

WEEKLY REPORTS

Checklist

2/8/2013

Elizabeth Miller/Aly Richards

- ☒ Agency of Commerce and Community Development – Lawrence Miller
- ☒ Department of Labor – Annie Noonan
- ☒ Department of Financial Regulation – Susan Donegan
- ☒ Agency of Education – Armando Vilaseca
- ☒ VT Commission on Lottery – Greg Smith

Louis Porter/Drusilla Roessle

- ☒ Agency of Transportation – Brian Searles
- ☒ Agency of Human Services – Doug Racine

Sue Allen/Leigh Appleby

- ☒ Agency of Agriculture – Chuck Ross
- ☒ Agency of Natural Resources – Deb Markowitz
- ☐ Public Service Department – Chris Recchia

Sarah London/Carolyn Wesley

- ☐ Department of Public Safety – Keith Flynn
- ☒ Agency of Administration – Jeb Spaulding

Susan Spaulding

- ☒ Boards and Commissions

Other

- ☒ Irene Recovery Office

To: Governor Peter Shumlin
From: Lawrence Miller, Secretary - Agency of Commerce and Community Development
Date: February 8, 2013
Re: Weekly Report

I am grateful to work for a boss whose own public comments leaves plenty of margin for our candor, but will also be more careful with Paul Heintz in the future.

The House Commerce and Transportation committees did an NEK projects tour and held a public hearing in Newport which was very positive and very well received. Need to get word out that Lucy is doing interagency coordination for SOV because there is considerable anxiety. Jeb sending note to cabinet as step one. Lucy and Lawrence met with VCF which is exploring how best to connect interested funders into NEK planning projects.

VCDP Awards Ceremony: Governor Shumlin and Senator Leahy to announce CDBG-DR award for Ladd Hall and other CDBG grants at press event in Waterbury on February 15th at 2:00. Working with delegation, towns and project developers. Waiting for word from BGS on whether the event can be held in or nearby Ladd.

Wastewater Solutions for Villages: In an effort to overcome one of the primary barriers to revitalizing many of our village centers, Chris and Faith met with Mary Clark from ANR to identify the people or disciplines from ANR to involve in the inter-agency Wastewater Task Force. Mary's extensive experience with alternative wastewater systems both in the public and private sectors is a great asset to this effort. We will follow-up with a request to DEC to appoint staff to the Task Force along with a short list of issues for the group to address.

St. Johnsbury Downtown Investor Group: An upshot of the successful recovery from their most recent fire, a group of St. Johnsbury residents plans to pool their resources to buy and rehabilitate a number of other downtown buildings. This small-investor model jumpstarted the revitalization of Vergennes some 15 years ago -- and with the help of the Preservation Trust of Vermont -- we're working to connect the group with the developer who structured the Vergennes deal.

MLK Weekend was a big success for all the ski resorts - all reported visits substantially above last year. Today's storm and snow awareness downstate should give us a good lead into next weekend's long weekend biz.

Together with Public Service have launched planning for the energy financing summit discussed with Sanders. We are including EAN and have meetings set for the next while.

Lawrence met with the VBSR board Thursday. They had also heard from Shap and Campbell. They are ready for anything we ask of them on health care financing.

Have a great ski weekend all!

Memorandum

To: Honorable Governor Peter Shumlin

From: Labor Commissioner Annie Noonan

Re: Weekly Report – Week Ending February 8, 2013

Issues of Critical Note: LCAR on UI Issue for Newspaper Carriers – continuing one more meeting, next Thursday (*see below*). VDOL and AHS have met on the Reach Up contract that VDOL receives (\$1.2M, supporting 12 VDOL staff) which, after discussion may wind up being ½ the proposed cut to VDOL, with only 6 staff positions eliminated. Legislative issues: Testified on UITF, LCAR-UI; Worker Comp Fee bill; Self-Employment Assistance/UI; Equal Pay. Working on Presumptive Disability firefighters' (bill review), as well as other WC issues that have popped up this week. VDOL's UI, Wage and Hour, WC, and technical clean up bills are all surfacing. I am scheduled for VDOL budget review 2/19, with budget info going in today or Monday (we are trying to rework the submission based upon the Reach Up cut to our budget). Also, we need to finalize a position on prevailing wage changes.

Workers' Compensation: WC director met with Rep Bouchard at his request for a tutorial on WC. State Auditor will be meeting with VDOL as part of their review of the Agency of Administration's (BGS) State WC program. I have requested that the auditor's office schedule a brief entrance conference with VDOL so that I can understand what they are looking for from VDOL. S.136 draft was sent to the study committee members. The public hearing scheduled for today was moved to 2/13/13 at request of parties due to the weather. OSHA Region 1 has agreed to provide electrical expert for the fatality case mentioned in the FAME Report. Tramway staff has been busy – multiple ski-lift chair evacuations in recent weeks. January Workers' Comp Numbers: 33 telephone conferences held; 16 mandatory mediation referrals; 13 motions/correspondence; 1 formal hearing day held; 8 formal hearing days settled; 3 formal hearing decisions issued; 34 settlement agreements approved.

Unemployment Comp & Wage: We presented at LCAR on the newspapers issue again this week, and have one more day of testimony next Thursday. I suspect we will see a bill introduced by the newspapers consistent with their position. Rep. Marek asked me yesterday to resubmit the economic impact statement. We are working on that, but unless the newspapers will give us wage records, we cannot make the calculations — the carriers have been treated as independent contractors since 2006 and are thus not in our wage records. We are asking for 1099's for the CY12, and we are expected to have a report to LCAR by Thursday. We presented at Senate Finance this week on UI Trust Fund. We are continuing training for our ALJ and Claims Adjudicators, with VDOL legal counsel training them this week on use of educational wages, last employing unit, voluntary quit and health leaving. Supreme Court – no changes since last week. Call Center Stats: For the week ending 02/2/13 we took 3,392 calls. This is a decrease of 277 calls from the week ending 01/26/13. We processed 608 initial and 449 additional claims. This is a decrease of 179 initial claims and a decrease of 383 additional claims from the week ending 01/26/13. 14 claimants exhausted all tiers of benefits with the week ending 02/02/13 compared to 14 claimants who exhausted all tiers of benefits during the week ending 01/26/13. We paid 9,142 claimants during the week ending 02/02/13 compared to 8,961 for the week ending 01/26/13. Mass Claims were processed for Vermont Castings - 8

Workforce Development & WD Council: We are working on the revisions for our WIA 5-year plan. New businesses: Barre: Accuworx: environmental waste clean-up; Advanced Energy Panels: energy saving window insulating products. CVS pharmacy being built on site of old Friendly's building in Berlin. **Morrisville: Confidential:** Vermont Fleece will announce its closure to staff on Tuesday, 2/12, and has asked for VDOL support. A total of 4 employees will be affected, 3 full-time, 1 part-time. The owner states she lost a major contract to a foreign competitor. Trade Act information was provided. **Stowe:** Expansion of the Hill Farmstead Brewery. Burlington: People's United Bank has leased 42,702 square foot office at IBM campus for the bank's Operations Center. The bank states there will be some additional positions this spring. Rapid Response held for PACE at Colchester, with

closing at the end of March. Rapid Response has been scheduled for Brandis and Wright (doctors' office) for 02/21/13. The business is closing on April 1st. Out of 9 staff, it appears 4 will be dislocated. We are working on WETF Grant with Northern Gas Transport for approximately \$50,000 to assist in hiring new truck drivers who have no/limited driving experience. **Newport:** Working with North Country Hospital on WETF grant. Rutland: Army-Navy store is closing due to owner's retirement. The Vermont Institute of Music has opened on Center St. in Rutland. **Springfield:** Regional Manager met with Ludlow Area Chamber of Commerce to discuss local economic growth and development. They are interested in partnering with VDOL in helping businesses with employment needs. The Christian Science building in Bennington is for sale. Though this does not impact the labor force, it does offer a multi-use commercial space for downtown Bennington.

Other: Multiple personnel issues- including one staff out on TRD pending investigation that we are working on with DHR and DII. We also filed a police report on the equipment stolen from VDOL by the BGS security personnel (2) that have since been fired, but our equipment has not been returned. We also had VSP notified yesterday because a UI claimant announced to a VDOL Claims Center supervisor that if we denied him UI he was going to come to VDOL and shoot everyone and then kill himself. DHR told BGS to call State Police.

Meetings Next Week--- Legislative/Other: WDC Executive Committee; UVM Board of Continuing Education (working with them on workforce development needs); State Apprenticeship Council; Public Hearing on VIT re S.136 - WC; State Auditor here to discuss with our WC staff their audit of BGS WC division; Meeting w/Sen. Lyons on Independent Contractors; WDC Full Meeting on Successful Aging; SHRM Conference (committed to going to this for opening 30 minutes).



State of Vermont
Department of Financial Regulation
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For consumer assistance:
[All Insurance] 800-964-1784
[Securities] 877-550-3907
[Banking] 888-568-4547
www.dfr.vermont.gov

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: February 8, 2013
Re: Weekly Report

Legislative Issues/Contacts:

Commissioner Susan Donegan and Deputy Commissioner of Banking and Securities Tom Candon testified this week before the House Commerce Committee on DFR's housekeeping bill. Testimony will continue next week.

Candon testified before Senate Economic Development Committee on proposed legislation (S.7) prohibiting an employer from requiring an employee or prospective employee to provide access to personal social media accounts. State and federal security regulators must have access to an employee's social media account if that account is used for business purposes. He also spoke to a joint hearing of the Senate Judiciary and Senate Economic Development Committees on a proposal floated by Senator Sears to restrict surcharges on credit card purchases.

David Reynolds, deputy commissioner of the Health Care Administration, testified at House Health Committee and Senate Health and Welfare Committee regarding the department's recommendation to proceed to rulemaking on designating primary mental health/substance services and reducing co-pays to that of primary medical care services.

Significant Events/Meetings:

The Securities Division, in a matter against Axiom Capital Management, a securities brokerage firm based in New York City, and three of their employees was settled in Washington Superior Court this week. The settlement stipulated complete restitution to the two victims in the amount of \$49,478.92 plus \$85,000 in fines and penalties and the surrender of the offending investment broker's license.



Banking
802-828-3307

Insurance
802-828-3301

Captive Insurance
802-828-3304

Securities
802-828-3420

The Banking Division provided underwriting guidelines for the Vermont Property Assessed Clean Energy (PACE) Program, which is financing program designed to help qualifying homeowners invest in specified energy efficiency and renewable energy improvements. It is being implemented by Efficiency Vermont and hoped to be under way in 60 to 90 days.

The Captive Insurance Division reports that one new captive was licensed this week: Seion Indemnity Company LLC, which was established by Saint Raphael Healthcare System.

Meetings

The Commissioner and Deputy Commissioner of Captives David Provost attended the National Association of Insurance Commissioners (NAIC) Commissioners' Roundtable meeting last weekend.

Sandy Bigglestone, director of the Captive Division, attended the Vermont Public Managers program this week.

Candon participated in a meeting at the Treasurer's Office on Tuesday with representatives of the Vermont Bankers Association, energy advocates, Vermont Municipal Bond Bank, development committees, and VEDA. The purpose of the group is to determine where there is a need for capital investment in Vermont and where the resources might be found to meet the need.



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**CONFIDENTIAL AND PRIVILEGED: NO SHARING
MEMORANDUM**

TO: Governor Shumlin
FROM: Armando Vilaseca, Secretary
SUBJECT: Agency of Education (AOE)
DATE: February 8, 2013

Lund Family Center: I started the week off with a visit to the Lund Family Center. This was a great visit – very inspiring - and I hope to incorporate some of what I learned on this visit into an Op-Ed that will address what high school really looks like today. This alternative program is for pregnant and parenting students ranging in age from 12 to 28, who have the option of high school completion or a GED and are provided with access to post-secondary options. Parenting skills are embedded in the curriculum and parenting support is evidenced throughout the program. One teenage mom told me that she felt like an embarrassment at her traditional school and that this greatly impacted her learning before she came to Lund. She is now a senior at Champlain College.

Brattleboro Visit: Thank you for inviting me to join you at the Academy School. I am sure you found this program to be very interesting and innovative. Word has gotten out around the state of your visit and this brings big benefits. Also, I think our time spent with the editorial board of the Brattleboro Reformer will prove to be productive.

New England Secondary School Consortium (NESSC): Today's snowstorm resulted in a videoconference for the NESSC council meeting, saving a trip to Portsmouth, NH. We spent a couple of hours discussing and identifying action items for NESSC Council members and the GSP (Great Schools Partnership) to support local district policy efforts aligned with the NESSC objectives. We also discussed how we can continue to build momentum around the higher education pledge and what role the Council members might play in raising the profile of the NESSC on a national level. NESSC is an organization we have worked with over the past three years, along with CT, ME, NH and RI to help improve secondary education. Your vision for secondary education is aligned very closely with their work (multiple pathways, dual enrollment, applied learning, internships, etc.).

NECAP Results: Test results are increasing in some areas and staying the same in others. This emphasizes the importance of changing the math requirements at the high school level and increasing the teaching licensure requirements, since only 38% of eleventh graders met the standard. There was a good gain in elementary and middle school writing. Next year will be the last year of NECAP before moving to SBAC.

Senator Mullin's PreK Education Bill: We have completed a bill review on this and we believe it has potential; we accept it conceptually but think it still needs some massaging.

Smarter Balanced Webinar for Governors' Education Policy Advisors: In an effort to help keep state policy leaders informed about the work of Smarter Balanced, a webinar has been scheduled in conjunction with the NGA and NCSL. The webinar is scheduled for next Thursday, February 14, at 1:00 pm. I have been asked to reach out to you and encourage your policy advisors to participate in this webinar. Topics discussed will include the upcoming Pilot and Field Tests, sustainability planning for the future of Smarter Balanced, and a review of the released minimum technology specifications. I will forward an email to Aly under separate cover. For additional information, please contact Ryan Reyna at NGA (RReyna@nga.org).



OFFICE OF THE SECRETARY

Phone: (802) 828-2657

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Executive Privilege

TO: Governor Peter Shumlin
FROM: Secretary Brian R. Searles
DATE: Friday, February 8, 2013
SUBJECT: VTrans - Confidential Report to the Governor

Bridge Plate Failure

On Feb. 4, at about 9:00 PM a bridge plate on I-89 northbound in Colchester broke loose and lifted above the road surface resulting in damage to several vehicles, mostly tires, but no injuries. At least one operator was informed by a trooper that we had deferred repair on this problem which, of course, enraged the driver in question. This commentary was not helpful and not true.

In fact, the plate had been repaired on the previous Friday night by welders who thought it would work until spring when the entire plate could be replaced. It didn't work. As a result the plate was removed and the area filled with cold patch. We will monitor this closely until a full project can be done in the spring. This is one of many such plates that are now 40 years old and are part of the "bridge bubble" on the interstate that we will be dealing with for the next few years.

Risk Management is taking care of the administration of damage claims from this incident.

Legislative Update

The past week included a trip to the Jay/Newport area by the House Transportation Committee along with House Economic Development Committee and several VTrans staff. We helped organize and provided transportation for the trip on a CCTA bus.

Discussion in both Trans committees continues with a good vetting of our proposal and the investigation of other ideas. Our sources say that there is broad support for our proposal and that if there is opposition, it hasn't surfaced yet as an organized effort. Our next target committee is the Senate Finance Committee where Senator Ashe is supportive of "doing something".

Several organizations have contacted me with offers to help including, but not limited to the AGC, the Lake Champlain Chamber, KSE on behalf of the pavers, the VLCT and the Vermont Truck and Bus Association (as long as we're not proposing more diesel tax).

Alterations to the Long Trail

We have been working with Will Wyquist and the Green Mountain Club to get the long trail over the Winooski River in Bolton and on to the Bolton Notch Road. This week a formal written request was submitted to the FHWA to allow the Club to construct a parking area and hiking trail inside the Interstate 89 right-of-way in Bolton (mile marker 72.30) to link to a new footbridge over the Winooski. This project will eliminate several miles of road that is currently being used as part of the Long Trail. The Categorical Exclusion document will be filed separately in the near future. If approved, this will result in the realization of a decades old dream of the Club and will be a huge safety enhancement for traffic on town roads and U.S. Route 2.

Circ Alternative Update

The Hampton Inn in Colchester is concerned that the proposed night construction schedule for the Exit 16, Rt. 7 project known as the "Double Crossover Diamond" will include noise, lights and vibrations that will have a serious negative effect on the hotel's business during their busiest period, May through October. Our legal and project staff will be meeting with hotel staff in the near future to attempt to mitigate the potential problems and their fears.

Federal Funding for Small and Rural States

Look for a letter we have transmitted to Anne Stubbs for her use in a meeting with the White House Intergovernmental Affairs Office today that spells out our concerns about the seeming movement of federal policy away from adequate funding for transportation in small states. In raising the minimum state return, thereby reducing discretionary funding, and eliminating small state minimums, MAP-21 signals a different future for states like Vermont.

I will take this message to talks with AASHTO, our congressional delegation, and U.S. House Transportation and Infrastructure staff in D.C. at the end of February. We would also like to create a "Small State Coalition" around this issue.

Storm Preparations

I understand that it is snowing already and that it will be a helpful storm for Vermont but a potentially devastating storm for southern New England. We are ready and also monitoring the possible needs of other states.

Problem with License Plate Production

Vermont Corrections Industries is having trouble with their propane heated curing oven at the plate manufacturing site at the Windsor prison facility. Their ability to make our green plates is interrupted at this time. It most affects replacement plates that have green surfaces, like the 2 digit type on order for numerous new Administration appointees. We have been told the issue will be fixed during the month of February.

Global Studies Concentration

This program is a strand within the Rutland High School course offerings and provides students with interdisciplinary, globally focused classes. In this concentration, students have many opportunities to extend their awareness of global topics and issues, and develop knowledge and skills to become more informed, engaged, and socially responsible citizens who embrace cultural diversity.

The Global Studies designation and certificate are awarded at graduation to any student who has fulfilled the program requirements.

Program Requirements:

- Global Studies 9 – Freshman Team
- Global Studies 10 – a combined English 2 and World History 2 course of study
- Global Civics and Economics
- British Literature (English 4)
- 3 courses in the same World Language (and preferably through the level 4 or 5 of the language)
 - Students are also encouraged to take a second language.
- Junior/Senior seminar and capstone project
- Introduction to Theatre OR an independent study project as part of an arts course (This project is to be designed and carried out by the student based on his/her interest and ideally tied to another class he/she is taking concurrently.)
- International Cuisine
- 1 globally focused Year End Studies course
- 50 hours of globally-focused community service over 4 years (preferably working for something globally linked and could be connected to the student's capstone project)
- At least 2 years of involvement in a globally focused co-curricular (ex: Model UN, Club Giving, GMTI, Spanish National Honor Society, Forensics, Key Club, Environmental Club)

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: February 8, 2013

Vermont Department of Health (VDH)

Attorney General's Office Settles Case Brought by Former Executive Director: William Wargo, former Executive Director of the Vermont Board of Medical Practice, filed a lawsuit against the VDH and former Commissioner Wendy Davis in February of 2011 alleging that the Department and the former Commissioner violated the Whistleblower Act. On February 4th, mediation was held and the State and Mr. Wargo resolved the lawsuit. Pursuant to a settlement agreement he agreed to withdraw the claim against former Commissioner Davis and dismiss his civil complaint against the State with prejudice. He received a monetary settlement of \$75,000 plus the cost of mediation.

Department of Mental Health (DMH)

Legislative Testimony

DMH presented their 2014 budget request before **House Appropriations** this week. Primary questions which arose were related to removal of projects from the FY14 budget originally planned or authorized for the build-out of the mental health system. They had very good feedback from the Committee on their presentation and they are meeting regularly with Rep. Kitty Toll, Committee rep for DMH, to educate her further on the nuances of their budget.

Rutland Beds: A 4-bed intensive residential was removed from the budget. Rutland was far behind in its proposal for beds.

Secure Residential: The proposal to remove the 7-bed secure residential from the system has created considerable contention at the State House. Our testimony before Appropriations reflected the budgetary reality that 44 staff slated to work at the secure residential would become 44 extra positions needed within our state pool if the facility continued to operate when the Berlin hospital opens. The secure residential will cost \$4 million annually if it continues to be run by the state. We believe these secure residential beds are an essential component of our system of care but that they can be part of the Berlin facility. We will continue to discuss the possibilities.

Meeting with Rutland delegation: Commissioner Reardon, Interim Commissioner Moulton and I met with the Rutland delegation on the Rutland intensive residential recovery beds. Dan Quinn of Rutland Mental Health Services (RMHS) presented his case on now having a design for these beds and wanting to move forward with the project. After a discussion with all parties, the Administration agreed that we would build a contract with RMHS, allowing the project to move

forward with a guarantee that we would begin to pay for it when it opens. This will likely not occur until mid to late Fall of 2013 as hoped for by RMHS, or later, as we anticipated. We will utilize our case rate structure to pay for these beds.

Updates from Around the Nation: Interim Commissioner Moulton received a call from CT this week inquiring as to whether we do community commitment orders. They are receiving pressure to tighten up laws around people with mental illness living freely in the community. I am also meeting with representatives from Senator Sanders office this week to discuss our efforts here in Vermont. We continue to receive calls from media sources regarding what we are doing here, as well. Two articles from New England Psychologist will be published in February and March regarding our build-out.

Building Projects: Secure residential is on track for completion March 24th. We will then need a few weeks to move programming into the building and will open for business.

Berlin is moving along as scheduled. We have had a large stakeholder delegation working on every aspect of our design, down to colors and wall materials. Our architects, A+, are wrapping up the final design. The structure is built in pods and has some extraordinary features which will greatly enhance recovery. The suggestion that the secure residential can move up to the hospital will present considerable challenges. In that it is a separate program and will require separate governance per licensing requirements, we need to develop a position on this. Interim Commissioner Moulton and I will meet next week for further discussion.

Dartmouth Meeting: Interim Commissioner Moulton and Jeff Rothenberg met late last week with Dartmouth to examine their interest, once again, in a relationship with the State of Vermont as a teaching affiliate hospital for our Berlin facility. CVMC and Fletcher Allen had communicated that their interest in affiliating with our hospital would have to be attached to administrative management, which is not an option with our state contract. This was an excellent meeting and offered promise for a future of excellence in delivery of care. It was a very preliminary discussion to solely examine what Dartmouth would have to offer and left us with a growing picture of what we would want to build into an RFP on our psychiatric and medical coverage. This RFP will be issued within the next couple of months.

CVMC/Fletcher Allen: We have also extended another invitation to CVMC and Fletcher Allen to develop a relationship with our new hospital and they have agreed to come to the table. We will schedule a meeting in the next couple of weeks.

Department of Disabilities, Aging and Independent Living (DAIL)

Jobs:

Neil Morrisette, the Creative Workforce Solutions (CWS) Business Account Manager, and Cindy Robillard, the Interim Vermont Department of Labor (VDOL) Regional Manager, have been working together with Bill Stenger and his partners to develop strategies to meet the anticipated labor needs of the area. They have both attended scores of meetings with a variety of

stakeholders, including Jim Greenwood from Northeastern Vermont Development Association, Eileen Illuzi from the Tech Center, Penny from the Vermont State Colleges (VSC) Chancellor's Office and Patricia Sears, who is leading the renaissance project/initiative.

Ongoing Issues:

APS Litigation: Our attorneys have informed Commissioner Wehry that the plaintiffs have proffered another settlement proposal. We have not seen any details as of yet.

PACE follow-up: Ron Cioffi, Rutland Area Visiting Nurse Association (VNA) and Dan Quinn, Executive Director of Rutland Mental Health Services are both looking into the possibility of providing adult day services. This would fill a significant gap created by the closing of the Program of All-Inclusive Care for the Elderly (PACE) VT.

Legislature:

Senate Committee on Appropriations (SAC) has signed off on one of DAIL's more controversial Budget Adjustment Act (BAA) requests to fund an initiative (\$150K) tackling the inappropriate use of antipsychotic medications in Vermont nursing homes. The controversy arose due to advocacy against the measure by Michael Sirotkin, Community of Vermont Elders (COVE), and the Area Agencies on Aging who thought the money should be diverted to supporting the Agencies on Aging. In doing so, SAC made clear its expectation that public funding be linked to demonstrable outcomes.

Commissioner Wehry and Secretary Racine testified before the Senate Committee on Economic Development in support of the bill that would grant the right to collective bargaining (S.59). The complexities of the bill are many and we will be working with the Committee to help sort them out.

Commissioner Wehry will testify today before the House Committee on Appropriations (HAC) and the House Committee on Human Services (HHS) on the AHS portion of the FY14 budget. The Developmental Services coalition is already arguing that the almost \$11M caseload increase will not be enough.

Department of Corrections (DOC)

Significant Events/Meetings:

Over all it has been a relatively incident free week.

The DOC plans to begin the restructuring of risk and need reduction programs from offense based to Risk Need Responsivity (RNR). This restructure will permit DOC to more appropriately address the dynamic factors correlated with elevated risk for reoffending through the reallocation and structure of assessment and curriculum delivery such that it improves efficiency and efficacy. The DOC originally requested seven positions to act as clinical and

administrative program supervisors to oversee and assist in implementation of the above model, which did not survive the budget process. The DOC plans to pull supervision funding in current contracts in order to create and support the seven positions.

Current supervision contracts exist with Phoenix Houses of New England within several contracts, in Spectrum Youth and Family Services in one contract and in individual contracts for violence and sex offender treatment. The proposed plan is to embed language in the amended contracts for FY 14 which clearly outlines that the state will provide 90 days written notice at the close of the above posted Request for Proposals (RFPs). Supervision delivery in the current model will be paid at a designated rate per month. Since these changes are planned to be reflected in the coming fiscal year's contract amendments, it is necessary to begin these conversations soon. It is possible that initiating these conversations at this time will begin the contractors' resistance to the DOC's move in this direction.

House Appropriations: Commissioner Pallito testified in the House Appropriations Committee on February 5th about the FY14 budget request. The presentation included extensive performance and budgetary data. Committee members commended the Department for its data and the use of data in decision making. Representative Heath indicated that she liked the DOC model and it should be utilized in other areas of state government.

Population:

The Department's overall incarcerated population has maintained in the 2,050 range over the last week, with the overall detention portion remaining near the 400 person mark. The female population has maintained in the 130 range with 33% of this population being presentenced individuals. The male population is made up of 18% presentenced individuals.

Other:

Windsor Work Camp Gardening Program: We have received a small packet of information on the Gardening Program at the Windsor Work Camp. We will forward this information along at your request.

Department for Children and Families (DCF)

Press Issues/Releases/Contacts:

Suspicious Incident in Danville and Walden, VT: (Press release 2/5/13) Vermont State Police received reports of a suspicious couple visiting residences in the Danville and Walden area on February 2nd and February 3rd. Both complainants described a couple that arrived at their home, asked questions, and then left in a silver colored vehicle with out-of-state plates. The couple left pamphlets about the New England Homecare Union and the United Healthcare Workers East-Vermont at the house visited on February 3rd. The pamphlet provides a website related to the Service Employees International Union.

The investigation revealed there have been several out-of-state companies hired to complete various door-to-door surveys in Vermont; specifically Caledonia and Essex County. It is believed that the reported couple may be part of these surveys. The Vermont State Police are trying to identify the two subjects and verify their involvement.

The Vermont State Police are encouraging citizens to ask for identification from strangers who come to their homes. Residents are advised that if they do not feel comfortable with the person, to ask them to leave politely and contact local law enforcement with any information including provided names, descriptions, and vehicle information.

Green Mountain Power (GMP) – Energy Assistance Program: DCF, through an agreement with GMP, began determining eligibility on December 17, 2012 for their low-income Energy Assistance Program (EAP). GMP's income eligible residential customers (150% federal poverty) receive an ongoing discount of 25% off their first 600 kilowatt hours of electricity used each month. This is a savings of approximately \$25 each month or \$300 annually at today's electric rates. In addition, customers whose applications are received by March 15th, and are eligible, will have their account arrearages forgiven. GMP reports that of the households determined eligible 1,181 had a total of over \$480,000 in arrears forgiven. As of January 31st, DCF processing stats were:

• Applications Received	5,000
• Applications Processed	4,300
• Households Eligible	2,800
• Processing Time	3-4 business days

Evolving Issues:

Family Custody Case of Interest to Senator: Family Services has had contact from Senator McAllister regarding a specific family case wherein he has expressed his feeling that DCF has overstepped their bounds. This complex case may result in termination of parental rights. Senator McAllister, both in person and on a voicemail left for staff in our St. Albans office has stated "you people are going down, so get ready." He also stated that he helped rewrite the laws so that this wouldn't happen. The case in question includes five children with at least one having severe physical needs, a complicated family dynamic including severe domestic violence, continued contact with this violent partner in spite of court and therapist recommendations, and inconsistent attendance with support appointments. The court has been involved throughout the evolution of this case, and the parent is represented by counsel. DCF is confident that this case is being managed appropriately.

Department of Vermont Health Access (DVHA)

Status of Governor's Priorities:

Health Insurance Exchange (HIX) Contract Negotiations: The State of Vermont and CGI have completed the Exchange contract amendment. The State and Exeter negotiated details related to

Exeter's Supplier Rights to Use Work Product developed in Vermont for other public and commercial projects that Exeter may engage in in the future. The Contract amendment resulted in a final contract fixed price cost of \$69.9M and supports all essential technology components necessary for an operational Exchange come October 2013 and January 2014.

Press/Media Contacts:

CNBC Interview: CNBC will come to Vermont on February 14th to film a segment on Vermont Health Connect, including an interview with Commissioner Larson that will air on February 15th.

Significant Events/Meetings:

Psychologists/DVHA reimbursement for outpatient mental health codes: Commissioner Larson and Kara Suter met with representatives of the Vermont Psychologists Association to present a plan to address the concerns raised about the decrease in fees for certain mental health services. The proposed plan reduces the "discount" used to calculate the rate for master and PhD level psychologists and licensed social workers in comparison to rates for psychiatrists. This plan would eliminate the impact of the DVHA adjustment of the state's conversion factor used in calculating payment rates and partially eliminate the impact of changes in relative values modified by Medicare/Centers for Medicare and Medicaid Services (CMS). The DVHA plans to implement these changes retroactive to January 1, 2013.

DVHA Medical Director: Commissioner Larson spoke with UVM on February 6th and is supportive of hiring Michael Rapaport, MD for the Medical Director position. DVHA has not heard to date if Dr. Rappaport has accepted the position.

Provider Tax Hospital Hearings: Beginning today, Commissioner Larson will be meeting with nine hospitals individually to discuss their request for a hearing to reconsider the SFY 2013 Health Care Provider Tax Assessment. The meetings are scheduled through February 13th. The State also continues to wait for answers submitted to CMS about guidance on appropriate implementation of the provider tax.

Public Meetings:

On February 19th, Lindsey Tucker, DVHA Deputy Commissioner, will facilitate a small business forum, co-hosted by the Vermont Chamber of Commerce, to discuss upcoming reforms to the insurance market with local businesses. The forum will be held in St. Albans from 9-10:30am.

On February 20th, the Vermont Health Connect team is hosting a public Webinar to introduce the Exchange to the public and stakeholder groups. The Webinar will conclude with a call-to-action for individuals to hand out Vermont Health Connect information or make an announcement at their respective Town Meeting Day events. Information about the Webinar and Town Meeting Day activities are available online.

116 STATE STREET
MONTPELIER, VERMONT 05620



OFFICE OF THE SECRETARY
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Chuck Ross, SECRETARY

STATE OF VERMONT
AGENCY OF AGRICULTURE

Confidential and Privileged

TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: February 8, 2013

Secretary's Top Issues:

Letters were mailed out this week to a large dairy producer in Franklin County & to the manager of a livestock business related to a calf that was shipped inhumanely to a NY-based slaughter facility. The calf was euthanized at the slaughter plant prior to ever being presented for slaughter. This calf had abnormalities from the time of birth that precluded the ability to ship it for slaughter in a humane manner. The letters advised both parties that a calf such as this one should never be transported off the farm, & they were both asked to refrain from this activity in the future. The incident came to the attention of Dr. Haas through an email sent from the FSIS to regional APHIS officials, so the incident caught the attention of upper management in both divisions of USDA. The kinds of activities described in the email not only are detrimental to the well-being of individual animals but also have great potential to ruin the Vermont Brand, & they must not be tolerated.

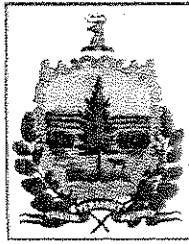
Rhode Island has a new Food Processor License that is causing a stir among our dairy processors. Rhode Island has instituted a \$500.00 license for food processors whose product is sold in Rhode Island regardless of a direct sale or through a distributor. A letter is being sent to our processors clarifying who would have to pay the fee so that they can make an informed decision on selling product in Rhode Island. This fee is high enough that many small processors will probably opt to not sell in Rhode Island.

Dan Scruton, Dairy Section Chief, Greg Lockwood, Dairy Product Specialist IV and Steve Volk Dairy Product Specialist went to the Bob-White Systems headquarters to review new milk filler they will be selling. The equipment is made in Pennsylvania and will need very little modification to be approved for use in Vermont. This will give small processors semi-automated filler with an mechanical capper that meets Grade "A" requirements at an affordable price.

Deputy Secretary Bothfeld met with representatives of the VT Bee Keepers Association, Lt. Governor's office and agency staff to discuss proposed fee for beekeepers. Beekeepers have been calling the House Ways and Means committee to express concerns for the fee, desire for more inspection of larger beekeepers and some an outright disdain for all fees. The Agency will pull the request from the Fee Bill and work with the Bee Keepers Association to determine a more palatable fee proposal for presentation next year in the fee bill.

Results the Agency is receiving from the Lab regarding the traceback investigation as to the origin of contamination in compost, indicates all horse manure that was sampled (17 farms) contain levels of Clopyralid that have the potential to cause harm to plants. As part of the investigation, the agency sampled all of the inputs on the farms visited. The majority of hay & bedding samples indicated little or no contamination. The feeds (grains grown out of state) indicate high levels of the persistent herbicide Clopyralid and appear to be the origin. The herbicide that has caused the major problem for Green Mountain Compost is the active ingredient Aminopyralid, results are pending from the samples taken as part of the trace back investigation to identify the origin of this chemical. This incident in Vermont last year has spurred many discussions both in the State & Nationally. The Agency has been integral in facilitating workable solutions both in State and nationally to try to prevent instances of persistent herbicides in compost.

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Chuck Ross, SECRETARY

STATE OF VERMONT
AGENCY OF AGRICULTURE

Confidential and Privileged

TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: February 8, 2013

Status of Governor's Priorities:

Jobs in Agriculture

Bob-White Systems (<http://bobwhitesystems.com/>) seeks an experienced lab technician to fill a part-time position at their new Dairy and Food Laboratory located right of Exit 3, Rt 89 in Royalton, Vermont. Hours are flexible and working conditions are pleasant. Call 802-763-2777 or email bobwhitesystems@gmail.com for details.

Press

Dr. Haas was contacted by WCAX on the "stolen syrup case". By the time the phone call was returned, the reporter had already spoken with the Agency's Communication and Marketing Administrator.

Legislative Issues

Capital Bill: Deputy Secretary LaClair and Ag Resources Mgmt Division Director Jim Leland presented testimony on the majority of the Agency's capital bill requests to House Corrections and Institutions – Ag Fairs grants program; a feasibility study for the future of the Ag/DEC lab; Best Management Practices and Conservation Reserve Enhancement Program. Continued testimony next week on a new Produce Safety Grants Program, as well as upgrades for the state-owned building at the Eastern States Exposition in Springfield, MA.

Dr. Haas testified in front of the House Committee on Agriculture on H.50, a bill that proposes to clarify the statutory language related to pet merchant licensing, kennel permitting and the puppy lemon law. The proposed language would remove the responsibility of regulating home based dog breeders from VAAFM and instead put this under the town's authority. VAAFM supports this language. Additional language in the bill proposes to eliminate the requirement for pet rescues to obtain nonprofit status in Vermont. The Agency is not in favor of this provision as the transport of dogs and puppies from southern states into Vermont by non-reputable rescue organizations is a significant issue. The Committee was amenable to taking this position under consideration and amending this portion of the proposed bill.

Dr. Haas was contacted by leg. Counsel Mike O'Grady regarding a bill that has been introduced that proposes to ban the importation and possession of feral swine in Vermont. O'Grady ran through the bill with the House F&W committee on Feb. 7. VAAFM is supportive of putting restrictions on the importation and possession of feral swine based on the damage they can do to agricultural lands and the environment in general, but effecting this change may also require amendments to 6 VSA's definition of livestock, as it currently includes all swine. VAAFM's livestock import rules also specifically allow the importation of feral swine. State veterinarians will be meeting with F&W Dept. reps and with officials from USDA Wildlife Services later this month on this issue.

Not for general release – (Program Chief went to senate Ag in connection with livestock auctioneers which is more of an animal health and secretary of state issue but when there Senator McCallister asked questions off the record concerning a proposed penalty for an alleged illegal slaughter operation)

Henry Marckres, Consumer Protection Chief and Maple Specialist testified on Monday morning at House Ag on maple. In the afternoon, Steve Parise, Consumer Protection and Agricultural Production Specialist and Marckres testified at House Ag on the Apiary Fees.

Testified in House Institutions regarding the capital bill request for Best Management Plan funds and funds for the laboratory replacement feasibility study. The committee was particularly interested in alternatives that have been considered for the lab and what the eventual costs of replacement of the lab might be. The committee was also interested in BMP funding and how success of these projects could be documented relative to water quality improvements. It should be noted that the Agency has requested no capital dollars for the BMP program for FY2014 (typically a 1 – 1.5 million dollar request). We believe we can manage for one year utilizing older, unobligated funds for these projects.

Significant Events/Meetings:

Dr. Haas participated this week in a regional meeting with USDA and New England state veterinarians to discuss issues of common interest. Topics included harmonization of the region's livestock importation rules, oversight of livestock markets, pet importation into New England, interactions with agricultural fairs, and implementation of the Animal Disease Traceability rule. Action steps were identified and accountability assigned to move each of these initiatives forward.

Dr. Haas attended the Endangered Species Committee meeting this week. She was appointed to this committee only recently, taking the place of the state entomologist. The Committee voted to list the Fowler's Toad as an endangered species and heard from the Secretary of ANR, among other items.

Meat Inspection Program Chief participated in meetings concerning wastewater disposal for farming activities with the Secretary and reps from Ag Dev and ARMES.

Henry Marckres, Consumer Protection Chief is attending the IMSI meeting in Burlington on Thursday. Marckres is reporting on the proposed grade change, voluntary maple certification and the Agency activities.

Henry Marckres, Consumer Protection Chief is representing the Agency at the Butternut Mountain Farm Open House on Saturday evening in Morrisville.

Evolving Issues:

Letters were mailed out this week to a large dairy producer in Franklin county and to the manager of a livestock business related to a calf that was shipped inhumanely to a NY-based slaughter facility. The calf was euthanized at the slaughter plant prior to ever being presented for slaughter. This calf had abnormalities from the time of birth that precluded the ability to ship it for slaughter in a humane manner. The letters advised both parties that a calf such as this one should never be transported off the farm, and they were both asked to refrain from this activity in the future. The incident came to the attention of Dr. Haas through an email sent from the FSIS to regional APHIS officials, so the incident caught the attention of upper management in both divisions of USDA. The kinds of activities described in the email not only are detrimental to the well-being of individual animals but also have great potential to ruin the Vermont Brand, and they must not be tolerated.

Dan Scruton and Dr. Haas met with Rural Vermont Board members this week to discuss further the raw milk animal health requirements and associated information. RV informed VAAFM that it would be introducing a bill that would allow the sale of raw milk at farmers markets. Dr. Haas subsequently became aware of the fact that the bill was introduced by Senator Rodgers. It can be viewed at the following:

<http://www.leg.state.vt.us/docs/2014/bills/Intro/S-070.pdf>

Rhode Island has a new Food Processor License that is causing a stir among our dairy processors. Rhode Island has instituted a \$500.00 license for food processors whose product is sold in Rhode Island regardless of a direct sale or through a distributor. A letter is being sent to our processors clarifying who would have to pay the fee so that they can make an informed decision on selling product in Rhode Island. This fee is high enough that many small processors will probably opt to not sell in Rhode Island.

The Agency has been actively working on a reported case of human exposure to pesticides. A woman in Shelburne reported symptoms of pesticide exposure from a for hire application of Bifenthrin, to control spiders. The woman and also has a teenage child and is the care taken of another challenged adult, all three have reported symptoms of exposure. The home she had treated is one she rents from the Champlain Housing Authority. We have been working with the Vermont Department of Health, the Town Health officer, and the Champlain Housing Authority in this case. The results found at our Lab indicate the application did not violate the label, and the levels of bifenthrin are below any level of concern. This finding is contested by the complainant, and to reassure her of lack of presents of bifenthrin in the home and the request of the Shelburne town health officer we agreed to do some follow up testing in the home. In this case the Agency is going to great lengths to reassure the complaint she is safe returning to her home. On Wednesday Feb. 7th an additional 14 samples were taking up to and including attic insulation and pieces of wallboard. Our hope is these additional samples will provide the complainant with the reassurance that it is safe for her and her family to return home.

Summary of Key Agency Department Activity:

Administration

All Agency staff meeting is scheduled for March 27th at the Pavilion. A piece of the day, 9:00 – 11:00, we will all receive our ERP training; all agency staff have been signed up for either Time Entry Training or supervisors signed up for Time Entry & Approval training. You do not need to register for these trainings as it has already been done for you. These trainings are **mandatory** for all staff prior to the implementation of ERP. There is a self-driven tutorial for the Employee Self Service functionality available at <http://firstnetcampus.com/SOV/entities/vermont/logon.asp>. Once logged in to First Net click "Preparing to Go-Live" then click "Employee Self Service" under "Courses for Non-Management Employees. If instructions for First Net are needed, click <http://aoa.vermont.gov/sites/aoa/files/ERP%20Registration%20Instructions.pdf>.

Marcey Hodgdon, Financial Director, submitted a grant application for the recurring Organic Certification Reimbursement program for farmers/producers. Although the Agency requested an increase in funding, since we fully depleted last year's funding and were not able to satisfy all reimbursement requests, we will continue to receive the same amount as there is no available funding to support the increase at the federal level. Due to non-passage of the Farm Bill there are no funds available for the Organic Certification Reimbursement program for processors. As NOFA-VT provides all the documentation to folks requesting reimbursement, they have been notified of our application for farmers/producers reimbursement funding as well as the fact there are no funds, at this time, for processors.

On Friday, February 1st, the Agency submitted its Indirect Cost Rate Proposal to FSIS, our cognizant agency, proposing our indirect rate for State Fiscal Year 2014. Our calculation method is the Simplified Method and if approved our indirect rate will only be applied to direct salary/benefit program costs. Although our base upon which to assess our indirect rate to will be reduced, the proposed increase in the rate will eliminate any negative impact on our indirect cost recovery.

In re: Highland Crossing/Goldberg 97-7-12 Vtec Counsel provided the Agency's witnesses with background materials, made arrangements for two witness preparation meetings, conducted preliminary research and consulted with NRB counsel on a potential legal technicality that might form the basis of a motion to dismiss.

VT Gas Systems PSB# 7970. Counsel filed a Notice of Appearance and attended a pre-hearing scheduling conference. Counsel for VHCB and VLT also attended but have not yet decided whether their organizations

will get involved. The proposed gas pipeline will impact about a dozen conserved farms although the final route had not been determined and is subject to change.

Chester Solar. PSB. Counsel reviewed the petition for a solar facility, including ad hoc researched related to the soils. Although the facility will impact primary agricultural soils, the Agency's formal participation in this matter is not warranted. Counsel wrote to the developer's counsel indicating no issues with the proposed development.

In re VTC PSB #7965. Digester case. Counsel convened a meeting of Agency technical staff to review the project, conducted multiple negotiation sessions, and provided VTC's counsel with the Agency's bottom line in writing, including rationale.

In re: Gervais PSB #7312 Counsel filed a notice of appearance in this digester case.

In re NSSEP #7833 Bio-mass case. The PSB issued an order on 1/15 cancelling the technical hearings that had been scheduled for the week of February 18 because of conflicts with the Yankee case. All counsel involved in this docket spent considerable time on conference calls this week trying in good faith to figure out when the hearings could be re-scheduled, due to counsel and witness unavailability. The developer is not happy but the number of parties and experts involved makes re-scheduling a challenge.

In re Holden. AAFM #2012-2-2 MF Counsel participated with ARM staff in a pre-hearing conference. Pending a re-inspection of the facility, it appears the matter will be resolved by agreement and without hearing.

VACC v Tracey 92-3-10 Ancv Counsel had preliminary conversations with co-holders VHCB and VLT and with VACC's attorney and participated in a Court hearing in Middlebury on VACC's Motion to Resume the Foreclosure. This foreclosure case was stayed during the pendency of the Yates v. VLT, VHCB, AAFM lawsuit which was ultimately dismissed. (To occur on 2/7)

Legal counsel attended the NASDA Conference in Washington DC with Secretary Ross. 2/3-2/6.

Agricultural Development

Deputy Secretary Bothfeld met with representatives of the VT Bee Keepers Association, Lt. Governor's office and agency staff to discuss proposed fee for beekeepers. Beekeepers have been calling the House Ways and Means committee to express concerns for the fee, desire for more inspection of larger beekeepers and some outright disdain for all fees. The Agency will pull the request from the Fee Bill and work with the Bee Keepers Association to determine a more palatable fee proposal for presentation next year in the fee bill.

Deputy Secretary Bothfeld met with Internal Command Structure consultant, Ken Hafner, Ag Recovery Specialist, Ann Macmillan, Agrichemical Toxicologist and Cary Giguere, Pest Program Section Chief to discuss the development of a ICS structure for the Agency of Ag. Consultant will take 6 - 9 months to develop a plan and operate one table top exercise of this plan.

Koi Boynton, Senior Ag Development Coordinator provided information to the House and Senate Ag committees on the Farm to School Program. Partners in his program – VT FEED and Green Mountain Farm to School also provided information. The Farm to School grant program managed through the Agency of AVT has been in place for 7 years. In that time, 30% of the students in Vermont have access to a Farm to School program at their school.

Sunderland Hill LLC 122-9-12 Vtec. The Court dismissed this A250 appeal, based on the parties' stipulation filed last week, and remanded the matter to the District Commission. Legal counsel met with the Agency's A250 team to review the case and formulate strategy for next steps and drafted and sent to the applicant suggested next steps to try and resolve the underlying issues.

Food Safety and Animal Health and Consumer Protection

Animal Health Specialists (AHS) Jim Cameron and Zachary Bartlett traveled to Victory to meet with the area animal control officers along with health officers and one Sheriff. In this meeting, Animal Health employees educated attendees on what warning signs to look for in farm animals allegedly being treated inhumanely. Visual aids were used to differentiate between normal and abnormal. This information will help humane agents determine whether they should pursue the case or whether the situation constitutes accepted agricultural practices.

Animal Health (AH) completed biosecurity surveys in Plainfield, Calais, Waitsfield and Marshfield.

AH completed an annual inspection and herd inventory at the Blue Mountain Elk Farm this week. These activities are required by rule and occur on an annual basis.

AHS Zachary Bartlett traveled to The Royal Butcher to assist Leslie Michaud USDA APHIS in obtaining brain samples from goats to send in for tests for scrapie. This training opportunity allowed a new employee to develop skills needed for sample collection and he will now be able to assist co-workers and USDA in collection of these samples.

AH submitted pre-award letters to USDA-APHIS, which if approved, will allow VAAFM to begin work outlined in the cooperative agreements immediately after April 1. This is critical since much of the work authorized in the cooperative agreements is seasonal and takes place in early spring.

AH worked with USDA-APHIS colleagues this week to develop a tool that may be used to assist livestock industry stakeholders in understanding the Animal Disease Traceability rule, and what requirements apply to various types of interstate livestock movement. This initiative is modeled after the on-farm slaughter flow chart that was created by Randy Quenneville and Chelsea Lewis.

AHS Jim Cameron met in the Montpelier office with Rep. Lawrence and Jackie Folsom in reference to Capitol Grants. All contracts were finalized and mailed.

Dan Scruton, Dairy Section Chief, Greg Lockwood, Dairy Product Specialist IV and Steve Volk Dairy Product Specialist went to the Bob-White Systems headquarters to review new milk filler they will be selling. It is a very nice piece of equipment that is made in Pennsylvania and will need very little modification to be approved for use in Vermont. This will give small processors semi-automated filler with an mechanical capper that meets Grade "A" requirements at an affordable price.

Sue James, Dairy Product Specialist III will be travelling to Maine next week to assist their dairy program. Maine is short a rating officer due to a recent retirement. Part of what Sue will be doing is working with their new inspector to help train her while she gets two rating done that need to be performed this month. Maine will be covering our expenses. Other states have helped Vermont in the past when we were in need of a rating officer and were short on personnel. This is a good way we can help each other and learn from each other. The ratings are a key part of the checks and balances of the Grade "A" milk program.

Meat Inspection

Discussions have started concerning a poultry slaughter operation and red meat processing at a farm in Hyde Park.

Compliance

FSIS has interest in the hearing that is coming up for John Winn, and the issue of on-farm slaughter without custom facilities. FSIS investigative service (OPEER) has reached out to our compliance to gain understanding of where we are in the process.

Agricultural Resource Management

Division lab staff and field staff met this week to discuss numerous issues relative to laboratory capabilities and interaction with field staff. Issues discussed included the feed and fertilizer program sample delivery and reports capability, the pesticide monitoring program, pesticide residue analysis capabilities, and other special projects. Understanding current capabilities and protocols is key to providing the highest possible level of service to the public.

Jim Leland and Stephanie Congo spoke with VTC legal representation regarding the rational for the Agency requiring that VTC seek coverage under the state general permit for medium farm operations as a result of the proposed digester. We explained the concepts of nutrient management. The farm is not a medium farm by definition in terms of animal numbers but will be required to input substantial waste from off the farm in order to efficiently operate the large engine proposed. The total amount of nutrients that could be managed on the farm as a result would be comparable to the nutrients managed by a large farm. Based on the nutrient input potentials the Agency has stated that it would be best for VTC to seek coverage under the general permit and develop a compliant nutrient management plan. There was agreement to this concept.

Agency staff continues to work on mosquito grant templates for the coming year and the associated permit requirements. Our hope is to provide the districts with predictability and clarity regarding the Agency's role in reimbursement and the districts scope of work and match requirements. Once complete we will meet with district representatives to discuss. This will be a substantial change in operations for the districts and may result in feedback from the districts. We would like to be able to negotiate any issues via the grant process if possible.

Pre-hearing conference call with the Holden farm resulted in a tentative agreement regarding the management of an abandoned manure pit on site. There are no longer animals at the farm which will allow transfer of liquids from this pit to the slurry store on site so that required freeboard can be maintained. Agency staff will confirm the status of the pit prior to entering into an assurance.

Agency staff met with neighbors of the Whistle Pig distillery/bottling operation last Friday to listen to their concerns. Most concerns revolved around the possibility of the establishment of 'whisky fungus' on plants and surfaces in the general vicinity of the distillery. This phenomenon is known to occur near large whisky aging facilities. The case is currently moving through the Act 250 process.

ARM's has received a complaint about pet treats and subsequent illness of a dog. The issue with pet treats manufactured in China has been ongoing since 2007. FDA has been actively investigating the causes of illness since that time without conclusion. The complainant in Vermont has contacted FDA and it is our understanding that FDA has investigated. The complainant would like us to analyze a sample of the product for various antibiotics. The antibiotics in question are allowable in China but not in the U.S. Products associated with these antibiotics have been voluntarily recalled by the U.S. distributors. Agency staff will be on the lookout for these products on store shelves; if found they will notify the retailer of the recall. The U.S. distributors involved have stated clearly that the levels of antibiotic present are too low as to cause illness but, as they are not approved, the products must be recalled.

Testified in House Institutions regarding the capital bill request for Best Management Plan funds and funds for the laboratory replacement feasibility study. The committee was particularly interested in alternatives that have been considered for the lab and what the eventual costs of replacement of the lab might be. The committee was also interested in BMP funding and how success of these projects could be documented relative to water quality

improvements. It should be noted that the Agency has requested no capital dollars for the BMP program for FY2014 (typically a 1 – 1.5 million dollar request). We believe we can manage for one year utilizing older, unobligated funds for these projects.

Compost Update.

Results the Agency is receiving from the Lab regarding the traceback investigation as to the origin of contamination in compost, indicates all horse manure that was sampled (17 farms) contain levels of Clopyralid that have the potential to cause harm to plants. As part of the investigation, the agency sampled all of the inputs on the farms visited. The majority of hay & bedding samples indicated little or no contamination. The feeds (grains grown out of state) indicate high levels of the persistent herbicide Clopyralid and appear to be the origin. The herbicide that has caused the major problem for Green Mountain Compost is the active ingredient Aminopyralid, results are pending from the samples taken as part of the trace back investigation to identify the origin of this chemical. This incident in Vermont last year has spurred many discussions both in the State & Nationally. The Agency has been integral in facilitating workable solutions both in State and nationally to try to prevent instances of persistent herbicides in compost.

Secretary's Comments

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Deborah L. Markowitz
Agency Secretary

Justin G. Johnson
Deputy Secretary

**State of Vermont
Agency of Natural Resources**

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Deborah Markowitz, Secretary, Agency of Natural Resources
Date: February 8, 2013
Subject: ANR Weekly Report

Governor Level Issues:

EPA De-delegation Petition. We have finally resolved all outstanding issues with EPA on CLF's de-delegation petition. This means they will issue a consent order in a few weeks acknowledging the things we have done to come into compliance. I will be sure to let you know prior to this becoming public so that we can decide how to handle the press.

EVERYTHING ELSE:

Legislative Issues/Testimony:

Senate Institutions Testimony: ANR staff testified before the Senate Institutions Committee on our pieces of the capital bill, including Parks, Fish and Wildlife, the Drinking Water State Revolving Fund, Clean Water State Revolving Fund and the Ecosystem Restoration Program.

Floodplain Protection Bills: Commissioner Mears testified before the House Fish, Wildlife and Water Resources Committee in favor of H.72 allowing municipalities to restrict the construction of accessory dwelling units (mother-in-law apartments) in floodplains, and also in favor of H.52 adding a flood planning and mitigation component to town plans for those towns which choose to do town planning. The Commissioner noted that funding for town planning has been trending downward.

Lamprey Control Program: DEC staff joined DFW staff testifying before the House Fish, Wildlife and Water Resources Committee regarding the impacts of lampricide control efforts on non-target threatened and endangered species.

Waterbury State Office Complex: DEC staff testified before the House Institutions committee addressing questions about ANR's role in review of the project, provided technical clarifications about floodways, flood plains, flood insurance and hypothetical risks from future flood events.

Agricultural Working Group: The entire House Fish, Wildlife and Water Resources Committee attended a meeting of a newly formed working group to address water pollution from farms. Secretary Ross and Commissioner Mears kicked off this work group which will be developing a set of practical water quality protection actions that the state can adopt as state policy leading up to the Lake Champlain TMDL. The group is comprised primarily of farmers who participated a series of workshops over the fall and who have agreed to participate in this effort over the coming several months.

H.131: Testimony was provided by Commissioner Michael Snyder on H.131, an act relating to timber harvesting guidelines and procurement standards, which was introduced this week. Tony believes it will be on the floor for vote on Tuesday. He does not expect any problems.

Joint Resolution Proposal: The Department will soon be submitting a proposed Joint Resolution to the legislature seeking authorization to proceed with various land transactions, including a proposed land exchange with Markowski Excavation in Plymouth and a possible transfer of a portion of Grand Isle State Park to the Town of Grand Isle for outdoor recreation purposes. The "Parks" section below contains more detail on the Grand Isle proposal.

S.21: The ANR Lands Director testified last week before the Senate Natural Resources and Energy Committee on S. 21 (An Act Relating to Prohibiting Commercial Construction on certain State and Conserved Lands). The Agency has some concerns about this legislation as it pertains to ANR lands and the proposed local control provisions and will be following up with the Committee to answer questions and provide input.

Press Issues/Releases:

See attached. Penny does a weekly ANR in the News for staff which we have attached at the end of this report. I wondered whether this is more useful for you to see than the short list of our press releases that we usually include in this section. Please let me know what you would find more useful.

Significant Events/Meetings:

Conservation Award: We were notified that Vermont FPR and Audubon Vermont are receiving a 2013 Wings Across the Americas Conservation Award for our work on the "Foresters for the Birds" project, which educates landowners and foresters about the values and

techniques of forest management with songbirds in mind. The awards will be presented March 27 in Virginia.

Lead and Asbestos Workshop: The Solid Waste Program and the VTDOH recently presented in Middlebury a workshop for contractors, haulers, facility operators and other interested parties on lead and asbestos management. Additional workshops are planning for Hartford (2/21), Rutland (2/28), and the NEK (3/6).

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

Stormwater General Permit: Watershed Management issued a draft general permit which will cover new development and redevelopment in non stormwater-impaired waters. This permit is the mechanism for authorizing discharges from most new development in the state. When final, this draft will replace the existing general permit. No new regulatory thresholds or standards are established by the new general permit; all changes are housekeeping to make the general permit consistent with current statute and rule.

Newport State Airport: DEC Drinking Water program staff conducted a site visit with VTrans staff to look at the water system at the Newport State Airport in Coventry. VTrans has plans to expand the airport to augment the Northeast Kingdom Economic Development Initiative. The expansion will include a new restaurant at the facility. Based on a quick search to see what permits have been issued for the site, it appears that they will need a water/wastewater permit, a drinking water source permit and a drinking water construction permit from DEC.

University of Vermont: As noted last week, UVM formally requested approval to purchase 0.5% sulfur fuel for the remainder of this heating season as necessary to replenish stockpiles used up when they are curtailed off natural gas by Vermont Gas Systems. This was approved in a letter sent late Friday. They are required to continue to make all reasonable efforts to find and purchase lower sulfur (0.3%) fuel and file a permit amendment application for permanent approval to use 0.5% sulfur fuel by June of this year. On a related note, UVM, IBM and RockTenn all went back to natural gas by Saturday once the main cold spell had moderated.

Westminster Meats' failed wastewater system: The Westminster Meats leachfield has been experiencing surfacing. The business is in the process of getting a Water/Wastewater permit for a replacement system. Several weeks ago, the business owner had been told to prevent future surfacing during the interim by pumping and hauling their wastewater to a permitted wastewater treatment facility. This week the Town manager notified us that the system was surfacing again. An EEO was sent to document the surfacing and an NOAV was issued that requires the business to pump and haul and to submit receipts for any hauling that is done to DEC until such time that the new wastewater system is constructed. The WW permit for the new system will require that it be constructed by April 1.

Landslide Mapping Draft Protocol – Review Stages: The Vermont Geological Survey is developing a “Protocol for the Identification of Areas Sensitive to Landslide Hazards in Vermont”. The purpose of this project is to advance the state of landslide mapping and landslide hazard assessment by developing and testing a protocol to map potential hazard areas. The results of this project will be incorporated into the State Hazard Mitigation Plan, which will be updated in 2013. We have a partnership with the Chittenden County Regional Planning Commission (CCRPC) to review the draft report and protocol to help us fashion a document that will serve planners through the State Plan. CCRPC is scheduled to get back to us with comments by Feb 18, 2013.

Middlebury College: Watershed Management has been working with Middlebury College as the college tries to get its new snowmaking system into operation. There have been some problems installing the piece of the water withdrawal intake structure that would provide downstream conservation flows, and a fix is not possible under winter conditions (worker safety is the issue). WSMD suggested that the college install a temporary weir in the stream that would allow for manual flow monitoring and withdrawal operation, coupled to a rigorous monitoring schedule when the system is operating. This approach will allow the system to operate for the remaining six weeks of the snowmaking season, which includes two major events, the college winter carnival and NCAA x-c races.

Wetlands Program: Watershed staff met with DFW and Frank Von Turkovitch and his consultants regarding his proposal for a solar farm on his leased property in the north end of Burlington. Roughly half of this 40 acre parcel is Class II wetland. The purpose of the meeting was to define the limits of his workable area for the solar arrays, and to see if the project could go forward under these limits. Frank Von Turkovitch agreed that his consultants would commence a winter study for wildlife use now, and also in the spring. In the meantime, Frank will proceed with his permit application with a plan for mitigation, if needed.

Agriculture Water Quality Training: Watershed staff collaborated with the Agency of Agriculture (AAFM) to develop a training session to address agricultural WQ issues. The participants will include Agriculture Resource Specialists, Land Treatment Planners, Conservation District Managers, and AAFM staff working on water quality issues. The training will discuss Ag Water Quality coordination and consistency across a variety of areas: WQ 101, what is a violation, the science of identifying target areas, ensuring a consistent approach across staff and basins. This meeting has been long in the making but will be very valuable for all folks conducting agriculture water quality resource assessment, resource concern identification, resource technical assistance, Education and Outreach, and priority BMP implementation work.

Ticklenaked Pond Alum Treatment: The proposed alum treatment of Ticklenaked Pond is moving ahead. Ticklenaked Pond is phosphorus TMDL water, and after extensive water quality sampling and watershed remediation work by DEC over the past ten years or so, we are implementing the key recommendation of using an alum treatment to demobilize phosphorus in the deepest sediment. With technical assistance from DEC staff, the Town of Ryegate will receive a Ecosystem Restoration Program grant to carry out the treatment and will also be the applicant for the needed Aquatic Nuisance Control permit.

Fish and Wildlife

Ice Fishing: The unseasonably warm weather last week quickly deteriorated ice conditions. Wardens are reporting moderate fishing pressure with low catch rates. A few ice fishing shanties and a couple of vehicles reported went through the ice. Fortunately, everyone exited the vehicles safely.

Rabbit/Coyote hunting: Wardens continue to encounter numerous rabbit hunters with few problems. Wardens assisted the Stowe PD with an investigation into a coyote hunter shooting and killing a golden retriever dog. The hunters were located and Stowe PD is expected to file charges.

Impaired Driver on I91: Warden Kelly Price, on his return home from in-service training, stopped a vehicle for erratic operation. After the stop, he learned there was a BOL out for the vehicle. Troopers immediately responded to assist in the investigation, the Massachusetts driver's BAC tested .362 (over 4 times the legal limit). Without question, Warden Price's actions prevented a serious accident and possible injury to the driver and all other motorists on the road that day.

Hunter Education: Hunter education staff met with VELCO this week to discuss developing some education materials about hunting in power rights-of-way (ROW). While there have been a number of high-profile transmission shootings, the real problems have been: 1) Shooting in the vicinity of power lines without recognizing the danger of hitting them; 2) Deliberately shooting at the animals, mostly birds, on the wires; 3) tree stands on telephone poles and blinds built in ROW, and 4) most lines only have ROW, landowners still "own" the land, permission to hunt is needed from landowner.

Changes in Road/Stream Crossing Permits: Staff participated in a conference call with representatives from federal natural resource agencies, state transportation and fisheries agencies, and private utilities throughout New England to discuss proposed revisions to the U.S. Army Corps of Engineers General Permit on stream crossing practices. The Corps is developing a New England Regional Permit to replace individual state permit processes. The practices regulated within this permit will have a profound influence on the way road/stream crossings are constructed in Vermont and their long-term effect on aquatic populations.

Forest, Parks and Recreation

Ski Areas: Jay Peak ski area has recently submitted Act 250 and related permit applications for numerous upgrades and improvements to ski trails and related ski infrastructure within the ski area lease boundary, including new lift and waterline. A significant development project adjacent to Okemo ski area proposed by Timber Creek is currently undergoing Act 250 review. In addition to residential development, the Timber Creek project would also include new ski trails and lifts, with one of the terminating within Okemo's ski area lease boundary. FPR staff met last week with officials from Okemo ski area to discuss the Timber Creek project and other lease matters. Ski area officials indicated that while Okemo is on track to have a better ski season than

last year, it will likely end up about average unless there are some significant weather events that influence skier visits for the second half of the ski season.

Master License Agreement: We are close to finalizing a Master License agreement with Green Mountain Power which would combine 40+ existing utility line ROWs on FPR lands into a single 10-year license agreement. The new license fee for utility license agreements, including this master license agreement, is based on the linear feet of power line on FPR land.

ANR Lands Records Scanning Project: We are making progress on this scanning project. General Record Schedules for state lands documents have now been finalized and approved. We have completed scanning all of the larger format maps for all three ANR departments and are beginning to scan ANR property records and related documents.

Grand Isle Proposal: The department has received a formal request to consider deeding the 23.4 acre portion of Grand Isle State Park that has been licensed to the Town of Grand Isle for municipal recreation purposes since 1992. Town ownership will enable further local recreation investment. The department is generally favorable to the idea pending negotiation of appropriate details relative to the transfer. Legislative action will be required.

Business Office

Audits: KPMG and the State Auditor's Office continue to drill down into the Fish & Wildlife FY12 financials with numerous questions daily. We have been able to keep up with responses and answers to follow-up questions but this is taking up a huge amount of time. An area of concern that has come up involves the process that was used to complete the annually required "Schedule of Expenditure of Federal Awards" (SEFA) report.

The State Auditor's Office is moving quickly to begin the State-Issued Cell Phones (use & cost) audit across State government. The timing, during the current wave of moves to NL, is unfortunate for Brenda Berry would be ANR's lead for the cell-phone audit.

PRESS ISSUES:

Travel Video Interview: Parks Director Craig Whipple was interviewed last week by world adventure travel writer Richard Bangs, who is creating a travel video for Orbitz. The subject of the conversation was the vast physical and mental health benefits of outdoor recreation.

After 17 years, Crosby tract preserves wetlands habitat along Lake Champlain (press release)
<http://vtdigger.org/2013/02/01/after-17-years-crosby-tract-preserves-wetlands-habitat-along-lake-champlain/>

\$8.6 million modernization at state offices at National Life getting mixed reviews
<http://vtdigger.org/2013/02/03/8-million-modernization-at-state-offices-at-national-life-building-not-to-everyones-liking/>

Vermont FEMA clash over new culvert funding (3 articles)

<http://www.timesargus.com/article/20130207/NEWS03/702079921>

http://www.vpr.net/news_detail/97414/culvert-conundrum-towns-out-8-million-because-fema/

<http://www.wcax.com/story/20987585/post-irene-vermont-wants-better-culverts> (video link)

Vermont looks to improve fish and wildlife management with enactment of new lands rule (press release)

<http://vtdigger.org/2013/02/06/vermont-looks-to-improve-fish-and-wildlife-management-with-enactment-of-new-lands-rule/>

House bill would require towns to plan for flooding

<http://blog.vpr.net/2013/02/05/fema-approves-96-homes-damaged-by-irene/>

State to share info on wildlife violators (press release)


<http://www.rutlandherald.com/article/20130205/THISJUSTIN/130209981>

Governor Shumlin announced new cap on regional carbon emissions (press release)

<http://governor.vermont.gov/newsroom-gov-shumlin-announces-new-cap-on-regional-carbon-emissions>

CLF applauds agreement on stronger carbon emissions cap for northeast power plants (press release)

<http://vtdigger.org/2013/02/07/conservation-law-foundation-applauds-agreement-on-stronger-carbon-emissions-cap-for-northeast-power-plants/>



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Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin
FROM: Secretary Jeb Spaulding
DATE: February 8, 2013
SUBJECT: Confidential Report to the Governor

BUILDINGS AND GENERAL RESOURCES

Status of Governor's Priorities:

Governor's priorities are basically sound with the exception of the Montpelier/State of Vermont central heat plant projected cost overrun which the City and the State are struggling to deal with under the terms of the agreement. Montpelier says it has no capacity to fund the estimated delta, so we will need to find most it in the capital bill to keep the project on schedule. Only the chairs of HCIC and SIC have been briefed. Plan to brief whole committees today and attend City council meeting at 6pm tonight.

Legislative Issues/Contacts:

Met with Rep. Stevens and discussed Waterbury related items. We also discussed the Bennington Veterans Home and speculated that a portion of the break open ticket revenue could be directed to the Veterans Home, a facility which serves the interests of a portion of the break open tickets purchaser.

Significant Events/Meetings:

Participated in Rapport's weekly Waterbury property divestiture call. It appears the affordable housing interests were met with the execution of the purchase and sale agreement. We meet soon with the Hunger Mountain day care representatives to discuss their donation proposal and await the proposal by the town of Waterbury. The state's biggest hurdle is getting the necessary subdivision permits.

Evolving Issues:

Four RFP responses for the Waterbury central heat plant were received and evaluation of the proposals has commenced.

Suggest that administration propose that the receipts from the break open ticket charge be placed in a special fund. The fund then offsets a determined amount of GF in the operating budget for the VT Veterans Home, linking players to their interests.

FINANCE AND MANAGEMENT

Issues Update:

FY 2013 BAA: The FY 2013 BAA (H.47) has passed the House and was passed out of Senate Appropriations yesterday. H.47 is on the Senate Calendar for consideration today and could pass by the end of the day. There have been minimal changes from the Governor's Recommendations.

FY 2014 Governor's Recommended Budget: The House Appropriations Committee is continuing to take department testimony on the FY 2014 Governor's Budget Recommendations throughout this week. Budget Analysts are monitoring the testimony closely.

US-PIRG Grading the States: Deputy Commissioner Zeller returned the annual US-PIRG transparency survey this week with comments about several of the preliminary "NO" credit determinations. US-PIRG's grading report will be published in March 2013. We will have to wait to see if the development and launch of SPOTLIGHT.vermont.gov will improve the grade from last year.

Results Based Accountability Day: Several of the Budget Analysts will be attending parts of the Legislature's multi-session presentation day with Mark Friedman and his RBA performance measures methodology. This daylong event is being sponsored by the Joint Legislative Government Accountability Committee.

HEALTH CARE REFORM

Status of Governor's Priorities:

Premium & Cost-Sharing Subsidies: CMS has indicated that they will provide federal match for a state premium assistance program, but not for a cost-sharing assistance program. As a result of this, we have re-tooled our proposal to reduce the assistance to fit with the original GF estimate currently in the budget.

Next Steps – Financing: Discussions continue about how to move forward with the process.

Legislative Issues/Contacts:

- Robin & Mark Larson have been discussing and explaining the budget priorities (premium & cost-sharing assistance; cost-shift proposal; Exchange financing). The committee is close to considering how to mark up the proposal. They will do a committee bill for the premium & cost-sharing assistance and the Exchange financing. This bill will then move to Ways and Means,

then to Appropriations. It is unclear at this time whether it will then be folded back into the budget. The committee is also looking at the "health impacts" of a soda tax. There is also discussion about the employer assessment and whether it is "fair" to continue that assessment.

Significant Events/Meetings:

CGI Amendment Negotiations: We have finalized the scope amendment for the CGI contract that was anticipated when we signed in December. There continues to be scope discussion by DII related to cloud computing & there is likely a 2nd amendment that will result from that.

VT Medical Society: VMS asked for support on two bills, which we are working through and sending in bill forms. Also, wanted to complain that DFR/DVHA has not yet started a workgroup on prior authorizations forms (Robin asked Mark/Susan to address).

Paul Cillo: Wanted to discuss how they might be able to work with us on financing plan analysis in the future.

HUMAN RESOURCES

Legislative Issues/Contacts:

Commissioner Duffy and Commissioner Noonan testified on the Equal Pay bill before House Economic. The testimony appeared to go reasonably well. Both Commissioners will work with the Attorney General's Office to draft proposed changes to certain provisions.

Significant Events/Meetings:

Commissioner Duffy was deposed at VSEA headquarters regarding the Double Pay Grievance.

Commissioner Duffy has received a cease and desist notification from the VSEA regarding the ERP Expansion Project. VSEA alleges that this is bargainable. Legal assessment is underway.

INFORMATION AND INNOVATION

Status of Governor's Priorities:

Healthcare: Continues to progress aggressively.

- The CGI contract amendment was submitted to CMS on Friday 2/1 as planned. The HBE and PMO teams are actively working with CMS on their review/approval cycle for the contract amendment. We are anticipating their approval this week.
- Integrated Eligibility (IE) procurement review team wrapping up their work in preparation for orals to come later in the month. There are multiple conversations happening between the HBE and IE teams/stakeholders to consider how to best leverage the fact that we have one vendor at the table for both solutions and the hosting. We're carefully evaluating multiple factors and talking with AGO and Gartner. Our hope is that we can figure out a way to leverage some cost and other savings/benefits by aligning the efforts.

Legislative Issues/Contacts:

House Transportations: Commissioner Boes testified about the DMV project failure. He provided the cost breakdown of the project, explanations of what happened and why, and explained how we hoped to prevent future project failure. He also spoke to the IT strategy of leveraging successful products rather than investing in new development. While there were many questions, he believes his explanations and answers were well received.

House Gov Ops: Commissioner Boes has been communicating with Denise Diehl and Donna Sweaney regarding potential discussion of the VCGI board's recommendation to move VCGI from a non-profit state entity to part of DII (I had abstained from this recommendation). This approach was recommended by Jim Reardon after discussions in December on the potential to include VCGI as part of the budget discussions.

Evolving Issues:

- Met with Vermont Center for Geographic Information (VCGI) Director Brotzman and his staff to align responsibilities for support of Vermont Emergency Management (VEM). We agreed DII is responsible to supply infrastructure that meets VEM's need and VCGI would play a consulting role on GIS application usage. The relationship between DPS, VEM, DII, and VCGI continues to require attention to ensure good communication of strategy and supporting tasks/roles. Richard will be talking with House Government Operations to discuss the future of VCGI including a possible merger with DII.

LIBRARIES

Significant Meetings/Events/Project Updates

Meetings with House & Senate Education Committees: Marty Reid met with both Committees to review the work of VTLIB, to present information about Vermont public and (to a lesser degree) school libraries and to talk about some of our key initiatives, including the Vermont Early Literacy Initiative (public libraries), the Catamount Library Network, and Digital Literacy. She had a full hour with the House committee and they were very engaged. Reid suggested that some of the Lottery money be designated for libraries, but made no formal request.

National Leadership Grant for Libraries Application: My thanks to Governor Shumlin for his letter of support for our application that was submitted to the (federal) Institute of Museum and Library Services we partnered with the Vermont Center for the Book and the Montshire Science Museum on a \$330,000 project that would expand the Vermont Early Literacy Initiative and bring in STEM-related programs and learning opportunities in 30 public libraries – for children ages 4-8 and their families. This would include the development of tabletop science and math “maker spaces” and a blueprint that could be replicated in libraries across the country. Grant awards will be announced in September.

Business Emergency Preparedness and Response meeting: Noelle Mackay at ACCD convened a meeting of leaders of “cultural” and “collecting” organizations this week to discuss a proposed plan (and form) for collecting and recording information received from organizations (e.g. libraries) in a disaster situation. This common form will help us gather and share information in the same format so that we

can easily see where there are needs, synergies, etc. and identify where we can work together in situations that require emergency response from our organizations. The same form will be used for collecting information from businesses.

Vermont Digital Economy Project (VCRD): Christine Frieze (Asst State Librarian) and Marty Reid met with Paul Costello and their partners from CCV to discuss their role in this federal grant project which expands on the work we did with the e-Vermont project. VTLIB will expand our work with CCV that places student interns in public libraries to provide one-on-one assistance to citizens who need help or training using computers and digital resources. This Internet Intern project has also received a \$10,000 grant from the VT Community Foundation and Christine is working with CCV to identify library sites, especially those located in towns that were hit by Irene.

TAXES

Legislation:

Statewide Property Tax Rate: W&M continues to hold onto the bill, tinkering with the FY15 parameters to some consternation. JFO and Deb Brighton seem to agree that all of the FY15 shuffling (including possible 1.9% on the income rate but with longer slope of eligibility, lowered cap to \$5000 on property and \$2000 on rental) does not amount to any real money, and that the increase in the penny rate next year under current law (recapturing statutory inflation in the base education amount), even with modest education spending growth, may be as much as .06.

As for FY14, the .03 residential/.04 non-residential/1.8 income construct no longer appears sufficient given the AOE reports on budgets.

Property Tax Appeals: Rep. Wilson continues to push H.87 to have the state foot more of the bill when property values are appealed at the local level. The threshold for the state to reimburse the town for SWPT lost due to an appeal is quite high, but lowering that would be a cost to the Ed Fund, and Rep. Wilson acknowledges the timing is bad.

Break Opens: JFO and Tax continue to exchange information. JFO is factoring into its low estimate a large elasticity factor. Tax has pointed to the healthy wholesale and retail black market.

EITC: W&M has asked for information about the self employment statistics – this is an issue at the federal level, with the IRS making blunt statements about Schedule C irregularities in connection with the EITC and requiring practitioners to make additional certifications for such claims. Deb Brighton's initial data shows 27% of VT EITC recipients claim Schedule C income, with EITC claims totaling \$6.8M. Not clear what W&M will do about this.

Public Assets Institute proposed various alternatives based on limiting itemized deductions. Because VT starts at federal taxable income, currently federal deductions flow through – already this year we saw some increased revenue when the fiscal cliff resolution included the re-imposition of some limits at the fed level, and this continues to be a federal discussion. We could plausibly maintain that as opposed to the myriad of itemized deductions that could be fiddled with triggering various implications that should be addressed in comprehensive tax reform, our EITC is out of step with other states, and our proposal is a targeted re-direction of funds.

Cloud: Still no testimony scheduled.

Current Use: VLCT and the Current Use Coalition are starting to stir over the provision that current use owners who owe the land use change tax should not be able to continue to enroll land. Their position is that the lien protects the state. The Department maintains that taxpayers who owe the LUCT should be treated like any other delinquent taxpayer. There is rumbling that with the increase in the statewide property tax rate some legislators are examining current use.

Various Taxes: Sen. Galbraith has estate tax proposal, Rep. Pearson has proposed to levy on top income bracket as flat rather than marginal rate (raising the effective rate substantially), there are various ideas to limit deductions. No shortage of "tax reform" proposals – again, it may be advisable to hold the line for comprehensive reform which would include going to AGI and then choosing what credits/deductions are appropriate for VT, if any (the Blue Ribbon suggested one credit that phased out). There also are proposals to tax electronic cigarettes and the expanded local option bill may have some legs.

Sugar Sweetened Beverage Tax: Lead sponsor this session is Rep. Sharpe, ranking member of W&M.

TIF: The Department has circulated a draft bill for internal discussion that would acknowledge forgiveness of the current audit findings of money due and create an arbitration mechanism to resolve audit findings in the future. Karen Horn states that VLCT has a bill, but was mum on details.

Contractors: Contractors in Vermont, as in the majority of states, by statute pay sales tax on their purchase of supplies and incorporate it into the overall price of their projects. Unfortunately, there has been widespread use of resale exemption certificates. The Department is working on an outreach and come forward campaign. Likely to be this session's sales tax brouhaha.

Operations:

Tax Season and Outreach: The Department's radio push continues (to fulfill leg mandate to advertise the annual homestead requirement) – WDEV and WVMT this week, three more stations next week.

CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN

From: Susan Spaulding
Date: February 8, 2013
RE: Boards and Commissions Update

Unorganized Town of Somerset: Have you had a chance to speak with Jim Oliver? Larry Cassidy's term has ended and he does not want to be reappointed.

Unorganized Town of Beul's Gore: Have you had a chance to speak with Ian Carlton? William Meyer's term has ended and he does not want to be reappointed.

Appointees currently serving by county:

County	Appt by Shumlin	Appt by Douglas
Addison	49	22
Bennington	41	12
Caledonia	28	17
Chittenden	265	87
Essex	15	1
Franklin	62	19
Grand Isle	22	2
Lamoille	39	11
Orange	33	13
Orleans	30	12
Rutland	72	35
Washington	179	77
Windham	66	21
Windsor	54	21
TOTAL	955	350

Addison-3 House District:

APPOINTED: Warren Van Wyck, Ferrisburg

State Board of Education:

APPOINTED: Margaret MacLean, Peacham

Irene Recovery Situation Report
2/8/2013

IRENE RECOVERY OFFICE

WSOC-VSH

- Improved project requests and amended Project Worksheets specifying actual work to be done a WSOC (as opposed to the already finished Version 0 PWs to determine repair costs, much of which won't actually be done) is ongoing, with the target of being finished this month. These PWs will specify the repair cost and hazard mitigation funding for buildings slated to be demolished that will instead be poured into the remodeled historic core and the new addition, as well as from the old to the new central heat plant.
- We are working with FEMA to expedite Environmental and Historic Preservation review and approval to allow work to proceed, which they have determined must be made for all WSOC work before ANY work can proceed. We are cautiously optimistic of being able to begin asbestos abatement in March. However, it is as yet uncertain whether their review can be completed without final designs, which are months away.
- BGS is reviewing proposals from respondents interested in building and owning the central plant and selling heat back to the state and other Waterbury village customers as a potential alternative to rebuilding the plant our selves. No decision has yet been made about proceeding in this direction.

FEMA PA

- 3,298 project worksheets (PWs) have been written by FEMA, of which 3,178 (96%) have been obligated.
- Federal share obligated to date (at 90% federal share) stand at \$132,680,462 (increase of \$49,903 since last week).
- Responses to FEMA's Requests for Information (RFIs) for reevaluation of 10 debris PWs in Bennington, Woodford, and Rockingham were submitted on Jan. 10-11. This week FEMA requested additional information regarding Tropical Storm Lee (which was calculated as a 4.7-year storm) for Woodford and Bennington. These questions do not bode well for the eligibility determinations. Thad Leugemors remains on point and has a follow-up call scheduled with the towns on 02/07.
- House Fish, Wildlife, and Water Resources Committee took testimony on FEMA bridge and culvert funding on 02/06/13. Officials from three affected towns – Westminster, Mendon, and Grafton – all expressed appreciation for the support and assistance they have received from the State's Public Assistance Team. Here's a link to the VPR coverage: http://www.vpr.net/news_detail/97414/culvert-conundrum-towns-out-8-million-because-fema/.
- To date, we are in receipt of 10 appeals to be conveyed to FEMA Region 1 within the next 60 days. We have received decisions from Region One on 6 appeals (2 wins, 3

losses, one split decision), and await responses on 12 which have been submitted. On 02/01/13 we submitted appeals on behalf of the Town of Readsboro and Neringa, Inc. (a Lithuanian Cultural Camp, denied eligibility as a private non-profit).

- To date, we have processed 286 time extension requests, of a total projected of 391. We are aware of approximately 110 other PWs (up to 52 from towns and up to 58 from State Agencies, primarily AOT PWs related to rail projects) which MAY require time extensions for work beyond March 1. Coleen Krauss's team successfully processed extension amendments to the subgrant agreements of all towns and state agencies known to have PWs in extension. We will do personal outreach in the coming week to the 28 applicants appearing to have PWs with uncompleted work for which time extension requests have not yet been submitted.
- With the big crunch of time extensions subsiding, we will pivot to focus on the remaining +/- 30 scope change requests.
- It appears likely that we will be able to demobilize SAIC's Ed Tidwell and Lemuel Malcom by mid-late March.

Individual Recovery

- The Disaster Case Management Program (DCMP) currently has 375 open cases. Interviews for Construction Coordinators to be funded through the BAA appropriation were conducted this week; interviews for Volunteer Coordinators are scheduled for next week.
- Received (2) separate referrals from Senator R. McCormack and Representative P. Komline for (1) family and (1) family/business owner seeking recovery assistance. The IRO has made referral to the DCMP, in addition to the regional Small Business Development Corps (SBDC), Home Ownership Centers for CDBG-DR funds, in addition to the VT Irene Flood Relief Fund. We are currently seeking help from HMGP to determine eligibility for individual business located within the floodplain.
- The VT Voluntary Organizations Active in Disaster (VT VOAD) elected a new President, MaryEllen Mendl of United Ways 211 (also Treasurer of VDRF) for following year. The IRO plans to continue ongoing discussion with this group about future planning/resilience activities for individuals.

HMGP

Current Status of Buyout Properties:

HMGP Approved	89
HMGP Pending	21
Appealing/HMGP – RFI Determination	6
HMGP Ineligible	10
Round 4 (Potential)	5
Grand Total	131

Link to Map: <http://www.trorc.org/buyouts.html>

VTRANS

Program Development Division

- **Hartford NH 020-2(37)** - The Geotechnical Report for a significant slope failure along VT 4 as a result of Tropical Storm Irene was completed and received on Monday, January 28 that outlines recommendations to stabilize the roadway embankment down to the Ottauquechee River with a combination of large stone rip-rap at the toe of the slope adjacent the river and additional Geo-Grid Reinforced Embankment adjacent the roadway.
- **Irene Sites/Corridors** - Meeting with FHWA 2/12/13 to determine project scoping close out process (corridors only).

Operations Division

- Report from Feb 2, 2013. No update available for this week.

All District Irene Related FHWA ER Sites	This Week
Total sites	688
Total sites complete	417
Total sites under construction	15
Total sites awarded	84
Total sites ready for bid	122
Total sites scoping/design complete	136
Total sites no activity	21
Total sites given to PDD	65
Total sites on hold ROW/ENV	50

Finance and Administration Division

- Transportation Recovery Expenditures through February 4, 2013: **\$212,818,143**

	Totals	Federal	State	Local
FHWA-ER	\$107,350,881	\$101,008,111	\$3,902,418	\$2,440,352
FEMA - 4022	\$97,988,229	\$94,321,604	\$3,666,625	\$0
FEMA- RREW	\$7,479,033	\$0	\$7,479,033	\$0
	\$212,818,143	\$195,329,715	\$15,048,076	\$2,440,352

Memorandum

Vermont Public Service Department

Privileged and Confidential

To: Hon. Peter Shumlin, Governor & Sarah London, Governor's Counsel
From: Christopher Recchia, Commissioner
Subject: Weekly Report
Date: February 8, 2013

Governor Level Issues:

Status of Priorities and Cases of Interest:

- **North Springfield Biomass Project:** I met with Commissioner Snyder and Don Einhorn (ANR Counsel) to discuss status and merits of attempting to restart MOU negotiations. I'll be discussing this with Liz in preparation for her meeting with Adam Winstanley.
- **Exit 4 Visitor's Center:** I am arranging a meeting with Sam Sammis to discuss energy issues and opportunities associated with the Exit 4 development. My goal would be to look at renewable energy options to "showcase" there as well as the Vermont products he hopes to exhibit. I will discuss this further with Jeb, Lawrence and others before the meeting occurs.
- **Vermont Gas:** VELCO relays they believe they will be able to work out alignment along the VELCO right of way in most remaining areas of concern to residents of Hinesburg and Monkton.
- **Regional Coordinated Procurement:** As discussed in more detail below, several states were pursuing an advanced schedule for coordinated procurement of Wind Energy to try to take advantage of this year's PTC's. It would have required a joint RFP for wind power across the region within the next few weeks. This would have left our hydro effort behind and also, I believe, would have exacerbated the moratorium discussion. Ultimately, the states decided for a variety of reasons not to advance the schedule from the Governors' direction.

Bills: New bills being tracked:

- **H.139** – An act relating to funding postclosure activities at nuclear energy generating plants (Jerman and Cheney);
- **H.216** – An act relating to reducing energy costs and greenhouse gas emissions (Cheney);

- **H.219** – An act relating to escrow accounts for municipalities to review applications for proposed electric generation facilities (Johnson);
- **H.220** – An act relating to extending the comment period for construction proposals for energy facilities (Johnson).

Legislative Issues:

- **H.97/Texas Compact Commission:** We are evaluating the impact of H.97 and the desire to change the minimum generation quantity that requires payment into the compact and disposal in Texas. ROV technologies and Rep. Mike Hebert are interested in getting ROV exempt from this obligation.
- **S.30 & S.21 – Wind Moratorium:** On Thursday I met with Benning and VNRC to discuss how to move forward on this. Both I and VNRC emphasized Siting Commission work and the need to wait for that, and objection to moratorium. Benning acknowledged they are backing away from Moratorium language. Additional broader meetings were suggested.

Energy Generation Siting Policy Commission: Held 2/5 deliberation meeting of the Siting Commission. Invited guests included Mark Mihaly, Asa Hopkins, Michael Buscher, David Raphael, Jean Vissering, Dan Jones, Jamie Ervin, Jeff Forward, Rich Sedano, June Tierney, Geoff Hand, Dan Hershenson, Kim Hayden, Geoff Commons, Judith Dillon, Dick Saudek, Avram Patt, Randy Pratt, David Mullett, Dotty Schnure, and John Zimmerman. They represented a broad range of perspectives and expertise, and helped the Commissioners understand aesthetic, energy supply, siting, intervention, and other issues related to the draft options paper introduced and discussed that afternoon. Upcoming meetings: 2/12 all day – Siting Commission site visits to Sheffield and Lowell, public hearing at the Lowell Graded School; 2/20 all day – Siting Commission deliberation meeting in the Agency of Ag conference room

Legislative Hearings: Staff attended two sessions with S. NRE on S.30. All legislators were supportive of the testimony and the bill to put a moratorium on wind, move electric generation siting approval from Act 248/246 to Act 250. There was also support for S.21. The primary concern was to give towns in the viewscape of the site a voice and to give credence to town plans. Also witnesses noted that time is needed to collect and analyze research on the actual impacts of existing projects to human and environmental health (including stormwater runoff), to property values/liquidity, and to reducing GHGs. Also discussed is a need for transparency in the funding sources for organizations supporting [and opposing] projects under review.

Staff sat in on testimony regarding breakout tickets in the House Committee on Housing & Military Affairs. A number of veteran's testified that the VFM and American Legions should be exempt from any tax and repeatedly stated that this tax would "shut their operations down". Dept. of Tax has pointed out to staff that under the current breakout ticket rules organizations are not allowed to use breakout ticket proceeds for operational costs. There was also discussion from one of the large distributors of these tickets that he believed the estimates of the number of tickets sold was way off because most establishments don't sell the entire box of tickets (which is what he believes was counted to come up with the original estimate). Organizations he spoke with said they usually throw out 30-40% of the tickets in a box because people stop playing when the big ticket winners have been claimed.

Press Issues/Releases/Contacts: VY: I relayed our “not going to comment” position on the UBS report to Fox 44 on Friday. We also received a call from WCAX re GMP/Lowell penalty for trucking violations. Neither required an on-air interview.

Significant Meetings/Events:

- **Sandia and IBM** did reach a contract agreement on Rutland Solar and are working on Press. I relayed our interest in having the Governor and Sanders have a role. It appears this will likely be a press event rather than a release. IBM said Sandia is in the lead on this and we said they'd reach out to Gov's staff shortly.
- **NARUC:** Most of the first part of the week was attending the National Association of Regulated Utility Commissioners (NARUC) meeting in DC. Some staff, PSB members, and several Vermont utilities were in attendance. We met with each member of our congressional delegation on Monday and Tuesday.
- **FY 2014 Budget:** Staff and I met with Rep Keenan re: FY14 budget; We had some follow-up and sent over a response on Friday.
- **Wind Noise – Infrasound:** Met with Harry Chen et al re: health impacts of wind.
- **Clean Energy Loan Fund:** On Friday, Jeb, Lawrence, Liz and me met with Jo Bradley re Clean Energy Bank (loan fund). This is moving forward quickly. Expectations are that our CEDF loan program would be transferred to that fund.
- **Center for Energy Transformation and Innovation (CETI):** Staff represented the Department at a Partners' Council meeting. CETI expects a proposal from IBM Global this week and leaders have begun outreach to other utilities with AML. I am reaching out to climate cabinet members to inform them of this project.

Everything Else:

Summary of Key Department Activity, By Division:

Public Advocacy and Consumer Affairs:

Vt. Yankee CPG Renewal – Docket 7862 – Preparation for hearings continues; they will begin next week at Alumni Hall in Barre, then continue the following week in the PSB hearing room. PSD and other parties filed in opposition to NEC's motion to stay the proceedings. PSD has filed a motion to take notice of various Entergy testimony in earlier dockets, and also served a subpoena on Connie Wells, an Entergy witness in the “sale docket” to appear and testify at the upcoming hearings. Entergy has indicated they will seek to quash the subpoena. In addition to its motion for stay, NEC filed a motion for partial consolidation of Dockets 7862 and 7964 (re: new black-start generator). Responses to that motion are due Feb. 15.

