

# WEEKLY REPORTS

Checklist

1/21/2011

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: \_\_\_\_\_

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**To:** Governor Peter Shumlin  
**From:** Lawrence Miller, Secretary, Agency of Commerce and Community Development  
**Date:** January 21, 2011  
**Re:** ACCD Weekly Report

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**Status of Governor's Priorities:**

We are hearing of exciting business expansion, renewable energy and other business relocation projects. Most in the early stages but potentially very good news. Some listed below.

**Legislation:**

**House Commerce:** We are being asked to comment on H.21: An Act relating to Uniform Limited Cooperative Associations. We are working on a bill review.

**Joint House Commerce and House Education meeting:** Pat MP testified on workforce development generally and the Vt. Training (VTP) Program this week. Appeared to go well. There are changes we need to make in the VTP statute. They are in a draft "jobs bill" list.

**Jobs Bill:** We have a DRAFT list to Bill Lofy and Jeb Spaulding for review to see if we are on the right track. We need more time to coordinate with other agencies, limited thus far. We have reached out to partners for ideas.

Jen prepared information for and attended the **Senate Economic Development, Housing and General Affairs** Committee's discussion on per unit housing costs. Secretary Miller attended as well, but did not speak due to time constraints.

**Evolving Issues:**

- Jen represented ACCD at the Joint Committee on Tax Credits meeting and public hearing on changes to the state's Qualified Allocation Plan. The QAP guides the allocation by Vermont Housing Finance Agency (VHFA) of Low Income Housing Tax Credits (LIHTCs) which finance much of the state's affordable housing development. Changes to be recommended by the Committee to the VHFA Board include creating incentives for projects that set aside 10% of their units for the homeless, are 100% smoke-free or achieve a higher level of energy efficiency than is currently required. The committee also acted to preserve the incentive to locate projects in designated downtown or village centers.

**Brownfields**

- **New Funding Opportunity:** We are eligible for additional EPA Brownfield remediation funding to supplement our existing revolving loan funds (RLF) because we have a demonstrated ability to get the funds out into communities. We have approx. \$400,000 left in the existing RLF with plenty of projects in the pipeline. Kiersten Bourgeois, who administers this program, plans on applying for about another \$500,000. We have large clean-up projects in Springfield.
- **J&L Plant One, Springfield:** We are finalizing a grant agreement with Springfield Regional Development Corporation (SRDC) for a \$175,000 sub grant to help remediate a portion of the J&L Plant One property. The Southern Windsor County Regional Planning Commission (SWCRPC) is contributing another \$400,000 toward the clean-up of this property. For decades, this site has stood vacant with no activity (clean-up or otherwise) and through our RLF, we will be able to jumpstart the clean-up and eventual redevelopment.

**Project Updates**

- **Pete's Greens:** NVDA hosted a meeting for Pete Johnson and included nearly 20 state, federal and private sector representatives to share their programs/services. Pete was extremely pleased with the level of. VEDA's Vt. Ag.

Credit Corp (VACC) program will most likely assist (VEDA board considered today, expected approval) with further support being provided by the community in the form of a loan (apparently, a local business owner has solicited funds totaling about \$250K that will be loaned to Pete at favorable terms). Pete employs 18 during the peak season.

- **Swan Valley Cheese:** Kiersten Bourgeois continues to work with this new company to resolve last minute surprises. There is hopefully nothing preventing them from opening sometime in February. As background: Chris Lotito purchased the former VIA cheese facility in Swanton and is planning on hiring about 40 people. The new entity, Swan Valley Cheese, will provide cheese (asiago, mozzarella, etc) to another company that Chris owns in NJ. Lotito supplies all of the cheese to the Darden Group, which owns Red Lobster, Olive Garden, Cap Grille and other national chains. Swan Valley will eventually produce cheese that will be sold in Vermont.
- **Barre Downtown Redevelopment:** Kiersten met with the City Manager of Barre, the City Planner, representatives from the CVRPC and others to hear about Barre's ambitious plan to redevelop the a part of its downtown from Granite Street to Prospect Street (roughly).
- **Orbit Energy:** A biomass company from North Carolina is interested in locating on the land adjacent to the Springfield prison. This is very preliminary; they were interested in the SPEED/Feed-in tariff program, the availability of organic waste and financial assistance. One thing that Kiersten learned is that the Town of Springfield never took title to the land that the state (part of the deal to site the correctional facility in Springfield) gave them next to the prison to use for development. BGS will transfer it whenever Springfield is ready, but the Town didn't want it immediately following the prison project.
- **Commonwealth Dairy:** This new facility in Brattleboro is nearly complete and we continue to wrangle over where the best place is for a whey digester. Commonwealth needs a place to dispose of their whey waste and have considered a variety of options – some in concert with Grafton – but a final decision/option hasn't been selected. In short term, Commonwealth has a deal to transport some of the whey to NY. It is an extremely costly option, but the only one available at this time. Kiersten has been in constant contact with AGR on this.

#### **International Trade**

- **Education VT USA:** Ali Sarafzade, Intl. Trade Director, has formed a Consortium of colleges and private schools added to promote Vermont schools and communities as a destination of choice in international markets for parents, students, international agents and recruiters. Almost 99% of Vermont colleges and private secondary schools are represented. You can visit our website at [www.educationvermontusa.com](http://www.educationvermontusa.com) which is still under construction. Ali will be reaching out to the Commissioner of Education to discuss potential synergies.
- **Ali** is working with several Vermont businesses assisting with their trade regulatory issues. Very successful.
- **Leahy Earmark:** Ali received final approval from the JFO and is in the process of fine tuning the administrative requirements, contracts, and grant applications required for execution of the Earmark. The Earmark will make available funds and support to Vermont businesses increase exports by providing ...
  - Customized compliance audits
  - Supplemental training grants for export related online training
  - Exploration of new markets and use of Dept of Commerce Gold Key matchmaking services
  - Trade show participation
  - International credit reports and due diligence assistance
  - Access to international trade databases

#### **Vermont Training Program**

The program is working with 28 existing businesses on training needs. Not all may result in contracts but we are talking.

### **VT Procurement Technical Assistance Center**

- Our Procurement Technical Assistance Program (PTAC) staff are preparing for the upcoming Vermont Matchmaker Event in Burlington on February 24<sup>th</sup>. The Governor has been invited to speak, awaiting reply from Erika Wolfing.

### **Housing**

- **2010 Mobile Home Park Registration** – We filed a Small Claims Complaint against Chris Denio for the East Mountain MHP in Bennington that he has not registered as required with us.

### **Historic Preservation**

- **Vt. Council on Native American Affairs (VCNAA):** A press conference was held Wednesday with Commission members and the legislative committees assigned to review Commission approved applications for state tribal recognition. The Senate Committee on Economic, Housing, and General Affairs had approved of two applications prior to the press conference; the Nulhegan Band of the Abenaki, and the Elnu Abenaki. The applications will now be sent to the House Committee on General, Housing and Military Affairs for their approval. This is the first time in the history of Vermont that Native American Tribes will be granted recognition, giving them the ability to sell their crafts as Indian made and to take advantage of Title VII Indian Education benefits. Commission meetings have been scheduled throughout the state for the next five months and will include a public forum prior to the monthly meeting. Information concerning the Commission and their activities can be accessed at <http://vcnaa.vermont.gov>
- **Agency of Agriculture/Tourism Partnerships:** The Vermont Department of Tourism and Marketing has formed a formal relationship with the VT Agency of Ag to maintain out of state dairy promotion beginning in the summer of 2011. The VT Agency of Ag and the Dairy Board has committed \$50,000 to the promotion of Vermont Dairy in out of state markets.
- **Vermont Fish & Wildlife/VDTM:** Commissioner Smith and Deputy Commissioner Cook will meet with Commissioner Berry from Fish & Wildlife to discuss future collaborative promotion of hunting, fishing and the Vermont outdoors.

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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:** January 21, 2011

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**Status of Governor's Priorities:** Too early.

**Legislative Issues/Contacts:**

Jim Leland, Director Ag Resource Management Division - provided testimony to House Fish and Wildlife and Senate Ag regarding two bills related to composting and the Accepted Agricultural Practices. The goal of both bills is to exempt commercial composting operations on farms from local zoning/permitting and review. The vehicle to achieve this is currently to declare these activities "accepted agricultural practices". Testimony covered the unintended consequences of this approach and offered some other ways to accomplish the goal. Generally speaking, composters are in favor of these bills, state agencies oppose the bills as written as does the Vermont League of Cities and Towns.

Dan Scruton, Dairy and Energy Chief, testified before both House Ways and Means and House Agriculture on the agriculture section of the fee bill. The agriculture section of the fee bill requests adjustment of the fees within the dairy section for licenses, registrations and corresponding late fees. All questions appear to have been answered and the bill will likely move out of House Ways and Means Today, Friday January 21, 2011

Randy Quenneville met with the House Ag committee this week in relation to H.52: An act relating to the definition of poultry products. The position of the Agency that was relayed was that since the USDA Food Safety Inspection Service (FSIS) will no longer allow federal funds to be used for inspection of animals that are federally non-amenable (i.e. quail/pheasant/partridge), based on budget and staffing constraints, we reluctantly choose not to oppose the initiative to drop inspection. It was also relayed that we require that restaurants must indicate birds have not been inspected. The VT Dept. of Health took a position of not supporting and not opposing the Bill, but did support the requirement that restaurants indicate birds have not been inspected. If this were to pass, if the plant wanted inspection, they would have to pay a two hour minimum inspection cost to cover the cost of inspection services.

**Press Issues/Releases/Contacts:**

Press Contacts:

- McDonald's and the maple regulations: WCAX, Fox 44, WPTZ, AP, VPR
- Pete's Green's - WCAX, WPTZ

**Significant Events/Meetings:**

- Agency veterinarians corresponded this week with Department of Health and UVM extension food safety employees regarding the development of a Food Safety Task Force that would engage industry, regulatory officials, academicians, etc in discussions related to food safety issues in Vermont. By

bringing this group of people together, the intent would be to be proactive rather than reactionary on these issues. The cost associated with organizing the Task Force would be covered by a federal grant.

- VAAFM Consumer Protection staff met this week with the president of WinWam, which is the computer software that is being implemented for use by the section's field staff for the inspection of weighing and measuring devices, scanners, etc. This software will allow Agency management to accurately track the metrics that accompany these inspection tasks (i.e. number and type of inspections, inspection time, mileage, travel time, etc.) It will also allow for the tracking of the economic impact to Vermonters when they are short-sold commodities such as heating fuel and gasoline, thus highlighting in an accurate way the importance of inspection of these commodities.

Vermont Farm Show January 25, 26 and 27 at Barre Auditorium

- Agency of Agriculture will be heavily involved in this event. Luncheons will be held by Vermont Maple Sugarmakers Association, Vermont FFA and the Vermont Dairy Industry Association

### **Evolving Issues:**

- There was an incident involving slaughter facility in southern Vermont, and an action that could be construed as a threat to a state employee in the performance of his duties. A letter has been sent to the owner of the plant, from the VT Sec. of Agriculture. The USDA FSIS was also notified of the action, since this slaughter facility is under federal inspection. We have not had any further communication from the USDA FSIS concerning the matter since our initial communication.

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

#### **Ag Development**

Farm to School day at the Statehouse. Four different schools were recognized this week for their implementation of Farm to School grants to bring more locally produced vegetables into their school lunch program. The purpose is two-fold, increase purchase of locally grown food and to improve student health through the consumption of fresh vegetables. The Agency of Agriculture administers this grant program and support the Farm to School program through partnerships with Vermont FEED.

Act 250 - Castleton State College's Act 250 application presents a novel issue involving mitigation of impact to primary agricultural soils. Agency's Brendan O'Shea, who works part-time, can provide more detail. He is out of the office for two weeks.

#### **Public Service Board**

- The Agency will be executing a stipulation today or early next week with a solar project developer for the construction of a facility on a farm in New Haven.
- Pending cases for bio-mass facilities proposed for Pownal and Fair Haven raise an interesting jurisdictional issue on the inter-relationship between A250 and Section 248 proceedings. Various state entities are involved, including ANR, AAFM, VTrans, and the DPS.
- There is a new proposal for a solar project in Sharon that may impact primary agricultural soils.

Dairy - Press release provided by Dairy Farmers of America indicates an objection to the settlement proposed by Dean Foods by Dairy Farmers of America, Dairy Marketing Services and independent dairy farmers. A quote from the press release is shown below.

"We objected on behalf of our members because the attorneys for the entire class of dairy farmer plaintiffs have favored one segment of the class while it penalizes another segment," said Brad Keating, chief operating officer for DFA's Northeast Area. "As the milk marketing entity representing many of the members of this class, we have a responsibility to ensure their interests are fully considered."

The Agency will track this settlement and objection to determine its effect on Vermont dairy farmers. Insufficient information is available at this time to make that determination.

Maple Terroir – Henry Marckres participated in a conference call on Friday, Jan. 14 to discuss the project being done with UVM on maple flavors and off-flavors. A contractor has developed a tool for producers and consumers to use in identifying the grade of syrup and characteristics associated with that grade as well as potential off flavors. The flavor wheel is being worked on, and will be available in the spring.

### **Food Safety and Animal Health**

- The Animal Health Specialist covering Addison and Rutland counties has followed up this week on an incident involving importation of cattle into Vermont without the appropriate disease testing certification. This poses a threat to the state's livestock population and potentially to public health, and these actions are not tolerated. The animal health section has developed an enforcement matrix to guide the assessment of administrative penalties, and this matrix will be utilized in this case and others like it.
- State veterinarian and meat inspection staff provided technical assistance this week to a Vermont cervid producer who will be importing untested cervids direct to slaughter over the next 4 to 5 months. Because these animals will be coming into Vermont without the otherwise required disease testing, there are additional precautionary measures that must be taken in order to assure that the state's captive cervid populations and the native ones are protected.
- Animal Health Specialists have received this week more than 5 livestock animal welfare complaints that have required follow up including visits to farms. The majority of these complaints involve livestock being kept out in inclement weather or having unacceptable body condition scores.

### **Meat Inspection Points of Interest**

#### **Inspection:**

- Investigated 2 cases of the sale of uninspected meat products in Wilmington, VT. These products were found during retail inspection by a Food Safety Specialist
- Healthy Living has requested a hearing to reopen their case, since the receipt of their Final Order.
- Champlain Valley Meats has applied for a license.
- The on-site audit of the Vermont meat inspection program has been scheduled. The civil rights portion will be on April 5, 2011, and the 2 week audit will be April 18-29.

### **Regulatory Agriculture Resource Management**

- Pre-hearing conference with the Mr. Mack from Charlotte regarding an administrative penalty imposed for not having a nutrient management plan. The farm is a medium sized farm and is required to have an up to date nutrient management plan. The proposed settlement will require Mr. Mack to submit a complete nutrient management plan by April 1st and pay a penalty of \$250.
- Ongoing discussions are occurring internally regarding the most appropriate role for food processing residuals being used in on farm digesters. There is more and more demand for these residuals to be utilized on farms for power production. Issues include land base to handle the nutrients, storage capacities and the interaction of Ag rules and ANR rules.

**Secretary's Commentary:**

**EB5**

- Met with Sec of Commerce, Bill Stenger and AoA personnel discussed biodigesters
- Agreed to run biodigester cluster project thru REMI to test for job creation or retention

**UVM Food Systems Spire -**

- Met with group at Grafton to discuss UVM Food System Spire initiatives
  - Agency of Agriculture will be a partner designing this initiative

**JOBS Bill**

- Met with Ellen Kahler from VT Sustainable Jobs Fund to discuss initiatives for the JOBS bill.

**Legislature**

- Met Senate Ag to for confirmation hearing. Issues raised included dairy co-ops needing to be more innovative – how would secretary encourage and Dean Foods and their effect on VT farmers. Vote 5-0 to confirm.

**External groups**

- Attended VEDA Board Meeting

**Executive Privilege**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Brian R. Searles**  
**DATE: Friday, January 21, 2011**  
**SUBJECT: VTrans - Confidential Report to the Governor**

**Status of Governor's Priorities:**

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**Issue Update:**

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**Evolving Issues:**

- **Connecticut River Transit – Bus Wash:** In 2008, Connecticut River Transit (CRT) received an earmark for construction of their facility. They bid out the project, and the bid package included construction of a bus wash. The low bid for the bus wash portion of the project was \$104,000 and was good for 60 days. Unfortunately, due to the cost to complete the rest of the facility, the project ran out of earmark funds so the bid for the bus wash was not accepted and the work was not done.

In 2010 (State Fiscal Year 2011), CRT was awarded capital flex funds through a VTrans grant to install a bus wash in their new facility. They were awarded \$183,000. The work was completed in 2010 and invoices were submitted for reimbursement. VTrans approved two invoices and issued payments to CRT. However, the third invoice raised a lot of questions which lead to an investigation of their process. Upon further investigation, we discovered that in fact CRT never issued a bid for the 2010 work. Instead, they relied on the bid from 2008 – that had expired long ago – and selected that low bidder to do the 2010 work. In addition, they dramatically changed the specifications of the bus wash from what was used in the 2008 bid.

In summary, we have an expired 2008 bid for a system that is substantially different from the system actually installed in 2010. We have an 80% cost increase without justification or change orders. We have no cost comparison done between the 2010 work and the 2008 bid, and no documentation that any part of Bulletin 3.5 was followed.

The end result is that none of this 2010 work is eligible for state or federal funding. We have recovered the state funds already, and will recover the federal funds by adjusting the amount of their next quarterly payment. In addition, we will be notifying CRT via letter to their management and Board of Directors (who have already been notified of the situation) that the work is ineligible for either state or federal funding because they did not follow regulations. Their Executive Director has advised she will be at an event where the Governor is anticipated to be, and she plans to approach him about getting state funds to pay for this.

Note that CRT had done successful procurements before, so they were on a “check them annually” basis and to date we had not experienced problems like this. VTrans Public Transit Section staff have indicated there was a somewhat recent change in management which may be partially to blame. Obviously our level of scrutiny of CRT operations has been increased substantially after this experience.

- **Diamond Run Mall Sign:** We are reviewing signage at the intersection of Rt. 4 and 7 in Rutland Town from a safety perspective. It appears there has been some confusion on the part of drivers who were not aware that the road directly across from Rt. 4 is not a continuation of that road but rather the Diamond Run Mall Road. This confusion has apparently contributed to a number of accidents, at least two involving trucks who continued through the intersection and on to the Mall access road. I have asked our traffic safety staff to recommend a signage solution to this problem to be instituted as soon as possible that clearly delineates the existence of the Diamond Run Mall Road for traffic approaching from Routes 4 and 7.

**Agency /Department Requests:**

**Legislative Contacts:**

**Ideas:**

**General Information/Other:**

- **Snow & Ice Policy:** For nearly 20 years the policy of the state has been “safe roads at safe speeds”, with an emphasis on keeping all roads open and passable as opposed to a “bare roads” policy. Although I think the policy is well-founded, it has come under some scrutiny in the legislature this year primarily because of the continuous nature of snowfall for the past six weeks or so. We have decided to take a look at the strategies in use to implement the policy with an eye toward tweaking the practices if it contributes to safety. We will keep in mind the deleterious effects of salt and sand on the environment as we find the balance between safety, cost and environmental protection. One of the key elements of any review of snow-fighting practices is to determine what the policies and procedures of neighboring states and our own communities are so that we can be sure that drivers aren’t facing drastically different

road conditions on the same trip. We will not be making a story of this review and any changes will be implemented without fanfare, unless you feel differently.

- **Cost of January 12th Storm:** The estimate of the cost of this storm, which was aired on WCAX, was \$1 million. The final cost was \$1,177,000 which included cleanup activities through January 14<sup>th</sup>.
- **Wind Turbine Transport Issue:** EW Wylie, a North Dakota transport company, has been creating an issue moving components of commercial wind turbines through Vermont entering in Waterford and exiting in Fair Haven. Over the past several weeks there have been approximately 5 overhead traffic lights that have been broken or completely knocked off the wires leaving no traffic safety device. These occurrences have been on RT7, RT 22A at Addison Corners, RT 15 in Essex and F5 in Charlotte. There are approximately 60 loads of wind turbines that are being transported through the state; these components are as high as 16' 2" and believed to be causing the problem. At this time all oversize permits for the hauler, EW Wylie are being denied until the damage can be assessed and fixed as necessary. The loss of these lights has a significant effect on the safety of the general motoring public.
- **DMV Mobile Van Damaged:** On Wednesday January 19<sup>th</sup>, our Southern Mobile Van was approaching the Putney exit on I-91 southbound when it was involved in a crash. A jeep was passing to their left and turned back into the snow covered travel lane prior to completing the pass. The DMV vehicle struck the jeep between its front passenger and back passenger doors, causing both vehicles to spin out of control, striking guard rails on both sides of the highway. The DMV employees were shaken but at this time we do not expect to have any lost work time. Early estimates are that our 3-week-old truck has received about \$15,000 worth of damage.
- **VTA – Connect Vermont:** We are working with Sec. Miller to sift through the complicated web of players in the broadband picture in Vermont to facilitate a smooth way forward toward your goal of statewide access to highly functional I.T. services. There has been a history of tension and most seems to be, ironically, a lack of communication. We will fix any potential obstacles so that this goal can be realized on the earliest possible time line.

To: Governor Peter Shumlin  
From: Commissioner Annie Noonan  
Re: VERMONT DEPARTMENT OF LABOR WEEKLY REPORT  
Week Ending January 21, 2011

Labor Market Information:

The LMI press release is ready and being forwarded to you for review. The unemployment rate will increase by a tenth of a percent; from 5.7% to 5.8%. Increase is due to more individuals returning to the labor market seeking work, before they actually secure work, in anticipation of an improved economy.

Legislative Issues:

A conference call with John O'Kane, Workforce Development Council Chair, was held on 1/18 regarding the joint meeting of House Education and Commerce meeting (held 1/20). In that conference call, we discussed the concept of the WDC engaging in more active role for determining grant money recipients. The executive committee of the WDC is being called in to meet (2/8) in anticipation of the work requested of them.

VDOL invited for meet and greet with HGO 1/19; to joint House Ed and Commerce meeting (1/20), to respond to the 'walk through' on a UI and WC bills in Senate Economic Development (more on this in separate memo); and a meet and greet with House General (1/21). Most pressing legislative issue: Reviewing the 2 bills and the discussion from the committee on the UI and WC bills in SED.

UI & Wages Division

UI Trust Fund: Total amount borrowed as of 1/19/11 is \$45,471,508.84.

Workshop for Returning VT National Guard 1/21 Rutland and 1/26 West Lebanon

Call Center statistics for the week ending 01/15/2011: the center handled 4,715 calls; processed 1,600 initial and additional claims, and paid 15,467 claimants. Our average call wait period was 10:00 minutes. The employer line wait times continue to be less than 10 minutes.

Wage & Hour highlight: USDOL sent VDOL a series of Wage & Hour cases that did not fall into federal guidelines. Unit agreed to handle the claimants that were not eligible under FLSA, but which were under Vermont Statute. Program Integrity Unit: Cross-training between Unit and DOL regional office staff.

Computer/IT Division: Upgrades are needed for the Unemployment Claims Center application, which supports and processes all of the unemployment claims for the State of Vermont. Eighteen months ago, Vermont applied for and received federal funding to cover all the costs, but the money needs to be obligated by September 30, 2011. VDOL staff and DII have had ongoing discussions to determine if it made sense to migrate our application under the DII umbrella or to keep it separate. At the end of this lengthy discussion, it was agreed to remain separate at this time, and look at DII hosting in the future. I have been advised that the VDOL IT Chief would like to do a sole source request to have First Government Data Solutions (FGDS) do the work, since they have and continue to provide support, licensing, etc., for all Claims Center applications. We will discuss this request with Secretary of Administration Jeb Spaulding and anyone else you suggest.

Worker's Comp & Safety Division: Prepared a Stop Work Order for *West St. Dairies* which was signed Wednesday evening, and SWO will likely be served on owner today. We have also prepared a stop work order for Starr trucking companies in the Northeast Kingdom, signed today, but to be served next week. Both SWO's discussed with Bill Lofy this week for a 'heads up'. Dairy farm raises the question of need to adjust statutory language (concerns for care of livestock). We will be preparing memo for administration's review.

VDOL conducted an inspection at Kennemetal in Lyndonville, and there will be citations for unguarded machinery. An employee was injured on the machine and was then fired, so there will also be a discrimination case opened next week. VDOL conducted Hazard Communication training for AOT employees and managers at the Traffic Shop in Montpelier. VDOL engaged in conversations with Agency of Agriculture on hazardous chemicals in maple syrup industry. VDOL

is moving forward with the Governor's Workplace Safety Awards program. VDOL staff received Health Operations emergency call-out exercises warning for next few weeks.

VDOL received an email from Rep. Willem Jewett offering to assist in developing a new method of calculating the ski area tramway inspection fee. Rep Jewett received an e-mail from Peter Mackey, (GM of the Middlebury Ski Bowl). We have responded that VDOL will put together some ideas for a mutual discussion. Seven Days did a story on Tramway inspections, interviewing a VDOL employee (cleared through Bill Lofy).

Workforce Development Division and Workforce Development Council:

VDOL is making every effort to stay in communication with Suss Micro in Waterbury Center regarding the plant closure in March. We are working with a few employees who have already been released. We are closely following a Trade Petition that was filed by Suss employees. No determination has been made on the petition. We are prepared to conduct Rapid Responses at anytime and are making every effort to stay on top of the situation. VDOL, VSC and VTC are meeting with IBM to assist recruiting and training maintenance technicians. VDOL attended Vermont Refugee Resettlement Program monthly Service Providers Network meeting to review changes in the UI benefits program, including filing online, which is difficult for a number of clients but particularly for non-English speakers. VDOL investigating effective solutions.

Other:

Budget narrative was due on Tuesday; IBM meeting on Thursday; recommendations for the Jobs bill; preparing for the 'info sharing' meeting requested by VDOL to all other state agencies and departments with workforce development money (meeting is 1/28/11 at DOL). Meeting with Commissioner Obuchowski on 1/27 to discuss joint issues with WC programs.

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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: January 21, 2011**  
**Subject: ANR Weekly Report**

**Status of Governor's Priorities:**

- Resolving VTA Licenses/Leases for Grand Isle specifically and an MOU for general process/standards with DII and other state agencies
- Initiated discussions about Lowell Wind Farm
- Vermont Yankee – Staff testified before Public Service Board about discharge and stormwater permits/compliance. Drafted comments to the Nuclear Regulatory Commission regarding its January 11, 2011 Letter Report.

**Legislative Issues/Contacts:**

- Testified on H. 13 Deer Doing Damage
- H.9/ S.8 – Composting; Coordinating with Agency of Ag

**Press Issues/Releases/Contacts:**

- ATVs on State Lands – Recission of Rule; BFP 1/20 and others on 1/21
- Discussed F&W Board reconsideration of Muzzel loader season extension

**Evolving Issues:**

**Hartford Wasterwater Treatment Facility Permit** – EPA overfiled due to disagreement about Nitrogen parameters of permit. Hearing scheduled for 1/12 postponed due to weather. Likely to be rescheduled for 2/17.

This permit may be precedential regarding Vermont's approach to addressing its contribution to nitrogen loading in Long Island Sound and that TMDL process.

**De-delegation of NPDES Permit Program** – CLF has petitioned EPA to take over program due to prior failings of ANR to meet Clean Water Act requirements. ANR working to resolve issues. De-delegation would mean significant loss of federal funds and loss of control for Vermonters to EPA.

**Lake Champlain TMDL Decision likely 1/25** – Probable remand to Agency to redo Total Maximum Daily Load (TMDL) to address and consider climate change impacts.

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## Summary of Key Agency Department Activity

### Environmental Conservation

**Vermont Yankee Drill** – Completed a two day exercise for the possibility of an accident at the Entergy Vermont Yankee facility. ANR is contributing considerable resources to the effort, both in the initial phases of plume tracking/dose assessment and post plume assessment and reentry.

**Champlain Marina:** On January 10, 2011, the Vermont Environmental Court issued an Order approving an expansion of the Champlain Marina Inc.'s dock system in Malletts Bay. The permit we issued under 29 VSA Chapter for the expansion was appealed by neighbors.

**Clean and clear.** We are trying to think about new ways to talk about Clean and Clear. If you have any ideas for a new name please let us know! (It can't focus exclusively on Lake Champlain since the program primarily addresses the Champlain watershed, but does not do so exclusively.)

### Forest, Parks and Recreation

**State v. Inkel** - Court ordered mediation failed to result in settlement and the matter is presently in the discovery phase with trial schedule to commence as early as May 2, 2011. This involves violations of the Heavy Cut law (the state alleged 11 violations) as well as violations of AMPs. Maximum statutory penalties could amount to more than 1 million dollars. The heavy cut was more than 450 acres and is the largest ever in the state. \$8,300 has been expended on his review of the matter. The AG's office estimates that an additional \$10,000+ will be required to proceed with preparations for depositions and trial and actual testimony in court. All expenses associated with litigation handled by the AG's office is paid by the Department.

**Current Use.** The Current Use Advisory Board met to discuss the recommendations of a rate for the coming year. FPR is responsible for calculating for the Forestry UVA portion of the rate.

**New England Conference.** Vermont is hosting the New England Society of American Foresters annual meeting this spring in Fairlee at the Lake Morey Inn.

**Farm and Wilderness.** We expect that a three month extension will be granted from the U.S. Forest Service regarding a Forest Legacy application for the Farm and Wilderness property in Plymouth. We are close to finalizing the terms of the conservation easement that would be the basis of this project.

**Duxbury land sale.** We will be working with BGS on the possible sale of state lands in Duxbury that have been deemed surplus including the “Father Logue’s Camp” property owned by BGS and two nearby parcels owned by FPR. We will need to meet with the Town of Duxbury and the Duxbury Land Trust to determine their interest and/or support of any disposition of these lands and currently intend to seek legislative approval for disposition of these lands during the current legislative session.

### Fish and Wildlife

**Yankee Sportsman’s Classic:** This annual event was very well-attended and is an excellent venue for the Department to promote hunting and fishing opportunities in Vermont. Almost \$9000 was brought in by license sales. The Governor’s presence was greatly appreciated!

**Raven Ridge:** Department staff continued conversations with TNC to develop the Raven Ridge Management Plan. Conversations were had again with landowners and hunters in the area, including Patrick Sonera, regarding training of dogs.

**Deerfield Wind Project:** Staff reviewed the Green Mountain National Forest’s Deerfield Wind Project WSDEIS and developed comments regarding impacts to bats for ANR legal staff for an Agency submission to the GMNF.

**Shad Passage:** A meeting has been planned for January 26 with First Light Power and state and federal fisheries agencies to discuss plans for improvements to upstream fish passage at Turners Falls. The existing complex of three fishways has been a bottleneck to shad passage up the Connecticut River, and the Cabot fishway is proposed to be replaced with a fish lift prior to relicensing.

**Lampricide Toxicity Testing:** Staff worked with the USGS Upper Midwest Environmental Sciences Center in Lacrosse Wisconsin (UMESC) to finalize a proposal to the Great Lakes Fishery Commission (GLFC) to conduct lampricide toxicity testing of young-of-year juvenile black sandshell mussels. UMESC provides technical assistance to the Great Lakes and Lake Champlain sea lamprey control programs. The cost of this work will be covered entirely by GLFC funds.

### ANR Administrative Services

**Human Resources/Personnel** – We agreed to settle the Jens Hilkes matter. We authorized HR to reinstate Jens into his former limited services position and to make him whole with respect to lost wages and leave time.

**Hiring Freeze.** We will be meeting with Molly Paulger and Michael Claussen to come to a conceptual agreement about ANRs contribution to the hiring freeze so that we can move ahead on critical hires (all of our seasonal employees and federally funded positions – plus a few critical generally funded positions.) ANR has already lost 14% of its workforce over the past 3 years (88 employees) so we do not have much flexibility left.

# Memo



**TO:** Governor Peter Shumlin  
**FROM:** Keith W. Flynn, Commissioner  
**DATE:** January 21, 2011  
**SUBJECT:** Governor's Report

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

Too early to determine

## **Issue Update**

DUI- legislation still in the discussion stage

Prescription drug problems- discussions involving greater law enforcement access to electronic records to combat prescription drug abuse.

Police Academy status- discussion with Senators Sears, Cambell and White as well with Representatives Lewis and Representative Acinapura relating to Administration of Academy being accomplished by DPS.

Marijuana- decriminalization discussions with Representative Lorber.

## **Evolving Issues**

Marijuana decriminalization  
Prescription drug abuse  
DUI and Attempting to Elude

## **Agency/Department Requests**

None at this time

## **Legislative Contacts**

### **1-18, Tuesday**

Senate Judiciary – Colonel L’Esperance, Commissioner  
Public Inebriate program and prescription drug abuse

House Institutions – Jeff Wallin (VCIC Director)  
Introduce to Committee members

Senate Institutions – Commissioner/Eric Buel/John Wood  
New Lab building & Firing Range

House Judiciary – Commissioner Flynn  
Introduce self and Meet the Committee

### **1-19, Wednesday**

Senate Gov Ops - Commissioner  
Introduce self and Meet the Committee  
1-20, Thursday

House Gov Ops – Colonel/Commissioner  
MOU for Fish/Game, Liquor Control, Dept. Motor Vehicles

Discussion with Senator Flory- re- Police response issues

## **General Information/Other**

### **Criminal Justice Services**

The Director spent a considerable amount of time this week finalizing the Law Enforcement Advisory Board's annual report. This report was vetted through the board members seeking concurrence of the report's findings. The report was distributed electronically late Thursday afternoon to the legislature.

The 164 split letter to utilize the 164 federal funds for alcohol enforcement and hazard elimination purposes has been signed and will be forwarded to the proper federal agencies.

### **Vermont Emergency Management**

Activities to include transition of new Director, observation of Vermont Yankee drill in Brattleboro, site visit of Brattleboro office, monitoring of multiple weather events as well as daily updates from duty officer reports. Several meetings with various vendors regarding new EOC equipment and configuration. Budget discussions and outreach to state partners. Daily brief from FEMA Joint Field Office. Discussion with state partners with respect to Reduced Workforce/Emergency Closing Procedures (weather related).

### **Fire Safety**

Working on the consolidation plan for Rutland and Springfield Regional offices we would like to relocate to Ludlow area, if possible. We are working with BGS for location and pricing. We anticipate a savings of approximately 150-200K.

### **State Police**

Notification of significant events to be forwarded to the Governor after approval by the Commissioner.

# Memorandum

Vermont Department of Public Service

*Privileged and Confidential*

**To:** Hon. Peter Shumlin  
**From:** Elizabeth Miller, Commissioner  
**Subject:** Weekly Report  
**Date:** January 21, 2011

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**Status of Governor Priorities:** Staff is assisting with legislation drafting and policy review regarding the statewide broadband initiative, and is focusing on its integration with smart grid priorities and grant status. Staff is reviewing proposed comprehensive energy legislation and is working on a proposed public process for State Energy Policy revitalization.

**Legislative Issues/Contacts:** DPS testified at House Natural Resources regarding H.56 this week, providing preliminary department perspective on the provisions related to the SPEED program and Standard Offer expansion. DPS is conducting a fiscal review of H.56's many provisions. DPS is closely monitoring the Fairpoint bill (H.76 introduced by Rep. Shand) and the VY decommissioning/greenfield bills (H.58 and H.36). DPS will require further Administration perspective on these bills in the short term.

We have scheduled a presentation of the department's budget with House Appropriations (Feb. 23).

We are attending all testimony by other interested parties regarding the above-referenced bills, as well as committee investigations regarding transmission build out and VY closure, and will report separately.

**Press Issues/Releases/Contacts:** Press continues to contact the department regarding the appointment of new commissioners to the Texas Compact; we have informed press contacts (Vt. Digger and RadWaste) that appointments will be forthcoming. Press has also interacted with the department regarding HQ contract hearings this week, and we have fielded inquiries regarding RF health issues and regarding efficiency program costs.

The department coordinated the Governor's commendation to a solar feed in tariff project in Wilder, Vermont, and is attending the ribbon-cutting event.

**Significant Meetings/Events:** I met this week with John O'Kane, Brad Ferland and Frank Cioffi regarding concerns over H.56 and the State Energy Plan.

I met with CEOs of CVPS and GMP, and representatives of BED and VELCO, regarding the smart grid and broadband integration.

I met with the CEO and regulatory affairs staff of Fairpoint regarding upcoming Alternative Regulation negotiations and Fairpoint's budget.

I have a meeting scheduled later today with Lawrence Miller and Bill Dunnington regarding clean energy economy issues.

I attended a Clean Energy Economy symposium in Tarrytown, New York with federal and state representatives. A number of excellent programs and ideas were presented, and will provide a helpful resource to the department going forward.

**Evolving Issues:**

VY: Higher levels, still below EPA drinking water standards, of tritium in a test well north of AOG building has been detected. Received call today that level has gone from 1000-2000 picocuries to 9200 from Wednesday to today. Work plan is in place to address according to VY; VY is investigating whether this indicates a movement in the original plume, north and toward the river, or is instead a new leak. Wells between the river and the site of higher readings (well GZ-24S) have been NDs.

Broadband: We are supporting legislation drafting related to the Governor's statewide initiative. Pole attachments and permit review issues are a part of that discussion.

The remainder of the report is a summary by department to familiarize the Administration with the issues presently occurring at the department.

### **Summary of Key Department Activity, By Division:**

#### **Public Advocacy and Consumer Affairs:**

Tritium investigation at VY – Docket 7600 – Technical hearings on issue #1 (Should Entergy VY be required to cease operations at Vermont Yankee or take other ameliorative actions, pending completion of repairs to stop unpermitted releases of radionuclides, radioactive materials, and, potentially, other non-radioactive materials into the environment?) took place January 11-14, 2011. The DPS position on what is needed include a Board Order requiring Entergy to commit to and fulfill all requirements of the Buried Pipe and Tank Inspection Program (BPTIP), the Ground Water Protection Initiative and the recommendations of the SR CRA. Our brief will say the same unless we receive further direction. Two parties, NEC and CLF, have advocated in the past for shutting the plant down now because of the leaks. DPS does not know what these two groups will advocate for in the briefs. Recommended remedies can be problematic because of the preemption problems. Our recommended remedies go to reliability concerns and therefore are within state purview.

HQ PPA Contract – Docket 7670 – Technical hearings took place this week. Overall, the Department supported the contract except for the WEC suballocation agreement and Swanton's need for the power. Upon agreement of the parties, the petitioners and the DPS did not cross examine each others' witnesses on the issue of enduring rate recovery. This issue will now be briefed. To date the Department has not been supportive of enduring rate recovery because it flies in the face of past board precedent and traditional ratemaking. Initial briefs are due on 2/18/11. The plan at this point is to continue to oppose enduring rate recovery though a broader policy discussion is required.

Kingdom Community Wind – Docket 7628 – Status conference held on 1/19. Final schedule for hearings is being finalized. Technical hearings will commence on 2/2 and run for 12 days through the month of February. Significant opposition to project is being put forth by abutters, and neighboring towns. Also, ANR has identified numerous environmental problems with proposal. Ideally, GMP and ANR should work out a settlement prior to the hearings. The Department will be supportive of the project within the confines of existing expert testimony identifying viewshed issues.

CVPS Alternative Regulation – Docket 7336 & TF # 8192 – Pursuant to its Alternative Regulation Plan (ARP) on November 1, 2010 CVPS filed its quarterly Power Cost Adjustment Mechanism (PCAM) report. The report found an over-collection of \$34,120, which will be refunded to customers on a bills rendered basis starting January 1, 2011, and ending March 31, 2011. This will appear as a credit of \$0.00006 per kWh on customers' bills. The DPS reviewed the report and recommended that it be approved by the Public Service Board. The Board approved it on 12/23/10.

Burlington Telecom – Docket 7044 – The PSB is considering BT’s motion to extend the time for it to specify the relief it seeks in this docket; DPS filed a memo expressing certain concerns but not opposing the extension. DPS counsel has been contacted by both the special prosecutor working with the Chittenden County state’s attorney and the FBI, both seeking information and documents to aid in their criminal investigations. DPS has provided the information sought to the extent possible without breaching confidentiality. DPS has also been in contact with the Treasurer’s office to discuss concerns about Burlington’s financial status and credit rating as they might affect the State, and has offered to provide whatever assistance it can.

FairPoint Change of Control Proceeding – Docket No. 7599 – On January 14, 2011, Verizon filed an objection to the January 13, 2011, order of the bankruptcy court approving FairPoint’s Plan of Reorganization. Verizon’s objection relates to the third-party release given to CapGemini, the group retained by FairPoint to design and implement the cutover from the Verizon systems. The court’s order approving the Plan of Reorganization will become final and non-appealable on January 28, 2011 unless Verizon seeks a stay. It is unknown whether Verizon will seek a stay; if they do not, FairPoint should emerge from bankruptcy by January 31, 2011.

FairPoint Alt Reg Successor Plan – No Docket No. – FairPoint’s Alt Reg plan expires on March 31, 2011. DPS staff met with FairPoint representatives on January 20, 2011, regarding a successor Alt Reg plan. Negotiations will begin immediately with a target date of February 11, 2011, by which date the Department and FairPoint will attempt to reach an agreement that recognizes the competitive pressures faced by FairPoint, protects the most vulnerable of FairPoint’s customers and which, hopefully, would meet with Board approval. Additionally, an Alt Reg Successor Plan approved by the Board would obviate the need for Senator Illuzi’s FairPoint deregulation bill to go forward.

Central Vermont Public Service Smart Power Plan Proceeding – Docket 7612 -  
The Board will hold a workshop on the “intermediate network” that will be necessary to transmit data to and from the meters. GMP has informed the Board that it intends to participate and all other utilities and interested parties (VTA, VTEL) have been invited to attend.

Smart Metering - Docket 7307 - The Board held a workshop on Dynamic Pricing on 1/19. Almost all docket parties attended. The Department made introductory comments expressing a desire to restore the collaborative nature of Vermont’s Smart Grid effort, which were well received. The parties then proceeded in a very productive manner to examine a set of desired capabilities for smart meters and associated AMI networks that the parties believed may be useful in implementing dynamic pricing rate designs in the future.

Cooperative Utilities’ Accounting for CIAC - Docket 7554 – Vermont’s two cooperative electric utilities have accounted for customer contributions in aid of construction (CIAC) in a novel manner: instead of recording contributions as reductions in utility plant, as required by GAAP, they were recorded as “patronage capital” (essentially equity) of the member making the contribution. This treatment was authorized by the PSB in an accounting order issued in 1973. In a rate case with Vermont Electric Cooperative (VEC) the DPS raised this as a concern and VEC agreed to change its procedures to comply with GAAP. The Washington Electric

Cooperative (WEC) filed a letter with the PSB asking it not to approve that provision of the settlement, which it argued would create a precedent that would be applied to WEC.

The PSB opened this docket in response to WEC's letter. Both cooperatives and the DPS filed testimony and briefs, with only WEC opposing the change advocated by DPS. On January 13 the Board's Hearing Officer issued a Proposal for Decision (PFD) recommending that the Board adopt the DPS's position. Comments on the PFD are due by January 28.

Natural Gas Energy Efficiency Utility – Docket 7676 - The Department, with the agreement of the other parties to this docket, which addresses the formal appointment of an entity to deliver natural gas energy efficiency services, filed a status report outlining a process that mirrors the appointment process developed in Docket 7466 for the State's electric energy efficiency service providers. In that report the DPS asked for a mid April workshop to give parties more time to gather data and to consult on how to assess the performance of the current provider, Vermont Gas Systems, and how to create a structure that is consistent with the newly created electric EEU structures.

EEU 2010-06 Heating and Process Fuels Workshop - The Board held a workshop in the Demand Resource Plan Proceeding (DRP) to discuss the parties' recommendations for budgets and targets for Heating and Process Fuel energy efficiency programs over three and ten years, respectively.

CVPS acquisition of VMPD—Docket 7660—The Department filed testimony in opposition to the Petition this week, noting that the purchase price of the hydros was far above CVPS's own analysis of their worth. The contract price for the hydros is \$32 million, but CVPS's analysis indicates that the hydros should be worth only approximately \$19 million. The Department left open a door in its testimony for settlement by indicating that an acquisition premium might be appropriate if a utility could demonstrate that its purchase would either provide a benefit to ratepayers or promote the state's energy policy. In negotiations, VMPD has indicated a willingness to reduce the price of the hydros to \$27.5 million, but only with a discount on its electric rate, which the Board is unlikely to allow. CVPS has not made any price concessions at this point. Negotiations may well continue following the filing of the Department's testimony.

CVPS and GMP purchases from Granite Reliable Wind—Dockets 7589 and 7590—GMP was granted its CPG this week. As with CVPS, however, the Board has directed the company to provide further support for its Motion for a Protective Order by January 21. CVPS has already filed further support for its motion. Although the issue has generated some press attention recently, the Department does not intend to oppose those motions because competition in the power generation market justifies keeping the price of power contracts confidential; disclosure could harm ratepayers by forcing Vermont utilities to pay higher prices.

Petition of SunGen Sharon I, LLC for a CPG for a 2.2MW Solar Generating Facility in Sharon, Vermont – Docket No. 7700 - SunGen filed its Petition with the Board on December 30, 2010 as a Section 248(j). On January 14, 2011, the Board issued a letter to the Petitioner stating that, in view of the facts that the project would encompass 7.75 acres and be visible from Interstate 89,

the petition would be heard as a full Section 248. A prehearing conference is scheduled for January 26, 2011.

Cross-Pollination Solar Farm – Docket 7645 - We have reached settlement with the developer, the town, Addison County Regional Planning Commission, and the Agency of Agriculture. There is one intervenor who believes the solar farm is out of step with the area and should be denied. There have been problems with the drafting of the settlement. Those have finally been resolved and we will sign off on this project.

Sovernet-Petition for ETC designation - Docket 7619 - Sovernet petitioned the Board for designation as an Eligible Telecommunications Carrier, which designation would entitle it to receive Federal Universal Support. The independent phone companies and FairPoint were granted intervenor status in the docket. Sovernet, the Department and the independent phone companies negotiated a settlement, which was presented to the Board. FairPoint refused to negotiate or join the settlement. A status conference was held on January 10, at which time FairPoint advised the parties and the Hearing Officer that it would review the settlement and notify all by January 14 if it would support the existing settlement or request revisions. By email, FairPoint advised the parties that it had no position or comments on the settlement. Therefore, this week-at the request of the Hearing Officer-the stipulating parties presented a Proposed Order to the Board.

Southern Vermont Cable Company CPG Renewal - Docket 7633 - The Department has recommended that the CPG be renewed. SVCC and Brattleboro Community TV (BCTV) have been unable to reach an agreement regarding BCTV remaining the public access provider for the Southern Vermont service territory. Southern Vermont filed an amended petition to be recognized as a “small cable system” under the Board’s rule, which recognition would entitle it to more relaxed Public Access Obligations. Southern Vermont also requested that the Board limit the scope of BCTV’s intervention on the waiver issue. The Department took no position on the issue of the intervention limitation, but did support Southern Vermont’s request for consideration of the waiver. Last week, BCTV filed responses to Southern Vermont’s amended petition and Motion to Limit. This matter is becoming increasingly contentious and BCTV’s filings this week criticized the Department for its lack of support of BCTV. The Department intends to reach out to BCTV and offer to meet with them, mainly to reiterate that our constituency is the customers in the Southern Vermont service territory and that it is those customers’ wishes that have and will continue to inform our position. Southern Vermont will file its reply to BCTV on January 21. BCTV has refused to negotiate with the Department and SVCC regarding the balance of the schedule and we await the Board’s ruling on the revised schedule agreed to between SVCC and the Department, as well as its rulings on the motions of SVCC.

CVPS acquisition of Readsboro Electric—Docket 7688—Two years ago Readsboro voters failed to accept by an adequate margin an offer from CVPS to purchase Readsboro’s Electric Department. Last year, voters supported a proposal to solicit bids on the utility and sell it. CVPS again presented an offer to purchase Readsboro. The Department is reviewing the petition; it appears that CVPS has offered to pay approximately \$88,000 above net book value for the Transmission and Distribution System, and that provides some cause for concern. The

Public Hearing in Readsboro took place on January 19. About 20 people attended; three made comments. All of the comments expressed support for the sale, but concern that the proceeds from the sale find their way back to the ratepayers. The deadline for motions to intervene is January 28; if no motions to intervene are filed, the parties will either file a stipulation or a proposed litigation schedule by February 18.

Investigation into the Complaint of Mark Tucker Concerning Verizon Wireless' INpulse Prepaid Telephone Service Plan - Docket 7701 - Mark Tucker, a resident of Danville, Vermont, has for many months, communicated with Verizon, the Department, the Board, and, ultimately the FCC and the Vermont Attorney General's Office, regarding his dissatisfaction with certain provisions of his phone plan. After initially turning Tucker away based on a perceived lack of jurisdiction, the Board has opened an investigation citing the FCC's refusal to act. A prehearing conference is scheduled for next week. Verizon strenuously objects to any claim of jurisdiction by the Board and has asked that the matter be dismissed forthwith. The Department is analyzing the relevant rules and statutes in order to formulate its position and recommendation.

Request by Carl and Sherie Stariknok for service from CVPS—Docket 7697--

Petitioners in Reading want service at their camp from CVPS, who says that it cannot be provided on the Town's Right of Way. The power line will need to travel across the neighbor's property; CVPS would have to condemn an easement. The neighbor is Andrew Hall, who has a 2500 acre farm/estate and opposes the proposal on aesthetics grounds. The Department is in the process of investigating.

### **Consumer Affairs**

- A relatively quiet week for CAPI, which may be a result of recent storms, which will keep a utility company focused on clearing potential inhibitors of service (low hanging tree limbs, etc.), or it may be the result of colder temps, which keep the electric and natural gas companies from disconnecting service.
- Fourth quarter complaint reports were sent to the utility companies. The reports provide detail of the number of grievances and the number of escalations CAPI has resolved against each utility company over the past quarter. The reports assist the companies in reporting on their Service Quality and Reliability Plans.
- Before the holidays, Comcast's Vice President of Government Affairs, Dan Glanville, stopped by the Department and met with former Telecom Director Leslie Cadwell. Mr. Glanville informed Leslie of plans Comcast has to change the hours of operation for their service centers. A follow up conversation with Mr. Glanville, in which he was able to answer most CAPI questions regarding the hours of operation of the service centers occurred this week. Mr. Glanville has promised follow up information on a couple of questions posed by CAPI for which he did not have immediate answers.

### **Planning and Energy Resources:**

Energy Efficiency Utility Demand Resources Plan (DRP) Proceeding:

- Electric EE Resource Track –
  - Efficiency Potential Assessment – Staff is continuing review of GDS maximum achievable potential study. The parties in the proceeding jointly requested an extension of time in this track to provide opportunity for further vetting of potential studies and resource plan scenarios. The PSB approved this extension.
- Heating and Process Fuel Efficiency Track – Staff led a presentation of the joint proposals from the DPS and VEIC, and the DPS and BED, regarding budgets and targets for heating and process fuel delivery. The DPS/BED proposal, specifically, has some follow up comments necessary in regards to the issue of whether FCM/RGGI funds can and should be used to treat natural gas customers, who have efficiency programs in their own right.
- Non-Resource Acquisition Track – Staff reviewed and provided comments regarding VEIC proposal for Non-Resource Acquisition activities for 2012-2014.

#### EEU- Technical Advisory Group (TAG) and Technical Reference Manual (TRM) review

- Staff reviewed proposals under TAG for inclusion into the TRM, comments and queries passed onto EVT for resolution. These issues include the following:
  - Continued discussion and review concerning snowmaking efficiency measures – specifically if and how projects should be treated prescriptively.
  - Review of proposed baselines for Injection Molding Machines. EVT has a number of potential projects related to this technology, the amount of incentive available is somewhat dependent on the determination of the appropriate baseline.
  - Review of proposed updates to TRM due to commercial code updates.
  - Review of a new program for efficient Engine Block Heaters.

#### Misc

- Staff continues evaluation of IBM's participation in the Self managed Energy Efficiency Program
- Staff commented on EVT's plan for partnering with NeighborWorks of Western Vermont. The partnership utilizes NeighborWorks innovative low-risk financing approach to make efficiency retrofits possible for low income households in Rutland County.
- Staff met with GMP and VEIC to understand the proposal under GMP's Energy Efficiency Fund to provide incentives to municipalities for street lighting efficiency improvements.

#### EEU Evaluation

- Staff continued development of EEU Evaluation Plan due Jan 31<sup>st</sup>. Staff met with EEUs to discuss the potential combination of FCM evaluation and annual savings verification efforts

#### **Finance and Management:**

Met with GMP where they presented plans to build three electric car charging stations to be operational in early 2011

Smart Grid---attended workshop aimed at smoothing collaborative relationships regarding technical network functionality that can accommodate dynamic pricing. Workshop results were outstanding...substantial progress was made.

## **Engineering:**

### **GMP Electric Vehicle Charging Stations**

GMP has proposed to build three pilot electric “fill” stations for electric vehicles (two in Chittenden County and one in Montpelier). Each station would include a net-metered solar array, and the electricity would be free to users (EV owners) for the first year. GMP plans to partner with other businesses who would share in the construction cost, would purchase the electricity from GMP, and then would provide the electricity free of charge to the users. The Department was introduced to the project and asked to formulate a policy position on whether this would require a tariff.

### **Gas Safety**

Engineering successfully completed a mandatory DOT Pipeline and Hazardous Material Safety Administration (PHMSA) training course titled Integrity Management Program (IMP). This training is focused on honing the inspector’s skills for evaluating gas transmission integrity programs. Federal regulations prescribe specific safety provisions in the design, construction, inspection, testing, operation and maintenance of pipeline facilities. Key elements of the IMP regulations include identification of high consequence areas near gas transmission facilities, threat identification, and risk assessment, as well as appropriate preventive and mitigation measures. The material from this training is applied when inspecting VGS operations.

### **Smart Grid Rates WG**

The Rates WG is a stakeholder collaborative to create a roadmap to dynamic rates for Vermont. It provides a process to examine how a variety of rates may be developed to support the deliverables from an enhanced SG system. It was agreed that each functional sub-team would look at proposed changes and impacts vis-a-vis a base case ( i.e. “Flat Rates” vs. each of the following Time Based rates) :

1. TOU (Time of Use)
2. PTR (Peak Time Rebate)
3. CPP (Critical Peak Pricing)
4. VPP (Variable Peak Pricing)
5. RTP (Real Time Pricing – Assume one hour pricing resolution)

This activity is intended to support business cases for deploying an appropriate form of dynamic pricing for each utility.

## **Gas Supply**

The Gas Supply Task Force of the Northeast Gas Association (NGA) met on 1/6/2011. Don Gilbert, CEO of VGS is the 2011 Chair of this group. Gas companies reported their systems are operating well. Colder than normal weather was experienced in the region in December, particularly in downstate NY and NJ. Highlights reported:

- **LNG Deliveries**

Distrigas reported that the LNG ship deliveries are on schedule and the facility is operating well. Repsol reported that its Canaport facility in New Brunswick, Canada is fully operational and currently discharging at high levels. LNG trucking delivery companies (LP Transportation, Transgas) reported no issues, although noted the strong demand for propane trucking this winter.

- **National Storage Levels**

The U.S. Energy Information Administration (EIA) in its most recent weekly national storage report indicates for the week ending December 31 that U.S. natural gas storage inventories were at 3 trillion cubic feet (Tcf), which is 6.5% above the 5-year average for this time of the year.

- **Propane**

Propane suppliers in the Northeast are experiencing some shortages due to the unavailability of the Selkirk, NY terminal. The Selkirk terminal has been out of service since the August 2010 pipeline rupture. Selkirk was expected back in-service in late December but is still not available. This is causing propane suppliers to travel to more distant terminals for refills such as Watkins Glen where long lines are occurring. Marine import terminals in New England are operating well as are rail connections.

## **Sub-metering Stowe Electric Department (SED)**

A special rate contract for Trapp Family Lodge (TFL) is undergoing DPS review. There is a need to develop an appropriate sub-metering configuration for condominium / rental units that comports with the law and PSB rules which generally limit sub-metering. Preliminary conclusions suggest there may be a need for legislation to allow more flexibility to adequately resolve the question for most locations. The issue surfaced after an evaluation between TFL and SED identified that the existing metering configuration at three housing units which were developed by TFL as part of a larger development but are now privately owned have inadvertently escaped various customer charges which SED seeks.

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** Weekly Report  
**Date:** January 21, 2011

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**Vermont Department of Health (VDH)**

Influenza Update. Vermont reported “regional” influenza activity to the Centers for Disease Control & Prevention for the week of January 9<sup>th</sup> –January 15<sup>th</sup>. This is an increase in influenza-like illness (ILI) activity since last week’s report of “sporadic” ILI. There was one report of influenza in a long-term care facility in Chittenden County, confirmed by positive influenza PCR tests at the Health Department Laboratory. Residents are receiving antiviral medication for treatment or prophylaxis, and transmission so far has been minimal. Our Laboratory has confirmed influenza A (seasonal H3 and 2009 H1N1) and influenza B in specimens submitted by medical providers in the Vermont sentinel flu network and the Early Aberration Reporting System (EARS).

Multidrug-Resistant Organism Prevention Collaborative. The Health Department, in partnership with the Vermont Program for Quality in Health Care (VPQHC) and the Centers for Disease Control & Prevention, hosted the second Learning Session of the ARRA-funded, multidrug-resistant organism (MDRO) prevention collaborative on January 14<sup>th</sup> in Montpelier. All of Vermont’s hospitals, the Dartmouth-Hitchcock Medical Center, and 33 Vermont long-term care facilities have joined in the collaborative. This year-long effort focuses on decreasing MDRO incidence across hospital and long-term care settings statewide. It also builds sustainable networks of healthcare “clusters”, acute care hospitals and long-term care facilities that can continue this prevention work in Vermont communities beyond the project’s completion.

The MDRO prevention collaborative has now progressed from forming healthcare clusters and is beginning to implement specific prevention interventions. Basic protocols for active MDRO surveillance, *C. difficile* prevention, methicillin-resistant staph aureus (MRSA) decolonization and chlorhexidine bathing were discussed, and clusters reported successes with communication about infection control during patient transfer between facilities.

As facilities begin to implement new interventions discussed at this month’s Learning Session, the Health Department and VPQHC will continue to monitor progress within each cluster and assist in overcoming any problems that emerge during this process.

Rental Housing Habitability Issues. The Health Department received the correspondence to the Governor from Sarah Carpenter, executive director of the Vermont Housing Finance Agency regarding the Rental Housing Safety and Habitability Study Committee recommendations and is

considering the topics raised by Ms. Carpenter. In addition, we attended the House General, Housing and Military Affairs Committee testimony this week relating to housing topics. The Department continues to provide ongoing support and training for town health officers and is actively reviewing options relating to the role and resources of the Health Department and town health officers with respect to rental housing habitability issues.

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

Legislative Contact - Senate Institutions. Christine Oliver and I met with Senators Mazza and Hartwell (of the Senate Institutions Committee) and Lieutenant Governor Scott to discuss the replacement of the Vermont State Hospital (VSH). All are very concerned to hear that the funding for the Secure Residential Recovery (SRR) facility has been taken out of the budget. We explained our concern about going forward on the SRR with no plan in place to replace the remaining 39 inpatient beds at VSH. The Senators appeared willing to move forward "to do something". Although I understand that this has been a long and arduous process, I believe it is very short sighted to go forward with the SRR. Most critical is that if the SRR goes forward there will be no political will left to address the beds remaining at VSH and the current environment is not acceptable.

In addition to reviewing the basis for the SRR, DMH is reviewing prior proposals to replace VSH with a new stand alone facility. Some issues to address are:

- Whether it is necessary to co-locate a new state hospital with a general hospital (preliminary discussions with VSH medical staff suggest co-location is necessary);
- Whether CMS would fund a state facility as an Institute for Mental Disease; and
- Where such a facility could be located

I will discuss this information with Commissioner Oliver as soon as possible.

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

Commissioner's Office. Commissioner Wehry testified before Senate Appropriations on FY11 BAA. Questions revolved around waiting lists in Choices for Care and management of investigation backlog at Adult Protective Services. She was able to advise the Committee that the assessment of 31 individuals on the high needs waiting list was underway to insure no/minimal harm by waiting, AND that 10 temporary investigators have been hired to work through the **backlog of abuses case** that started on January 18<sup>th</sup>.

Commissioner Wehry testified before the House Health and Human Services where questions of the **waitlist in Choices for Care** were also raised as a concern.

Last month, DAIL's Acting Commissioner Brendon Hogan denied a request by a woman on the abuse registry who was asking for an expungement of her record in order for her to seek employment in a day care. This was not well-received by her or her husband prompting an unannounced and belligerent visit last month. This morning she called and made non-specific, but worrisome, threats to DAIL's general counsel prompting a consultation with security. DAIL

did not need to take any action (such as building lock down) but did alert DCF to her threats as well. Commissioner Wehry will be meeting with her in about two weeks to hear her appeal.

Division of Disability and Aging Services. The disability services community, as represented by Julie Tessler and Marlys Waller of the VT Council of Developmental and Mental Health Services continue to object to DAIL's representation of the dollar needs in the budget adjustment, but Commissioner Wehry believes common ground is beginning to be found on where the numbers come from, even if there isn't common ground on their implications.

DAIL responded to a request from the UVM Center on Aging for assistance in providing data for their presentation to the legislature next week on Long Term Care Policy Forum sponsored by a consortium of providers and advocacy organization.

Division of Licensing and Protection. The Division of Licensing and Protection, within the Department of Disabilities, Aging, and Independent Living, has hired ten temporary investigators to work through the backlog of cases. They started work this week.

The feared receivership at the Gill Odd Fellows nursing home in Ludlow that was reported last week, did not evolve and the situation has stabilized.

Division of Vocational Rehabilitation. The Division of Vocational Rehabilitation continues with the Creative Workforce Solutions, and awaits word on the needed positions.

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

### **1. Drug/Contraband Highlights**

Below is a summary of the significant information from the facility contraband and intelligence gathering efforts.

- A. **Marble Valley Regional Correctional Facility** – Staff recovered two gallons of “home Brew” in Alpha unit which was later disposed. Also, two razor blades were found in a cell in the Delta unit. Those too were disposed.
- B. **Northeast Regional Correctional Facility** – Staff recovered a razor blade as well as a shank during this reporting period. Also, two Klonpines were recovered from a new intake.
- C. **Northern State Correctional Facility** – Staff recovered two grams of powered Buprenorphine, two grams of tobacco, and Home Brew during this reporting period. Also, two razor blades, tattooing material and one shank were located.
- D. **Southern State Correctional Facility** – Staff recovered nearly 13 grams of tobacco, matches, and a striker in Foxtrot unit. A lighter was retrieved from an inmate on dry cell status. The inmate refused to provide information as to who provided it to him.

Type	Total Tests	Positive	Percentage
Random	46	7	15%
Probable Cause	7	1	14%
Buprenorphine			

## 2. Population

### Population Review as of 01/19/2011

Population	Last Week (01/12/2011)	Change	This Week (01/19/2011)
<b>INCARCERATION</b>			
Women in Prison	154	5	159
Men (Instate)	1403	-19	1384
Men (out of state)	558	-9	549
Total Incarceration	2115	-23	2092
<b>Category of Incarceration - cascading filter (mutually exclusive)</b>			
Detainees	309	11	320
Sex Offenders	492	-3	489
Other Violent felons	523	-12	511
Other PreMin	450	-11	439
Other PastMin-Housing	87	0	87
Other PastMin-Violators	160	-3	157
Other PastMin-Risk	94	-5	89
Total Incarceration	2115	-23	2092
<b>COMMUNITY SUPERVISION</b>			
<b>Form of Release - cascading filter (mutually exclusive)</b>			
Men on Furlough	782	-8	774
Women on Furlough	147	-3	144
Total on Furlough	929	-11	918
Men on Intern. Sanct.	829	5	834
Women on Intern. Sanct.	241	-7	234
Total on Intern. Sanct.	1070	-2	1068
Men on Parole	860	7	867
Women on Parole	157	5	162
Total on Parole	1017	12	1029
Men on Probation	4415	-16	4399
Women on Probation	1441	-16	1425
Total on Probation	5856	-32	5824
Total in Community	8872	-33	8839
Electronic Monitoring	171	-22	149

### **3. High Profile Cases**

Inmate Barber, Kenneth. This is a young man who had hidden a hypodermic needle in his rectum three weeks ago. The needle perforated the colon and he needed emergency surgery. On January 19<sup>th</sup>, the Shift Supervisor was notified by medical staff that Mr. Barber had a temperature of 100.1, and was experiencing a lot of pain in the stomach area, and the right side of his lower back. Mr. Barber was transported via ambulance to the Springfield Emergency Room. Mr. Barber developed a rare neurological illness several years ago and has other physical issues related to that illness. Mr. Barber is 25 years old. He has been in our custody since 2002. He is serving 15 years to life for 2<sup>nd</sup> degree murder. His minimum release date is 2018.

Inmate Hulett, Mark. Mr. Hulett is incarcerated serving a 3 to 10 year sentence for Aggravated Sexual Assault. In addition, he is on probation for Aggravated Sexual Assault and Lewd and Lascivious Conduct w/ Child. His minimum release date was 01/02/2009 with a maximum release date of 06/15/2012. Mr. Hulett engaged in the Vermont Treatment Program for Sexual Abusers (VTPSA) from 04/2008 to October, 2008 as directed. He has remained incarcerated to this point for lack of approved housing. Mr. Hulett submitted a residence and case plan to the VT DOC for furlough consideration. His mother purchased a mobile home in Waltham, VT (Addison County) in November, 2010 and he would like to reside with her. Our staff physically checked the area and discussed with local and State police. Upon release, Mr. Hulett will be on dual status of furlough and probation. In addition to being required to follow all furlough and probation conditions he will also be placed on electronic monitoring (GPS) and will complete a weekly furlough schedule until compliance is demonstrated over time. Mr. Hulett is scheduled for release to the community on January 27<sup>th</sup>.

Parolee Savo, Danny. Parolee Savo was arrested on January 20<sup>th</sup>, at gun point at the Burlington food shelf. He was in possession of a gun, along with the parole warrant, he also has warrants in Chittenden and Orleans County. ATF will be pursuing weapons charges.

### **4. Contact with Legislators**

Senate Appropriations Committee. Commissioner Pallito testified on January 19<sup>th</sup> regarding the Budget Adjustment Act.

Senate Committee on Institutions. Commissioner Pallito testified before the Senate Institutions Committee regarding the future use of 900+ acres that adjoin the property of Southeast State Correctional Facility in Windsor on January 18<sup>th</sup>.

Senate Committee on Judiciary. Deputy Commissioner Menard and Program Services Director Kim Bushey testified regarding Public Inebriates on January 18<sup>th</sup>.

Commissioner Pallito testified on January 20<sup>th</sup> on Justice Reinvestment.

On January 21<sup>st</sup>, Deputy Commissioner Menard and Vermont Center for Prevention & Treatment of Sexual Abuse (VCTPSA) Director, Georgia Cummings, will testify on Sex Offender Treatment and Risk Assessments.

House Committee on Corrections and Institutions. Commissioner Pallito testified on January 18<sup>th</sup> regarding the Budget Adjustment Act.

Commissioner Pallito testified again on January 20<sup>th</sup> regarding Challenges for Change outcomes.

House Committee on Human Services. Commissioner Pallito along with other staff testified before the committee regarding Community-Based Services to Prevent Incarceration and Reduce Recidivism on January 19<sup>th</sup>.

## **5. Other**

Strep Outbreak Symptoms at Chittenden Regional Correctional Facility. On January 28<sup>th</sup>, Chittenden reported 27 inmates with strep like symptoms. Population movement to and from Chittenden has stopped at this time. All 27 inmates have been started on antibiotics.

Meeting of the Criminal Justice System (CJS) Partners. Our meeting took place on January 18<sup>th</sup> to begin to look at ways to improve the efficiency and outcomes of the system. The meeting was well received. Another meeting is being planned for January 24<sup>th</sup>. We hope to have a group of recommendations completed by the end of the second meeting.

Vermont Correctional Academy Graduation. On February 3<sup>rd</sup>, 1:00 pm, the Pavilion, the 110<sup>th</sup> class from the Vermont Correctional Academy will graduate. I will present the Keynote Address. Please consider this an invite for Governor Shumlin and staff to stop by.

Resignation of Facilities Executive. As discussed, we have received Robert Kupec's resignation effective January 14<sup>th</sup>. We have also made a change in the Superintendent of the Northeast Regional Correctional Facility in St. Johnsbury. We are currently recruiting for permanent Superintendents at the Northeast Regional Correctional Facility and the Southern State Correctional Facility in Springfield, where the current superintendent is scheduled to retire on May 1<sup>st</sup>.

Small Fire at Northern State Correctional Facility. On January 19<sup>th</sup>, there was a fire in the kitchen. A plumbing and heating contractor was there doing some work and apparently the pilot light was on and ignited in a burst of propane. The repair man was burned in the face (very minor) and medical was on site and looked at him as a courtesy. He reported he was fine. Of note, a staff member was on site (Todd Blanchard) who reacted immediately and put the fire out. No staff or inmates were injured.

## Department for Children and Families (DCF)

Economic Services Division Continuing To Battle Timely Issuance of Benefits. With the transition to a modernized eligibility determination system and a significant increase in caseload, ESD faces challenges in providing timely economic benefits to low income Vermonters due to a significant backlog of cases pending over 30 days. These challenges have brought considerable public scrutiny to the process. DCF has worked closely with Vermont Legal Aid to keep a focus on improvement and is operating within a mutually negotiated agreement to ensure continued progress. To help eliminate this backlog, ESD has shifted division resources by temporarily reassigning several Reach Up case managers and other division staff, with previous benefits eligibility experience, to help process eligibility. The goal is to be up to date by February 1<sup>st</sup>. This project was started on January 10<sup>th</sup> and we are on track to meet that goal.

ARRA monitoring By The U.S. Department Of Energy. The DCF Office of Economic Opportunity (OEO) was “monitored” last week by representatives from The U.S. Department of Energy. The monitoring was specific to ARRA funding for the state’s Weatherization Program. The visit included two days of desk review monitoring in OEO’s Waterbury office and then one day each at two of the five Weatherization Assistance Programs (WAPs), in this case NETO in the northeast, and SEVCA in the southeast.

Overall, the visit went well and the monitors were pleased with what they saw. Two concerns were highlighted and will be addressed by OEO. The first involves questions as to whether all WAPs are complying with all provisions of the Davis-Bacon Act with respect to wages paid to weatherization staff, and the second has to do with the need for Vermont to get an updated multi-family auditing tool. The latter is something that OEO began working on this fall.

These findings are “preliminary” in nature and OEO will update the Governor’s office once a final report has been received.

## Department of Vermont Health Access

Fletcher Allen and the University of Vermont College of Medicine: Proposed Collaboration to Obtain Enhanced Medicaid Funding. DVHA representatives met with FAHC representatives originally on December 2<sup>nd</sup> and again on January 7<sup>th</sup> to discuss the FAHC/UVM proposal to DVHA titled “Proposal to Establish Enhanced Funding to Fletcher Allen Health Care under Partnership with the University Of Vermont College Of Medicine”. The premise of the proposal is that FAHC/UVM have the opportunity to partner with DVHA to draw down federal Medicaid funding to support two types of new Medicaid payments: 1) Teaching Physician payments, and 2) Teaching Hospital payments. The current indication is that UVM will fund the non-federal (i.e., state share) so that the state can draw down the federal share. ***However, UVM has not confirmed this and this proposal will not move forward if they cannot provide the state share in a source that is congruent with CMS and the GC Waiver requirements.*** The proposed funding model is depicted below.

Payment Type	Federal Share (57.86%)	State (Non-Federal) Share UVM (42.14%)	Total
Teaching Physician	\$8,100,400	\$5,899,600	\$14,000,000
Teaching Hospital	\$5,786,000-\$6,364,600	\$4,214,000-\$4,635,400	\$10,000,000- \$11,000,000
Total	\$13,886,400- \$14,465,000	\$10,113,600- \$10,535,000	\$24,000,000- \$25,000,000

The FAHC/UVM proposal has been revised by DVHA and is being circulated internally, prior to a subsequent review by FAHC/UVM, to ensure that the state supports the arrangement including the source of the non-federal funds. The DVHA has included additional considerations in the revised proposal because there has been federal scrutiny of these types of arrangements due to lack of accountability, inability to track these payments, and a lack of assurance that these payments are effective in supporting the Medicaid program and its beneficiaries. In response to this scrutiny, the DVHA is also considering proposing to UVM/FAHC that the following be included in the program agreement:

Consideration #1:

DVHA, FAHC and UVM have mechanisms in place to clearly identify payments and source of funds.

Consideration #2:

DVHA, FAHC and UVM agree to quarterly and annual goals, and FAHC and UVM agree to generate quarterly and annual reports that tie these payments to the Vermont Medicaid program; the following are examples of goals: increase the access of quality health care to uninsured, underinsured, and Medicaid beneficiaries; improve health outcomes and the quality of life for Medicaid beneficiaries; emergency room (ER) use education and outreach; reduce re-admission rates; qualify and increase patient satisfaction; and enhance physician training to produce primary care physicians who are interested in practicing in underserved areas (since a recent report indicates that Medical schools and residency programs need to identify students more likely to work in underserved areas and foster their interest and desire in helping these communities and public funding for physician training could be leveraged to include efforts to reduce these geographic disparities [Study: Many Children Lack Access To Primary Care Physicians, 12/21/10, [http://dms.dartmouth.edu/news/2010/12/21\\_shipman.shtml](http://dms.dartmouth.edu/news/2010/12/21_shipman.shtml) ]).

Consideration #3:

GME (Graduate Medical Education) is made available to the UVM School of Nursing not just the School of Medicine – see recent Institute of Medicine (IOM) report: <http://www.iom.edu/Reports/2010/The-Future-of-Nursing-Leading-Change-Advancing-Health.aspx>



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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Jeb Spaulding  
**DATE:** January 21, 2011  
**SUBJECT:** Confidential Report to the Governor

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**STATUS OF GOVERNOR'S PRIORITIES:**

- **Budget Book:** Finance and Management continues work on the budget.
- **Blue Ribbon Tax Commission:** Tax staff has been working with Leg Council and JFO to provide data and analysis for consideration by the various legislative committees.
- **Misc. Tax Bill:** Tax has sent a draft, and Molly Bachman has a summary which she can walk Secretary Spaulding through as they finalize it to send to Ways and Means. Tax is still working on the Entertainment Ticket sales tax issue, and has had lengthy conversations (together with Molly) with David Coates, Peter Erly (lawyer representing Flynn), Kevin Marchand (Treasurer at Champlain Valley Expo) – all are agreed that is difficult to draft language that covers all situations given the variety of arrangements that non-profits use in putting on events. As a Department Tax is trying to come up with something simple that does not have unintended consequences.
- **Transfer Property Tax Online:** This is project where the Tax department worked with VIC to move filing of property transfer tax online. It is an example of a “front end” modernization project – it has to be a priority for the Department to move more filing online, since processing costs drop dramatically. (The Department presented a report on Efile to Ways & Means this week). This particular project went “live” earlier this month, and was met with a great deal of criticism by the real estate bar – there are lessons to be learned. Tax Commissioner Peterson had a constructive meeting (together with Bill Johnson) with Bob Paolini (VBA) and two attorneys,

and they outlined some steps going forward to work together with the VBA to smooth implementation.

- **Corporate ETM Project:** This is a “back end” computerization project bringing the processing of corporate returns into the digital age. Very briefly, the Tax Department is basically where it expected to be at this point in the project, and this does not represent a much worse situation from years past given that this process previously was paper based. Many returns have been “worklisted,” and those are being worked through (and apparently the worklist can be shortened in waves as bugs are fixed and more confidence in the system is developed). When Commissioner Peterson started, a contract to continue an Oracle technical contract for a short period was approved – for debugging and additional training. In the Capital Bill there is money to begin the project of moving Personal Income and other taxes (on systems that are 10-12 years old) into this ETM processing system.
- **Data Warehouse Contract:** This was another process underway when Commissioner Peterson started and has been identified as a priority. Tax is negotiating with a MA company, RSI, to build a Data Warehouse. RSI has worked with several states. This contract is benefit based, where RSI will pay the upfront costs and be compensated with a declining percentage scale of increased collections (averaged at about 25% over the 5 year life of the contract). Commissioner Peterson has discussed this with Deputy Secretary Clasen.
- **Vermont Yankee Tax:** Tax’s Ken Jones sent a 2009 report to Alex MacLean, and is updating research.
- **Economic Development Credits:** The Tax Department had a constructive meeting with ACCD.
- **Hiring Freeze:** The Department of Human Resources is working with Deputy Secretary Clasen to assess requests to fill vacant positions. The process appears to be working smoothly, although, as anticipated, we have received some push back from elected officials and agency heads.
- **Capital Bill:** The capital bill is in final approval stage with Governor’s priorities intact. Commissioner Obuchowski has scheduled briefing of H/S Institutions and Appropriations Committees the morning of 1/25.
- **Energy Efficiency and Space Utilization:** BGS staff updating energy efficiency and space utilization data. When data is ready, will request meeting.
- **VT Film Commission Office Space:** The Secretary of Civil and Military Affairs called BGS regarding the space occupied by the VT Film Commission on the third floor of 10 Baldwin. Apparently a Commission board member was upset because the Commission was being asked to leave the property when in reality the space occupied by the Commission is one room of four available (three rooms are vacant) and BGS is planning on occupying two of the vacant rooms leaving the Commission where it is now located. BGS advised Alex MacLean to call if problem persisted.

## EVOLVING ISSUES:

- **Preparing for Bargaining with VTA:** The Department is attempting to locate a chief negotiator for bargaining with the VTA. The Labor Relations Department approached Scott Cameron as a potential negotiator, but he is unable to take on the role at this time. We are assessing several other potential negotiators and will make a recommendation to the Secretary of Administration in the near future. DHR is also assessing the potential financial impact resulting from several proposals they anticipate from the VTA, and will provide this information to the Secretary once it is finalized.
- **Meeting with VSEA Representatives:** As a result of meetings that Commissioner Duffy and General Counsel Steve Collier had with the VSEA and VTA last week, the state has settled or is in the process of settling at least three cases pending before the labor board.
- **BGS Issues:**
  - House Corrections and Institutions are interested in a 2 year capital budget and a 5 year capital planning.
  - BGS met with Montpelier officials regarding the district heating project with a follow up conference call scheduled for tomorrow.
  - BGS is meeting with Mayor Louras and David Allaire regarding the Rutland Parking garage next week.
  - Legislative BAA concerns focus on State Hospital canteen and federal surplus property program.

## ISSUES UPDATES:

## AGENCY/DEPARTMENT REQUESTS:

## LEGISLATIVE CONTACTS:

- **Libraries Testimony:**
  - Marty Reid gave testimony at the House Committee on Ways and Means on the Fee Bill changes in statute on "Fees for Library Materials" No questions from Committee members; adoption expected.

We are requesting to repeal 22 V.S.A. § 609. Authority to charge library fees would be continued pursuant to 32 V.S.A. § 603 (3). The statute addresses fees collected at the Vermont State Library and the Midstate Library Service Center (Berlin) for photocopies, microform prints, and facsimiles (for libraries, state government, and the general public.)

No change in fees charged.

Revenue FY10: \$2086 (actual)

Revenue FY11: \$2128 (estimate)

Revenue FY12: \$2128 (estimate)

- **DHR Testimony:**
  - Commissioner Duffy testified before the Senate Government Operations Committee as part of the confirmation process and to discuss the Workforce Report, which DHR files annually with the Legislature. The testimony was well received. The Committee voted 5-0 to support Commissioner Duffy's appointment. The Committee also engaged in a lively discussion of the Workforce Report, including the topics of diversity, the retirement bubble, recruitment efforts and personal services contracts. The Committee indicated that it may ask Commissioner Duffy to return and address other issues raised by the Workforce Report.
  
- **BGS Testimony:**
  - BGS has established weekly contact sessions with Speaker Smith and Senator Hartwell and has met with Majority leader Campbell as well as with Senator Illuzzi.
  - BGS met and will invite Lt. Gov. Scott to all sessions dealing with energy and space.
  - BGS offered testimony to HCI and SI on the following topics; BAA, BGS energy efforts, FY 11 capital bill.
  
- **DII Testimony:**
  - Ruthann Sullivan testified on January 19<sup>th</sup> at the Senate Appropriations committee on a budget adjustment regarding the Fairpoint settlement. Couple of topics came up for discussion including questioning around AHS STEER project, inadequate aging IT equipment at AHS, Department of Corrections and IT structure across State Government. The group asked for a memo outlining the M86 project status including bug fixes promised by the vendor, identification of any payments made or due. Sullivan reported they had discussed the possibility of policy review recently with Commissioner Duffy and Secretary Spaulding as well.
  - January 20 scheduled to answers questions from the House Ways and Means regarding the Web Portal Board and the process by which fees are set. Harry Bell, the Director of Web Services is slated to attend as well as Jason Aronowitz.
  - January 21 scheduled to testify to the Senate Institutions to speak to the group about IT issues as it relates to the current Capital Construction budget (FY'11) and also to speak about the report prepared by David Tucker and Jeb Spaulding titled, "Information Technology Infrastructure Needs".
  - Regarding the FY'11 budget Sullivan has asked the following to attend as subject matter experts on the initiatives in question. Angela Rouelle, CIO AHS; Patrick Flood, Deputy Sec for AHS; Darwin Thompson, Director PMO, DII; Chris Campbell, Executive Director VTA; Jason Aronowitz is also planning on attending and has been provided the final version of the study as well as the Capital Bill requests for both FY11' and FY12'.

**IDEAS:**

**GENERAL INFORMATION/OTHER:**

- **Rutland Garage:** BGS sent information on the Rutland garage and office building to an investment company for an estimate of worth. They will then assess whether to proceed with idea of selling the properties.

- **Public Records Request:** DHR has received a request from Micky Smith, a reporter with the *News and Citizen*, for the salaries for certain commissioners from 2008 to the present. This information will be provided in accordance with time limits set under the Public Records Act. DHR spent less than two hours assembling the information and no request for payment will be made.
- **Vermont Online Library:** The 2011 edition of the *Vermont Online Library* (VOL) collection of online information resources was launched on January 1. The VOL is available at no cost to Vermont citizens and students at subscribing public, academic and school libraries. Local residents/students use these resources for free – at the library or from home or office. VOL is funded with GF, federal LSTA funds, and library membership fees.