

WEEKLY REPORTS

Checklist
3/2/2012

Bill Lofy

Agency of Commerce and Community Development – Lawrence Miller

Agency of Agriculture – Chuck Ross * plus last week

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) A plus last week

Susan Bartlett

Agency of Human Services – Doug Racine

Sarah London

BISHCA – Steve Kimbell* (shared with Anya)

Jeb Spaulding

Agency of Administration – Jeb Spaulding

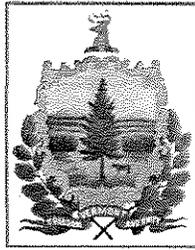
Special Reports

Additional Report: Education

Additional Report: Boards and Commissions

Additional Report: _____

To 116 STATE STREET
MONTPELIER, VERMONT 05620



OFFICE OF THE SECRETARY

TEL: (802) 828-1619

FAX: (802) 828-2361

Chuck Ross, SECRETARY

STATE OF VERMONT
AGENCY OF AGRICULTURE

Confidential and Privileged

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

Legislative Issues

House Ag Committee regarding S.107, the bovine and equine tail docking bill. State veterinarian provided testimony to the House Agriculture committee on 2/28 regarding the Livestock Care Standards Advisory Council position statement on S.107. The information was well received, and the Committee seemed pleased with the outcome of the Council's discussions. State vet has also been asked for the second time to provide testimony on the same issue to the Senate Ag committee. Senator Giard, a sponsor of the bill, reportedly wants additional information about how the Livestock Council came to its conclusions regarding S.107.

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S.246 Working Landscape

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- Appropriations of \$1.5 million (House Ag - \$1.85 million)
- The recommendation for one Board – Working Lands Enterprise Board (House Ag - two boards - Vermont Agricultural Development Board and Working Lands Enterprise Board)
- The addition of Forestry language in the state statute language of the Vermont Housing and Conservation Trust Fund and Board (House Ag – omitted from Bill)
- The appropriation of \$125,000 to the Agency of Agriculture to provide administrative support to the Working Lands Enterprise Board and Fund with one full time position, support staff, and for fiscal management and operations costs (House Ag appropriations of \$382,400 for four full time positions to provide administrative support for the Working Lands Enterprise Board, Vermont Agricultural Development Board, Working Lands Enterprise Fund, and Regulatory/Wrap-around Services Advisor Ombudsperson)

S.179/H553 Amending Conservation Easements. The bill will likely be voted out of Senate Natural Resources on Friday, with a strike all, and be replaced with minor amendments to statutes and the creation of a working group to study specific ideas related to the amending of conservation easements and report back in January 2013. The Secretary/Agency is named as a working group member.

H. 681 Micro Dairies. Dairy Section Chief answered questions and provided demographic information on the current size of Vermont processors. The legislation is not needed because the current rules work and over half of Vermont's processors are processing less than 500 pounds of milk per day. Also discussed was the potential negative impact if Vermont adopted rules that are not equivalent to the Pasteurized Milk Ordinance; that is, milk from those farms could not legally be shipped interstate. Vermont's farm size averages 135 cows so approximately 40% of our dairies under 100 milking cows would be impacted by the proposed change.

S.238 Farm Guest Worker. Staff attended hearings in a listening capacity. Sen. Kittell reported Friday morning in off the record conversation that it is likely the Committee will vote out a stripped down version of the bill which will have a driver Id component much like New Mexico's.

Agency Housekeeping Items. The House Ag Committee asked for and accepted the Agency's housekeeping items: 1) aligning a weights and measures statute with long-standing regulatory practice due to recent changes in the NIST Handbook 44, the standards incorporated by statute. The change will statutorily prohibit the use of temperature compensation in the delivery of liquid fuel, except for propane. This is not a change in long-standing regulatory practice ,but is needed because language in Handbook 44 was recently amended. 2) amending two definitions in the dairy statutes to align with the federal standards that are required for the interstate shipment of milk, 3) reviving 6 VSA 2723a, which was repealed in 2011 as part of the dairy section of the fee bill, and which should not have been repealed. This section is the long-standing retail milk distributor's licensing requirement that got repealed due to a misunderstanding of the term "distributor", although that term is defined to include retailers, and 4) flexibility for use of the Mobile Poultry Unit sale proceeds.

Status of Governor's Priorities:

Jobs in Agriculture

Press Issues/Releases/Contacts:

The communications highlight of the week was a VPR segment about Farmers Markets, featuring our local foods coordinator, Abbey Willard. We also suggested VPR include Erin Buckwalter, from NOFA, on the program, which they did. Overall, it was a great program which presented the Agency as an authority and key player on an important issue.

The Agency also participated in the Irene Recovery legislative briefings and contributed resources for the Town Meeting Day hand-outs.

The weekly media inquiry log is below.

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2.26	VPR	Jane Lindholm	Farmers Markets	interview	Abbey Willard interviewed	http://www.vpr.net/episode/53095/for-farmers-markets-growth-without-growing-pains/
2.27	WCAX	Gina Bullard	Meat trucks	more info on approved meat trucks	responded with explanation of license parameters	tbd
2.27	Vtdigger	Dirk Von Susteren	Maple	interview about maple growth	referred to henry	tbd

Significant Events/Meetings:

- A webinar highlighting the virtues of GlobalVetLink (GVL) was held for Vermont veterinarians on 2/28. The GVL system provides veterinarians with the ability to complete interstate health certificates for livestock and companion animals, as well as Coggins forms for equine patients, in electronic format. This significantly reduces the administrative burden on the animal health section of VAAFM since these electronic certificates, which are required to be submitted by private veterinarians to VAAFM, can be automatically uploaded into the USAHERDS database rather than being data-entered by hand. Currently, GVL is utilized by 11 veterinary practices in Vermont and by the VAAFM animal health lab. The animal health office has encouraged veterinarians to utilize this service since its inception in 2008.
- State veterinarian participated in a meeting with personnel from the Central Vermont Humane Society and the Hooved Animal Sanctuary on 2/29 to discuss the possibility of the Hooved Animal Sanctuary, a registered humane society, handling the investigation of livestock animal cruelty cases in Orange county. An agreement was reached, and this practice will commence immediately. This type of collaboration between non profit organizations could serve as a model that, if adopted in other Vermont counties, could help to ensure that livestock animal welfare investigations are attended to in a timely and efficient manner, thereby lessening the need for burdensome legislation intended to do the same.

Evolving Issues:

Summary of Key Agency Department Activity:

Administration

Letters were sent on behalf of the Secretary to John Bramley at UVM and Tim Donovan at Vermont State Colleges urging both to hold food service vendors accountable for sourcing local foods. Tim Donovan replied to say the letter will be helpful as they continue to address these issues with their vendor, Sodexo.

AAFM and ANR policy collaboration. Agency legal counsel initiated conversation with ANR general counsel and forestry policy staff on potential overlap or conflict in policy positions related to biomass and Act 250 criterion 9(B) and 9(C). Policy and positions on the two pending biomass cases (Springfield and Fair Haven) appear to be aligned. AAFM and ANR will continue collaboration so limited state legal resources are used as efficiently as possible in the PSB proceedings. More discussion is needed on how to ensure state policy on both criterion 9(C)(productive forest soils) and 9(B)(primary agricultural soils) is advanced in a coordinated fashion.

Interagency Policy Coordination. AAFM and ANR counsel believe that more formalized coordination between state entities involved in PSB, Act 250, and other administrative quasi-judicial proceedings, is needed. Interagency coordination in PSB and Act 250 was previously accomplished through the now defunct "State Planning Office" in the Governor's Office. It functioned for interagency coordination on "state" policy much like ICAR for rule-making. ANR General Counsel Groveman will explore informal ways to revive the purpose so regular and on-going coordination of policy positions within quasi-judicial proceedings can occur among and between all agencies and departments involved in these proceedings..

North Springfield Biomass PSB #7833. Agency legal counsel and state plant pathologist attended the public site visit. The Agency's interest is invasive species that could be imported on the forest product feedstock for the proposed facility. There appears to be significant public opposition to the proposed project. The Agency has moved to intervene in the PSB case.

Agricultural Development

Receipt of Local Food Market Development grant program proposals, 2/29

- \$40,000 total grant funding available in 2011 to increase Vermont producers' access to institutional markets and to increase the quantity of local food available in Vermont institutions.
- Application acceptance period closed on 2/29/12.
- VAAFM received 24 grant proposals from producers, food hubs, community kitchens, and local agricultural businesses.
- Application requests totaled \$110,206 with \$91,192 are project match. Therefore total project value = \$201,399.

Food Safety and Animal Health and Consumer Protection

Dairy:

A person (T. B.) emailed the Dairy Section looking for public records or information from 1982. He said he had been sickened by raw milk in 1982 when raw milk was being sold from Shelburne Farms. No Agency records on the issue were found but T.B. was referred to the Health Department since that entity takes the lead in cases where people are sick. He said he was planning to write a "My turn" piece to send to the Burlington Free Press to remind people there are good reasons why raw milk should not be directly consumed.

Animal Health:

- Cervid Farms- Animal Health Specialist Kuehne is working with two cervid farms regarding relocation of red deer intra and interstate. Activities related to that have included inspection of perimeter fences and facilities.
- Animal Welfare- Animal Health Specialist Kuehne performed a site visit to a livestock farm in Athens VT, regarding a complaint that animals have inadequate shelter.
- Animal Disease Traceability- Animal Health Specialist Kuehne is working with livestock dealers and auction markets on an ongoing basis to implement new USDA traceability rule which will be going into effect June 1,

2012. Kuehne has focused primarily on consistent education of, and outreach to these animal agricultural stakeholders in order to give them the best opportunity possible to remain in compliance with the rule after its effective date.

Agricultural Resource Management

Water Quality Program

The **2011 Annual Agricultural Water Quality Enforcement Report** has been finalized and has been sent to Secretary Markowitz as required under the Agency's Memorandum of Understanding with ANR/DEC for the implementation of an agricultural nonpoint source pollution reduction program. The report has been expanded to include not only inspections and enforcement actions taken under the accepted agricultural practices regulations (AAPs), but also enforcement taken under the MFO and LFO permit programs. A total of 756 inspections/technical assistance visits were made to farms in 2011. The report includes tables which summarize the number of investigations and enforcement actions per watershed; the general nature of complaints received and compliance checks conducted; enforcement actions issued by AAP section and MFO/LFO permit requirement; and a summary tracking table of all inspections conducted. The report is available for reviewing on the ARM/Agricultural Water Quality web page. (Contact Wendy Anderson X3475)

Pesticide Program

A Montpelier business will receive a letter of warning for violations of the *Vermont Regulations for the Control of Pesticides*. The business is not providing his customers with the required pesticide-related information following applications, and the company's routine operational pesticide application records do not contain all required information. Providing customers with the required information after a pesticide application is extremely important in the event someone experiences an adverse reaction to the product(s) used and needs to seek medical assistance. Proper routine operational records also allow the Agency to review the use of pesticides by a company/individual to ensure that pesticides are being used properly. (Contact Wendy Anderson X3475)

Secretary's Comments

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

CONFIDENTIAL AND PRIVILEGED: NO SHARING
MEMORANDUM

TO: Governor Shumlin
FROM: Armando Vilaseca, Commissioner
DATE: March 2, 2012

High School Math Survey: By the end of today, I will be sending you a report titled: *Vermont High School Students' Performance on the New England Common Assessment Program Mathematics Test: Concerns, Plausible Explanations and Initial Data Analysis* via Susan Bartlett and Susan Allen. In anticipation of next week's press conference, I have discussed with both Susan Bartlett and Susan Allen, the importance of schools increasing the numbers of students successfully completing Algebra and Geometry prior to their junior year and the specifics of my plan to make a recommendation to the State Board of Education to change current graduation requirements. I have been assured that such a change would have outspoken support from the business community (detailed in the next paragraph).

Meeting with IBM: At the suggestion of Huck Gutman, Deputy Commissioner John Fischer and I met with Janette Bombardier, Site Director at IBM, on Monday of this week. We discussed the critical scarcity of people with enough technical training to be able to fill positions not only at IBM, but many of the state's engineering, production, and software businesses. Surprisingly, the shortage is not in engineers, but in people able to do technical jobs; people with a solid background in high school math, and perhaps two years of training at CCV or VTC. The really critical shortage is in students who have strong math training – intermediate algebra, even moreso than pre-calculus or calculus. This is exactly what we are trying to improve upon and expand in our schools. We all know how important a sound grounding in mathematics is for a large number of jobs in the 21st century economy. Giving students the skills they need to secure a solid economic future for themselves is one of the truly essential tasks of our K-12 schools. Career and technical training is decidedly needed and encouraging more students to look at these types of technical careers is a continuing focus of our work here at DOE.

Federal School Improvement Grant (SIG): As I mentioned in last week's memo, John Fischer and I spoke with Acting Assistant Secretary Michael Yudin and Deputy Assistant Secretary Jason Snyder regarding SIG. Despite what we were told previously, we learned from our conversation that the firing of principals, the firing of 50% of teachers and the closing schools will be a requirement for participation in SIG. At this time and in this climate, we do not feel that would be a good move for the state of Vermont, thus we have decided not to participate. *This means that about ten schools will not receive approximately \$1.2 million/year from US ED over the next three years.* If you have any questions about this, or need further clarification, please let me know.

ESEA Flexibility Request: On Tuesday, the revised Vermont ESEA Flexibility Waiver Request was submitted to US ED. This submission includes changes related to annual assessments required by US ED. We remain committed to working with US ED towards a successful completion of this request. The revised submission can be viewed by clicking here: <http://goo.gl/2m7iH>

Vermont Afterschool Legislative Day: On Wednesday I attended part of the Vermont Afterschool Legislative Day, a program that brings together educators, program directors and staff, community partners, and others from around the state to celebrate the importance of afterschool, summer, and expanded learning programs that support Vermont's children and youth by providing opportunities and services outside the school day and throughout the school year. The theme of the day was "More Time for Learning" and the program was very well attended.

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STATE OF VERMONT
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TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: February 24, 2012

Legislative Issues

- **S.107:** State veterinarian provided testimony on 2/24 to the Senate and House Agriculture committees on behalf of the Livestock Care Standards Advisory Council related to the position statement that the Council developed in response to S.107, a bill which proposes to criminalize the ownership of cattle and horses with docked tails, and the act of performing that procedure on those animals. The Council is opposed to the language in S.107.
- **Working Landscape H.496:** The House Agriculture Committee voted H.496 out of their committee on Thursday morning. The Committee gave it's unanimous support with their vote of 11-0. In the bill is the inclusion of four positions to increase capacity at the Vermont Agency of Agriculture to support and administer the Working Lands Enterprise Board, Working Lands Enterprise Fund, Vermont Agricultural Development Board (which is expanding by three seat to include the forestry sector) and a Regulatory and Wrap around Services Advisor "Ombudsperson". The Senate Agriculture Committee plans to vote their version of the bill - S.246 out of committee on Tuesday.
- **Maple Industry:** Agency's maple specialist provided testimony to Senate Agriculture Committee about how and why the new international grading standards were developed, the Agency's involvement in the development, and the Agency's view on why the maple industry had approached the Senate Ag Committee requesting legislative action to adopt the international standards as Vermont's standards. There is no proposed language to review at this point in time.
- **Conservation Easement Amendment S.179 and H 553.** Senate Natural Resources took additional testimony. [Chuck to fill in]

Status of Governor's Priorities:

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Press Issues/Releases/Contacts:

Marketing and Communications:

This week's hot issue was "Meat Truck Scams." Tuesday afternoon we received a call from the media about a potential criminal operation related to door-to-door meat sales.

A team consisting of Mike Mitchell, Dr. Haas, and Dr. McNamara quickly responded by putting together a list of consumer tips and caution signs to prevent Vermonters from succumbing to fraudulent meat sellers. In just a few hours, we connected with the VT State Police, issued a consumer alert, and Dr. McNamara was interviewed by WCAX. Dr. MacNamara also coordinated with DCF (Ames Robb) on issues related to EBT fraud by meat trucks.

Secretary Ross spoke to an audience of around 300 at the St. Albans Coop Annual meeting and 200+ people at the Dairy Producers Conference in Burlington. The Agency also provided talking points for the Governor for this event.

Secretary Ross was interviewed for an hour on WDEV with Bill Sayre on the True North show. They covered a range of topics including migrant workers and the bright future of agriculture in VT. No difficult issues arose during or after the show.

Below are the media inquiries for the week.

Media Outlet	Reporter	Topic	Request	Action Taken
WCAX	Judy Simpson	Slaughter	Interview	Interview with Kathy M
WCAX	Gina Bullard	Meat trucks	Interview	Interview with Kathy M
Fox 44	Lesley Engle, News Manager	Meat trucks	Interview	Called back no reply
Montpelier Bridge	Nat Frothingham	Meat trucks	More info on areas of incidents	Forwarded info
Seven Days	Kate Flagg	Meat trucks	More info	Forwarded State Police Contact info
NECN	Jack Thurston	Meat trucks	more info	Forwarded info
Biomass Monitor	Josh Schlossberg	Emerald Ash Bore	more info	Tim Schmaltz/Diane Zamos interviewed

- Agency legal counsel and plant pathologist spoke with Joss Schlossburg, who writes the Biomass Monitor, about the Agency's interest in the proposed North Springfield biomass facility. Agency has an interest in ensuring feedstock for any existing or proposed biomass facility does not come from areas under federal or state quarantine for invasive species or areas where problem pests have been identified. Invasive species put certain Vermont's agricultural sectors at risk, notably the maple industry (Asian Long-horned beetle), the nursery and landscape industry (hemlock woolly adelgid, "scale", oak wilt), and the apple industry (light brown apple moth). ANR has a parallel interest in protecting Vermont's forestry sector (emerald ash borer).

- The Agency released a consumer alert warning consumers of unlicensed door to door salepeople selling meat. <http://www.vermontagriculture.com/news/2012/meattrucksFeb22.html>
WCAX ran a story about this issue as well: <http://www.wcax.com/story/16994989/vt-ag-officials-warn-of-mystery-meat> Since the alert and news report, the Agency has received several calls (~13) from people who bought such product, from all over the state. Many callers indicated high pressure sales techniques, some felt intimidated. The concern of consumers using EBT cards for payment was relayed to DCF's Ames Robb. VAAFM is working to investigate licensing status and selling unlicensed meat product from information given. Based on callers' concerns, we are also referring them to their local police departments, their doctor, Ames Robb of DCF, or the BBB. In the meantime, any Vermont EBT cardholder who is concerned about a purchase made by a traveling meat vendor is strongly encouraged to call the number on the back of their EBT card to cancel the current card and order a new one. The number is 800-914-8605. A replacement EBT card will arrive within 3 business days of the day they it is requested. Cardholders should also change their PINs. EBT cardholders who have made purchases they are concerned about are also encouraged to make a report either to VAAFM at 802-828-2426, or to Ames Robb, EBT Director, 802-769-6082 or ames.rob主@state.vt.us.

Significant Events/Meetings:

Food Safety/Consumer Protection:

- State veterinarian has been asked to participate in agenda development for the 2012 USDA/State Animal Health Officials Leadership meeting. This meeting, slated to be held in late June 2012, provides an opportunity for federal and state animal health-focused partners from the eastern half of the US to collaborate on issues of common interest and significance. This will be the second of these meetings; the 2011 meeting was excellent.
- State veterinarian participated on 2/23 in a meeting focusing on Rabies Management Along the US-Quebec Border. Meeting attendees included state and federal rabies officials, as well as colleagues from Quebec and focused on the development and implementation of a Vermont based field trial for an oral rabies vaccine for wildlife. Rabies is endemic in the Vermont and Quebec wildlife populations.
- State veterinarian executed duties as a member of the Vermont Certified Euthanasia Board on Feb 22. This Board oversees the certification of individuals and facilities as it relates to the performance of humane euthanasia of companion animals at these shelters. On the 22nd, Board members evaluated a Euthanasia Technician candidate at the Humane Society of Chittenden County. The exam is practical in nature and involves the candidate euthanizing at least two animals under observation. This practical exam follows a required training and apprenticeship period.

Evolving Issues:

Summary of Key Agency Department Activity:

Administration

Secretary and legal counsel met with Tax Commissioner to discuss collaboration for education and outreach efforts to farmers and the agricultural industry on tax laws and regulations, including current use, sales and use tax exemptions for agricultural equipment, and H2A guest worker income reporting requirements.

In re Chaput Family Farms, PSB 7542. AAFM legal counsel filed a Notice of Appearance and may file intervention request. Chaputs have a manure digester and are seeking an amendment to their CPG. The PSB instituted an investigation, as there is an allegation the Chaputs put in a holding tank for substrates (fish oil) imported from out of state. AAFM has an interest in ensuring the farm's nutrients are adequately managed and, as a matter of policy, that the PSB receives accurate information about how dairy farms manage nutrients and how digesters receive off-farm substrates to supplement on-farm produced feedstock.

In re: North Springfield biomass, PSB #7833. AAFM legal counsel is coordinating a discussion with ANR legal counsel and forest and parks policy advisor regarding risks of invasive species on imported biomass feedstock and potential strategies and mitigation measures. Tentative discussion set for Monday, 2/27.

Agricultural Development

Deputy Secretary LaClair and Ag Development Policy Administrator Colleen Leonard attend the Annual VT Grocers Assn and Retail Assn Luncheon. VAAFM partners with the Specialty Foods Association on business development activities ranging from funding support for marketing and promotion to connecting resources to expand export opportunities.

Secretary Ross convened and facilitated a meeting focused on Ag Education and Workforce training at the request of former Ag Secretary Roger Allbee. The intent is to align ag education and workforce training resources from secondary thru post-secondary education, responding to the needs of Vermont farmers and producers, and agribusiness, as well as ensuring that secondary education provides the career pathway opportunities for young Vermonters to pursue careers in agriculture. Leaders from VTC, UVM, Commerce, NOFA, VSJF joined the Agency to launch the conversation which will dovetail with the work of the Farm to Plate Working Group on Education and Workforce Training, and will include a Summit on this topic next fall after an inventory of resources, and need, are conducted to set the stage to frame a 'system of Ag education and workforce training' – critical to the entrepreneurial growth of this component of our economy.

Food Safety and Animal Health and Consumer Protection

Animal Health:

- On 2/21, Animal Health Program Coordinator blood tested a new breeder flock at a poultry farm for them to be able to export the hatching eggs to Canada. This testing was done as part of an ongoing program with that business.
- Compliance: Animal Health Specialist identified two out of state businesses buying livestock in Vermont without a Dealer License and bonding required to do so. A Westmoreland NH resident has been purchasing livestock at area sales for his own livestock business and a slaughter house he does not own in Massachusetts. The individual was warned and given the necessary documents to be properly licensed and bonded. An Athol Massachusetts resident has been purchasing livestock in Vermont without the proper Packer License to do so. The individual has been warned and will need to be licensed and show proof of bonding. Necessary documents have been forwarded to him.

**Livestock Dealers and Packers must maintain a bond as a measure of protection for livestock sellers against non-payment. The size of a livestock bond is based on the volume of business a dealer or packer averages in two days, with a minimum of \$10,000.

Agricultural Resource Management

- Medium Farm Operation (MFO) General Permit revisions were explained at 2 public listening sessions this week, one in Enosburg Falls and another in Middlebury. Every five years the MFO GP is required to be reviewed and updated as necessary. This is the first time since the permit was issued in 2007 that revisions have occurred. The current proposed revisions help to clarify the intent of the rule and are not substantially different than the requirements in the previous permit. There will be one more listening session in Montpelier on March 5th and public comments are all due by April 3rd.
- The Agency of Agriculture is prepared to sign a contract with a respected local firm for the architectural and engineering services to begin phase 1 of the American Great Outdoors Natural Resource Conservation Service Agricultural Practice Monitoring Project. All phases of this project total ~\$800K, with this first phase covering ~\$72K. USDA NRCS is funding 75% of the project, the Great Lakes Fishery Commission and in-kind State services are covering the remainder. This project will help provide information on the effectiveness of agricultural practices installed to protect water quality. The end goal is to know what kind of phosphorus, nitrogen and sediment reductions we are achieving with these practices.

- Lake Champlain TMDL-the Vermont legislature took testimony on this last week. In general the tone was clear that progress will not be immediate and a lot more resources will be needed. EPA in the meantime is working on the newest version of the TMDL. They have offered suggestions on how to determine the phosphorus loadings from the landscape. DEC and VAAFM have provided comment into EPA's suggested methods to develop these loads, which EPA did take into consideration. Workgroup meetings with EPA (which include DEC, VAAFM and other relevant organizations) will continue in the months to come.
- The Agency has been hosting Spill Prevention, Countermeasures and Control program trainings for farmers to ensure their fuel storages are in compliance with federal law. These trainings have been popular and farmers are quickly stepping forward to implement secondary fuel containment and to write a SPCC emergency response plan. The Agency is doing the best we can to help teach farmers how to write their own SPCC plans and we're providing engineering and cost-share assistance to design the secondary containment. We have also worked with USDA to bring this practice into their list of eligible practices so farmers can also access federal funding and technical assistance to implement these practices. This effort was prompted by three enforcement actions the EPA sent to farms following water quality inspections last summer. The three farms that have received enforcement notices from EPA are Shelburne Farms, Monument Farms and Low-View Farms.

Secretary's Comments

S. Ross will be out of the office from Feb 26th through March 6th. He will have access to his email and phone but it may be on a limited basis for parts of his time away.

Agency Challenges

The Agency continues to struggle with the renovation of the building as a result of the dampness issues generated through the rehab work. A majority of one Division continues to be relocated in another building for an uncertain length of time (estimate 2 months more) and a couple of staff who continue to have allergic reactions to the building at 116 State Street and at 9 Baldwin. The Agency is working closely with Kate Duffy and staff at Human Resources to respond appropriately.

The Agency continues to operate its lab functions in temporary space with uncertainty as to where and when they may be relocated. This along with the building issues drags down morale.

Flood relief follow up continues to be a struggle as another wave of need within the ag community seems to be emerging and the Agency has no staff or resources to manage these ongoing cases. The case management need is ongoing and its absence prevents the Agency from doing the kind of work it would like and the constituents expect.

There are also issues surrounding the management of legal, IT and contract management. All three areas represent real work load pressures on staff and represent vulnerabilities for the Agency in terms of getting its work done in a timely and responsible manner. Staff burn out and constituent response times are real difficulties. Its clear the positions requested in the budget are needed but will not be sufficient to relieve the work load pressures in the Agency as it tries to keep pace with the growth and demands of the state growing and changing agriculture.

Press

S. Ross was on WDEV True North with Bill Sayre on Tuesday

S. Ross was interview along with Ellen Kahler and Brian Shupe by Elizabeth Courtney for a book she is writing on the legacy of VNRC.

Speaking

S. Ross spoke to the St. Albans Coop Annual meeting and the VT Dairy Producers Conference. He addressed the importance of dairy as the foundation of the agricultural renaissance in Vermont, the bright future and growth of agricultural generally, the challenges around water quality and the possible opportunity for increased milk production in this milk deficit region.

Meetings

S. Ross meet with a number of groups and legislative committees on legislative topics. They included:

- Darby Bradley and Gus Seelig as well as the Senate Natural Resources Committee on Conservation Easement Amendments;
- Harvey Smith and Commissioner Ide on agricultural vehicle registrations;
- Dr. Julie Smith of UVM on dairy policy;
- House Ag Committee on Working Landscape bill;
- Senate Ag Committee on Agency Budget and Working Landscape bill (substantially different from House version);
- John Echeverria and Rebecca Purdham of VT Law School on their future ag oriented program;
- Farm 2 Plate Steering Committee on progress of F2P
- Andrea Stander of Rural Vermont on how RV and Agency can collaborate on issues like on farm slaughter
- Alex MacLean and Sarah London on farm guest worker legislation
- Senate Finance on Current Use bill

Confidential and Privileged

To: Honorable Governor Peter Shumlin
From: Annie Noonan, VDOL Commissioner
Weekly Report: Week ending March 2, 2012

Key Issues: Bennington SWSU and VTNEA: VDOL agreed to the requested stay of our wage order, and I have requested the parties to attend an informal hearing on March 16th to resolve the dispute. ECorp English: VDOL served six wage liens against the company and Ms. Schwartz.

Legislative: VDOL spent the week on the Omnibus WC, UI, Independent Contractor bill. Testified in both House and Senate Approps on our budget. Requested the extension of the 4 WC Misclassification Investigators for LS service 3 more years. Will need one LS staff to administer the IC program. Meetings with AHS needed on IC language, as well as a UI pending dispute, and duplication of services between VDOL and CWS and underfunding of VDOL by Reach Up.

Unemployment Insurance and Wage Division: We are now predicting that we will get through the months of March and April without borrowing from the feds and may end April with \$5M in reserve. We are continuing the review with the Treasurer's Office on their concept of short-term borrowing to take Vermont out of 2 year consecutive borrowing status. The interest payment estimated this year (for September 30th) will be approximately \$2.5M, based upon the reduction in the federal interest rate from 4.1 to 2.9%. New changes: Feds have just announced an opportunity for the states to charge their Short-Time Compensation STC program to the federal dollars, but it will require some changes to our program - most notably, it would eliminate seasonal employers from the program, and employers would have to have some participation by reimbursing 50%. We are evaluating the pros and cons. I have been approached by AGC to reconsider the 10 week RTW for their members to go to 16 weeks, and will review their request to see if there are options to allow modifications when their members are engaged in training and recertification activities.

Workers Comp and Safety Division: The federal OSHA staff member were here for a compliance review and advised me that they are extremely concerned about our program in regards to whistleblower, discrimination and fatality investigations. They have apparently been advising the department of concerns and needed changes for many years and said they've had no cooperation from the department. Since this was my first review meeting, I had the opportunity to plead our case to keep these key sections of our program, as loss of these program elements would be an embarrassment for the state of Vermont. The program managers will be put on performance notice/warning, and the feds have committed to work closely with Vermont, including sending up trainers and allowing our staff to shadow the NH staff. I have accepted the long-standing request from the unions at VY to go down for a tour of the facility which I will do next Thursday. I hope to have a chance to better understand the demographics/profile of the workforce and occupations.

Workforce Development and Workforce Development Council: We are working with Ari on the internship / summer youth employment press event, and also on the establishment of the taskforce for employment barriers for minority communities in Vermont, in line with the President's call for employers to step up to the plate on hiring youth. I went over to see Kate Duffy the morning the VSH layoffs were announced to let her know how that VDOL can assist with job retraining and placement through a combination of WIA grants, NEG grants, a possible dislocated public worker grant (Massachusetts drew down money for something similar), and WETF money to develop a targeted training program. We will also help with our regular job placement activities, and do "rapid response" for the UI enrollment. The informational meetings are scheduled for March 12-14 in Berlin and Montpelier. IBM has laid off a few employees in both Essex and Fishkill NY. Bennington Dailey's Precast in Shaftsbury is recruiting for 17 openings. Aramark's contract with LSC was not renewed and

this affects the workers that VDOL sponsored through WETF money. Upcoming events: Central Vermont: 3/8 Spherion Job Fair; 3/22 Norwich Career Fair; 2-day OSHA training for returning National Guardsman; 4/5 Elks Club Job Fair. Northwest: 3/26 Champlain College Career Fair; 3/29 Franklin Regional Career Fair/Job Expo; 3/30 Veterans/Regional Managers meeting/training. Rutland: 4/12 Rutland Spring Job Fair will be held at the Joint Reserve Center (Army RS & NG)

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

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

www.anr.state.vt.us



Deborah L. Markowitz
Agency Secretary

Christopher Recchia
Deputy Secretary

State of Vermont
Agency of Natural Resources

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin

From: Deborah Markowitz, Secretary, Agency of Natural Resources

Date: March 2, 2012

Subject: ANR Weekly Report

Governor Level Issues:

- **Legislation:**
 - **H.485 – Mandatory Recycling:** The solid waste bill successfully passed the house today. We are pleased.
 - **S.202 - Rivers Management:** Sen. Lyons is moving the Irene recovery rivers management bill. It was always envisioned that new work to prepare for future floods would require resources. We recommended changing her proposed \$1.2 M funding to \$175,000, which is an amount we believe would be sufficient for bolstering our river management efforts. We cleared this with Jim Reardon and made no commitment about whether the administration would ultimately support this part of the bill, explaining that the administration wanted to see where the money would be coming from. This includes 2 additional positions for our agency, which we will need guidance on before too long.
 - **S.468 – Energy & RPS:** We have been following this bill and consulting with DPS. We will be offering some technical amendments the week following town meeting week.
 - **DEC Fees:** This is continuing along in fits and starts but is not expected to be out of Ways and Means before the week after next (crossover week). VY fee is still drawing attention though other issues have been raised and addressed successfully as we've gone along.
 - **Permit Improvement Process:** Sen Lyons is resisting moving forward with on the record appeals unless VNRC is on board, and we are continuing to work with them on a compromise that still satisfies the Chamber. This will probably be a last minute decision after break– and I see no way this can avoid a stop in Judiciary. We need to prep. Senator Sears.

EVERYTHING ELSE:

Legislative Issues/Testimony:

S.183 (required sampling of new potable water supplies): Chris Recchia and DOH Commissioner Chen testified before the Senate Natural Resources Committee on this bill suggesting changes which would remove the required sampling of these new wells and place more emphasis on DOH/ANR outreach to educate the public as to why they should test their well water. Ginny Lyons is not happy with this. A minimum testing regime of coliform (\$14), arsenic (\$12) and gross alpha (\$45) would cost a total of \$69. This could be reduced by \$20 if radon or uranium were substituted for gross alpha radiation. Further guidance would be helpful.

Stormwater Program: Padraic Monks testified before HFWWR regarding mapping impervious surfaces related to the "Lakes Committee Bill." Follow up questions got into the timing of issuance of the MS4 Permit relative to the Champlain TMDL. Rep. Fagan expressed an interest in having Secretary Markowitz in to the Committee to discuss integrating municipalities' various water resource related obligations (e.g. stormwater, wastewater, Champlain TMDL). We have proposed a study on this, but the new version of the lakes bill that came out on Thursday is not acceptable.

Rivers Program: Mike Kline testified before Senate Natural Resources regarding S.165 the Floodplain and River Corridor bill. Testimony including walking through the Agency's positions on different aspects of the bill and providing initial cost estimates for the bill in terms of river corridor mapping and staff resources. Mike Kline also testified to the House Transportation committee concerning river corridor and tactical basin planning and how environmental mitigation projects identified in those plans may inform funding priorities in the Transportation Enhancement Grants program.

H.237 - Current Use: Testimony was provided by Commissioner Snyder to the Senate Finance Committee on Current Use based on the conversation we all had. We are not doing a lot of heavy lifting on this based on that discussion.

Press Issues/Releases:

Ice Fishing Shanties- Vermont state law requires that ice fishing shanties must be removed from the ice before the ice becomes unsafe or ice loses its ability to support the shanty out of the water, or before the last Sunday in March (the 25th this year), whichever comes first.

WMA Annual Report- The Vermont Fish & Wildlife Department has issued its annual report on the conservation practices used during 2011 at the 86 Wildlife Management Areas (WMAs) around the state. The eight-page report is on the Vermont Fish & Wildlife Department's website.

Vermont Public Radio: F&W Staff participated in The Vermont Edition on VPR and gave an interview regarding the creation of a new WMA in Athens and Grafton called Turner Hill WMA which includes the homestead of Daisy Turner and her family. Staff was also interviewed by VPR on coyotes for the Vermont Outdoors Program.

Lynx in Vermont. WCAX did a great piece on sightings of Lynx in Vermont. Kegan Harsha went out with our biologist (on snowmobiles) and found tracks.

Significant Events/Meetings:

RGGI, Burlington Electric Department, Penny Lane peaking station – BED has filed their required compliance certification under the Regional Greenhouse Gas Initiative (RGGI) that was due by March 1st documenting that they have purchased and surrendered the required number of CO2 allowances to match their emissions for the first three year control period (2009-2011). We are still awaiting the certification from Green Mountain Power for their Berlin peaking station.

Watershed Management: Wetlands – Attended a meeting with VT GAS, EPA and the Corps of Engineers. The main points of the meeting were: for EPA to re-iterate its concerns with using the undeveloped sections of the CIRC corridor and resulting habitat fragmentation; and for the COE to describe the Federal and State process (the Highway methodology) of moving forward with review of the project.

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

Animal Feed Mills: EPA recently adopted a regulation addressing hazardous air pollutants from animal feed mill operations that use chromium or manganese based supplements. Vermont currently has four larger permitted feed mills and will be updating these permits at the same time to address the new EPA requirements. We are also tracking down other feed mills that may be applicable but that are not currently regulated by us so that we can address all these facilities at the same time.

Pike Industries (New Haven): Pike has filed an application for reconfiguring their New Haven facility crushing operations. Total production will not increase but many new crushing and screening components will be worked into the existing system to make it smaller and more efficient. The new system will utilize a water dust suppression system at various locations to control fugitive dust.

FOIA request: Vermonters for a Clean Environment made a request for any DEC documents/emails regarding choramine treatment during the period 5-25-2011 thru 2-23-012. Work has been re-initiated on drafting guidance for helping staff to determine if a water system fails under the jurisdiction of the Water Supply Program or under the Water/Wastewater Program in the Regional Offices. The final guidance will help to ensure that all staff is using the same approach/criteria in making these determinations.

Agrimark: The Indirect Discharge Program has received two lists of concerned citizens who are requesting a public hearing on the draft amendment of the Agrimark (Cabot) indirect discharge permit. While not meeting all of the criteria of a formal “petition”, the Program has decided to hold a hearing knowing that citizens want to express their concerns. The hearing will probably be in April.

Hazards: Vermont Electric Coop (VELCO) made contact this week as a follow-up to the January 27 on earthquake mitigation. As a result of the information gained at the meeting, VELCO is planning to take the next steps and mitigate for non-structural elements in the buildings that house the equipment that supports their electrical transmission function.

North Country Sportsman's Club, Williston: A letter went to the NCSC asking them to investigate and remediate the apparent releases from the shooting range site into the Sucker Brook tributary. Elevated levels of lead were found in the Sucker Brook Tributary on the VELCO property and near the VELCO property boundary on the Boutin's property. Lead has not been detected beyond the Boutin property or in the Boutin's supply well. There was a report conducted by ECS where an elevated level of lead was reported from the drilled bedrock well, however multiple samples from the Boutin tap have reported non-detect for lead. Further investigation into the extent of the lead contamination will be required.

AST Release at Grand Isle Elementary: on 2/22/12 a 500-gallon aboveground storage tank (AST) containing heating was found to be leaking. The amount of fuel lost is estimated at 100-125 gallons. Because the water line connecting the school to the municipal system passes directly through the zone of contamination, the School principal and school board are considering closing the school on Friday 2/24/12. While it is unlikely the heating oil has penetrated the PVC pipe, this measure is being considered as a precautionary measure.

Asbestos, Eden and Lowell: There were two public forums this week in Eden and Lowell. The clear consensus of those present in Eden was that the state and federal governments have no business being in town and can't be trusted. With a floor vote scheduled in Eden, and the contentious opponents, a positive outcome is unlikely at Town Meeting. At the Lowell meeting, there was considerable opposition voiced as well, but the questions and comments were posed with respect and room for debate and there were those who expressed support for seeking assistance from both the federal and state governments. This atmosphere would allow for a different outcome on Town Meeting depending on the attendance at the meeting and a skilled moderator. Nonetheless, a split outcome between the towns would not be a good bet.

Wetlands: Solar farms proposed for forested wetlands are presenting wetlands concerns. We have one project that has received the CPG, and is now applying for a wetland permit. Another one has just come in for preliminary review. I (AQ) rejected a proposal last year over this very issue; fortunately it was at the earliest stage that a site visit was requested.

Dufresne Dam Removal Project: The Chapter 43 dam order, the last required permit for this project, was issued on February 22. We're going to follow up immediately with VTrans on the next steps. VTrans is paying 80 percent of the contractor cost for the dam removal and stabilization of the upstream railroad bridge, which results in considerable savings to ANR.

Vermont Tissue Hydroelectric Project: We have received a 401 application for this new project on the Walloomsac River in Bennington. We are reviewing it to ensure it is complete and timely, in accordance with ANR's hydropower 401 procedure.

Gorge 18 Hydropower Project: We are working to finalize an agreement with GMP that will be submitted to the PSB in this Chapter 43 proceeding. The agreement addresses all of the issues that would bring this unlicensed facility into compliance with VWQS.

Fish and Wildlife

RBFF's: Staff continued working to organize the Recreational Boating & Fishing Foundation (RBFF) 2012 cooperative marketing project, and participated in a webinar on the 2012 Shakespeare Promotion and how to leverage it to boost fishing license sales.

Hydro Project: Staff worked on the Gorge #18 hydro project. GMP and ANR completed an effort to resolve a number of issues (including downstream fish passage and bypass flows) related to GMP's plan to install inflatable flashboards at this project. Staff conducted the fish and wildlife investigation and prepared the report required as part of the permit process through the Public Service Board. Staff also reviewed and provided feedback on an ANR-GMP memorandum of understanding that is part of the project resolution.

Access Areas: Staff have been working on finalizing three lease agreements to provide public access to three large Vermont waters. The Department and the town of Franklin recently agreed on terms to provide continued public access to the north end of Lake Carmi. Until last summer this access has been open to the public, but in private ownership. Last summer the town acquired the land in a donation and will now lease it back to the Department for 25 years with a renewal option for an additional 25 years. Similarly, the Department and CVPS have agreed upon a lease extension for the Chittenden Reservoir access. This access was just rebuilt last summer and the agreement will ensure public boat access for the next 20 years. The third lease is with Green Mountain Power for the Marshfield Reservoir Access Area. This lease is in the early stages of negotiation, but should provide the same guarantee with respect to protecting public access into the future. All three agreements will not cost the Department any money and in accordance with statute just need to be approved by the administration prior to being executed.

Forest, Parks and Recreation

Boomhour and Tobacco Parcels: The details of this have been reported previously, but ANR will discuss the matter with GMP and will pursue a cause of action against Mr. Tabacco for breach of verbal contract/agreement as related to the entire negotiated deal between the parties, and a breach of good faith negotiations as well as tortious interference with contract. Mr. Tabacco has not been contacted by ANR at this point.

State Land Transactions: We will be meeting with Senate Institutions Committee this week on the Department's proposed joint resolution authorizing the Commissioner to pursue two land exchange proposals (at Coolidge State Forest in Plymouth and at Alburgh Dunes SP in Alburgh) and to extend Camp Downer's lease at Downer State Forest for an additional twenty-year period. Work continues on other priority ANR land transactions: GMC/Smith acquisition in Bolton, Morrisville Water and Light addition to Green River Reservoir SP, sale of Lafrenniere house.

Ski Areas: FPR staff met with Killington Ski Area last to review proposed work plans and ski lease issues. Due to the unusually warm and snowless winter, Killington reports that skier use is down roughly 10% from this time last year. Killington incurred approximately \$6 million in damage from Tropical Storm Irene and worked hard this past fall to make the necessary repairs to get the ski area ready for the ski season. They invested close to \$2 million in constructing the two new umbrella bar structures to replace the pub portion of the K-1 base lodge that was swept away by the flood. The umbrella bars are very attractive structures that are receiving positive reviews from skiers. Killington plans to begin constructing their new summit lodge building and related infrastructure this year. We will be meeting with Stowe Mt. Resort later

this week to discuss proposed projects, annual work plans and related ski lease issues. A private developer (Timber Creek) is preparing to submit an Act 250 application to develop property adjacent to Okemo ski area for residential units and related skier access. The proposed development would include two new lifts and a number of new ski trails. A portion of the property proposed for development is subject to prior agreements that require Okemo to reimburse the Agency for its purchase of the former Pace property as mitigation for wildlife-related impacts associated with developing this land. These agreements are being memorialized within a new Memorandum of Agreement to be signed by Timber Creek, FPR, and Okemo.

VYCC: We have been working with the Vermont Youth Conservation Corps and the Flood Recovery Office to align FPR flood repair and recovery projects with work crews for next spring and summer. The program is to be funded by a variety of government and private sources.

Snowmobile Trails Not Eligible for Flood Repairs: FEMA has issued a final decision that flood repairs to the Statewide Snowmobile Trail System on FPR land are not eligible for Public Assistance due to the nature of the State's relationship with the Vermont Association of Snow Travelers (VAST). We will be working with appropriate authorities to revisit the relationship and rework our agreement with VAST to ensure eligibility for any future damage to this important public asset.

Emerald Ash Borer: FPR staff participated in a Webinar on Monday to review the status of Emerald Ash Borer (EAB) and the planning and mobilization that will be needed when this serious forest pest is detected in Vermont. This insect is within 30 miles of Vermont to the southwest and within 50 miles of Vermont on the northwest due to infestations in New York and Quebec. Lars Lund, FPR's Forest Fire Supervisor, is the Incident Commander for our EAB effort. FPR will use the Incident Command System (ICS) to deal with the initial response to the pest.

Winter Logging: Despite the poor conditions, winter logging has been progressing on state lands. This will be changing as some town roads will soon be posted against heavy vehicles.

Town of Maidstone and Maidstone Lake Road: Very shortly, an easement deed as well as the balance of a past legislative appropriation will be conveyed to the Town of Maidstone, associated with the Town taking over the Maidstone Lake Road as a class 3 town highway. This will bring to a conclusion an extremely long and drawn out process resulting in ANR no longer having any responsibility for maintaining this stretch of road.

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: March 2, 2012

Vermont Department of Health (VDH)

Asbestos Mine Health Studies. The towns of Eden and Lowell will vote next Tuesday on whether to have the old Vermont Asbestos Group mine declared a Superfund hazardous waste site. To clarify and summarize the limitations and findings of health studies the Health Department conducted in 2008 and 2009, we have updated the Health Study portion of our web pages at: <http://healthvermont.gov/enviro/asbestos/vagm-healthstudy.aspx>.

There is no evidence at this time that people who live near the mine are more likely to have or die from non-occupationally contracted asbestos-related diseases than people who live elsewhere in the state.

Strategic Prevention Enhancement. The Strategic Prevention Enhancement process, supported by a grant from the Substance Abuse and Mental Health Services Administration, is underway. This grant supports planning on mental health promotion and substance abuse prevention systems needed to address Healthy Vermonters 2020 objectives through the Agency and Health Department Strategic Plans.

Public Records Requests. Vermonters for a Clean Environment submitted a public records request to the Departments of Health and Environmental Conservation requesting all documents pertaining to the departments' work on chloramine.

The Health Department received two requests related to flu vaccine in connection with the child who died several days after receiving the flu vaccine last December. One request is from the vaccine manufacturer. The other is from a person whose affiliation, if any, is not known.

Department of Mental Health (DMH)

We have not received a report from Commissioner Flood this week.

Department of Disabilities, Aging and Independent Living (DAIL)

Ongoing Issues

Adult Protective Service. The situation remains stable: No backlog or queue. Investigator caseloads are manageable. Closure rate remains high. Active investigations average ~500 at any point in time. Roll out of the new data system remains one week ahead of schedule.

Adult Protective Services Litigation. Hearing on motion to dismiss will be set for sometime after March 9th. Judge Koppersmith is permitting depositions of Fran Keeler (former Director) and Liz Manfredi (former Program Chief) to proceed and they will likely occur next week.

Legislature

Commissioner Wehry responded to a memo sent to House Appropriations by Ken Gordon on behalf of some Choices for Care providers. The Commissioner corrected some misrepresentations about DAIL.

Commissioner Wehry also responded to a request from Rep. Mrowicki asking for a response to criticisms from a constituent (an executive Director of an AAA). She reiterated DAIL's rationale and advised we were looking at ways to advance the policy changes and mitigate the financial impact on Choices for Care providers.

Budget feedback. Commissioner Wehry and I met today with representatives of the Choices for Care Provider network to discuss reinvestment strategies for the anticipated positive year-end balance in the Long term Care portion of the Choices for Care budget.

Evolving issues (with possible media attention)

The constituent of Senator Kitchel's, Gisele Sherburne, on whom I reported last week, continues to protest the decision to move an adult man with a developmental disability (Nason) from her home. She is threatening non-specific legal action but all parties agree she has no legal recourse. The decision by Northeast Kingdom Human Services (NKHS) was made in concert with the DAIL public guardian and we support it. Deputy Commissioner Camille George and the Division Director Marybeth McCaffrey have been in touch with Ms. Sherburne to no avail.

Department of Corrections (DOC)

Press Issues/Releases/Contacts

Commissioner Pallito interviewed with WCAX-TV and John Dillon from VPR regarding the Chittenden Regional Correctional Facility and the recently released White Paper. Commissioner Pallito also met with the authors of the White Paper. The interviews focused on much of the work that we have done so far, the projects that are ongoing or in design and the upcoming study by the National Institute of Corrections. The following email was sent to the Chittenden Staff:

As I know you are aware, the Chittenden Facility continues to be a source of media attention, post transition to female offenders. Given that we are only six months into the transition, this attention is not unexpected.

I have spoken to the Governor and his Special Assistant, Susan Bartlett, and they have asked me to pass along to you that they are both extremely supportive of the work that you are doing and completely understand the complications of this transition. Both were very impressed with your hard work when they toured the facility on Monday, February 6th.

I have spoken to some media outlets today and have spent time highlighting the work you have done so far, the projects that are currently in process and the work that is in the design phase. I have highlighted the complications of transitioning facilities and that I am proud of what has been accomplished so far. I have also touted the success of a 15% decrease in the number of females incarcerated in the last six months.

Please keep up the great work. I know it can be frustrating, but we are making progress.

Other

Contact from New Jersey. Felix Mickens from the State of New Jersey, Juvenile Justice Commission contacted us and asked for a Word copy of our Directive #413.10, "Use of the Restraint Chair". It seems that, after finding themselves in need of a operational directive regarding the use of the Restraint Chair, and, after researching what was available for guidance, they decided that the State of Vermont DOC's directive was the one that they were most impressed with. They requested a word copy of the directive because they plan on copying and pasting ours directly into their format, that's how impressed they were by our work. It's nice to have a positive impact in our field beyond our borders.

Population

The department's incarcerated population has fluctuated on both sides of the 2100 mark for the last week. The female incarcerated population has remained in the mid to high 140's with the overall detention population remaining in the high 300's. The Department of Corrections is currently supervising five individuals on home detention, 37 on home confinement and 64 on reintegration furlough.

Department for Children and Families (DCF)

Legislative Issues/Contacts

Early Education Issues. Senators Kittel, Lyons, and Snelling have questioned whether early education should be bifurcated between DOE and DCF. The Senators have suggested that Vermont might have a better chance of having a true system of early childhood education if early education programs were placed under the jurisdiction of DCF. DCF has been silent on this issue, not wanting to appear as advocating for a take-over of these functions. However, there could be opportunities to leverage federal funds through AHS's Global Commitment Waiver. More aggressive, integrated, and coordinated efforts to address the achievement gap could be managed if jurisdiction was moved to one entity that was charged with the clear authority and responsibility to achieve key outcomes. DCF believes it is likely that language could be inserted into legislation to study this issue over the summer. DCF would support such language as it gives the Department much latitude and, in truth, the issue is complicated and a study would help to understand potential unintended consequences.

Press Issues/Releases/Contacts

Drug Testing of Reach Up Recipients. A recent *Burlington Free Press* article on requiring Reach Up recipients to be tested for drugs as a condition for receiving benefits may generate calls. DCF does not support such a plan, but wanted to check with you to make sure our views

are consistent with your thinking. Drug testing of Reach Up participants may deter parents with undisclosed substance abuse problems from applying for Reach Up assistance, or cause current participants to leave the program to protect their privacy. Such a result could place the children of these families at increased risks. Drug testing is likely to be challenged on both state and federal constitutional grounds, which may include the right to privacy and equal protection.

Evolving Issues

Temporary Assistance for Needy Families (TANF) Reauthorization Bill. The TANF reauthorization bill recently signed by President Obama requires states to prevent "unauthorized spending of TANF benefits" in liquor stores, casinos, or strip clubs. States have two years to comply, or risk a reduction in their federal TANF grants. Fortunately, in Vermont, this issue will be much less significant than it will be in other states due to the small number of these types of businesses, and the fact that liquor stores are run by the State. This bill will require EBT service providers to create programming that prevents EBT benefits from being accessed at the prohibited types of establishments. Programming at the EBT level will almost certainly result in an increased cost of EBT services to states.

Child Care License Revocation. DCF has been made aware of serious allegations concerning Suzanne Allen, a registered child care provider in Milton. DCF has investigated prior allegations concerning this provider, but they were not able to be substantiated. The provider's license has been suspended while the current investigation continues. DCF is not sure at this time the number of affected families, but it is expected to be small. Those families will be notified and DCF staff will help to relocate the children to other day care providers.

Department of Vermont Health Access (DVHA)

Status of Governor's Priorities

Bi-Weekly Health Services Enterprise Executive Committee. A committee has been developed to meet bi-weekly on the progress on health care related IT projects. Mark Larson, Christine Oliver and Richard Boes from DII will all participate.

Legislative Issues/Contacts

DVHA Budget Testimony. Mark Larson testified on Tuesday and Wednesday via phone in House Health Care Committee to wrap up questions on the DVHA's budget request for FY'13.

Mark Larson also met with Rep. Mitzi Johnson to discuss DVHA's proposal to have insurance companies check for Medicaid eligibility before private insurance companies settle cases. Jamie Feehan and John Holler, representing commercial insurers, also participated. Jamie and John were going to provide additional information about alternative approaches to this issue. Mark also committed to providing some additional information for Rep. Johnson.

S. 89 - An act relating to Medicaid for Working Persons with Disabilities. Mark Larson testified on Thursday before the Senate Health & Welfare committee regarding an act relating to Medicaid for working persons with disabilities. DVHA, in consultation with DAIL and DCF, has reviewed new language proposed by advocates and has suggested additional changes to ensure that any eligibility changes would be implemented after a new eligibility system is in place.

Exchange/Cost Timing. A variety of legislators are requesting more information about the Exchange costs and timing. The Exchange team is working to respond to those requests in a timely manner, recognizing that we still don't have answers for many of the questions about the exchange.

Press Issues/Releases/Contacts

Hamilton Davis. Hamilton Davis is writing a series on VT health reform and the Exchange; Lindsey Tucker met with him to answer questions on February 29th.

Public Records Request. Darcy Johnson of Vermonters for Health Care Freedom has made a public records request for any text or e-mail messages between Mark Larson and Speaker Shap Smith, Representative Lucy Leriche, or Representative Mike Fisher related to H.559 from February 20th through 24th. Similar requests have been made of Robin Lunge and Steve Kimbell. Responses to the request are being developed.

Significant Events/Meetings

VAHHS. DVHA proposed to the Hospital Association that we approach CMS jointly for a determination regarding inclusion of physician practices in the hospital provider tax. The board of the Association will meet to respond to the DVHA's proposal.

Hub and Spoke System Meeting. The Departments of Health and Health Access had a large stakeholder meeting in Rutland on Wednesday to start the detailed planning work to start up hub and spoke system in Rutland /Bennington counties for SFY'13.

Provider Issues. The DVHA received a provider enrollment application on 2/22 from McGregor's Medicine on Time (MOT), Winooski location. After consultation with DVHA's legal representative, it was determined that DVHA would send McGregor's MOT pharmacy a letter denying their provider enrollment application as they have not demonstrated that they have taken the appropriate steps to fully address the conduct described in the October 4, 2011, to McGregor's from DVHA.

Executive Privilege

TO: Governor Peter Shumlin
FROM: Acting Secretary Leonard LeBlanc
DATE: Friday, March 2, 2012
SUBJECT: VTrans - Confidential Report to the Governor

DMV Fee Bill

The DMV Fee Bill has passed the House of Representatives. The bill contains only minor changes to DMV's original proposal and is estimated to generate an equivalent amount of revenues - \$6.3 million.

Preliminary testimony has been given in both the Transportation and Finance Committees of the Senate.

VT Strong Plates

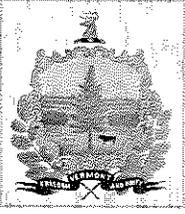
VT Strong license plate sales continue to be strong with a number of the local food chains joining in. Hannafords took delivery of 1700 plates this week and Price Chopper has ordered 3000 and Shaws 800. We have had some defective plates and are working with VCI to repair/replace bad quality plates.

VTDrives

DMV and HP agreed to a six-month contract extension for the VTDrives system modernization project and that contract amendment has been fully executed. The contract will now expire on August 31, 2012. The extension will give both sides time to work out the details of a settlement/go forward strategy.

February Transportation Fund Revenue Results

Preliminary results indicate that transportation fund revenues appear to have performed well in February. Combined transportation fund (TF) and transportation infrastructure bond fund (TIB) results for February exceeded monthly cash flow targets by nearly \$1.7 million (10%). Cumulative TF and TIB results are nearly \$1.2 million (1%) ahead of target.



State of Vermont...

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

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

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

www.bishca.state.vt.us

Memo from Commissioner Steve Kimbell

CONFIDENTIAL AND PRIVILEGED – NO SHARING Report to the Governor for Week Ending March 2, 2012

Governor's Priorities

Legislative

General Information

David Provost spoke at a business insurance risk management summit in New York City. Attendees included risk managers of major corporations among whom were several Vermont captive owners.

NAIC

Several BISHCA senior staff members are attending the NAIC annual spring meeting.



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

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

Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

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

CONNECT VT

Nothing to report.

BUILDINGS AND GENERAL RESOURCES

Legislative Issues/Contacts:

- Held customary weekly meetings with the chairs of HCIC, SIC and the Speaker. The Speaker is clearly frustrated with the Governor. Someone should talk to Shap soon.

Press/Media Notes:

- Arranged call back to Kristen Fountain, Waterbury Record, regarding child care centers in Waterbury complex buildings.

Significant Events/Meetings:

- Attended meetings concerning the VSH replacement sites, the DOE move to Barre, ANR lease renewals, and transfer of the ST Johnsbury Regional Library to the Department of Fish and Wildlife.

FINANCE AND MANAGEMENT

Issues Update:

FY 2012 Budget Adjustment Bill (BAA): Both Houses have passed the Conference Committee version of the Budget Adjustment Bill (H.558), excluding appropriations related to the Vermont State Hospital (VSH). The VSH appropriations are contained in H.630 – *An act relating to reforming Vermont's mental health system*. Originally passed by the House on February 3rd, and after passage by the Senate on February 2/29/12, the Bill was referred back to the House for concurrence with the Senate version. The expectation is that there will be a conference committee appointed and it is likely that work on the bill will be delayed until the Legislature returns from their Town Meeting work hiatus.

Financial Transparency Website: Deputy Secretary Clasen has approved a proposal from Deputy Commissioner Zeller to create a new financial transparency website and authorized the project work to begin. Currently, if you know where to look and which report to select, the vast majority of the information that will be presented on this website is available either on the Department of Finance & Management's website or the website of the Department of Taxes. The goal is to consolidate this existing financial information in one easy to find, easy to access and user friendly website that will allow citizens to view charts, graphs and reports with information about State revenue, expenditures, and budget, etc. The initial project meeting was held late last week. In addition to Deputy Secretary Clasen and Deputy Commissioner Zeller, other attendees included DII Deputy Commissioner Darwin Thompson, CMO Kathy Murphy and ACCD IT Manager David Metraux. Other project management and IT support has been assigned by Deputy Thompson and a work plan is under development by Deputy Zeller. Longer term, the website functionality (advanced search function, etc.) will be expanded and the website will link to the Governor's Dashboard. The short term target is to have the website available to the public before the end of FY 2012.

HEALTH CARE REFORM

Nothing to report.

HUMAN RESOURCES

Legislative Issues/Contacts:

Vermont State Hospital: Commissioner Duffy appeared before Senate Health and Welfare, Senate Government Operations and several caucuses to discuss the reduction in force at the Vermont State Hospital, efforts to mitigate the impact on state employees and amendments to H. 630. Commissioner Duffy also provided several memoranda to legislators regarding the efforts made to date to assist state employees subject to a RIF, and certain contracting requirements around privatization contracts. Representative Hooper has asked for some information about the RIFs as well in anticipation of a conference committee on H. 630. Commissioner Duffy hopes to provide this information by the end of business on Friday.

Testimony before House Health and Welfare Committee: Commissioner Duffy testified before the House Health and Welfare Committee on an omnibus military bill. Specifically, Commissioner Duffy

testified about health care coverage for guard members under the state employee health plan for employees who are called into active guard service within the state.

Testimony before House Institutions and Corrections Committee: Commissioner Duffy joined Commissioner Obuchowski in testifying before the House Institutions and Corrections Committee on the creation of a plan for a memorial statute to honor state employees, including the site for a memorial and the costs associated with it. The Committee seemed receptive to the idea, with the provision that it should not include corporate or other kind of express sponsorship.

Evolving Issues:

Pay Act/Pay Equity Issues: Commissioner Duffy has prepared a draft of the Pay Act that includes the necessary information for the executive branch, the legislative branch, states' attorneys, state's sheriffs and the judicial branch. DHR met with Commissioner Reardon and his staff to identify the necessary appropriations to include in the Act. Commissioner Duffy will present the draft to the House Government Operations Committee on Friday and will testify about the draft and the Governor's intentions with respect to exempt pay. Commissioner Duffy will also testify regarding the existing attorney pay plans and efforts to create one attorney pay plan that will result in equitable pay to attorneys across the state.

Early Retirement Plan for VSH Employees: DHR is working with the Treasurer's Office to assess the potential cost of a retirement incentive for VSH employees. A number of issues can impact the cost, including the potential scope of retirees and whether the package will be offered to individuals already eligible for retirement or for individuals who are not currently eligible.

INFORMATION AND INNOVATION

Status of Governor's Priorities:

iTOP: Migration of DPS email is now complete. With this consolidation, our email system now serves over 10,000 user accounts (including some municipalities). While there are still a few remaining independent email systems, the outliers serve a very small portion of the state.

Legislative Issues/Contacts:

Richard Boes and Darwin Thompson testified before House Government Operations on February 29th to provide facts and answer questions concerning the possibility of migrating legislative email to the central system managed by DII. Also testifying were legislative IT Director, Duncan Goss, Representative Sue Davis of the Legislative IT committee, and one of the legislative staff lawyers. The legislature could save at least \$26K a year in our estimation if they moved to the central system. Those against the move primarily cite the need for separation of powers. No decision has been made.

Press/Media Notes:

Richard Boes spoke with Thatcher Moates and referred him to Howard Deal for his specific DMV questions, but answered the general questions of what the intent was with signing an extension to the DII HP contract. Key talking points were:

- HP committed to fulfilling the VTDrives contract within the originally contracted amount (no additional cost) but we needed the extension to figure out how to get there
- HP is the 4th vendor to own the contract, but inherited code that could not meet performance expectations
- A re-write of the code was needed but would take time
 - Some function in 12/12, but total time estimated at 3 years to fulfill original scope
- The extension will give us an opportunity to reduce scope if needed
- HP has already begun the re-write after we/DMV/C2 conducted a code review that flagged the problems with existing code
- Possibility for getting some money back is still a possibility, especially if we have a scope reduction
- Key difference between function and performance
- The accepted milestones were based on function, not function and performance (you can't just do the task, but you need to do it in a reasonable time)
- Contract extension was for date only.

Significant Events/Meetings:

- Meetings on healthcare and HIX have ramped up and a core team has been put together to lead the charge from an IT perspective. However, outsourcing is still the only strategy that can be successful with available resource. Therefore, the team has focused on the next SOW needed to contract for the resources needed.
- Met with Courts to talk about potential cloud strategies for solving their significant IT challenges. Due to limitations in staff and not having funded a sustainable IT program, their options are limited and will cost considerably more than they have historically spent on IT.
- Richard Boes participated on a conference call with all of the New England State CIOs to examine opportunities for collaboration. They plan to meet, in person, in early April to continue these discussions.

Evolving Issues:

- As a result of the recent outages with Vermont.gov, DII determined that they cannot rely on the manual process for outage notifications. A team from DII met with a representative from VIC to go over setting up automated notifications for VIC hosted websites. This is to improve our overall notification process, and ability to get the information out more quickly to our customers in the case of a disruptive event occurring. DII is waiting to hear back when this is actually set up, but the meeting went very well.

LIBRARIES

Nothing to report.

TAXES

Legislation:

Miscellaneous Tax Bill: The Committee is still wading through the bill. It chose to retain some technical current use provisions, apparently as a vehicle in case the Senate does not move the House

passed bill. It chose not to reinstitute annual homestead declarations. It is hung up on a proposal from the Department to study the Landlord Certificate process to eliminate paper filings – Rep. Olsen is now pressing that the study should address fraud. There is consensus to extend the filing date for claims for adjustments and renter rebates until October (6 month late filing window). It heard testimony from the Chambers opposing increasing the minimum tax from \$250 to \$500 for high receipt corporations.

Secondary Packaging: Prior to the floor action, Ways & Means narrowly opposed an amendment by Rep. Lorber to require reports on the performance results of the exemption (wholly impractical, since sales tax exemptions aren't "reported") and opposed an amendment by Rep. Scheurmann on cloud computing 9-1.

Statewide Collection of the Property Tax: Rep. Ancel's bill, cobbled together with broad exemptions from the confidentiality of adjusted property tax bills, limped out of Ways & Means on a 6-5 vote. Since it includes a \$250,000 expenditure (for an RFP on a software solution), it will be taken up by Appropriations after the break.

Cloud Computing: Sen. Illuzzi combined retroactive cloud relief with tax relief for auctioneers and mulch vendors, a general purpose amnesty, an independent Tax hearing officer provision, and Betsy Bishop's language that would require the Department to use rulemaking for any written guidance (statute already allows petition to the Department requesting rulemaking). Sen. Cummings appears ready to take up the bill. Rep. Ancel continues to object to any legislative action due to concern that it would make taxation in the future problematic. She thinks any vote in the House would be close; the Speaker claims the same.

Meals Tax and Senior Living: Ways & Means continued to grapple with proposed language that would appear to exempt even privately catered affairs at senior living facilities.

H2A and other Ag Concerns: House Ag invited the Commissioner and Michael Costa to testify about H2A workers, at the behest of Rep. Stevens. The Department has touched base with advocates and Sen. Sanders, but the issue is federal: the IRS is enforcing income tax requirements on temporary ag workers (and IRS action will trigger state action, since the workers are not identified in our files). The only state solution would be a program for workers to apply for exemption.

Rep. Lawrence also wanted to raise audit issues, particularly related to an Ag supply store. He seemed somewhat satisfied by the Commissioner's explanation that I had met with the Secretary of Ag, and that we had a plan to address both possible statutory fixes and better outreach.

Natural Gas used to Fuel Motor Vehicles: Senate Transportation is considering a measure to direct sales tax revenue paid on natural gas sold to motor vehicle fueling stations to the T Fund. Although estimated at about \$10,000 in tax presently, the concern is that use of this alternative fuel will grow. Both the Department and Vermont Natural Gas testified that such a measure could be practically administered.

MEMORANDUM TO GOV. PETER SHUMLIN

To: The Honorable Peter Shumlin
From: Susan Spaulding, Appointments to Boards & Commissions
Date: March 2, 2012
RE: Boards and Commissions Update

Vermont Lottery Commission: Spoke with Martha O'Connor about holding off on the appointments in order to make sure the folks we appoint hire the new ED that you want. She said the two appointees are on board and there won't be any problem. She doesn't expect to make that hire for a couple of months. **Should we make those appointments now?**

Valuation Appeals Board: Working with Bill Johnson at the tax department on asking Mike Zahner and Sam Burr if they would be interested in serving.

Travel Information Council: 3 seats with terms that ended 2/29/2012:

Public Member – Susan Davis, Shelburne – initial appointment 10/22/2003

Recreation Rep - Francis Heald, Rutland – initial appointment 1984

Agriculture Rep – Elizabeth Kennett, Rochester – initial appointment 7/8/2002

Francis Heald is the Town of Ludlow manager ... It might not be worth not reappointing him and rocking the boat. Elizabeth Kennet owns Liberty Hill Farm and should probably be reappointed. Susan Davis should probably be replaced. This is the Council the Randi Ziter was just appointed to.

Rail Advisory Council: : After we met I received a phone call from Chris Cole his board member Carl Fowler whose term ended 2/29/2012. Carl was at a 2/29 Council meeting and he was so difficult that Chris says he should not be reappointed. At first Chris thought he could handle him but now thinks the man is out of control. I removed Carl Fowler's name from the "reappoint" list. This means we have 3 seats open on the Rail Advisory Council. Chris suggested a few possibilities ... Melinda Moulton (even though it was her husband who didn't want reappointment and hasn't been to a meeting in a year), Michelle Boomhauer (Chittenden Cty Metropolitan Planning Organization). The third person he recommends, and who has agreed to serve, is Christopher Parker (Exec Dir Passenger Rail Advocacy Network).

Vermont Citizens Advisory Committee on Lake Champlain's Future: 3 seats available, 4 people to appoint. We are waiting to hear from Tom Torti. He wants Peter Kreisel reappointed even though a year ago Peter said this would be his last year ... he has been on the board since 1988. Kate Neubauer is excited about the possibility of being appointed. Buzz Hoerr is the Chair. I spoke with Pixley Hill, Don Collins, and Peter Kreisel, they all think Buzz is GREAT. The 3rd person up for reappointment is James Ehlers.

Parol Board: I will discuss the alternate member vacancy with Andy Pallito. The alternate member should expect to meet at least 2-3 times a month. Per Diem \$100

Snowmobile Advisory Council: Looking for someone to replace Mitzi Oakes. Spoke with Jane Kitchell yesterday and she has a constituent that is interested. I will follow up next week.

Appointments made this week:

Water Well Advisory Committee:

REAPPOINTED: Linda Marek Howe, Winooski

Fish & Wildlife Board:

APPOINTED: Craig Nolan, Averill

Commission on Successful Aging:

APPOINTED: James Coutts, Swanton

APPOINTED: Jennifer Wallace-Brodeur

Transportation Board:

REAPPOINTED: Wesley Hrydziusko, Windsor

REAPPOINTED: Arthur Sanborn, Kirby

REAPPOINTED: Robin Stern, Brattleboro

Valuation Appeals Board:

REAPPOINTED: Ed Amidon, Charlotte

REAPPOINTED: Sonia Alexander, Westminster

Rail Advisory Council:

REAPPOINTED: David Allaire, Rutland

REAPPOINTED: Christopher Andreasson, Hartford –

REAPPOINTED: Joanne Erenhouse, Bennington –

Aviation Advisory Council:

APPOINT: Patricia Sears, Lowell –

REAPPOINTED: George Coy, Swanton

REAPPOINTED: Roger Damon, St. Johnsbury

REAPPOINTED: Robert Flint, Springfield

REAPPOINTED: William Gilliam, Rutland

REAPPOINTED: John McNerney, New Haven

REAPPOINTED: Edward Peet, Cornwall

REAPPOINTED: William Rozensky, Fair Haven

REAPPOINTED: Douglas Smith, Grand Isle

SerVermont:

REAPPOINTED: Matthew McLane, Worcester

TRAVEL INFORMATION COUNCIL:

APPOINTED: Randi Ziter, Putney

Vermont Citizens Advisory Committee on Lake Champlain's Future:

APPOINTED: Pixley Hill, St. Albans

REAPPOINTED: Mark Naud, South Hero

Nuclear Advisory Panel:

APPOINTED: Leslie Kanat, Johnson

Memorandum

Vermont Department of Public Service

Privileged and Confidential

To: Hon. Peter Shumlin, Governor & Sarah London, Governor's Counsel
From: Elizabeth H. Miller, Commissioner & Sarah Hofmann, Deputy
Subject: Weekly Report – Priorities Version
Date: March 2, 2012

Status of Priorities:

Vermont Yankee: There was a flurry of activity this week regarding the PSB proceeding. Entergy lost a motion to delay the PSB proceeding, after filing an expedited motion to "clarify" the Murtha order in order to remove the state's authority over spent nuclear fuel storage. The district court motion is pending but the PSB has clearly stated that it is going to proceed regardless; the PSB has jurisdiction over the CPG issue even if the Court were to remove spent nuclear fuel oversight. There is a hearing next Friday, March 9, in front of the Board; we must file comments on the extent of the PSB's jurisdiction on March 7. The Department also filed a reply brief in the DC Circuit NRC license appeal case this week.

Energy Bill: We are working hard to get a bill out of house natural that includes strengthened renewable energy goals and an RPS.

Merger CVPS/GMP: Our surrebuttal testimony is due next Thursday. Although GMP is advocating for a settlement of all issues, or all issues other than VELCO governance, we are leaning toward not entering into a settlement because there are still some points to be negotiated to the better benefit the state and ratepayers, and we are also mindful of the level of interest this matter has generated. Likely we will clearly spell out in testimony what we'd like to get and settle only if/when GMP agrees to meet those terms. VELCO ownership continues to be in play at the Senate but seems to have lost some of the verve it had a few weeks ago. I believe the Department has a very positive VELCO governance proposal and that it will achieve the best results for the state.

Telecom: We are following a few evolving issues including a recent FCC order regarding dropped calls to rural local exchange carriers and a complaint that Comcast customer service representatives have told VTel customers that VTel is in financial distress. We are also continuing to work on some emerging FairPoint issues. A smart grid bill is likely to be voted out of Senate Finance today also, largely with our support.

Legislative Issues/Contacts:

We testified on the energy bill, the building energy disclosure working group bill, the smart meter legislation, and provided information on a number of other pending bills in both chambers.

Press Issues/Releases/Contacts

Vermont Yankee dominated the press inquiries this week; we've also had questions about the RPS bill and a few telecom issues.

Evolving Issues:

The regulatory oversight of Liquefied Natural Gas (OMYA) and Compressed Natural Gas (Evslin) will present some unique/new challenges in the next several months. Burlington Telecom should heat up again mid-month because the federal court has scheduled a preliminary injunction hearing on CitiCapital's claims.

Memorandum

Vermont Department of Public Service

Privileged and Confidential

To: Hon. Peter Shumlin, Governor & Sarah London, Governor's Counsel
From: Elizabeth H. Miller, Commissioner & Sarah Hofmann, Deputy
Subject: Weekly Report – Priorities Version
Date: February 24, 2012

Status of Priorities:

- CVPS/GMP Merger – We had the first of two sessions with potential stakeholders on what should happen with the windfall sharing mechanism money. The low-income advocates did a very good job of explaining programming needed that would assist in weatherization as best way to provide value to CVPS customers. Liz and Sarah had a first meeting with GMP re any possible settlements that might be achievable. We need guidance on feasibility and timing of any settlements. DPS surrebuttal testimony is due March 8th with hearings beginning March 22nd. “Normally” we would reach settlement before our surrebuttal testimony is filed.
- Vermont Yankee at PSB - The Board has issued a request for comments on procedural issues designed to answer detailed questions about how to move forward. The questions include whether the non-preempted provisions of Section 248 should be considered, whether the Board should start a new proceeding, what aspects of the existing should be considered if it does not, whether Entergy can store spent fuel past March 21st, and whether Entergy can operate past March 21st without a CPG. Our response is due on March 2nd.
- Vermont Yankee NRC appeal - A hearing has been rescheduled for May 9th before judges Garland, Rogers and Henderson. DPS/NEC Reply brief is due on March 5th; joint appendix is due on March 12th. NRC and Entergy are attempting to rely on materials that were not before the NRC and DPS and NEC will object to their inclusion in the appendix.
- Vermont Yankee operations – the plant just tested four additional valves after two vacuum breakers failed last week. The vacuum breakers are used in a post accident condition to equalize the pressure between the Torus and the Dry Well. There are 10 vacuum breakers. Should another one have failed out of this group of four, the plant would be placed in a 24 hour LCO to shutdown. No further valves failed. We are finding out when the two failed valves have to be retested or what further testing of the system is required.
- Burlington Telecom – On February 17th DPS received the tenth progress report filed by the City d/b/a/ Burlington Telecom (BT). The parties to the federal lawsuit brought by CitiBank are engaged in settlement discussions; a hearing on CitiBank’s motion for a preliminary injunction is still scheduled for March 15-16. Meanwhile, BT reports that discussions with potential investors/partners have stalled due to uncertainty about the CitiBank litigation.

To: Governor Peter Shumlin

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

Date: March 2, 2012

Re: Weekly Report

Under Biz Retention and Expansion: Pat MP reports Advanced Illuminations of Rochester will do an open house the week of April 8. Bill Thraikill would like the Governor and Congressional delegation, Lawrence, Pat and VEDA to attend. They have moved from downtown Rochester to the former Oatmeal Studios building off Rte. 100. Irene sped up the process as the company did see some damage and loss.

- Pat MP is working with Joan Goldstein on the expansion of Ibex in White River Jct. The outdoor clothing manufacturer has outgrown current space and wants to stay in White River.
- Noelle, Lawrence and Pat, met with representatives from Target, looking to break into the Vermont market
- **CDBG Disaster Recovery Funding:** Ann responded to inquiry from Scott Davis from HUD Headquarters about more information needed for our request to expand the 80% targeting to Windham and Rutland counties. With the data received on Monday through Leahy's office on HUD's allocation methodology, a calculation of Washington and Windsor counties total severe housing and business unmet needs by percentage to State total is 63%. Whereas, including Windham county with a total unmet need of \$8.9M, the percentage is at 84%. Based on this information, it would seem our request is quite logical to use 80% of the CDBG-DR funds in the three counties that have over 80% of the unmet needs. Clearly, there is a significant gap from HUD's \$10M threshold per county to Rutland county at just over \$2M. Scott is traveling this week but has indicated they will be getting back to us fairly soon.
- Ann has received confirmation from HUD Headquarters where buyouts that occur prior to receipt of our Grant Agreement from HUD the 25% match to HPMG will be considered as pre-agreement costs and can be reimbursed to the communities. If the communities are unable to provide the 25% match as the HPMG comes through, the transaction will remain open till the CDBG-DR funds are available. This would require very tight controls and oversight monitoring to manage the open transactions.
- **Uniform Relocation Act:** Ann has been working with the City of Barre and HUD Headquarters to determine the URA requirements for the 16 units of rental housing that is on two parcels adjacent to the parcel that NSPI funds were used to acquire, demo and clear the site. Though no federal funds are being used to acquire and demolish the housing units (private development with Mayor Lauzon), because federal funds were used on the first parcel, and whole project is all three parcels for redevelopment most likely URA will be triggered. This site is being proposed to build office space to be rented to the State for replacing lost offices from the Waterbury complex.

