

# WEEKLY REPORTS

Checklist  
10/07/2011

Bill Lofy

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

Alex MacLean

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

Susan Bartlett

- ☒ Agency of Human Services – Doug Racine

Beth Robinson

- ☒ BISHCA – Steve Kimbell\* (shared with Anya)

Jeb Spaulding

- ☒ Agency of Administration – Jeb Spaulding

Special Reports

- ☒ Additional Report: Education
- ☒ Additional Report: GIRO
- ☐ Additional Report: \_\_\_\_\_



To: Governor Peter Shumlin  
From: Lawrence Miller, Secretary - Agency of Commerce and Community Development  
Date: October 7, 2011  
Re: Weekly Report

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Flood recovery work continuing on all fronts: nothing new in the last couple days. Expectation management is key, especially around housing. Many people simply will not be able to stay in their home communities and will need to temporarily relocate. 25 miles is the minimum FEMA can consider for a rental resource radius, 50 miles is common for them, shrinking is not an option. Numbers they are working of "hard to place" cases remain single digits. Most important role for state and locals is to help people through the FEMA process.

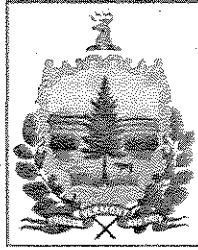
- **Potential Threat to Vermont's Captive Industry:** An unintended result of the Dodd-Frank act was to put a spotlight on states' enforcement and collection of self-procurement taxes. Self-procurement taxes are levied by states on business insurance purchased from insurance companies that are not licensed in that state. These companies are referred to as non-admitted companies, and specifically include surplus lines insurers, but the definition of which can (when liberally implied) include captives. Businesses with captives in Vermont (and other states that have captive laws) are in some cases being advised to relocate their captive to their home state to avoid those taxes. Of particular concern are some firms (including local ones) taking that position, and at least one state (Missouri) is aggressively pursuing businesses in their state to relocate. To date we have lost one captive (owned by Kansas City Southern Railway) to Missouri, several more are considering a move. We believe we have a dozen or more Missouri-based captive owners, including Hallmark Cards, Bass Pro Shops, J E Dunn, and Alberici. Other states like, New York and New Jersey are also beginning to leverage on this issues with their companies that are located in their home state and it is beginning to effect new captive insurance formation in those states over Vermont. There is a significant threat that could allow for many of Vermont's captives to leave and form new captives in their home state.

Actions needed or currently taken by Vermont (the Captive Division and the Agency of Commerce & Community Development):

- 1) Vermont will need to support the VCIA opinion, which in essence will say that Dodd-Frank does not apply to captives, so companies should review their self-procurement tax obligations rationally. *If it made sense to locate your captive in Vermont before, nothing has changed. If VCIA does not come out with an opinion soon, Vermont will need to publish something ourselves.*
- 2) Support and work with the VCIA on approaching our congressional delegation to discuss amending Dodd-Frank to eliminate any gray areas regarding captives. Legislative history indicates that captives were not an intended target. This is consistent with NAIC (National Association of Insurance Commissioners) activities resulting from application of Dodd-Frank provisions regarding sharing of surplus lines taxes, (i.e. captives were not part of the discussion).
- 3) Support the State's efforts in working with other captive states similarly affected (SC, HI, MT, AZ, DC, UT) to deliver a consistent message. We are also discussing the issue with all local captive management firms, accounting firms and legal firms.



To 116 STATE STREET  
MONTPELIER, VERMONT 05620



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

Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
DATE: October 7, 2011

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**Secretary's Top Issues:**

**Tropical Storm Irene**

Consumer Protection Section have started moving into the temporary lab space on Industrial Park Road in Berlin. It is their goal to have hydrometer testing up and running this month. Hydrometers are used to measure density in maple syrup and sap.

The Food Safety and Consumer Protection Division of the Agency of Agriculture held an After Action meeting on October 6, 2011 as follow up to the Irene response. Areas needing improvement and issues that went well with regard to animal health-related response were identified. This same group will work with Deputy Secretary Bothfeld to identify solutions for the areas that need improvement and to implement them in a timely manner. Also incorporated into this meeting was feedback from USDA colleagues who were procured through completion of an ARF and who assisted Vermont Agency of Agriculture personnel with farm assessments in the aftermath of Irene.

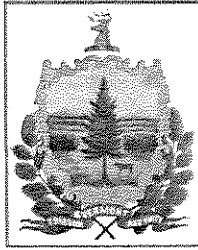
**Business Development**

Deputy Secretary Bothfeld is working with Kiersten Bourgeois on a visit from Federico Fogale from Tirol Crème (milk based Caramel). He would like to find a location to process caramel in Vermont. Information is being provided on state programs, milk availability, production facilities and costs of other ingredients such as maple syrup and honey.

**Maple Issue**

Section Chief Henry Marckres was notified on Monday by Dave Frattado of FDA that Federal charges have been brought against Bernard Coleman of Rhode Island for selling adulterated maple syrup over the internet. Complaint was received in 2009 that a person from Barre had purchased syrup over the internet from Mr. Coleman and questioned the purity. A sample was obtained of an unopened container and subsequent testing showed it to be 100% cane or corn sugar. FDA was notified at that time, and their investigation led to the charges. The indictment was filed in U.S. Court in Burlington.

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RE: Weekly Memo  
DATE: October 7, 2011

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**Status of Governor's Priorities:**

Jobs in Agriculture

**Press Issues/Releases/Contacts:**

- Tim Johnson from the Burlington Free Press talked with several agency staff for his article *UVM Shares Lab with State Scientists*
- Chief of Consumer Protection, Henry Markres speaks with Rutland Herald on the recent charges against a RI man for selling fraudulent Vermont maple syrup. WCAX also covered this story but with no agency contact.
- Agrichemical Mgmt Section Chief, Gary Giguere and Ag Development Coordinator, Koi Boynton spoke with Vermont Edition producer prior to show on Organic Farms to confirm ag stats.
- Ag Development Coordinator, Koi Boynton spoke further with Gareth Henderson of the Vermont Business Journal about the Vermont Farm Disaster Relief Fund. This story will run in early December and further contact with Gareth may be required.
- Dairy Section Admin, Heidi Deangelo provided contact information for our state milk cooperatives to the AP. They will be contacting the coops directly to determine total loss of milk during Irene.
- Ag Development Coordinator, Koi Boynton was interviewed by The Point for their Sunday evening interview program. Boynton discussed Farm to School and the Farm to School Network. This will be an ongoing Point program that will feature schools around the state in :60 radio spots.

**Press Issues/Releases/Contacts:**

- Enosburgh women Amy Cochran complains of health complications due to formaldehyde exposure from nearby farm. See agency of Agriculture memo to the Governor's office from 10/6/11 for more information.
- Congressman Welch introduces Fresh and Local Foods Act which would allow three states to pilot using DOD Fresh dollars towards local purchasing.
- AP covers New England Ground Beef Market Analysis Research conducted on behalf of the New England Department's of Agriculture and headed up by our Agency

**Significant Events/Meetings:**

**Evolving Issues:**

Section Chief Henry Marckres was notified on Monday by Dave Frattado of FDA that Federal charges have been brought against Bernard Coleman of Rhode Island for selling adulterated maple syrup over the internet. Complaint was received in 2009 that a person from Barre had purchased syrup over the internet from Mr.

Coleman and questioned the purity. A sample was obtained of an unopened container and subsequent testing showed it to be 100% cane or corn sugar. FDA was notified at that time, and their investigation led to the charges. The indictment was filed in U.S. Court in Burlington.

The agency continues to communicate with colleagues in the Department of Fish and Wildlife concerning ongoing disease surveillance at the cervid facility in Irasburg in light of cessation of federal funding for that program.

The regional milk permitting emergency exercise that the state veterinarian requested be funded through VT Homeland Security will take place in early May of 2012. It will focus on permitted milk movement in the face of a Foot and Mouth Disease outbreak in hopes that VT dairy businesses will be able to stay in business in the aftermath of such an event. The exercise will take place in VT and will involve the six New England states, New York and the Canadian Food Inspection Agency.

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

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#### **Administration**

Second meeting with staff to form a licensing and registration group within the agency to manage all licenses and registration for the Agency.

#### **Ag Development**

The Vermont Agriculture Development Board (VADB) meet October 5th. Dakin Farm's owner Sam Cutting IV hosted the meeting in Ferrisburgh. The Board reorganized and elected Len Bull as Chair and Jackie Folsom as Vice Chair. Bob Rathbun will remain as a member of the Executive Committee as Past Chair. Presentations by VAAFM's Randy Quenneville on the slaughterhouse regulations and the upcoming legislative debate about on-farm slaughter. Chelsea Lewis gave a presentation on her activity centered on the eight existing slaughterhouses operating throughout the state. A Farm to Plate update on the retreat (held on Monday and Tuesday) was offered by members of the board who attended the meeting. Their next meeting will be on November 2nd in Montpelier, 9-12 noon.

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

State veterinarian attended the United States Animal Health Association meeting in Buffalo this week in order to represent VAAFM on the Board of Directors of that organization, to represent the northeast in discussions with USDA Animal Plant Health Inspection Service (APHIS) Veterinary Services Division on the federal budget proposal, and to attend meetings pertinent to livestock animal health and disease prevention. The following key points related to the federal budget were take away messages:

- APHIS anticipates a reduction of their budget by \$180 million and a reduction in staff of over 200 people over the next three years. This reduction will negatively impact states' ability (including VT) to adequately prevent the introduction of foreign and domestic livestock diseases as well as mitigate the effects of those diseases should they be introduced
- Federal funding for Chronic Wasting Disease (CWD) surveillance will end as of December 31 of this year. VT cervid producers are required by rule to submit samples for CWD testing on all on-farm mortalities and hunter-killed animals, as well as those sent for slaughter for the subsequent sale of meat in restaurants. If VT is to continue this surveillance, the cost for testing will have to be absorbed by the producers. Cessation of this surveillance would result in greater risk to VT's livestock population, including dairy animals as several diseases of great importance can be spread between cervids and domestic livestock.
- The federal Animal Disease Traceability program budget is anticipated to be reduced to \$14 million in the next FFY. Collectively, the 50 states will only be awarded \$6 million to implement the new Animal Disease Traceability rule at the state level. This funding is inadequate for the tasks at hand.

- The United States has adopted a policy of being willing to vaccinate for Foot and Mouth Disease (FMD) in the event of a domestic outbreak in lieu of “stamping out” the disease, which was the previous mindset. This change in policy is due to lack of sufficient funding to be able to indemnify large numbers of producers for the wide scale depopulation of their livestock, lack of resources to effectively dispose of large numbers of carcasses, and public perception issues associated with incineration of large numbers of carcasses and related loss of large volumes of edible protein as was the case in the 2001 UK FMD outbreak. The US maintains a FMD vaccine bank through a tripartite agreement with Canada and Mexico. Vaccine from the bank would be requested as soon as the first confirmed positive FMD case is identified in the US. Vermont currently has a written emergency response plan for mobilizing vaccine to this state should an outbreak occur here.

#### Animal Health Personnel

- Performed Weights and Measures duties in Rutland County
- Attended a dairy and beef sale at ACCS
- Conducted meetings with large animal veterinarians and explained the cooperative USDA/VT Traceability program
- Collected CWD samples from 7 captive cervid mortalities
- Attended 2 livestock commission sales in Addison County and collected market information
- Performed a scrapie flock inspection in cooperation with the USDA
- Assisted Dr. Russo with post-mortem dispositions at a state inspected slaughterhouse

#### Assistant State Veterinarian

- Provided a producer with information on how to increase reproductive efficiency in his herd. Referred the producer to his veterinarian for further guidance
- Followed-up on a case of a horse that bit a person. Coordinated a veterinarian examining the horse and ensuring it was healthy
- Investigated the transport of cervid intrastate
- Provided a town clerk with information on the town's responsibility for animal cruelty response
- Referred a case of a dog biting a child to the VDH
- Provided a dog breeder with information on how to become a licensed Pet Merchant
- Conducted 3 meetings with large animal veterinarian and explained the updated USDA Traceability Rules
- Assisted the Meat Inspection Section by providing post-mortem dispositions on retained swine at a VT slaughterhouse
- Updated the Animal Section licensing requirements
- Assisted a veterinarian with interpretation of the PMO in regards to labeling prescription drugs
- Answered questions from producers on the tests used on milk to identify mycotoxins

#### Meat Inspection Points of Interest

- Program Chief presented on-farm slaughter background and regulatory issues to the Vt Ag. Development board
- Program chief also met/w John Kleptz concerning construction of a state inspected red meat slaughter facility in Milton, VT – reviewed plans – construction should begin early spring 2012 and start with the red meat slaughter and processing with plans to expand to add a poultry slaughter and processing section and eventually a smokehouse for preparation of hot dog products.
- Spoke with Tom Biggs of Black River Produce and set time to meet and review plans for meat processing establishment expansion at the current location in the Ludlow area
- Chief and Compliance officer met with Shirley Richardson of Danville to go over details for the formation of a goat meat co-operative corporation.

## **Ag Resource Management**

Formaldehyde use on farms: A member of the public has contacted numerous state and federal agencies regarding the use of formaldehyde on dairy farms for cattle foot baths. This is not a new or unusual practice on dairy farms. The claims relate to health issues allegedly caused by formaldehyde when manure is land spread (foot bath residues are directed to the manure pit). The Agency has received complaints from one individual only though she states that many others in the area have expressed symptoms similar to hers. The Agency is currently working with the Department of Health, Department of Environmental Conservation, VOSHA and the Agency for Toxic Substances and Disease Registry (ATSDR) to further investigate the issue.

The first round of sampling silage that has been subject to flooding is occurring now. This is in response to the mitigation plan submitted to FDA regarding the use of potentially contaminated feed. The first group of samples will be analyzed for heavy metals (chromium, cadmium, arsenic, lead and mercury). Heavy metals are a concern due to the amount of silt existent on much of the crop and the fact that upstream sewage treatment plants failed (a potential source of heavy metals). Samples were collected from farms deemed to be most at risk for contamination. Results are expected in a few weeks depending on lab capability. The Agency will begin sampling and analysis for mycotoxin contamination later in the year. Farmers have expressed concerns with the confidentiality of analytical results.

Laboratory services will begin to come back on line over the next few weeks. Lab personnel have been moving to space provided by UVM over the past week and will complete the move next week. It is anticipated that most animal health, dairy and some pesticide analytical and program capabilities will be up and running soon thereafter.

Attended the first TMDL public outreach meeting this past week. The focus was agriculture though there was only one farmer in attendance. Most of the group attending represented interest groups of varying interests and agendas. Other TMDL meetings are being held throughout the week for other sectors and interests.

A compost heat recovery technology that was developed at Terry Magnan Diamond Hill Custom Heifers with assistance from NRCS and VAAFM Alternative Manure Management program is now being advertised in the Growers Supply catalog as practical renewable energy system for growers and nurseries. The Vermont based AgriLab's ISOBAR technology moves heated vapor averaging 120 to 150 degrees Fahrenheit produced by the compost process across closed loop gas charged tubes to collect and capture heat.

GEA Farm Technologies has a new manure separation demo trailer is a mobile version of Houle new separation system. Have asked local dealer if the demo trailer could be available for the VT farm show. Houle has four of their current separator systems operating in VT at anaerobic digester.

## **Secretary's Commentary:**

### **Farm 2 Plate**

Secretary Ross, Deputies Bothfeld and LaClair and 3 other staff participated in the Summit. Sec Ross introduced Gov. Shumlin and spoke three more times during the gathering. The Summit was widely viewed as very successful and launched the implementation phase of F2P with 6 different working groups: Dairy; Education and Work Force Development; Technical Assistance; Land Access and Conservation: ????. The Agency will closely collaborate with this initiative going forward.

### **VT Agricultural Development Board**

Sec Ross and Deputy Sec LaClair attended the meeting of this legislative authorized group of state agricultural leaders at Dakin Farms. The Agency explained the challenges and opportunities of the meat industry. The challenges discussed: the expectations of the "on farm slaughter" community; the poorly located and small capacity of existing slaughter/processing facilities; the need for finance and marketing. The opportunities

discussed: the large market to the south; Vermont's reputation for quality meat; the land available for production. Sec Ross invited the group to help the state and Agency accelerate the industry's development.

### **Dairy Lenders Group**

Sec Ross and Deputy Sec Bothfeld met with leaders in dairy lending including representatives of the Coops, Congressional Delegation, federal agencies, feed dealers and others. Discussion summary:

- The feed shortage in Vermont is likely to get worse as farmers discover quantity and quality shortfalls after harvest. Replacement feed while available will be expensive and exacerbate the pressures farmers are facing.
- Flood damage has impacted 454 farms to date, includes over 20,000 acres of farmland with costs estimated to be \$10,000 million and rising.
- National dairy legislation, the so called "Peterson Bill", co-sponsored by Congressman Welch, may move as part of super committee work. Unlike earlier in the year, the support for this bill is now fragmented both nationally and in Vermont
- Farm bill may also move as part of the super committee work. Funding cuts will be dramatic with negative impacts on issues important to Vermont including but not limited to water quality and nutrition.

### **Water Quality**

Sec Ross joined Agricultural Secretaries Kee of Delaware, Lohr of Virginia and Yance of Maryland and representatives of the USDA and EPA to discuss a new water quality management concept called "Certainty". The idea is to incent farmers to use more conservation practices than required by existing law to avoid water pollution and as part of their state's TMDL negotiations assure them they will not be asked to more during all or a portion of the time their state's TMDL applies. This work is being pioneered in the Chesapeake Bay and Sec Ross and Commissioner Mears have joined the effort because of its potential applicability to Lake Champlain and Vermont.

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

**Executive Privilege**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Brian R. Searles  
**DATE:** Friday, October 7, 2011  
**SUBJECT:** VTrans - Confidential Report to the Governor

**Danville US Route 2**

Last month the Danville Select Board signed off on a plan to do some night work to help alleviate daytime traffic problems. The traffic problems were resolved as a result of this plan but the construction activity was keeping people up at night. Therefore the same Board voted last night to revoke that permission and limit construction to 9:00PM (and blamed it all on us, of course). At a special Select Board meeting on Wednesday, October 12, Pike Enterprises will submit a new construction schedule that respects the new time limits but may include weekend work. The urgent issue here is the completion of work on a permanent water line before the current above ground line freezes.

**Jamaica, VT Route 30**

One of the more difficult challenges in the temporary bridge queue, due to limited real estate, this washed out bridge in the middle of Jamaica village has been replaced with a temporary bridge which opened this afternoon a week ahead of schedule. Downtown businesses are very relieved to have this link for the entire holiday weekend.

We now have the complete closure list down to 6 roadway sections (includes 2 separate ones on Route 107) and 5 bridges. All temporary bridges will be installed by October 29. That will leave Rt. 131, Cavendish by November 20, Rt. 107 Bethel/Stockbridge by Thanksgiving, Rt. 131, Weathersfield by early December and two bridges on Rt. 12A in Roxbury by December 15. Look for a Free Press story on our progress sometime over the weekend.

**DMV Rutland**

The Rutland office, which was flooded out, will be reopening on Monday October 24. The staff has been working out of the DMV location at the Middlebury Court House.

**Milton Slope Failure, I-89**

Work continues on a closed section of I-89 SB in Milton near the Lamoille River. A complicating factor on Wednesday was a large (pick-up truck sized) section of rock that

fell across the road from a large rock formation in the median. No one was injured but we are monitoring all rock fascias on the system due to its vulnerability to excessive moisture and proximity to traffic and, in this case, a work zone.

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## MEMORANDUM TO GOV. PETER SHUMLIN

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To: The Honorable Peter Shumlin  
From: Governor's Information and Referral Office  
Date: October 7, 2011  
RE: Weekly Constituent Update

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### Current Issues

#### **VSEA Grievance:**

5 calls 1 letter	Constituents feel that in state employees are taking advantage of circumstances
1 call	In support of state employees

#### **Waterbury Complex:**

2 calls 2 letters	Think state office complex should be rebuilt. Frustrated that Gov is considering other options.
1 call	Think state office complex should be taken out of Waterbury
1 call	Doesn't think Waterbury should have hired a lobbyist but doesn't approve of Gov's comments either

#### **ANR River policy:**

4 calls 1 letter	no extracting gravel-- think long term-- "lack of leadership" One call happy to learn of ANRs 3-tiered system of review
1 call	understood emergency measures, supports ANR's new approach

#### **Misc**

- Constituents concerned about heating assistance – less money than previous years
- Several letters about VSH – should be moved, patients need better placements

#### **Local Issues**

- Heard from officials in Alburgh, who purchased their town garage—a decommissioned Air Force storage facility—from the Department of Defense in 1971. VOSHA has ordered the closure of the building, stating that the facility is unsafe for workers. The town must be out by the end of the year.

Town voters have repeatedly rejected proposals for new garages. Town officials understand that the building is unsafe and that they cannot host workers in that location. However, because nothing has been approved the possibility exists that the town will have nowhere to house equipment or workers in the winter.



## Confidential and Privileged

To: Honorable Governor Peter Shumlin

From: Annie Noonan, VDOL Commissioner

Re: Weekly Report, week ending 10/7/11

### Fiscal Issues

VDOL is entering a partnership on their grant of \$2.5M on three new training programs for trade-impacted workers. We are working on an H1-B grant proposal in conjunction with IBM, which could bring in \$5M+. I will be authorizing grant-writing assistance of up to \$5K to help us secure this grant. We are examining our 4% reduction target with the initial consideration of shifting the misclassification investigators to our special fund from WC premium fee (1.75%), since we are doing well in retiring the WC division deficit which was \$500K in January, and at last report was \$100K. It will be important, however, that we maintain the WC fee at the current percentage in order to achieve some measure of stability in the WC fund, as well as allow us to fund the critically-needed automation of the WC system. The other issue relating to WC is the unanswered inquiry from VDOL to BGS/Risk Management about the State's obligation, as a self-insured employer, to pay 1% (of claims paid) to the WC fund, which has not been occurring, despite the fact that the State employee claims are adjudicated by our WC division.

### UI Issues

VDOL will issue a press release today (via Sue Allen) notifying the public of VDOL's extension on the DUA filing to November 21, 2011, affording Vermonters more time to file. Tracy Phillips, our UI Director, did a great job of requesting/convincing the Feds. I noted in my report last week that we were likely going to be receiving the extension. I was dismayed that FEMA put out a notice this week announcing the wrong "deadline" of October 7<sup>th</sup>, which, unfortunately, got picked up by Fox 44 news.

We saw a slight DROP in initial claims filed for the past 2 consecutive weeks. A question has arisen relating to "Training Waivers" for workers changing careers due to an injury unless they also are leaving an occupation that is a "declining occupation. We need to model the costs if we were to allow some flexibility in these situations. UI Trust Fund: As of this date, we are still NOT borrowing, and stand steady at \$77M owed to Feds. UI Claims Center hours will not change in the immediate future, since we still need to keep the lines open for extended timeframes since we may trigger on to Extended Benefits if the Unemployment Rate increases in the next few months. VDOL has been approached this week by multiple news reporters about jobs, unemployment rate, and general outlook for hiring, etc. LMI Director Mat Barewicz did a great job in presenting a balance view, focusing on the national economic problems as impacting the Vermont unemployment numbers.

### Workforce Development Division/Reports from the Field Staff

Stowe Mountain Lodge held a job fair to recruit new employees for the winter season. Vermont Smoke Cure has leased 37,000 square feet of food production space in the former Saputo Cheese plant in Hinesburg. Panera Bread had their grand opening on September 26 at their Church Street location. The sales for the first week totaled \$70,000.00 which far exceeded the company's expectation, and will also open in the former Friendly's building on Shelburne Road and in Williston. Business owners in Mendon reported to our staff that business was significantly down last week. The owner of Truly Unique, in Mendon, reports that last week he saw only 10% of his usual business. The Fair Haven Welcome Center reported about a 40% drop in traffic, with some tourists saying they almost didn't come this year due to news reports saying, "Vermont is washed off the map". On the plus side, the Killington's Snowshed Lodge has a job fair coming up on November 12<sup>th</sup> adding at least 15 positions at that site alone. Upcoming Job Fair scheduled for Thursday, October 27<sup>th</sup> in Rutland.

### Workplace Safety

Killington Resort will likely be cited for a serious safety violation due to the worker being stranded in the gondola for several hours when the lift attendant failed to stay on-site to ensure the final "run" had no "stragglers" entering a car. In this situation, that is exactly what happened and a female worker was

stranded in a gondola car for hours, screaming for help, and was eventually heard by a ski patrol worker.

#### Legislative

VDOL and BGS had a great meeting on Prevailing Wage issues and protocols. We probably need some statutory clean-up that Jeff Lively and I will draft up for review. Vermont Labor is asking about the MOU on misclassification. I am adding to my initial list of legislative issues to discuss with Alex. I anticipate some additional relating to the joint performance measures project now that the stakeholders are reviewing our work. These measures were mandated by the legislature.

#### Other:

I am working with the Building Trades, in conjunction with VDOL's staff from Apprenticeship, WDC, Grants Division and WETF, to examine the feasibility of a tri-state (ME, NH, VT) pre-apprenticeship program in multiple trades areas. This idea was presented by Jeff Potvin, Annie Moss and Jennifer McKenna, and has potential to be really exciting and innovative, for very reasonable costs! Despite the 4% GF cuts, I am still going to beg your support for the Wage and Hour investigator position. I met with Federal ETA reps from Boston this week (in Montpelier) who told me that VDOL needs to spend down our OJT and NEG funds, and I have directed WDD to give me an immediate plan of action. I think things are turning around in our Veterans program after having to mediate long-standing conflict between our federal staff and VDOL staff, which was clearly enabled by the complete lack of protocols, goals and performance measurements. The staff person from VDOL who had been allowed to work in Washington DC by the prior administration and whom I formally pulled the plug on effective December of this year, has submitted his resignation and taken a full-time job in DC with the Feds. This was the desired result, as VDOL and Vermont veterans received no value added from this arrangement.

# Memorandum

Vermont Department of Public Service

*Privileged and Confidential*

**To:** Hon. Peter Shumlin, Governor & Beth Robinson, Governor's Counsel  
**From:** Sarah Hofmann, Deputy Commissioner  
**Subject:** Weekly Report – Priorities Version  
**Date:** October 7, 2011

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**Status of Governor Priorities:**

- Vermont Yankee: The necessary repair was made to restart the “Bravo” recirculation pump on October 1, 2011. The plant will commence power down this Friday evening to begin the refueling outage on October 8, 2011. We are requesting that VY send us asap its draft updated decommissioning plan, due in January (but it should share a draft with us prior to that time). Liz had an NRC briefing regarding VY's HPCI system and we are likely to seek an NRC petition related to repeated maintenance failures sometime soon. A VSNAP meeting is scheduled for Oct 19 in Vernon. Emergency management plans is the main focus. Liz has a legislative briefing on general VY updates with Alex this coming week. Interestingly, very few Vermonters who attended the public hearings on the energy plan even asked about VY.
- Public Hearings on the Comprehensive Energy Plan Draft continued this week and are now all completed. Colchester and Danville were the most well-attended. Although we've received a mix of comments, I believe on the whole that the public hearing process and press has been positive. We did extend the comment period (which is not technically even required by statute, but seemed like the right thing to do). We are accepting written comments through November 4 and will release a final plan no later than December 5.
- GMP/CVPS Merger – We have a merger prehearing conference next week at the PSB; Liz will schedule time on Monday to give you an update on where things stand. The petition was amended to include GazMetro and a general partner of GazMetro as per the Board's direction. The first round of discovery will be sent out by the DPS today. A workshop is scheduled for next week to discuss issues. We are receiving proposals for our financial/transaction consultants.
- Kingdom Community Wind - On October 6<sup>th</sup>, ANR issued a Stop Work Order due to problems with sedimentation controls at the Project. GMP is working on resolving the issues and hopes to restart the work the week of 10/11/11. Additionally, on October 3<sup>rd</sup>, the Board issued an Order denying motions to reconsider and revoke filed by the Lowell Mountains Group and the Towns of Albany and Craftsbury.
- We are discussing USF restructuring, Fairpoint competitive issues, and pole ownership these days - we are looping in Karen Marshall as usual.
- We are working on Qualified Energy Conservation Bonds with the Treasurer's office and VEDA; we received a DOE grant to partner with VEIC to use a portion of the bonding for whole building energy efficiency programs (in support of an energy plan priority).

**Legislative Issues/Contacts:**

- Re the VGS expansion case: This week, a representative of Legislative Council contacted the Department seeking additional information on behalf of an un-named legislator. It appeared that the call, perhaps, could have been instigated by the fuel oil dealers, who are unhappy with the decision but did not intervene in the docket.
- DPS is working internally toward determining its legislative agenda for the 2012 session.

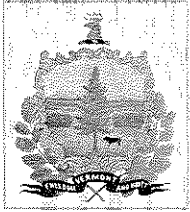
**Press Issues/Releases/Contacts**

- Shay Totten has contacted the DPS and posited the following: "I am hearing increasing concern among some lawmakers, and even some members of the public, that DPS may not be able to be fully impartial on the GMP merger given the governor's strong support for the proposal, and the close ties between members of his administration, and advisors, and Green Mountain Power. Is the Department taking any steps — perhaps outside of the normal steps — to insulate itself from influence by the governor's office in its role as representing the ratepayers?" We are working on a response.
- John McClauhrey has asked for a bunch of information related to the energy plan electric forecasts and so we can expect some commentary from him soon, I expect.

**Significant Meetings/Events:**

- Next week the Deputy Commissioner is on a panel addressing the Blue Ribbon Commission on America's Nuclear Future. I am speaking as a NARUC member and also for Vermont. The topic of the particular panel is consolidated interim storage.
- Liz attended a VELCO board meeting this week to get a sense of its deliberative process. VELCO voted for its annual budget (a 7.06% increase with 9 additional FTEs and budgeting for office renovation and merit raises). I took the opportunity, after they had voted, to remind them that state government is in a budget decrease exercise; state workers have had reduced salaries for some time now; and most of the private sector have not seen wages rise. Although a few "public power" board members voiced concern over the size of the budget increase, it did pass unanimously. Some increase does not surprise me; VELCO is under increased obligations from the FERC and NERC, and has about 130M in capital projects upcoming. This is just a window into the types of decisions VELCO (like any private company of course) makes.

**Other:** On a positive note for the Department's future, our new Energy Policy and Planning Director, Asa Hopkins, started this week. Alex, Bill, Beth and many others have met him already; Liz will make sure to bring him to a meeting with you sometime soon - serious, scientific guy who will bring greater credibility to that side of the Department.



## ***State of Vermont...***

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

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

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

[www.bishca.state.vt.us](http://www.bishca.state.vt.us)

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

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## **CONFIDENTIAL AND PRIVILEGED – NO SHARING Report to the Governor for Week Ending October 7, 2011**

### **Governor's Priorities**

#### **Health Care Reform**

The Green Mountain Care Board held its first meeting in BISHCA's offices. BISHCA General Counsel and Special Deputy Attorney General Clifford Peterson addressed the board on the public meeting law and other procedural matters.

The Green Mountain Care Board members have occupied their new offices at 89 Main Street.

Georgia Maheras, Deputy Commissioner for the Health Care Administration was appointed Executive Director of the Green Mountain Care Board. Her position will be filled on an acting basis by BISHCA attorney David Martini.

Commissioner Kimbell spoke about health care reform to the Lion's Club in Castleton at the invitation of Public Service Board member John Burke.

#### **Flooding-related Issues**

To date seventy-five complaints have been logged at the Insurance Division related to flooding from Storm Irene. Recent contacts have focused on the FEMA disaster assistance process. Consumers are frustrated with the lag times they experience waiting for adjusters' determinations of relief. BISHCA has been acting as go-between for consumers seeking FEMA services. There have been no complaints about insurance companies.

Deputy Commissioner for Insurance Susan Donegan appeared on Vermont Public Radio to talk about flooding-related consumer problems.

**Evolving Issues**

The Banking Division reports that so far this year Vermont has experienced a 20% reduction in new foreclosures compared to a comparable period a year ago.

**Outreach****Legislative****General Information**

The Securities Division issued an investor advisory warning the public of the need to exercise diligence when considering the purchase of gold and other precious metals in today's volatile investment environment market. Securities Director John Cronin appeared on Fox 44 commenting on the advisory.

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

**CONFIDENTIAL AND PRIVILEGED: NO SHARING**  
**MEMORANDUM**

TO: Governor Shumlin  
FROM: Armando Vilaseca, Commissioner  
DATE: October 7, 2011

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**Personal Request:** We are entering a very interesting and opportunistic time in education with the announcement last week by Secretary Duncan providing his conditions for waivers from the ESEA requirements for districts and states. The Secretary took many of the ideas included in the proposal you submitted, and incorporated them into his conditions for waivers. This puts Vermont in a very good position to implement a system that is fair, addresses individual student growth, de-emphasizes the weight of standardized assessments, and allows and encourages multiple measures to assess student learning and achievement. I will work closely with your office as we develop this plan and it will be finalized when the SBE approves the waiver request. There are a couple of members of the SBE who have mixed feelings over the waiver pursuit. I realize that you have a good relationship with Bill Mathis, a member of our board who is not supportive of the requirements outlined in the waiver. I respectfully ask that if Mr. Mathis contacts you to provide his perspective on this or other issues that someone from your office contact me to get my perspective and respond to his concerns. As your Commissioner of Education, I can only work to support many of your educational ideas and improve education opportunities and options for all students if I know that we have open and effective communication.

**CUBA:** I have been invited to travel to Cuba with Burlington College (BC) to assist them in negotiating a contract with the University of Havana, scheduled to expire at the end of this year. BC has a semester program with the University of Havana whereby students earn 15 credits towards their degree. While there I also intend to make contacts with department of education staff to see about setting up programs where our students can visit Cuba on school trips and set up professional development agreements with the Cuban department of education. I have been working for some time to allow for VT PK-12 educators to travel to Cuba and visit schools and meet with their counterparts there. Eventually, I hope to be able to bring Cuban educators to VT. I am also wondering if you have any specific interest or information gathered that could provide opportunities for Putney Travel to expand their trips to Cuba. I see on the Putney Travel website that Cuba is listed as one of the travel options, but is still in the developmental stage. This may be a good opportunity to make some contacts with folks in Cuba. Please let me know your thoughts on this.

**State Board of Education:** The State Board held a special meeting on Monday and voted to permit me to move forward with developing an ESEA Flexibility Waiver proposal, bringing the proposal before the Board for final approval. Board members concurred that a special meeting may be needed to accommodate the timeline. Any updates related to this work will be shared with your office, the Board, and others via email through the State Board listserv.

**ESEA Flexibility Request:** On Wednesday the Design Team held a half-day meeting to discuss the ESEA Flexibility Request. Members of the team representing their constituent groups had the opportunity to articulate many of the questions and challenges they felt. After a lengthy discourse, the team reached a consensus to be part of the November 14, 2011 Request deadline, and understood that Stakeholder engagement and feedback would be able to continue beyond that submission date. Several members of the Design Team volunteered to lead the development of key principles of the Request, and many others offered to participate in Focus Groups aligned to those components. Key dates and strategies for involving input on the Request from the SBE, Stakeholders and the Governor's Office were discussed and identified. A defined Communications Plan is being developed, including the distribution of a weekly memo that summarizes the team's progress that will start on October 7.

**Strategic Planning Workshop:** Several of my directors and assistant directors and I participated in this workshop, facilitated by Christine Hetzel and Rose Gowdey. The workshop was a most worthwhile endeavor and we are well on our way to a draft version of the Department of Education's Strategic Plan that aligns well with your Statewide Priorities.

**Child Nutrition:** Vermont received a waiver to extend a student's eligibility for school meals so that they may continue to receive meal benefits for an additional 30 operating days if the household has not yet been able to complete and submit a meal application for this school year. Vermont also received 2 team nutrition grants totaling approximately \$280,000 to support increased nutrition education in schools and child care programs, and to provide training to schools to assist them with incorporating more fresh and local foods in their menus, including more dark green and orange vegetables, more whole grains and lower fat meats and meat alternates.

**Lincoln Community School (LCS):** I mentioned in last week's report that I visited LCS and had a great experience. The letter below to LCS families from Tory Riley, principal further details my visit.

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

**LINCOLN COMMUNITY SCHOOL**  
**795 EAST RIVER ROAD**  
**LINCOLN, VERMONT 05443**  
**[www.lincolncs.org](http://www.lincolncs.org)**

*Our school's essential purpose is to insist that all students learn to use their minds well.*

Tory Riley—principal  
[triley@anesu.org](mailto:triley@anesu.org)

(802) 453-2119  
(802) 453-3370-Fax

October 3, 2011

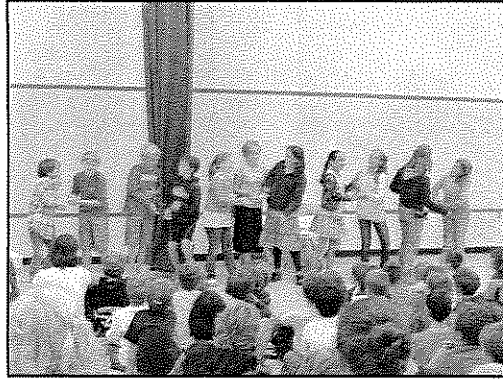
Dear LCS Families,

Last Friday Vermont Education Commissioner Armando Vilaseca visited our school. I started writing an article about his visit for the newsletter, but realized I wanted to share more personal observations than an article allows. I spent the morning with Armando as he visited each class. I was nothing short of amazed and proud of how LCS students—your children—welcomed and interacted with “Mr. V”.

What struck me about the assembly—the start to his day—was that we did little preparation beyond the usual. The result? Students articulated their thinking and learning and performed competently in front of an audience of 150. This is both is usual, expected *and* truly inspiring. At assembly,

- Students shared how they had used their minds well during the week:
  - *This week I will think about my thinking. On Monday I did my math and checked it over and found that I had an answer wrong but thought about it and got it right. On Tuesday I used metacognition when I finished my book; I didn't have a new book to read, so instead I thought about the one I just finished and what happened in it. These are examples of thinking about my thinking and shows respect for myself and others.*
- Adults recognized students for using their minds well:
  - *Tom is aware and articulate about his thinking process while writing. He says, "I always say my sentences in my mind before I write them down." And you can really see him doing that! Tom is also aware of his thinking regarding spelling. He points out, "I always get confused about the word "with" because in most words like that, the "h" goes right next to the "w" but in "with" it jumps to the other end of the word." Wow--what clarity and self-awareness!*
- Jo Koch led a rousing rendition of the RESPECT song she wrote—dozens of students joined her to perform.

- A group of 5-6 students performed an energetic and moving interpretation of the preamble to the Constitution of the United States as part of their exploration of the question, *What are the democratic principles upon which our nation was founded?*



5-6 students act out the "promote the general welfare"  
part of the preamble to the US Constitution.

>>>

Following assembly, a group of third and fourth graders led Mr. V on an outdoor tour that included the river and the Nature Trail. They discussed their art work based on that of Andy Goldsworthy, explained the 3-4 service project that revived the Nature Trail 2 years ago, chatted with him riverside about their study of macro invertebrates, and explained in the hemlock grove about their study of the Northern Forest. While Kaela Frank and I were there, we had little to add—the children were so clear and engaging in their conversation with Mr. V.

Mr. V then watched the *Addison Independent* video clip about the flood and rebuilding of the garden with the second graders. After that, they dug potatoes—Mr. V's favorite crop to harvest. On he went to the kindergarten, where he worked diligently with a pair of students constructing a block house. Mr. V chatted with first graders about their writing, noted to Donna's 5-6 class the excellent role modeling for younger students they had provided in assembly by sharing how they use their minds well and performing the preamble.

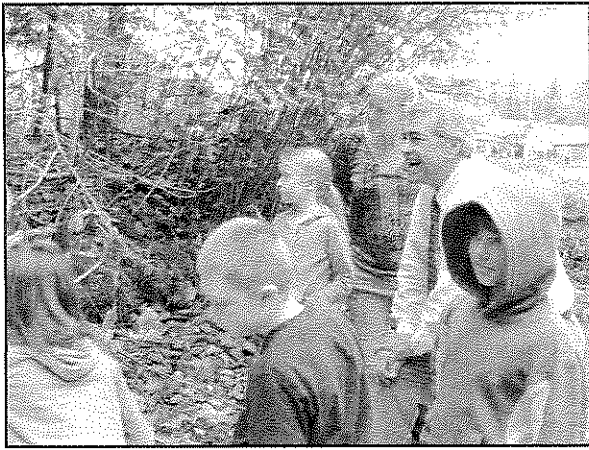
Mr. V wrapped up his morning in Alice's 5-6 class, where he answered both prepared and spontaneous questions about his job as Vermont Commissioner of Education; how he applies what he learned in school to his present work; his experiences growing up in Cuba and moving to the US as an eight-year old; challenges he had as a young learner; and his views on assessment.

In my estimation, we are fortunate to have such a personable, curious, intelligent, and wise person as our state's educational leader. I base this on how genuinely he interacted with students, what he said, and on how much he clearly valued the teaching and learning he witnessed at LCS. He so appreciated the thoughtful and effective work that our teachers, students, families, and community are doing every day in Lincoln—how affirming for all of us.

Since he was having such a grand time, he stayed for a delicious meal of pulled pork, homemade bread, corn-on-the-cob, and fresh salad (thank you Laura and Bonnie!). I came away from the day energized and full of gratitude for being part of this educational community—I hope I've managed to share a bit of it with you.

With Warm Regards,

Tory Riley



Third and fourth graders with Mr. V at the New Haven River, where they'd created Andy Goldsworthy-inspired art made with natural objects.



Mr. V and second graders harvest potatoes—untouched by Irene's flood waters.

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

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

www.anr.state.vt.us



**State of Vermont  
Agency of Natural Resources**

Deborah L. Markowitz  
Agency Secretary

Christopher Recchia  
Deputy Secretary

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Deborah Markowitz, Secretary, Agency of Natural Resources**  
**Date: October 7, 2011**  
**Subject: ANR Weekly Report**

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**Governor Level Issues:**

- **River Management:** Thank you for meeting with us on Tuesday about how we are speaking about gravel and river management, and our policy going forward.

We are forwarding talking points resulting from that meeting through Alex and Bill, including data regarding the impact of Irene on fish populations and habitat as we discussed.

We released our modified guidance on the River Management work, and have answered many press calls about work in rivers and our response. The guidance strikes the right balance between continuing to respond to emergency issues while reducing instances where people are abusing the situation and causing long-term damage or endangering FEMA reimbursement.

- **Kingdom Community Wind:** A stop work order has been issued due to unauthorized quarrying and transport of materials through the site, inconsistent with the approved plans.
- **I met with members of the Endangered Species Committee and the Lewis Creek Association to discuss my anticipated decision not to list the Mudpuppies and a threatened species. The conversations went well. My goal was to emphasize that there was not sufficient scientific evidence that the species was in significant decline to meet the requirements of the statute for listing. This listing request is politically charged because the threat to the mudpuppy that is the basis of the request is that the application of TFL (Lampricide) will kill some of them as**

well. I have promised additional studies and measures taken to minimize loss despite the denial of the listing request. (The decision should be issued in a few weeks.)

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#### Everything Else:

#### Press Issues/Releases/Contacts:

- Numerous press inquiries were responded to during the week regarding in river work, gravel removal and debris removal in the Burlington Free Press, Times Argus, Brattleboro Reformer, and others.
- Twenty-six spiny softshell turtles were delivered to ECHO where they will be raised over the winter so survival is enhanced upon release next spring. TV coverage of the delivery was aired on **Channel 44 and possibly Channel 3.**
- We responded to **Seven Days** covering **Beaverwood Energy** and the public notice regarding the Air Permit for that project, as well as the upcoming public hearing next week.
- **Sheffield Wind Farm:** A 60 gallon release of gear oil occurred at one of the wind turbines over the weekend. Most of the oil was spread along the wind tower. Some oil got into the gravel base along the tower. A small amount was sprayed up to 200 yards from the tower. A consultant was hired to do the cleanup and did an excellent job. Sheffield Fire Department was on scene and reported that the cleanup was done properly and effectively. No oil got into any waters of the state. This spill generated a lot of media attention.

#### Significant Events/Meetings:

**Fall Foliage Festival:** FPR participated in the Foliage Festival and celebration of 100 years of the Weeks Act. This Congressional bill expanded the conservation of forest land in the US and led to the formation of the Green Mountain National Forest and other eastern federal forests. The Festival was held at the Sugarbush resort and hosted by the Green Mountain National Forest.

**ENEL - Ira Wind Project:** We had a very preliminary meeting with ENEL (an international energy company) about their potential interest in restarting a version of the Ira "Vermont Community Wind" project - They are considering a 21 turbine (63 MW) project.

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#### SUMMARY OF KEY DEPARTMENT ACTIVITY

##### Environmental Conservation

**Geologic Society Coordinating on High Water Marks:** The Society that serves geologists in VT is undertaking an effort to help document the magnitude of the Irene flooding. This is being coordinated with our River's Management Section, USGS and FEMA efforts. There are many sites that will probably be far from USGS gage sites (current or discontinued) that this group can pick up.

**Landslides Revisited:** Of the three landslides visited on 9/22/11, Barnard and Clarendon were studied further on 2/28/11. There is no obvious change in the slope form from the first visit. Closer field inspection indicates that *Barnard* would benefit from vanes or rock weirs being installed before the winter season so as to reduce the impact of higher spring flows on the toe of the failed slope. *Clarendon:* The flood caused the channel to shift substantially to the west and has over-widened considerably. The bank is about 31 feet high, at a very steep angle, and composed of sand and gravel. These banks look severely unstable and if failure occurs and the bank settles to a 2:1 slope, it would bring the top of the bank back to the edge of the pavement of Cold River Road. One house burned and fell into the river as a result of the storm. It was observed that a large garage is very close to the edge and appears to be at grave risk, and a third house is quite close to the top of the bank due to the severe erosion that has occurred.

**Unifirst, Williamstown:** A former resident of the Valley View Heights trailer park adjacent to the UniFirst plant in Williamstown contacted us as both she and her daughter have cancer. She claims that there seems to be an unusual number of cancers in the trailer park and fears that UniFirst is to blame. It was explained that the past and present environmental testing program related to UniFirst and that the trailer park is not over the plume of contaminated groundwater. She moved away 2 years ago and would like to have her property tested before she sells it. We agreed to have the state contractor, Waite Environmental Management, sample soil and shallow groundwater in her trailer lot, using the old UniFirst settlement account to fund the work. DoH was informed of this issue.

**E-Waste:** Program staff met with the contractor this week to discuss contract deliverables and status of the program. The Contractor reported that 1.2 million pounds of covered electronics have been collected to date. The Contractor continues to struggle to submit a media outreach plan that is approvable.

**Pollution Prevention:** We worked with GS Precision on exploring any issues associated with proposed used oil boiler to heat water (closed system) used in anodizing process. Staff has consulted with the Air Division - looks like any requirements would be minimal in making this change. They currently use propane.

**In-stream Debris Management:** Staff attended a meeting at the FEMA JFO regarding in-stream debris management. In attendance were representatives of FEMA, USACE, NRCS, VEM, and DEC. USACE has been talking with all affected towns and will be issuing a report next week on the status of debris in streams from the local's standpoint; is it an issue. NRCS has been fielding inquiries, and the DEC Rivers program has been out doing surveys, as has the FEMA project specialists. The next step would be to collate and prioritize the debris removal work that has to be done. The highest priority would be manage the debris that is blocking streams and retaining a large silt load; the fear being that these debris dams would let go next spring

We are concerned that Towns are removing all debris from the streams, regardless if it is in the public interest, with the expectation that the work is reimbursable. Better communication is needed. Debris removal from the streambank and private property is the landowner's responsibility or the municipality if it wants to be responsible. The removal from private property is not reimbursable unless it is found to be an immediate threat to public health and safety, or ensures economic recovery of the community. Both of these criteria are difficult to meet, and would need to be pre-approved.

From the waste management standpoint we are most interested in the proper management of any debris once it has been removed. We don't have jurisdiction over silt, soil, stone, etc., unless it is contaminated. We have authority over woody debris, but that is pretty benign. We strongly encourage beneficial use of the woody debris, rather than open burning or straight disposal.

It was explained that removal of debris in the stream itself may be reimbursable through NRCS, but that the agency has no money for funding this work at the present

A follow up meeting will be held once we have all received USACE's report, in the next week or so.

**Recycled Asphalt Shingles:** On September 28th a meeting was held with VTrans, the Chittenden SWD, Pike Industries, and DEC. VTrans is coming around to allowing recycled asphalt shingles in asphalt mix. Pike is happy with what AOT is requiring. I met with the DOH asbestos program folks and it looks they may be more flexible on asbestos testing than they were in the past. That could be a deal maker, as asbestos testing can be onerous and expensive.

**Flood Damaged Mobile Homes:** Staff continues to represent ANR in Lt. Governor Phil Scott's initiative to remove flood damaged mobile homes at a reasonable cost. Ownership issues need to be worked out, and some MH owners have contracted with other demolition firms, and the list of potential MHs continues to grow. The work was to begin next week, but a contractor has not been selected yet.

## **Fish and Wildlife**

**T.S. Irene's Impacts on Stream Habitat:** Staff made the rounds of the region's rivers and streams to check-up on post-Irene damage and recovery activities' impacts on stream habitats. Significant and extensive reaches of streams in four major watersheds in the district (Black, Williams, Saxtons, West Rivers and Whetstone Brook) have been impacted and will likely require no less than 40 years to recover without direct intervention and restoration work. Understandably much of the habitat damage was necessary to restore transportation and utility infrastructure connectivity and prevent imminent loss of property (buildings and land); however, much abuse and overstepping by unqualified operators has occurred.

**Archery Moose Season:** The first ever moose five-day bow and arrow moose season started on Saturday, October 1 without any problems.

**Sick Moose:** Two sick moose were euthanized with suspected brain worm, one in Washington and the other in Berlin.

**Small Game Regulations:** Staff met with a group of avid hare hunters about extending the snowshoe hare (and rabbit) season in Vermont. The hunters are asking to extend the season for two weeks through the end of March. This issue came up before in the last few years and was not met favorably by the Department for a variety of reasons. Maine and New Hampshire have seasons running through the end of March in some areas. New York has a very similar season to Vermont. Staff agreed to investigate other items that were brought to their attention and will continue to communicate with the hunters. This and other small game season issues will be discussed at the December Fish & Wildlife Board meeting.

**Removal of Buildings:** Staff worked on securing State Historic Preservation's (SHPO) response for the disposition of buildings the Department owns on Sandy Point at Carmen's Marsh WMA. This is to move forward with the removal of two of the three buildings on this site. SHPO objects to the Department removing the old hatchery building and the old boat house, however, agrees that the Department should remove the caretaker's cottage. The Department is proposing to remove the caretaker's cottage and the hatchery building this fall and have a contract in place to accomplish this work.

**Wind Project/Sheffield:** Staff conducted a site inspection of the new UPC wind project in Sheffield, Vermont, with USFWS representatives. The permit for this project requires post-construction bird and bat mortality surveys for at least two years. The implementation of these surveys in Spring, 2012 was discussed. Forest and habitat fragmentation effects are significant from this project.

**Lampricide Treatment/Poultney-Hubbardton Rivers:** Staff worked with USFWS and NYSDEC fisheries staff to conduct a sea lamprey control treatment of the Poultney River and its tributary the Hubbardton River on September 28. Runoff from heavy rain the next day, combined with the higher than normal lake level, accelerated dissipation of the lampricide (TFM) plume to levels that enabled all lake water use advisories to be lifted on October 3. Previously, it has taken up to three weeks for TFM to dissipate to similar levels following past Poultney/Hubbardton River treatments.

**Salmon Monitoring:** As of September 30, a total of 135 salmon have been collected in the Winooski One fish lift, eclipsing the previous season-long record of 130 salmon lifted in fall 2010. Salmon monitoring at other Lake Champlain locations has been limited by rain and high river flows.

**Dead Creek WMA Day:** Despite the horrible weekend weather, between 250-300 people attended the event and braved the winds and cooler temperatures.

### **Forest, Parks and Recreation**

**Kingdom Community Wind:** Negotiations are proceeding on acquisition of the fragmentation easements adjacent to Green River Reservoir State Park, including recognition of a ROW that FPR is acquiring in a separate conveyance to provide management and public access to that part of the park.

**Business Office:** FPR has received a waiver for Forest Highway and Park infrastructure repairs from the Irene policy from the Agency of Administration. The department is working to implement a procedure to track repair work and meet future audit requirements. FPR will adhere to the policy for anything related to the damages at the Waterbury complex.

**Ski Areas:** Killington ski area is actively coordinating with the District Environmental Coordinator regarding Act 250 approval for their proposed replacement structure at the K-1 base lodge area, and is working closely with ANR on securing a water/waste water permit for this structure. Burke Mt. Ski area will be holding a Grand Opening Ceremony with Governor Shumlin on October 26 at 3:30 in the afternoon to celebrate the construction of their new wind turbine at the ski area. The wind turbine is located on a portion of Darling State Park that is leased to the ski area and is the first wind turbine constructed on FPR land. New ski lifts are nearing completion at both Burke Mt. and Stowe Mt. Resort.

**State Land Transactions:** Staff met this week with the Town of Bolton Selectboard to discuss the proposed sale of the Lafrenniere homestead at Camel's Hump SP. The Selectboard will be holding a public meeting on this proposal on October 17. Work continues on several State land acquisition projects including the Heath addition to Green River Reservoir State Park and an associated right of way and GMP mitigation easements for the Lowell Wind project; Morrisville Water and Light addition to Green River Reservoir State Park; the transfer of the Smith parcel from the Green Mt. Club to the State; the Brushwood Forest and Canada View Forest Legacy projects.

**Electronic Communications:** ECA has scheduled the helicopter lifts for the new backup generator at the Ascutney North Peak electronic communications site for this Thursday (10/6). ECA is coordinating this activity closely with Parks staff to ensure the lifts don't interfere with visitor access on the Ascutney Mountain Road during peak foliage season. We are working closely with VTA, VELCO and Okemo Ski Area on developing a new license agreement for VELCO's proposed telecom facility at Okemo ski area.

**Parks Division:** The bid package for repairs to Camp Plymouth has been finalized and will be bid out very soon. The target is to complete the work this fall so the park will be in acceptable condition by spring. Funding for employment crews through the Department of Labor is now available for Irene damage repairs. We will be working with staff to develop a strategy for possibly using the funds.

A fundraising event to benefit Addison County farmers affected by Irene is being held this weekend at Kingsland Bay State Park. The event is spearheaded by the Lake Champlain Maritime Museum and will feature a docking of the Lois McClure.

Attendance is expected to be strong this coming final weekend of the primary park operating season.

**Environmental leadership program:** Stewardship of the Urban Landscape (SOUL) is also in planning. This popular interactive television course will run eight weeks starting in February. It will help community leaders and citizen volunteers better understand how to work with state officials on local tree and landscape projects.

**iTree Project:** Beginning October 11th, 70 student lab teams in UVM's Natural History and Field Ecology programs will work to establish and collect data from nearly 200 "iTree Eco" permanent monitoring plots to be located throughout Burlington. The iTree project involves Vermont FPR staff, the Burlington City Arborist and Burlington's Parks and Recreation team. The effort this fall and in subsequent years should provide useful estimates of the value of Burlington's urban forest in reducing stormwater runoff and in sequestering carbon dioxide.

**Conservation Education:** Attendance at programs has broken some records this year - the total attendance at interpretive programs this year is over 20,000 people. This audience is especially important because it is our one educational program that reaches out-of-state visitors to Vermont. We am very proud of the great work our seasonal Park Interpreters did this year.

**Recreation Trails Program:** This year there are two communities who applied for RTP grants for acquisitions: one for a parcel to be developed into a trailhead parking facility (Vermont River Conservancy), and the other for conservation easements (Catamount Trail Association). 2012 Recreation Trails Program (federal grant) applications & guidebooks will be available next month on the VT Department of Forests, Parks & Recreation's website.

Staff will be presenting a Recreation Trails Program workshop session at the 5<sup>th</sup> Annual Vermont Trail Symposium, the signature event of the VT Trails & Greenways Council. Willem Lange will be the guest speaker at this symposium, which will be held at Vermont Technical College in Randolph on October 15 from 8:30am-5:30pm.



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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** October 7, 2011

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**Vermont Department of Health (VDH)**

**Status of Governor's Priorities**

Department of Health receives CDC grant for Coordinated Chronic Disease Prevention and Health Promotion. The Department of Health has been awarded a three year grant in the amount of \$479,632 to conduct public health surveillance, implement public health prevention programs and strengthen coordination across chronic disease prevention programs. This award will allow the department to advance efforts related to environmental change initiatives, build capacity to address obesity prevention efforts and strengthen our ability to address health disparities.

**Evolving Issues**

Discussion of Pro Bono Licensing Continues. Hilde Ojibway, Director of the Good Neighbor Clinic in White River Junction, asked to be on the agenda for the October 5<sup>th</sup> Medical Practice Board meeting to present a proposal to further relax the standards for licensing of pro bono physicians. This debate began in 2002, when it was discovered that the clinic was using unlicensed physician volunteers. Ms. Ojibway contends that the licensing process is unduly burdensome and a barrier to her clinic obtaining volunteer services from New Hampshire physicians. Ms Ojibway submitted to the Board the same proposal that she offered in the Legislature this past session; a proposal that was unacceptable to the Board. In addition to creating a situation in which the Board would be required to forego any true screening of physicians who would volunteer, the proposal is unacceptable because it is tailored to that particular clinic. Board staff has prepared a draft rule for the Board's consideration. The rule would provide for the Board to accept certified copies of documents from other state licensing boards when an applicant for a pro bono license certifies that he or she has an unblemished record. The requirement to arrange to have direct verification sent to the Board is the part of the licensing process that is generally considered most burdensome.

**Department of Mental Health (DMH)**

**Governor's Priorities**

Vermont State Hospital. DMH continues to work on a mid-term solution for VSH. The Pine Ridge School is the most promising (only) prospect at this time. This will be discussed at our meeting on Monday

In addition, Deputy Commissioner Heintz is met with Tom Huebner on Thursday to determine if there is support DMH can offer while Rutland Regional is assisting in accepting more acutely ill patients.

Finally, another all staff meeting was held with VSH staff. In addition to thanking them for their continued efforts and reviewing scheduling logistics, the VSEA reviewed the proposed stipulation regarding the double time and travel issues.

### **Legislative Contact**

Commissioner Oliver spoke to a number of legislators (Sen. Lyons, Rep. Macaig and Rep. McCullough) regarding our exploration of the old Pine Ridge School as a potential site for a mid-term VSH solution. All reacted favorably to the idea. While there is some potential for neighborhood objection none expressed this as a great concern. Traffic on French Hill appears to be one of the major concerns.

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

Irene impact on core populations. In conjunction with the field service directors and the aging network, DAIL is tracking seniors and persons with disabilities to ensure needs are met and no one is residing in a nursing home who does not wish to be there. An additional referral has been made to the FEMA integration specialist.

DAIL received a \$52,000 grant from the Administration on Aging to address unique needs of older adults and persons with disabilities following the storm. We are working in partnership with the Area Agencies on Aging to ensure the target population is reached.

The federal server necessary for sending nursing home and home health claims to CMS was out of commission after the storm. Several DAIL staff went above and beyond to have it restored. We received this letter from a CMS Officer:

*Dear Commissioner Wehry, The folks in VT should be highly commended for working so diligently on this issue... I can well imagine how difficult this has been for everyone involved both on a personal and professional level. We in the CMS Boston Regional office are grateful for the hard work and dedication these people put forth every day.*

Ongoing operations. Our Aging and Disability Resource Center (ADRC) 5 year plan was accepted this week. As a result, we will receive the third year of ADRC continuation funding. Vermont's plan was identified as a model for other states to follow:

Adult Protective Services. Two more positions have been filled. An RFP for the electronic case tracking system will be issued next week. The Disability Rights attorneys requested and received documentation of the review conducted by Deputy Secretary Flood. These documents confirm due diligence to the plan of correction despite setbacks owing to the flood and pre-flood staffing shortages.

Other issues. William Bennett, an Act 248 client has lost another home placement owing to violations of terms by his mother, Tracy Gilman. The state police were called to assist in transport to a respite home. Under the Act 248 Order, we are limiting mother's contact with him at his current respite placement and we have asked for judicial review. In the past, this chain of events has evoked press interest but Commissioner Wehry has had no calls.

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

### **Significant Events/Meetings**

Misdemeanant Review Committee. On October 4<sup>th</sup> the Legislative Misdemeanant Review Committee met for the first time. Commissioner Pallito testified regarding the detention population, the number of non-violent people held in jail, and the financial implications to the State. The Committee had many ideas and will meet four more times before the end of the fiscal year.

### **Other**

Law Suit. Emily Carr, AAG for the Dept. of Corrections, is appealing the small claims court decision made by Acting Judge William Davies yesterday who found for the plaintiff, Out of State inmate Paul Tester, in the matter of his not being provided with the equivalent of up to 7 free stamps per week while housed outside of Vermont.

We already had a score or more of these cases making their way towards small claims so I am sure that once Acting Judge Davies' decision becomes widely known many more will follow. Theoretically, this decision impacts all inmates who have been housed out of state prior to our reversing our position last summer as well as those who have been released within the last 18 months.

Acting Judge Davies took the inmate's testimony at face value, not requiring him to produce any records that showed that he had spent money on postage during this time period, only that "he would have if he had access to it".

First level of appeal is to the Superior court, next is to the Supreme Court. Any payment to Mr. Tester would be stayed during the appeal process which would take some time pushing the expense of any mass settlement into FY13 or beyond.

Population. The department continues to experience an increased incarcerated population, the detention population remains near 400. The department is also continuing to absorb an increased female population with 25% of that population coming from the detention status. The department is currently supervising 64 individuals on reentry furlough, 20 individuals on Home Confinement and 1 person on Home Detention.

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

### **Evolving Issues:**

McGregor's Medicine on Time (MOT) Update. (McGregor's Pharmacy in Winooski) A meeting recently occurred with DVHA's legal counsel and it was determined that DVHA will not reenroll McGregor's as a provider in the Medicaid program. DVHA's decision is based on the following conduct by McGregor's:

- **Illegal Administrative Fees Charged to Medicaid Beneficiaries:** McGregor's has billed and collected unauthorized monthly "administrative fees" of \$7.95 or \$9.95 directly from Medicaid beneficiaries for dispensing maintenance drugs.
- **Churning" Dispensing Fees:** McGregor's has routinely dispensed drugs to Medicaid beneficiaries more frequently than instructed by physicians, contrary to Vermont Medicaid Rule.
- **Illegal Co-Payments Charged to Medicaid Beneficiaries:** McGregor's has charged, and continues to charge, Medicaid beneficiaries' illegal co-payments for dispensing maintenance drugs as part of the MOT program.

**A letter was sent to McGregor's notifying them of the decision** not to reenroll them as a provider and the reasons for the decision. McGregor's enrollment as a provider will expire on December 2, 2011; thereby allowing DVHA's Medicaid beneficiaries' sufficient time to make the necessary arrangements to fill their prescriptions with another enrolled pharmacy provider. The Vermont Medicaid program will assist beneficiaries in that transition.

Green Mountain Care Update. A new program known as '*Birth Control Plus Option*' will begin April 1, 2012. While not comprehensive coverage, it will be offered under Green Mountain Care.

The Affordable Care Act established this new optional category for family planning services to individuals (men and women) who were previously ineligible for Medicaid. Nationally it is known as the Family Planning Option (FPO). Vermont lawmakers included a provision in 2011 Act 63 (H.441) that directed the Department of Vermont Health Access to implement the program by April 1, 2012. DVHA will work with Planned Parenthood to promote this program as we anticipate that its primary users will be the same younger demographics which they serve.

#### **Eligibility Criteria**

Women (who are not pregnant) and men  
Income does not exceed 200% of the FPL  
No age restriction  
No resource test  
Applicant counts as a household of two (or more depending on the presence of other family members)  
Only the income of the applicant is considered  
Must meet all other Medicaid general eligibility requirements: residence, citizenship, etc.  
No enrollment caps  
Participation is not automatic – applicant must acknowledge that they wish to be covered  
Applicants being screened for other programs will be screened for FPO, but must affirm that they desire coverage for FPO  
Conventional application route; up to three months retroactivity

Annual recertification  
Private insurance not a bar





State of Vermont  
Agency of Administration  
Office of the Secretary  
Pavilion Office Building  
109 State Street  
Montpelier, VT 05609-0201  
[www.adm.state.vt.us](http://www.adm.state.vt.us)

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

*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Jeb Spaulding  
**DATE:** October 7, 2011  
**SUBJECT:** Confidential Report to the Governor

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**BUILDINGS AND GENERAL RESOURCES**

**Legislative Issues/Contacts:**

- Talked to Senator Illuzzi about his concern regarding the hiring of Vermonters in Waterbury; meeting with him 10/7 at 1PM.
- Rep. Emmons dropped in to inform BGS about legislative hearing to be held either 10/24 or 25th.
- Rep. Ellis dropped in to request a bi-weekly meeting re: Waterbury.

**Press/Media Notes:**

- Did interview with Thatcher Moats of the VT Press Bureau regarding the Waterbury complex.
- Did interview with Keith McGilvery of WCAX-TV, regarding hiring Vermonters to clean up and stabilize the Waterbury complex.
- Did an interview with Jim Jarbin, Caledonian News, on Vince's hire Vermonters position.
- Received request for information regarding hiring practices at the Waterbury project.

**Significant Events/Meetings:**

- Had phone conversation with Connor Casey, VSEA, on Waterbury displaced workers and possible RIFs.

## **FINANCE AND MANAGEMENT**

### **Evolving Issues:**

Irene Flood Event: Commissioner Reardon, Deputy Zeller, “Irene” Budget Analyst Aimee Pope, and other Budget Analysts as necessary, continue to hold and participate in meetings concerning the aftermath of Tropical Storm Irene:

- Monday, October 3, 2011 – Irene related meeting with Forests, Parks and Recreation – specifically about the costs related to damages to forest highways and parks infrastructure.
- Tuesday, October 4, 2011 - Commissioner Reardon issued the Finance & Management Irene Procurement, Payment and Accounting Policy to department heads and business managers this week. The goal of the policy and procedures is to collect the majority of costs, except payroll, over-time and employee reimbursable expenses, in two principal places – AOT and Agency of Administration Finance Services Office.
- Wednesday, October 5, 2011 – meeting with Department of Public Safety Commissioner Keith Flynn, and other member of DPS senior staff (Mike O’Neil, Peter Coffey and Ross Nagy) to get a handle on costs associated with the Irene emergency, including VT and other states’ National Guard units, equipment lent by other states, and FEMA Action Requests (ARF).

### **Issues Update:**

FY 2012 BAA and FY 2013 Budget: the FY 2013 Budget and FY 2012 BAA instructions were released on Thursday, September 29, 2011, following the release of Secretary Spaulding’s FY 2013 Budget Process Memo on the previous day.

New Budget System: On October 4 and October 5, 2011, the budget office received presentations from the remaining two software vendors on the implementation component of the project, after receiving their Best and Final Offers (BAFO). The budget office compiled the results of the presentations and BAFO packages and made a recommendation to Commissioner Reardon and Deputy Secretary Clasen. The recommended vendor was approved, pending a successful contract negotiation.

## **HEALTH CARE REFORM**

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

Vermont Health Benefit Exchange – see below re: significant events.

- **Speakers Bureau** – Robin Lunge and Mark Larson are setting up a speakers training on health care reform for internal staff to broaden the group of people to speak on the Exchange on health care reform. As we move into the details of Exchange planning, people need more depth on this topic when they speak to employer groups.
- **Finance Committee** – The finance committee is meeting to finalize an outreach plan for this fall. Act 48 requires the AOA to report in February 2012 on outreach efforts around financing.

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

Robin Lunge set up meetings with Michael Fisher and Claire Ayer to talk about the legislative session and where the committees should be prepared to start.

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

Robin Lunge spoke to a Maryland legislative committee about Vermont's single payer plan (technical assistance request from National Conference for State Legislatures). The hearing went well.

On 10/5, Robin provided a brief overview of Act 48, with a focus on the Exchange to a group of 150-200 human resources personnel and employers at the Downs Rachlin & Martin's Employment Law Seminar at the Sheraton in Burlington. The group was engaged and provided some feedback on how to make the exchange design appealing to employers. DRM has asked Robin to do a follow up seminar on Green Mountain Care.

Robin spoke at the Northern Counties Health Care association's annual dinner the evening of 10/5. This is a group of safety net providers who are interested in health care reform. David Reynolds and Paul Cillo were there.

On Oct 6, Robin provided a seminar at the Vt League of Cities & Towns "town fair" in Killington on health care reform. The session was focused on the Exchange and Exchange design.

## **HUMAN RESOURCES**

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

Press Requests Regarding VSEA Double Time Grievance: Commissioner Duffy has spoken with Anne Galloway and Nancy Remson regarding the grievance filed by the VSEA seeking double time pay for employees. Dave Gram has also made a request for a time sheet for a DHR employee, which DHR presumes will be the time sheet of Commissioner Duffy.

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

Filing of VSEA Double Time Grievance: VSEA filed a grievance on behalf of employees seeking double time pay for work conducted by displaced Waterbury workers post Irene. DHR is assessing the status of each employee and attempting to calculate the potential damages that could be incurred if this grievance is successful. DHR hopes to provide this information to Secretary Spaulding early next week.

Bargaining with VSEA: DHR has begun bargaining with the VSEA. The first two meetings have addressed the ground rules governing the process, including the dates for future meetings, the date for exchange of initial proposals, and the dates for completion of bargaining and submission to mediation and fact finding. Commissioner Duffy will keep Secretary Spaulding apprised of any progress towards an agreement. In the meantime, DHR is calculating the costs involved in various bargaining scenarios and assessing potential cost saving concessions that could balance out any additional funds expended in compensation. A proposal will be made to Secretary Spaulding next week.

### **Evolving Issues:**

Relocation of State Employees Assigned to the Waterbury Complex: DHR has finalized a work sheet capturing concrete information about the status of employees who were located at the Waterbury Complex, particularly the number of employees working and the number of employees who have received relocation letters. Summaries of this information will be provided to Secretary Spaulding.

RIF of BGS Employees: Commissioner Duffy met with Secretary Spaulding, Deputy Secretary Clasen, Commissioner Obuchowski and Deputy Commissioner Sandretto to discuss the status of displaced BGS employees. Because the new leased spaces for employees often include custodial and security services, BGS will likely need to RIF 10 to 20 employees. DHR is working with BGS to identify the employees who will be RIF'd and coordinate a strategy to inform and assist employees through the RIF process.

## **INFORMATION AND INNOVATION**

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

Projects: While Irene did cause us to place many projects on hold for a matter of weeks, the projects are back underway and we believe we can keep all of the pre-Irene schedules.

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

Kris Rowley (DII Security) was interviewed on WCAX TV "The 30" promoting Cyber Security Awareness Month.

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

- Richard and Darwin met with Jim Reardon, Joe Harris, Jason Aronowitz and Matt Riven to discuss the proposed model for funding DII moving forward. The entire group was supportive and felt the new model would help address some changes in federal requirements in addition to fairly allocating costs. It was decided that the team would move forward with flushing out the details of this model ASAP so we could propose it to the Feds as a method of dealing with the FY12 change in federal oversight.
- It is Cyber Security Awareness month, so Kris Rowley is working to promote security awareness throughout the community by having posters and other materials distributed, having the Governor sign a proclamation, being interviewed on the radio and on WCAX and by working with other IT staff to spread the word.
- Richard Boes and Harry Bell spoke with the Treasury Department to resolve a misunderstanding so that VIC can begin work with DMV to provide over the counter credit card payments as they are already doing with Courts. The issue was resolved and the DMV is trying to get live with this service in approximately 30 days so time is of the essence.

## **Evolving Issues:**

### **Web/VIC Update:**

- The Safe Routes to School Web site from the Department of Transportation has is now live at <http://saferoutes.vermont.gov/>.
- The CMO's Office and the CIO's Office have begun work on a standardized template for current and future Web site development in the ECMS. The springboard for this will be ACCD's new Web site, which will be the first to use the new template.
- VIC has provided the Web Portal Board with a detailed report of development hours and revenues for the calendar year 2010. The next WPB meeting on December 7<sup>th</sup> will feature a series of case studies showing the positive consequences on state partners and citizen customers of various VIC developed eGovernment systems.

## **LIBRARIES**

Nothing to report from Libraries.

## **TAXES**

### **Evolving Issues – Flood Updates:**

Property Tax Abatements: The Tax Department has forwarded the consensus approach to abatements for flood or Irene damage. If endorsed by the Administration, we will work to get final agreement on all the specifics. VLCT does not object, but has not signed on yet. In discussions with legislators, some also raised long term concerns, it will be important to keep the focus on this year.

Income Tax Reform: The Governor, Secretary and Commissioner have a meeting scheduled next Friday with legislative leaders to discuss tax strategy for the coming session. The Commissioner would continue to recommend that income tax reform be taken off the table. Legislative leaders are confident that they could get a bill through that would move to AGI and eliminate deductions without any type of surcharge being tacked on (at least before Irene). However it is difficult politically to separate the issues when undoubtedly there will be calls for some form of Vermont surcharge given budgetary pressures.

The federal landscape also makes the timing problematic. The closing of federal deductions has always been considered part of the mix that might be considered by the deficit super committee as the November deadline looms, and Obama proposed closing deductions for earners over \$250,000 as part of his jobs bill. This has started serious lobbying by deduction advocates, most notably housing interests, who claim that closing the mortgage deduction would harm the battered industry (this could resonate here during Irene reconstruction). Then just this week U.S. Senate Democrats suggested that they would substitute for Obama's tax reform – a millionaire's surcharge, which Obama quickly acceded to. In the meantime, the Occupy Wall Street movement grows. Difficult atmosphere to introduce tax reform in Vermont, even if moving to AGI is a "simple" measure to bring us in line with neighboring states. The Commissioner still believes the best time for income tax reform would be as one omnibus financing effort that includes property tax measures (moving Household Income to AGI) and health care – with serious legwork before hand to build a coalition of support.

The tax committees should have enough else to occupy themselves. The Commissioner is due to testify before Ways and Means on October 25 to report on the various studies the Department has been working on (and possibly the abatement issue). The Picus education finance report also is due in February (supposed to focus on outcomes from Act 60/68). Ways & Means is poised to take up the issue of statewide collection of the property tax – we have agreed not to block that discussion, although it looks like it would be an expensive proposition. Steve Klein suggests that transportation funding will also be on their plate.

Health Care: The Commissioner spoke with Mark Larson, polled staff and participated in a planning meeting for the required “listening tour” on impact of potential financing sources. Michael Costa (special counsel, formerly director of the Blue Ribbon Task Commission) will work with Robin Lunge on the details. The Finance team also will need to have an update prepared for the public team leader meeting on October 27<sup>th</sup>.

Housing: The Commissioner and staff met with Jen Hollar, Gus Seelig and Jim Libby regarding the valuation of covenant restricted housing. Town listers have treated the value of the housing restrictions disparately and state appraisers have come to two different decisions. As the Supreme Court considers the issue, the advocates requested more intervention by the Department. The Department simply advises towns on valuation, however we agreed to publish our advice (that towns should lower valuations on such housing) as a “technical bulletin” in the hopes that it carries more weight with towns and in litigation. The Commissioner has a meeting next week on Sec. 8 housing issues.

Former judge and State Rep. Ed Amidon will serve as Chair of the Valuation Appeal Board if appointed. It would be extremely valuable to have someone with a legal bent preparing the decisions of this body.

Operations: The Commissioner has been preparing memos and materials to hand off numerous issues to the new Deputy, who joins us on October 17.

The Commissioner and Tax Department IT principals had a very productive initial meeting with Commissioner Boes and his staff. We discussed the history of our major IT tax processing project (ETM), and outlined future decision points. Commissioner Boes described IT’s role as providing overall approval for IT projects, architecture enterprise oversight and project management support. IT approved the Tax request to extend an Oracle service contract agreement, and we agreed to meet again in 2-4 weeks (after our new Deputy is aboard) to discuss an expensive upgrade to the system, and the future of tax processing modernization. A major step forward.

#### **Media and Other Contacts:**

The Commissioner spoke with Nancy Remsen about abatements. Nancy had a great grasp of the issue, having attended Burlington abatement hearings. She understood that the problem may be relatively limited in dimension, and that we were exploring a possible scheme for reimbursement.