as their lawful illness. We are going to compare this question against the application forms that identify the "debilitating illness" a patient has. We are then going to prepare a narrative report to explain the results. The raw data from the survey is attached.

### Dispensary Survey Analysis

#### **What Would You Consider A Reasonable Price Per Ounce (Optional)**

Response	Count
\$0-\$50	23
\$51-\$100	42
\$101-\$150	22
\$151-\$200	38
\$201-\$250	12
\$251-\$300	13
\$301-\$350	4
\$351-\$400	1
\$401-\$450	1
Sliding Scale	8
No Response	39
Free	3
Affordable for Fixed	1
Don't Know but low	6
Don't Know no insur comp	1
Going Price	1

### All Felon Arraigned DNA sample law

The arraignee program is moving slowly. We have received ~73 samples as of Nov. 4<sup>th</sup>. Of those 51 have been processed and entered into CODIS. There have been no matches generated in CODIS. A number of those ~20 not shown as processed already

had an entry as an offender, those were not re-tested. Others have had problems (no signature or fingerprints or just swabs with no identifying information). If the court paperwork is missing we contact the submitter to request the paperwork or the docket number and will then look it up.

As a reference point, we get 100 to 120 convicted offender samples per month, presumably many more folks are arraigned on qualifying crimes in that period.

### **Vermont Criminal Information Center**

We continue to struggle to recover from Irene. The displacement of their staff and telephone problems are significant and adversely effects customer service. T

Backlogs in criminal history disposition reporting and fingerprint supported requests for criminal records exist. Disposition reporting is about 10 weeks behind and fingerprint supported criminal records are approximately 8 weeks behind. Generally, a 4 week backlog is acceptable.