

WEEKLY REPORTS

Checklist
1/28/2011

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: _____

Additional Report: _____

To: Governor Peter Shumlin
From: Lawrence Miller, Secretary, Agency of Commerce and Community Development
Date: January 28, 2011
Re: ACCD Weekly Report

Status of Governor's Priorities:

Legislation:

Evolving Issues:

Commissioner MacKay and Deputy Commissioner Hollar

- Noelle and Jen met with individuals with DEHCD staff members throughout the week and attended an Agency-wide meeting with Secretary Lawrence.
- In an ongoing effort to build solid working relationships with the Department's stakeholders, Noelle and Jen met with representatives of the following groups.
 - Vermont Association of Planning and Development Agencies
 - Cathedral Square Corporation
 - Regional Development Corporations with Secretary Miller and Dep. Secretary Powden
 - Vermont Housing and Conservation Board with Secretary Miller
 - Vermont Chamber of Commerce
 - Vermont Natural Resources Council with Secretary Miller
 - USDA Rural Development
- Noelle testified before the Senate Natural Resources and Energy Committee providing an overview of the Department and its programs.
- On behalf of Secretary Miller, Jen attended a meeting of the Vermont Council on Rural Development. Among other things, the Council appointed members to a subcouncil which will refine and direct the implementation of its Vermont Working Landscape Partnership Action Plan. VCRD also plans to offer to facilitate a two-day retreat, or Governor's Summit, on a topic of the Governor's choosing. VCRD facilitated several such summits for the Dean Administration and one early in Governor Douglas' tenure. VCDR hopes to play that role again and Council members discussed the possibility of a Summit on the TMDL issue bringing together business, environmental and agricultural interests.
- Jen and representatives of housing agencies attended a briefing on a study funded by the MacArthur Foundation which sets out a "Roadmap for Housing Energy Affordability." Based on extensive data collected on a variety of housing types, the roadmap lays out specific recommendations for energy work to affordable housing projects designed to ensure that providers can meet energy costs in the future.
- Noelle accompanied Giovanna Peebles as she reported on the status of the Legislative Study on Unmarked Burials to the House General, Housing and Military Affairs.

- Noelle learned so much wonderful information on the Historic Preservation Program while listening to Giovanna, Judith and John gave a wonderful presentation to Senate Institutions Committee.
- With Lisa Ryan, Josh Hanford and Arthur Hamlin, Jen participated in a meeting of the Consolidated Plan Advisory Group and public hearing on the annual update to the plan.
- Noelle met with Clarence Davis and John Crock of UVM to discuss the Archeology Heritage Center.

Brownfields

- **New Funding Opportunity:** Kiersten is coordinating with Tom Kennedy to discuss potential Brownfield clean-up projects around the state. Each time there is a NOFA published, we work together to ensure that we apply for as much funding as possible without the possibility of overlapping projects, as we both have an RLF. In several cases, we have been able to convince EPA that we each need funding for a specific project, like PVDC. The collaboration works well and EPA views it as being very helpful. The application deadline is 2.17.11
- **J&L Plant One:** Kiersten is waiting to hold a public hearing on the project to satisfy two requirements – one at the state level and one that EPA requires of us. Following that meeting, the CAP will be finalized and work can begin on the clean-up. In other news, the Bradford oil suit took a new turn last week; a new CAFI was completed by an out of state firm that determined that clean-up on the Bradford site wasn't necessary. Very perplexing development. As background, the Bradford oil site is located across Route 11 from J&L and some of the contaminants have migrated on to the J&L site. The state has an enforcement action against Bradford. Kiersten has more details if preferred.
- **Randolph:** Salisbury Square – should be closing on a \$160,000 loan next week on this project. More contamination was found following the first round of clean-up, so we loaned more funding in order to finish the remediation. The property, located adjacent to Randolph's downtown, will result in the creation of new housing and green space. The property was formerly owned by Ethan Allen Manufacturing.
- **Good news:** EPA has asked if they could use our grant and loan agreements as templates/models. Kiersten spoke to VEDA and they are fine with it, as long as names are concealed. This says a lot about our program; not only are we getting money out the door, but our oversight and administration is being noticed as well.

Projects

- **Orbit Energy:** A new biomass company is interested in locating on the property next to the Springfield prison. The property is eventually to be transferred to the Town of Springfield as part of the "prison agreement", but the Town hasn't taken ownership yet because that would require them to maintain a road on the property. Kiersten has been working with BGS on ideas to facilitate transfer, including the possibility of allowing the biomass company to purchase the site from the State. These are details that we will eventually have to iron out; the first is finding out what their \$ needs are and whether or not there is enough material available to fire up the plant. There is also infrastructure in place at the prison for a plant such as this.
- **Swan Valley Cheese:** Still waiting for ANR to sign off on the wastewater transfer permit, which make the company one step closer to production. Not an issue – yet. The info was sent to ANR a few days ago. Kiersten followed up to ensure that they have what they need from SVC.

Business Support

- **Molten Media Industries:** The company is in startup for a new health food product and contacted the department for general technical assistance. A review of programs and services was presented and appropriate referrals will be made.

Financial Services

- **Year End Competitive Recap of Vermont's Licensed Captives:** Dan Towle, Director of Financial Services previously reported that Vermont licensed 33 new captives in 2010. It has now been learned that 33 new captives were more new captives than Bermuda or the Cayman Islands. Dan believes this is the first time that has ever happened in Vermont's history. Bermuda, the world's largest domicile licensed 18 and the Cayman Islands, the world's second largest domicile licensed 25 in 2010. This reinforces what a tremendous year this was for Vermont, despite a soft (weak) insurance market and difficult economic conditions.
- These poor market conditions have added to the tough competition within the industry. There are now more than 30 other states competing for this lucrative and attractive business. Some of Vermont's larger and more established domestic competitors had smaller licensing numbers, South Carolina licensed 9, Hawaii 12, Washington D.C. 15 and Arizona (a zero premium tax state) had 8. Some of the newer domiciles had very strong years in primarily licensing smaller companies (that pay less premium tax and take on more risk) with Utah (a zero premium tax state) licensing a whopping 54 new captives, Delaware licensing 48 and Montana and Kentucky both licensing 25 new captives.
- These newer domiciles will need to be watched closely as the more captives they license, the more sophisticated their infrastructure will grow and the more resources they will have to market their states to the captive industry. Vermont's geography, both in distance from perspective companies and in the perceived time out of the office, in doing business with Vermont, remains one of Vermont's most difficult challenges. The vast choices available to potential captive companies in choosing a domicile remains a challenge to Vermont, especially as geography plays a role in the decision process.
- **Vermont Captive Insurance Association (VCIA) Legislative Day:** Dan Towle participated extensively at VCIA legislative day. Dan provided talking points to Governor Shumlin, for his remarks given to a group of about 70 Vermont captive industry professionals. Dan also met individually to brief Speaker Smith, Senate Pro Tempore Campbell and Majority Leader Leriche to assist in providing talking points for their remarks before the VCIA participants. Dan also provided background to Lt. Governor Scott's office, who also addressed the group.
- Dan presented at the VCIA Board Meeting and participated in committee testimony in Senate Finance and House Commerce. There was great turnout by legislators at the day's events and at the evening reception held at Capitol Plaza. The day was a tremendous success, with informing many legislators about Vermont's Captive Insurance Industry.
- **Risk & Insurance Magazine Editorial Meeting:** Dan is working with Editor in Chief Paul Bomberger in putting together an upcoming story in April that will feature Vermont's Captive Insurance Industry.
- **Interview by AM Best:** Dan was interviewed by AM Best for a story that followed the press release of Vermont's newly licensed captives. It was featured in the Best's Wire and on their website.

- **State of Vermont and the Vermont Captive Insurance Association Road Show in New York City:** Dan has been preparing for an upcoming event to be held in New York City in early February. Over 100 registrants are expected for an event that will assist in recruiting new captives, retaining existing captives and in developing referral relationships with various industry professionals. The format is to hold an afternoon of educational seminars, followed by a networking reception. This is done in partnership with the Captive Insurance Division at BISHCA and the VCIA.

Vermont Economic Progress Council

- At the monthly meeting on January 27, the Council approved VEGI incentives totaling \$137,600 for Bariatrix Nutrition Corp. The company was planning to move their existing 16 Vermont employees from South Burlington to a new facility in Georgia, Vermont. The incentives will ensure that they also expand that facility beyond shipping and warehousing to include manufacturing and production for the US market. The company plans to add 30 new employees and make \$2.1 million in capital investments over five years. (Note: Employment and investment data are confidential)

Vermont Training Program

- **Maponics:** Beth Demers met with Steve Zuckerman, VP, at Maponics to sign a Vermont Training Program (VTP) contract. Maponics will provide on-the-job training for eight (8) new hires and upgrade classroom training to eight (8) existing employees. VTP will be providing a maximum of \$19,903.00 toward the cost of training. The contract will run from December 1, 2010 through November 30, 2011.
- **Commonwealth Dairy:** Beth Demers met with Tom Moffitt, CEO, and Ben Johnson, CFO, at Commonwealth Dairy to sign a Vermont Training Program (VTP) contract. Commonwealth will provide on-the-job training for forty (40) new employees and upgrade classroom training for twenty (20) existing employees. VTP's portion of the training cost will be a maximum of \$101,600.00. The contract will run from December 1, 2010 through November 30, 2011.

Community Development and Revitalization

- **Downtown and Village Center Maps:** Chris Cochran and Melissa Prindiville have nearly completed work on the Division's "Smart Growth Mapper." The GIS tool maps the various state designated areas – Downtowns, Villages, New Town Centers, Growth Centers, and Neighborhoods. The tool will allow users to identify parcels that qualify for state benefits, tax credits in particular. Sometime this week or next, the tool will be moved to ANR's servers to allow external access. Once this has occurred, Chris will invite partners to test the tool and recommend additional improvements. Public launch of the tool will happen shortly thereafter.
- **RDC Meeting/Tax Credits:** Chris and Joss gave an overview of the state's smart growth incentives at the quarterly gathering of the RDCs. Traditionally CP&R has partnered with the Downtown organizations to promote the programs and benefits. This outreach to the RDCs is an effort to cast the net more broadly and promote the economic benefits of downtown revitalization among the development community.
- **Downtown Transportation Fund:** CP&R has transitioned the administrative responsibilities for this program from Leanne to Wendy. Leanne and Joss will continue to work with communities in the application phase, but in the future Wendy will be the grant administrator, freeing up more of Leanne's time to work with our local downtown organizations.

- **Bradford's Downtown Designation:** Bradford's Designated Downtown is due for its 5 year renewal in February. A key requirement is that there be a dedicated downtown organization to lead the revitalization effort, and we were informed last week that the BCDC, which has served as their downtown organization, has now decided they no longer wanted to serve that role. Setting up a new organization is a substantial undertaking, and after meeting with Town representatives it is not yet clear whether they will do so. If they do decide to do this, it will take time to get it up and running. The Downtown Board will consider Bradford's status at the February meeting, and whether to continue designation and access to benefits while the community works on this issue.
- **RPC Meeting:** Noelle MacKay, Jen Hollar and Joss Besse met with Peter Gregory and Catherine Dimitruk to discuss a variety of subjects relating to RPC's – legislative, performance contracts, and other matters. There will be follow up work to clarify expectations under the performance measures in this year's contract, and on-going communications on legislative matters. Peter and Catherine noted their appreciation that the Governor proposed level funding for RPC contracts and Municipal Planning Grant in FY12.

Grants Management

- Ann Kroll is continuing active outreach to stakeholders on developing the application to HUD for the Neighborhood Stabilization Program (NSP 3) funds. Notice of Public Hearing to be held February 8, 2011 in the Calvin Coolidge Conference Room from 3:30pm -4:30pm was published on January 24 in the 8 major newspapers across the State.
- Ann has worked with Craig Bailey and Leslie Black-Plumeau of VHFA on the NSP3 HUD Mapping Tool to determine eligible target areas by Census tract and Census Block that meet the State minimum need score of 8 as determined by HUD. These have been submitted to HUD for their approval and response which resulted in an aggregated total need score of 8.39. The need score is based on the number and percentage of home foreclosures in each State or unit of general local government; the number and percentage of homes financed by a subprime mortgages in each State or unit of general local government; and the number and percentage of homes in default or delinquency in each State or unit of general local government. We have found this mandated targeting tool to be somewhat limiting for the State of Vermont. Some areas that were eligible under NSP1 are no longer eligible to continue the revitalization work already undertaken, such as in the City of St. Albans and the City of Burlington. Of the current 400 plus REO's, it appears for the Housing Acquisition and Rehabilitation Program (HARP) there would be about 98 properties in eligible communities to work with. We are estimating being able to acquire, renovate and re-sell approximately 18 single family homes. To put this in perspective, over 400 homes have been reviewed and inspected to reach our current number of HARP homes of 42.
- Ann accompanied Willa Davidian and Elizabeth Egan of VHCB on site visits of 8 prospective properties in the City of Rutland with Elisabeth Kulas of Housing Trust of Rutland County (HTRC). These properties would be considered for potential funding through VHCB's NSP3 allocation.
- Ann Kroll and Ray Marzbani have been working on the NSP1 Quarterly report that is due January 31, 2011. Ann and Ray have listened to multiple HUD webinars on the HUD reporting system to make corrections and edits as HUD has released numerous versions since the inception of the NSP1 reporting and drawdown of the funds. The latest version release to capture demographic details of the beneficiaries has caused errors for all 300 plus grantees of the NSP1.

- Leslie Drown has continued working through the final stages of development and testing of the Closeout Agreement [tracking of Program Income, loan repayments of the Vermont Community Development Program (VCDP)] component of Intelligrants online Grants Management System (Agate is the Vendor). The latest task has been a very detailed review of the Grantees existing Closeout Agreement reports to the legacy data input into Intelligrants in preparation for the Grantees to commence reporting in the online system. We had delayed receipt of the July reports and now the January reports are due. As the Grantees submit reports online, those with performing loans will be submitting checks to the Agency for the recapture portion of Program Income that will be used to enhance the VCDP Annual Allocation to make new awards. Hence, we are all very eager to reach this goal of having the Grantees using the Intelligrants System for reporting and tracking Program Income.

Housing

- **HUD Consolidated Plan** – The Advisory Group held its first meeting for the 2011 Action Plan update on Friday, January 28 followed by the first required public hearing. Rev. Debbie Ingram from Vermont Interfaith Action accepted our invitation to the advisory group filling out the requirement to have a faith based organization represented.
- **2010 Mobile Home Park Registry** – Arthur submitted the 2010 Registry and Mobile Home Parks Report to the housing committees of the Legislature. All reports are submitted electronically in a special PDF / A (“archive”) format. Getting the report and list of parks into this format as one file proved tricky but David Metraux figured it out. Arthur and the Legislative Council both greatly appreciated his help. The report can be found on our website under Mobile Home Parks and Publications.
- **Charitable Housing Tax Credit** – Rachel Beuchler from the Vermont Community Loan Fund contacted Arthur to ask if we could make some clarifying changes to the year-end Tax Credit Statement form. Arthur worked with Sue Mesner and Susan Houle at the Tax Department to modify the form. VCLT is expected to apply for additional tax credit certificates as they appear to have reached their maximum.
- **Vermont Interagency Council on Homelessness** – Arthur attended the VICH meeting on behalf of the Department. The Commissioner is a standing member of the VICH however we have not been present at the meetings for awhile. Jen asked Arthur to let them know that we intend to be involved, as homelessness and interagency cooperation are priorities.
- **Technical Assistance**
 - Arthur helped Village View Mobile Home Park understand how to handle a lot rent increase that is necessary because the Town of Williamstown has decided that they will no longer read individual meters and bill the mobile home owners, but send one bill to the park owner for the entire park. This is a trend that is happening in a few other towns.
 - The department received an email from a condominium resident about inspections for furnaces and radon testing and requirements for CO and smoke detectors. Arthur provided information about the condominium statutes and referred the person to Fire Safety.

Historic Preservation

- **Lake Champlain Bridge Opening Celebration Meeting:** The Lake Champlain Bridge Community, the committee formed to plan and carry out the celebration weekend for the Lake Champlain Bridge opening, held a public meeting on Monday at 6 p.m. at the Crown Point, NY, State Historic Site. Elsa is on the steering committee, and events and dedication committees. Over 50 enthusiastic Vermonters and New Yorkers turned out on a frigid night. Committee chairs did a super job laying out the plan of action and asking for input. By March there should be a better idea of when the bridge will be finished, so a celebration weekend can be picked. NYSDOT gave the group its blessing on planning the event, and will be involved with protocol issues for the dedication, but otherwise want this to be a grass roots effort. The group is hoping for a two day weekend event, with a parade as in 1929, fireworks, music, and lots of activities on both sides of the lake. It is imperative that Chimney Point State Historic Site be open for this event and that the grounds be available. The site had to close last year because of the construction.
- **Chimney Point and Bridge Project:** Flatiron is planning on lifting the first steel girders into place, on the Vermont side, on Thursday. The girders go from the land pier to a set of "bents" that were installed on top of extensive fill just west of some of the French fort remains. These girders will be welded to another set of girders from the abutment to the bents. Within a month the girders from the abutment to the second bridge pier (in the water just off Chimney Point) will be in place. We've been enjoying the great view at Chimney Point that opened up in May when the last of the old bridge girders were taken down.
- **Water Pipe Leak and Frozen Pipes at Chimney Point:** Five water pipes froze in an awkward spot in the cellar and one eventually burst due to frigid temperatures over the weekend. Luckily the pipe burst shortly before Elsa arrived at work on Tuesday and didn't cause any damage. We also discovered water seeping into the cellar near the water intake pipe. Tri-Town Water checked their records and came; it appears the underground pipe somewhere near the building has been leaking since last fall. The cause is unknown at this time. Water to the building has been turned off at the curb, and will be turned on to refill the pressure tanks as needed. The excavator we've worked with on other water pipe issues suggests fixing it when the weather is a little milder so the work can be done properly. We have to consider proximity of the electrical and telephone lines and archeological concerns.
- **Mount Independence Book Committee:** The Mount Independence Coalition has a committee to work on a colorful book for the general public about Mount Independence. This is one thing our visitors ask for in the museum shop. Elsa attended the committee meeting Tuesday night. They are working on an editor to whip the draft into shape. They have commissioned an artist to do drawings of the Mount's activities and scenes during the Revolution, and are gathering information for the artist. They hope to have it ready in 2012.
- **Certified Local Governments:** CLG grant applications were due in this week and Diane received a total of nine grants from seven CLG Communities. Applications range from National Register nominations (one being the Mad River Glen Historic Ski District that includes the single chair lift), walking tour brochures, and digitizing historic maps, to the restoration of a municipally owned barn in Warren that, when the work is completed, will become the town's Visitor Center and Historic Museum. Diane anticipates that the federal appropriations will be approximately \$58,000.00 for this year's funding.

- **VCNAA:** Wednesday, the House Committee on General, Housing and Military Affairs reviewed two applications from the Nulhegan and Elnu Abenaki tribes approved by the Senate Committee and the Commission for state recognition as a Native American Tribe. At the last Commission meeting on January 19th members of the VCNAA unanimously approved of the Koasek Band for state recognition and their application has now been forwarded to the Senate Committee for review. The Missisquoi Abenaki also submitted their application for review at this meeting; the first step in a structured and agreeable process for approval according to statute.
- **DHP Programs:** John Dumville, Judith Ehrlich, and Giovanna Peebles testified before both the Senate and House Institutions Committees on our various programs. This was just to introduce the committee members on the division's programs prior to testifying on Capital Budget requests. Commissioner MacKay attended the Senate Institutions Committee when the group testified.
- **Plymouth Cheese Factory:** Julie Kelliher, Giovanna Peebles, and John Dumville meet with Leo and Jesse Warner about extending the term of their lease of the Plymouth Cheese Factory at the President Calvin Coolidge State Historic Site. Leo and Jesse also discussed the improvements they would like to make to the cooler in the basement of the factory. These improvements would become part of the building because they would be attached to the ceiling of the cooler. BGS did much work on this cooler last fall preparing it for the system the Warner's will install. Leo and Jesse brought samples of their cheeses which we enjoyed (very much) and shared in the 6th Floor "Kitchen". We invited Mary Nowlan in to meet Leo and Jesse who will be contacting Mary about including the traditional Plymouth "granular curd" cheese in the *Vermont Life* catalog.
- **Environmental Review Middlebury College:** Devin conducted a site visit to Middlebury College to review proposed plans for the rehabilitation of two college-owned buildings. 118 South Main Street is a small cape house that is being rehabilitated office use, and Forest Hall is being rehabilitated for continued use as a dormitory and offices. Both projects are subject to Act 250 and appear to meet the Secretary of the Interior's Standards for Rehabilitation..
- **The Environmental Review Team commented on the following projects:**
 - Essex, Molloy-Delano House: Accepted photographic documentation package.

No Effect/No Historic Properties Affected

 - Montpelier, 133 State Street Waterproofing Project, 22 VSA 14/BGS
 - Berlin, Hilltop Townhouses Efficiency Upgrades, 106/DOE ARRA project
 - Williamstown, Meadowbrook Place Efficiency Upgrades, 106/DOE ARRA project

No Adverse Effect

 - Brattleboro, Daly Bros. Show Co. Solar Panel Installation, 106/DOE ARRA project
 - Barre, Washington Street Apts. Annex Roof, 106/HUD
- **Freight House, Waterbury Update:** The Pilgrim Partnership (PP), through their attorney, declined to participate in any further discussions about preserving this historic building and have no interest in further discussing purchase offers from Revitalizing Waterbury or the Preservation Trust of Vermont. The Act 250 permit amendment process will now move towards conclusion. Since the PP was unsuccessful in obtaining a waiver from the Village to move the building out of the railroad right-of-way, their next step is to dismantle the building in the spring for reconstruction and use by a non-profit in Lincoln.

- **Seal of Quality:** The Vermont Seal of Quality legislative report has been issued to the legislature. VDTM will be joining the Agency of Ag for a discussion regarding the findings of this project at a date to be determined.
- **Fish & Wildlife:** Deputy Commissioner Cook met with Commissioner Berry of Fish & Wildlife to discuss an effort to increase the sale of hunting and fishing licenses in Vermont. VDTM has committed promotional dollars to assist with this endeavor.

Teleservicing

- **Call Center Performance Exceptional:** Our 800-Vermont contracted call center has sustained service levels well above contracted levels throughout the contract period, but has provided exceptionally efficient service during the current fiscal year. For the past six months 98 to 100 percent of calls to 800-Vermont have been answered within one minute with the average being 28 seconds. Calls to 511 are a priority and average answer is 20 seconds.

Warehousing and Distribution

- **Maxham Performance Review:** Because the department's fulfillment operation was moved to a new contractor in April 2010, we have been using only warehousing services for select materials at Maxham's facility in Worcester. Maxham's state contract continues to provide storage and distribution for the Information Center's (VICD) brochure program, and storage and shipping services for several other state agencies and departments, principally Forests, Parks and Recreation and Fish and Wildlife.
- Greg Gerdel and Cindy Roberts (VICD distribution manager) reviewed the storage/billing allocations among the departments and programs and found them to be correct. VDTM specifically stores and consolidates materials for the Eastern States Exposition at Maxham and has a variety of display and exhibit materials stored there.
- Under the terms of the state contract, partner organizations in the private sector are able to use the facility at the state's contracted rates. Currently, the Vermont Campgrounds Association, the Ski Areas Association, Attractions Association and the Vermont Chamber make use of this provision.

New Research

- **Leisure, the Key to Happiness:** An examination of the association between various components of consumption expenditure and happiness in the Health and Retirement Study (HRS), a nationally representative sample of older Americans, finds that **only one component of consumption is positively related to happiness—leisure consumption.**
- In contrast, consumption of durables, charity, personal care, food, health care, vehicles, and housing are not significantly associated with happiness. Second, leisure consumption is associated with higher levels of happiness partially through its effect on social connectedness, as indexed by measures of loneliness versus connectedness in social networks. On one hand, these results counter the conventional wisdom that "material goods can't buy happiness." On the other hand, they underscore the importance of social goods and social connectedness in the production of happiness.
 -- *Source: Does consumption buy happiness? Evidence from the United States*, by Thomas DeLeire and Ariel Kalil, *International Review of Economics*, Volume 57, Number 2, 163-176, DOI: 10.1007/s12232-010-0093-6
- **Communications and Outreach**
 Summary: Coverage over the past week includes articles in *Ski Magazine*, *Boston.com*, the *Orlando Sentinel* and other outlets.

Executive Privilege

TO: Governor Peter Shumlin
FROM: Secretary Brian R. Searles
DATE: Friday, January 28, 2011
SUBJECT: VTrans - Confidential Report to the Governor

Status of Governor's Priorities:

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Issue Update:

- **US 2 Cabot-Danville Reconstruction Project:** As originally proposed, this project consisted of reconstruction of three non-contiguous segments of US 2 in the towns of Cabot and Danville totaling 4.25 miles. For several years, the project's most controversial feature has been VTrans' proposal to redevelop an old gravel pit site in East Montpelier as a wetland mitigation site to compensate for unavoidable wetland impacts from the highway construction proper. Last fall, VTrans and the East Montpelier project opponents settled a contentious Act 250 case and Environmental Court appeal. Under the settlement stipulation, VTrans agreed to scale back its proposed work at the East Montpelier site to avoid physical disturbance to an open-water body at the north end of the property that has become a popular (albeit unauthorized) "swimming hole" for local residents. While this scaled-back plan still provides sufficient area for VTrans to compensate for wetland impacts associated with Segment I of the US 2 project (*i.e.*, the one that was ready to go to construction), it requires VTrans to start anew the tortuous process of locating mitigation sites for Segments II and III that can satisfy stringent ANR and U.S. Army Corps of Engineers wetland mitigation requirements. Recently, the East Montpelier group's leader, Renee Carpenter, charged that VTrans is not complying with its obligations under the settlement stipulation. Our review to date indicates that these claims are either completely unfounded or exaggerated. Although the Environmental Court has refused the East Montpelier group's request that it enjoin VTrans' bid opening for the project (which went forward on January 21), the E-Court has scheduled a hearing for February 8 to review the allegations that VTrans is failing to meet its obligations under the settlement agreement.

Note: Sue has met with project managers and legal staff on this matter and has recommended that the Agency proceed with the fence for the duration of the on-sight construction, however that the fence be removed following construction (with stipulations). This decision is internal at this point, but this issue may be brought to the attention of the Governor at some point and he can offer that he will look into the fence/ public access issue.

Evolving Issues:

- **Broadband:** We are anxious to participate with Karen Marshall in moving toward your goal of broadband infrastructure statewide and in preparation for that are learning as much as possible about our own investments in the highway rights-of-way and the role that these investments can play in helping with this process.
- **Rail:** The Rail Council met this week, with the Secretary chairing for the first time in many years. There is a positive spirit around rail in the State House and among an array of interested parties.

There may be a new opportunity to pursue funds for Inter City Rail activity along the western corridor if Florida makes good on its Governor's intent to reject its rail funds. We are preparing a letter from the Governor's office for the FRA to re-emphasize our readiness to fully utilize funds for Inter City Rail if they become available.

Agency /Department Requests:

- **Organizational Issues:** Kudos to the Agency of Administration and particularly, the Department of Human Resources, for helping us strengthen the Agency of Transportation in the areas that will best support your transportation agenda. We will be making a couple of important hires and moving some programs in the near future that will facilitate progress in the areas of rail and public transportation.

Legislative Contacts:

- **Budget FY12:** The Transportation Program Budget for the next fiscal year was introduced to the House Transportation Committee immediately following your address to the legislature on Tuesday and then to the Senate Trans. Committee on Wednesday morning. The \$553,660,290 proposal with emphasis on bridges, rail and public transportation was well received. A parade of subject matter experts will fill in the details over the next couple of weeks while we build the annual Transportation Bill. It should be noted that the paving budget is 17% smaller than last year and you may hear some grumbling about that. However, the reduction is due to fewer ARRA dollars available and at \$77 million is \$14 million more than FY09, the last year without ARRA money available.

Ideas:

General Information/Other:

- **Winter Maintenance:** We continue to get feedback, positive and negative, concerning the condition of highways. The fact that this is such an area of controversy is the nature of the winter so far which has included precipitation, mostly frozen, of one kind or another 25 of 28 days in January. Although our resources are stressed, the road crews are keeping up. You will hear people argue for a change in policy from our 30-year-old "Safe Roads at Safe Speeds" policy to a "Bare Roads" policy and it is important for people to know that this is not about policy, but rather that three straight mild winters have been followed by a very snowy and cold one. Having said that, there is still the reality that the amount of salt in use is much less than it was just a few years ago. This has happened for budget and environmental reasons and is being reassessed internally. We are not likely to make major adjustments in salt use, but rather will seek the right balance between safety, budget and the environment. Bare wet roads all the time would cost about \$50 million more and is not feasible in our view, just so a few people can continue to drive 70 mph in a snow storm.

CONFIDENTIAL AND PRIVILEGED

To: Governor Peter Shumlin

From: Commissioner Annie Noonan

Re: VERMONT DEPARTMENT OF LABOR WEEKLY REPORT

Week Ending January 28, 2011

Legal:

UI and Wage & Hour: Both addressing a complaint about a local business which may be engaged in UI and wage and hour violations impacting some Peruvian nationals working in Vermont on J-1 visas. Seven Days is aware of this issue and may run a story next week. Other issues may include housing (fire safety) concerns. DOL General Council is involved in the oversight of this investigation.

Legislative:

Human Trafficking Task Force in House Judiciary. DOL has agreed to provide workplace posters on our website, but advised that if it required printing and mailing, we would need an appropriation (we estimated \$3,000). Current draft of the bill only requires website download version.

RoadSafe Program agenda should be reviewed by the Governor's Office. I would like to bring Norman James over to meet with Alex M for a review.

DOL owes legislature several reports: Workforce Leadership; WIB Study; Workforce Development Council Annual Report; Misclassification.

DOL will be meeting with Rep Kathy Keenan to have a preliminary discussion of the DOL budget (she has our budget in House Appropriations).

We are monitoring several UI and WC bills in the legislature, and gave brief remarks, no position, on two bills in SED. Testimony was confined to explaining current statutory provisions.

UI & Wages Division

UI Trust Fund: Total amount borrowed as of 1/27/11 is \$49,888,494.07

Rapid Response sessions held with returning National Guard members, Champlain Valley Cardio Vascular Associates, Fashion Bug.

Call Center statistics for the week ending 01/22/2011: the center handled 4,084 calls; processed 1,384 initial and additional claims, and paid 15,242 claimants (slightly down). Adjudications: 276 issues determined last week (active cases 702). UI Division is experiencing a backlog and overtime will be approved this weekend to help resolve the issue.

Worker's Comp & Safety Division:

DOL staff (Noonan, Monahan and Rickert) met with Commissioner Obuchowski and his staff this week to discuss the MOU on citation and debarment period. DOL has been working on the document, incorporating the comments from BISCHA, BGS, AOT, as well as some interested stakeholders. Our plan is to have it finalized by next week. There has been significant legislative interest from SED and House Commerce on the status of this work.

The Challenges for Change charge to Workers Comp on process mapping and reducing time/paperwork is underway. Biscayne Consultants were here this week, with more work on February 8 & 9. DOL staff reported that they were very impressed and motivated by the prospects of the changes.

Steve Monahan met with Vermont Farm Health Taskforce and reported that a new mission statement and protocols will be circulated. Issues relating to undocumented workers have been at the core of some debates and disputes within the group.

Update on Stop Work Orders: West Street Dairies - SWO now rescinded; Starrs United and E. Starr Trucking - orders remain in effect as no evidence of compliance has been produced as of this date; Fiske Trucking and Logging - SWO likely early next week.

Several other cases are pending possible settlement, and in one case DOL is working with the AG's office on an employer who continues to violate the law.

VOSHA Director McLeod held a public hearing on the VOSHA crane and derrick in construction standard. Bob McLeod was reappointed to ICAR.

DOL and Health Dept met on Tritium levels increasing at one of the ground water wells at VY. Press inquiry, Brattleboro Reformer, about VOSHA citations to J.A. McDonald for the accident on I-91 where worker fell through a hole and landed on the interstate. Citation penalty was reduced (not eliminated) as a result of the informal conference due to some evidence that the employee may have also contributed to the negligence by failing to hitch himself to the line. Killington had an electrical failure in its lift. They ran everyone off the lift using the auxiliary power unit, and no injuries were reported.

Workforce Development Division and Workforce Development Council:

DOL is participating in the Veterans Job Fair at Champlain College February 9th. Assisting FACH/VT HITEC in phlebotomist training class 140 people attended. Dealer.com planning to utilize VTP and WETF training funds, previously committed as part of their incentive packet; WETF money will be \$150,000. DOL is working to link IBM with Suss employees for jobs when those employees are laid off in March. DOL staff members are concerned about being prepared in the event that VY employees need job placement. I have asked for a draft plan; some federal grant money may require several months' lead time to secure. Career Readiness Certificate program will be offered in the northwest region - 9 employers asking for assistance. The joint venture in NEK with LSC (as lead for a WETF grant and adult tech education money) is under discussion and review. Reach Up Program director reports a heavy caseload in St. Johnsbury

Labor Market Information:

Work continues on the Green Jobs compilation under the consortium grant involving the New England states, NY and NJ. Some data gaps are being corrected. Discussion is underway as to how we can expand the utilization of the end result data to spur economic and educational growth tied to this job sector. LMI Division is assisting with some information requests on availability of, and training for, health care professionals in Vermont. Rep. Michele Kupersmith has asked for data that will help determine if Vermont has employees available to fill these jobs. Study information from previous and current reviews was provided. Store Closings: Inch By Inch, Bennington; AirNow in Bennington (confidential) will be laying off as they lost some of their NY airplane runs; Old Navy in downtown Burlington is moving to Williston; East Orchid Restaurant in Williston closed last weekend, 3 layoffs. Prospect Place development (proposed \$32 million) near WRJ will not move forward due to reliance on foreign investment that did not materialize. This project was, according to DOL staff, heavily publicized by Gov. Douglas.

Computer/IT Division:

Michael Clausen, Deputy Sec. of Administration has contacted Val Rickert at DOL to discuss our request for a sole source request to have First Government Data Solutions (FGDS) do the work, since they have and continue to provide support, licensing, etc., for all Claims Center applications. Projects: Vermont Job Link WIA (Workforce Investment Act); Upgrade to newer release of Vermont Job Link; Misclassification Web Application has been finalized and will go on our website next week; new time distribution application work; on-going work relating to Extended Unemployment Compensation (EUC); work on Apprenticeship processing.

Other:

Meeting will be held today (2-4pm) with all the state agencies and departments with workforce development money. I will be meeting with the NYS Commissioner of Labor next Friday for a review of NY programs, grants and other operations. Steve Monahan will also attend. We were invited through a collaborative effort of Dan Brush and Prairie Wells.

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Deborah L. Markowitz
Agency Secretary

Christopher Recchia
Deputy Secretary

**State of Vermont
Agency of Natural Resources**

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Deborah Markowitz, Secretary, Agency of Natural Resources
Date: January 28, 2011
Subject: ANR Weekly Report

Status of Governor's Priorities:

- Forwarded agreeable MOU for general process/standards for licensing state lands for telecommunication use to VTA.
- Continued discussions internally and with Green Mountain Power about Kingdom Community Wind (Lowell)
- Vermont Yankee – Tritium leak found in higher levels in one monitoring well. Working with VY to determine source of this new leak.
- Lake Champlain Water Quality – Using EPA's disapproval of 2002 TMDL to advance work on phosphorus reductions and ensuring we can go ahead with treatment plant and stormwater permits (See DEC item below).
- General Fund Targets: We have presented a cost savings proposal to the Administration relating to the hiring freeze to meet our share of the savings obligation and have received approval of our approach and the positions we wish to fill. Thank you!

Legislative Issues/Contacts:

- H. 13 - Deer Doing Damage: Looks like Committee will seek session law instructing ANR to report on the three factors that impact this issue – deer herd health, invasive species and silvacultural practices.. Good outcome. We will continue to monitor this.
- H.9/ S.8 – Composting; Coordinating with Agency of Ag; ANR seeking to remove mapping mandate from last year (not feasible and not a priority)
- H.24 – Phosphorus use turf application ban: ANR testified in support of this. This is an easy way to address 30-40% of phosphorus runoff problems from urban/suburban areas.

- H.56 – Energy Act: Coordinating with DPS and in discussions with Rep. Klein. This will eventually move, but not in its current form.
- Secretary and DEC Commissioner discussed ramifications of EPA decision in joint meeting of House and Senate Natural Resources committees on 1/28.
- Capital Bill: Testimony has begun on ANR Capital requests, including this week on F&W's 2011 and 2012/2013 activities/requests in Senate Institutions.

Press Issues/Releases/Contacts:

- BFP contact on Kingdom Community Wind – Article expected on Sunday 1/31
- BFP article and editorial on David Mears conflict of interest issues. 1/27 and 1/28.

Significant Events/Meetings:

- We have begun to strategize with AOT and DPS and other agencies about coordinating Climate Change policy – expect a proposal for the Governor shortly.

Evolving Issues:

- The Kingdom Community Wind project will be looked at as precedential regarding wind development in the State, so we are mindful of that as we complete the review of issues and prepare PSB recommendations.
- ANR is completing its recommendations to the Governor on Natural Resource Board structure and chair appointment.

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

- **Lake Champlain TMDL** – On Monday 1/24/11, EPA issued a decision disapproving of the Vermont portion of the Lake Champlain Total Maximum Daily Load (TMDL). The TMDL provides goals for and define our clean-up plan for Lake Champlain. Under federal rules the TMDL is no longer valid and EPA is required to promulgate a new draft TMDL for public notice and comment. EPA has indicated that this process will take a year or more. This raises some significant concerns regarding the regulatory impacts of the disapproval.

Waste water treatment plants (WWTF) and other direct discharges will remain subject to the terms and conditions of their existing permits, however, if those permits are modified or reissued before the new Vermont TMDL is finalized, the permit limits may need to be tightened. New discharges such as stormwater construction will also be required to meet a more stringent standard.

The Agency is exploring all of its options and actively pursuing discussions with EPA.

- **Long Island Sound TMDL** – Vermont is participating in discussions with EPA and NH, MA, NY and CT regarding the promulgation of a new TMDL which will include and mandate Nitrogen (N) reductions from Vermont point and nonpoint sources. EPA has put forth a straw proposal and VT is in the process of assessing that proposal and of determining the appropriate baselines for determining N reductions under the new TMDL. This TMDL may require the northern states to allocate significant resources for N reductions.
- **Hartford/WRJ** - EPA objected to the Hartford waste water treatment facility permit based on the 2001 Long Island Sound (LIS) TMDL which required 25% reductions in nitrogen loading to the Connecticut River from the northern states. A public hearing on the EPA objection has been set for March 2, 2011. EPA is seeking a cap on nitrogen output from the facility. The Agency is interesting in reaching resolution which is acceptable to both EPA and Hartford and sets a good precedent for formulation of the new LIS TMDL.
- **Pollution Prevention/Recognition Programs:** We received 47 applications/nominations for the Governor's Pollution Prevention Awards. After completing recommendations for awards, we'll connect with Governor's office to discuss award process and publicity associated with these awards.

Forests, Parks and Recreation

- **Land Transactions** - The U.S. Forest Service has approved a three month extension for the Farm and Wilderness Forest Legacy project (through the end of March, 2011). We are working closely with Farm and Wilderness and hope to finalize the terms of the conservation easement within the next week.
- We are working with BGS on the possible sale of state lands in Duxbury deemed surplus, including the "Father Logue's Camp" property owned by BGS and two nearby parcels owned by FPR.

Fish and Wildlife

- **Catamount Update:** No, we have no confirmed catamount sighting in Vermont. The photograph of a "catamount" distributed at the Yankee Classic on January 15, by an attendee at the show turns out to be a photograph of a photograph published in a Western US calendar.
- **Fish & Wildlife Board Meeting:** The Board voted unanimously against an October muzzleloader antlerless deer season at its meeting last week.

Administrative Services

Financial: We are scheduled to be in House Appropriations the week of Feb. 14th for testimony on our budget.

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Chuck Ross, SECRETARY

STATE OF VERMONT
AGENCY OF AGRICULTURE

Confidential and Privileged

TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: January 28, 2011

Status of Governor's Priorities: Too early.

Legislative Issues/Contacts:

Deputy Secretary Bothfeld and Attorney Generals Office Lawyer assigned to the Agency Diane Zamos met with House Commerce to discuss the Limited Cooperative Association legislation. Agency is neutral on this legislation due to the technical business and cooperative law nature. In general the option for groups of farmers to form a traditional cooperative of a limited cooperative association would be positive for the state. It was stressed that the choice was important and that the new limited cooperative association law not weaken the current law in the state governing cooperatives.

Deputy Secretary Bothfeld and Koi Boynton addressed the House Agriculture on the recently finished Taste of Place research. The research shows interest by producer groups of forming their own producer lead standards and the marketing study showed that consumers are interested in specific attributes surrounding taste of place such as produced in an environmentally manner, purchase of the product provides a fair price/wage to the farmers producing the product and that the product was made by a farmer or a group of farmers. The marketing research also showed that consumers were willing to pay more for products with these attributes.

Randy Quenneville is working on a chart at the request of House Ag Committee for a visual description of amenable and non-amenable species under federal and state regulations as well as what is required to be inspected or from approved sources in order to be sold in restaurants under Vt. Health Department Regulations. Also requested is a description what constitutes an "approved source".

Dr. Haas has been asked by the House Agriculture committee to provide testimony on February 3 on the Livestock Care Standards Advisory Council's activities since its inception. The committee has already been provided with copies of the minutes from the two quarterly meetings, reflecting the fact that the group has engaged in discussion re. livestock housing statutes and is currently focusing on providing educational materials to livestock handlers in the state on the topic of humane handling.

Dr. Haas has received inquiries about H.84 and the potential impact that this legislation could have on the VSNIP budget. At this time, the Agency does not have a position on this bill.

Dr. Haas has reviewed H.91 concerning regulatory authority of captive cervid facilities in Vermont. The Agency does not yet have a position on this bill, but VAAFAM personnel are meeting with ANR management on Feb 1 to discuss this issue and others.

Jim Leland testified in H. Fish and Wildlife regarding H.26 a bill that would prohibit the use of phosphorus on turf. There are currently 3 bills that address this issue; one in Fish and Wildlife (H.26), one in House Nat'l Res. (H.15) and one in Senate Nat'l Res. (S.35). While testimony will continue, Jim believes that some form of legislation will be realized regarding phosphorus and turf by the end of the session. There is perceived need to match what New York passed last year. Agency of Ag will continue to work on this one as the authority to manage fertilizer use currently exists in Title 6.

Jim Leland testified regarding S. 25; a bill that requires DEC to draft NPDES permits for certain pesticide applications, requires the PSB to write rules requiring utilities to implement IPM practices and requires a 50 foot buffer from surface water for all pesticide applications. Currently, DEC is writing a NPDES general permit for pesticide applications 'to' or 'over' water; this as a response to a federal court case and EPA directives. The Agency of Ag requires IPM plans from utilities already by rule, and has for over 25 years. The 50 foot buffer restriction would not be acceptable to many. Expect further testimony on this over the next few weeks.

Press Issues/Releases/Contacts:

Vermont Farm Show

- Excellent Coverage of the event by WCAX and event specific coverage by FOX 44 and WPTZ. Jon Turmel had an extensive interview with WCAX on the history and importance of the Farm Show on January 25. The Political Pull Milking contest was covered by WCAX and included the udder-camera for a very informative view. Unfortunately the Agency of Ag lost to both House Ag and Senate Ag – better luck next year. WCAX covered the Dairy Update meeting and interviewed Diane Bothfeld regarding the dairy industry in Vermont on January 27. Vermont Dairy Industry Association – Dairy Banquet was covered by WCAX, Fox 44 and WPTZ and the Governor and Congressman Welch addressed the 100- 125 people in attendance.
- Randy Quenneville had a radio interview with WDEV discussing current state of the slaughter industry in VT and a brief discussion of inspection requirements such as Hazard Analysis Critical Control Point (HACCP) plans and requirements for an actual facility in order to perform custom slaughter.

Significant Events/Meetings:

Vermont Farm Show had attendance of 30,000 plus in its three day run.

Randy Quenneville presented at two seminars at the Grazing conference in Fairlee, Vt. The January 21st session was with legislators and policy makers as well as representatives from several farms the audience was approximately 70 people. The Saturday session was attended by about 30 people. Topics discussed covered inspection requirements in order to sell meat and poultry products, exemptions and the different levels of activities available from commercial inspected slaughter and processing, custom slaughter and processing and retail direct sales and the differences in availability of markets depending on whether products are state or federally inspected.

Randy Quenneville also met with producers wanting to use the LACE community kitchen to produce products under inspection. He provided assistance and answered questions.

Dr. Haas attended the quarterly Vermont Disaster Animal Response Team (VDART) meeting this week. This nonprofit organization, which is the umbrella organization for regional DARTs in Vermont, will be approaching Vermont Emergency Management and Vermont Homeland Security for grant money to fund initiatives that are essential to its SSF11 support functions.

State veterinarians participated this week in the Johne's Advisory committee meeting. Vermont's Johne's program is currently funded by a grant that is handled by UVM Extension personnel.

Evolving Issues:

- Westminster issue: Dr. Spurling from the USDA FSIS Albany District Office contacted me to let me know that they are in the process of investigating the message carved into the product that was a message to a Vermont inspector. The USDA has asked Eric Holmgren, the inspector that the message was directed at, if he wanted to fill out the form for threat and intimidation. He decided that he does not want to fill out the form because he feels that he would feel threatened if he were to have to go back to that plant. The USDA had also spoken with owner, whose answer appears to be that it didn't happen at his plant. I did remind Dr. Spurling that the product was transported under FSIS seal, and it was unsealed by the inspector at VHCC, so it could not have been tampered with in transport. She revealed that while they are currently investigating, she does not feel they will ever determine "who did it". Additionally, when asked about the issues of concern forwarded to Dr. Bergeron, the PHV at the plant, regarding sanitary or recordkeeping issues, Dr. Spurling said that Dr. Bergeron and the in-plant inspector had a list and were addressing issues on that list. Randy mentioned that there were no NRs generated and Dr. Spurling said that she did not know what was on the list, and was not going to do anything with the list, and that Dr. Bergeron was a good vet and she trusted him.
- The Livestock Humane handling plans are currently being evaluated by the consultant. The poultry guidance material for the writing of the poultry Humane handling plan has been sent out.
- Champlain Valley Meats has applied for a license, and their humane handling plan has been also submitted to the consultant.
- Currently working on the reply to the Request for More Information from USDA FSIS on our 2010 Self Assessment. The on-site audit of the meat inspection program has been scheduled. The civil rights portion will be on April 5, 2011, and the 2 week audit will be April 18-29.
- Discovery of on-line ads for the sale of on farm slaughtered products is requiring investigation by the section.
- The Agency has begun the process of reviewing applications for the Consumer Protection position that was vacated due to retirement. We are hopeful that interviews will begin within the next two weeks.
- The Agency has sent out a notice of hearing to the Irasburg cervid facility for purposes of discussing compliance issues that are still outstanding.
- Dairy Section is taking action against farm owners in Cabot, VT because of repeated problems with the milking equipment being found with milk stone and protein build-ups. They have not passed a routine inspection on the first try since 2007. We are having them come in for a hearing (docket number 2011-1-03 DY).

Summary of Key Agency Department Activity:

Ag Development

Agriculture Innovation Board met this week to determine the expenditure of remaining \$300,000. Funds must be used by end of September 2010 due to Federal Government Fiscal year. Funding for organization of Farm to Plate Implementers, Vermont branding program, continuing Taste of Place work with farmer producer groups, renewable energy, train the trainers for technical assistance to workers in Slaughter facilities were all approved.

Dairy Industry – see attached table for industry overview. Milk prices showing strength in first quarter of 2011. May improve to over \$18.00. Timing is helpful for high input cost time of year for purchase of seed and fertilizer for planting season.

Dean Foods – Agency of Ag working with Attorney Generals Office to track the settlement case and determine the potential position of the state when a preliminary settlement is approved by the court judge.

Food Safety and Animal Health

Dr. Haas met this week with section chiefs of the animal health, consumer protection, meat inspection and dairy sections in order to strategize on cross-training and cross utilization of each section's employees. The deadline is to have a plan in place for this by the end of February so that additional personnel can cover field duties associated with each section, including inspections, license checks, and follow up on non-compliance issues.

State veterinarians worked this week on the development of performance outcomes, measures and tracking techniques for duties that are the responsibility of animal health section employees. This is in anticipation of the upcoming meeting that Agency Secretaries will be having with House Appropriations.

Animal Health Field personnel -

- Performed outreach and educational duties at the Barre Farm Show
- Animal Health Field personnel conducted two animal welfare investigations
- Assistant State Vet Russo attended GIS meeting and discussed database mapping and overlay in regards to the location of Vermont producers.
- Investigated complaint of an individual transporting dogs into Vermont without proper certificate of veterinary inspection and rabies vaccine. Issued a verbal and written warning to the individual that transported the animals and educated her on Vermont's rule and regulations governing animal transport.
- Investigated a complaint of an individual operating as a pet merchant without proper licensing. Issued a verbal and written warning to this individual and provided her with the proper forms to register and become licensed as a pet merchant.
- Investigated an animal welfare complaint in the town of Londonderry. Referred the complaint to the local humane society.

Meat Inspection Points of Interest

Compliance and Enforcement:

- Healthy Living's hearing to reopen their case is set for February 2, 2011.
- Connie's Kitchen, Hardwick, VT production and distribution of mince meat pies without benefit of inspection. Notice of Warning letter sent.
- Vermont Pasta Company LLC, Barre, VT production of meat ravioli sales to farmers markets and from their home kitchen. Notice of Warning letter sent.
- Hannaford Food and Drug, 21 A Essex Way, Essex, VT, Ground Beef fat violation, first notice, no fine, letter sent.
- Farmer in Randolph Ctr. question about sales of meat products from his farm.
- Randy Gleason, Holland, information obtained from McCracken Livestock and Gold Medal Packing NY about calf that he sent that was condemned. Letter and Info sent.
- Farmer in Wilmington, complaint about beef that she brought to Westminster Meats that was slaughtered December 23, 2010 and still was not processed as of 1/26/11. They would not return her call. She contacted State Police to enter plant.
- Person from Poultney, information sent in regard to building a custom exempt slaughter facility. Packet and letter sent

Regulatory Agriculture Resource Management

Attended the joint Sen. Nat'l Res. and House Fish and Wildlife Committees meeting regarding the status of the Lake Champlain TMDL. Agency involvement will center around the 'reasonable assurances' requirements of the TMDL and Non Point Source phosphorus reduction targets. I believe we have already accomplished the goals of the original Implementation Plan and have moved beyond them to another phase of implementation. Of course, we will need to convince EPA of that fact. It is difficult to determine the potential impacts to Ag

relative to a new TMDL until EPA actually writes one. Hopefully, they will solicit some input from the Agency as part of the process.

Secretary's Commentary:

Secretary Ross undertook the following activities:

- led the AIC Board meeting which agreed to award a portion of the remaining \$310 of money for FY11
- was interviewed on Vermont Edition for the Monday noon program
- met with the leaders of the maple industry in his office
- attended and spoke at the maple industry luncheon at the farm show
- testified before the House Fish and Wildlife Committee and explain his vision for agriculture and his views on water quality where agriculture would need to do its part, be enforced against when necessary BUT that agriculture has been making progress on an issue 50 years in the making and that the other contributors must step up as well because this is an issue that will require the work of all Vermonters because it is an issue created by all Vermonters.
- was briefed about Dean Food suit by Attorney General's office
- attended Vermont Sheep and Goat Association meeting at the farm show
- spoke at the Future Farmers of America luncheon and helped give out awards
- spoke with the Food Funders who helped to fund Farm 2 Plate, urge patience on implementation
- met with agency heads on jobs bill at meeting at Agency of Commerce led by Sec Miller, agreed that some farm to plate and agricultural initiatives should appear in jobs bill – sends the right signal
- participated in political pull milking contest at farm show
- was interviewed by Mark Johnson at the farm show – agreed that helping sharpening dairy voice for national milk pricing policy at national level, using VT brand to penetrate the Boston/NY etc market place and begin to implement some Farm 2 Plate would be goal for his first year as Secretary
- spoke with grass based farmers at farm show
- spoke at dairy meeting at farm show
- attended dairy luncheon at farm show
- met with Lt Gov Scott and Sec Lawrence to discuss Farm 2 Plate implantation plan
- met with the VT Feed Dealers Association and underscored need to proactively address water quality
- met with Tim Hamilton Food Export USA
- traveled to Swanton with staff to meet with the Northern Lake Champlain Watershed Alliance led by Paul Madden and explain need to be proactive and work with all Vermonters on Lake Champlain
- met with staff to discuss Westminster slaughter house and approved of sending 2 inspectors to the plant on Monday morning and instructed the inspectors to notify the state police prior to their arrival to the plant

Major Themes of week:

- Water quality is an important and increasingly volatile issue, especially in light of VT's TMDL being disapproved by EPA
- Meat inspection and on farm slaughter are ongoing issues of interest especially as to the shortage of capacity at the commercial level and lack of rules or laws for expanded on farm slaughter
- dairy is not out of the woods and getting national policy change is going to be difficult
- farm 2 plate is highest profile initiative for agriculture development, followed closely by VT brand development

Status of the Dairy Industry – A comparison of key statistics is shown below.

CATEGORY	2007	2008	2009	1 ST Q AVE.	2 ND Q AVE.	3 RD Q AVE	OCT. 2010	NOV 2010	DEC 2010	JAN 2011
Ave. Milk Price	\$19.00	\$17.77	\$12.16	\$15.18	\$15.07	\$16.98	\$17.76	\$17.32	\$ 16.06	\$14.75 to \$15.50
CME Class III price	\$13.56	\$17.44	\$11.36	\$13.85	\$13.31	\$15.06	\$16.94	\$15.42	\$13.83	\$13.51
MILC Payment – USDA	\$0.01	\$0.00	\$1.15	\$0.00	\$0.07	\$0	\$0	\$0	\$0	\$0
Ave. USDA Cost of production (COP) feed per hundredweight (CWT)	\$10.79	\$12.10	\$11.13	\$10.29	\$9.92	\$9.79	\$9.84	\$10.34	\$10.22	N/A
Ave. USDA COP fuel, lube & electricity per cwt.	\$0.81	\$1.01	\$0.70	\$0.82	\$0.83	\$0.85	\$0.92	\$0.92	\$0.90	N/A
USDA Total Operating Costs per cwt.	\$14.47	\$15.97	\$14.67	\$13.91	\$13.53	\$13.52	\$13.73	\$13.94	\$13.89	N/A
# of VT Cow Dairy Farms	1,118	1,096	1,051	1,020	1,018	1,015	1,007	1,011	1,006	1,005
Milk Production from USDA	2.529 billion lbs.	2.575 billion lbs.	2.469 billion lbs.	206 million lbs.	217 million lbs.	209 million lbs.	206 million lbs.	203 million lbs.	214 million	N/A
Ave. # of cows in VT from USDA	140,000	140,000	135,000	134,333	136,670	138,333	139,000	138,000	135,000	N/A
Ave. # of cows/ farm	125	127	128	128	129	137	138	137	134	N/A
Certified Organic Cow Dairy Farms	199	199	204	198	198	194	193	194	194	201
Off-Farm Dairy Processors	29	29	27	26	26	29	30	30	30	30
On-Farm Dairy Processors	34	34	37	37	37	41	41	41	41	41

Status of the Dairy Industry – A comparison of key statistics is shown below.

CATEGORY	2007	2008	2009	2010
Ave. Milk Price	\$19.00	\$17.77	\$12.16	\$16.07
CME Class III price	\$13.56	\$17.44	\$11.36	\$14.41
MILC Payment – USDA	\$0.01	\$0.00	\$1.15	\$0.02
Ave. USDA Cost of production (COP) feed per hundredweight (CWT)	\$10.79	\$12.10	\$11.13	\$9.39
Ave. USDA COP fuel, lube & electricity per cwt.	\$0.81	\$1.01	\$0.70	\$0.85
USDA Total Operating Costs per cwt.	\$14.47	\$15.97	\$14.67	\$13.03
# of VT Cow Dairy Farms	1,118	1,096	1,051	1,015
Milk Production from USDA	2,529 billion lbs.	2,575 billion lbs.	2,469 billion lbs.	2,520 billion lbs.
Ave. # of cows in VT from USDA	140,000	140,000	135,000	137,000
Ave. # of cows/ farm	125	127	128	133
Certified Organic Cow Dairy Farms	199	199	204	196
Off-Farm Dairy Processors	29	29	27	28
On-Farm Dairy Processors	34	34	37	39

Memo



TO: Governor Peter Shumlin
FROM: Keith W. Flynn, Commissioner
DATE: January 28, 2011
SUBJECT: Governor's Report

Status of the Governor's Priorities

Decriminalization of marijuana – Awaiting draft of proposed legislation

Issue Update

Met with advocate counsel regarding issues related to the proposed decriminalization of marijuana bill.

Working on the consolidation plan for Rutland and Springfield Regional office to relocate to Ludlow area, if possible. We are working with BGS for location. We anticipate a savings of approximately 150-200K. This is an ongoing issue starting to hear feedback from the Rutland area.

Evolving Issues

Cost saving analysis structure. Review of methods to leverage existing Federal funding.

Agency/Department Requests

Legislative requests - NA

Division Requests: We have been working on an analysis of our current government processes and recommendations for improvements to manage the risk with our lack of consistency. Within the next several weeks, we would like the opportunity to present this analysis at your convenience.

Working on the consolidation plan for Rutland and Springfield Regional office to relocate to Ludlow area, if possible. We are working with BGS for location. We anticipate a savings of approximately 150-200K. This is an ongoing issue starting to hear feedback from the Rutland area.

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Memorandum

Vermont Department of Public Service

Privileged and Confidential

To: Hon. Peter Shumlin
From: Elizabeth H. Miller, Commissioner
Subject: Weekly Report
Date: January 28, 2011

Status of Governor Priorities: Broadband project launched. State Energy Plan planning process under development: stakeholder and internal meetings to develop framework of questions including post-Yankee generation mix and cost. Public process thereafter. Target for finalized SEP Oct 15, 2011.

Department continue close monitoring of VY tritium test results.

Legislative Issues/Contacts: Spoke with Senate Finance members regarding confirmation hearing. Sen. MacDonald very concerned about past relationship with Department and may raise at hearing. Spoke with Rep. Klein re: H. 56 – conversation re: provisions and economic impacts ongoing. Spoke with Sen. Campbell regarding broadband plans – further discussions likely early next week with Karen Marshall.

Press Issues/Releases/Contacts: Contact from Candy Page re: Lowell wind, requesting copy of DPS rebuttal testimony in support of project. Contact from Terri Hallenbeck regarding SEP timing and process.

Significant Meetings/Events: Ongoing contact with VY regarding tritium hits. Multiple contacts with utilities regarding Smart Grid/Broadband integration, including successful Board workshop on Monday in which CVPS announced intention to pursue VTEL option. Meeting with ISO regarding transmission issues post-VY and regarding non-transmission alternative planning. Meeting with WEC regarding 24% rate increase and other issues. Meeting with VTA regarding broadband plan. Meeting with CFO of Gaz Metro regarding investment in Vt Gas expansion and related issues.

Evolving Issues: VY – tritium levels and action plan for source of tritium in GZ24 and GZ6. Broadband: DPS is assisting with bill drafting on issues related to Department. Pole attachment rules still must be further developed and buy in must be achieved given significant obstacles in private sector on this issue. Energy plan: creating process to hit Oct 15 target date. Transmission: Met with ISO and interested in continued dialogue regarding transmission problems resulting from shutdown of VY.

Vt Gas: willing to do an expansion to Middlebury (first step to expansion toward Rutland). In discussions with DPS regarding possible development fund set aside from upcoming rate adjustment.

Summary of Key Department Activity, By Division:

Public Advocacy and Consumer Affairs:

Tritium investigation at VY – Docket 7600 – The DPS position is asking for the Board to require Entergy to fulfill all requirements of the Buried Pipe and Tank Inspection Program (BPTIP), the Ground Water Protection Initiative and the recommendations of the SR CRA. Two parties, NEC and CLF, have advocated in the past for shutting the plant down now because of the leaks. DPS does not know what these two groups will advocate for in the briefs. Recommended remedies can be problematic because of the preemption problems. Our recommended remedies go to reliability concerns.

HQ PPA Contract – Docket 7670 – The Department supports the contract except for the WEC suballocation agreement and Swanton's need for the power. To date the Department has not been supportive of enduring rate recovery because it flies in the face of past board precedent and traditional ratemaking. The third issue is whether the Board should approve provision of collateral over the entire term of the contract rather than in 5 year increment (per Board precedent, collateral for PPAs is usually limited to 5 years). Initial briefs are due on 2/18/11.

Kingdom Community Wind – Docket 7628 – Kingdom Community Wind – Docket 7628 – Technical hearings will commence on 2/2 and run for 12 days through month of February, schedule has been finalized. Significant opposition to project is being put forth by abutters, and neighboring towns. Also, ANR has identified numerous environmental problems with proposal. DPS has weighed factors in its jurisdiction in support of project.

CVPS Alternative Regulation II and Rate Filing – Docket 7627 & TF #8191 – CVPS had proposed amendments to its existing Alternative Regulation Plan (ARP) pending in Docket 7627. Pursuant to its ARP CV made a "base rate filing" on 11/1/10 for an increase of 7.46%. In late December the DPS reached a settlement of both matters, agreeing to an increase of 7.67% and to the ARP changes mainly as proposed by CVPS. The PSB issued an order allowing an increase of 7.46% and stating that the settlement would be considered at hearings already scheduled for Docket 7627. DPS supported the testimony at the hearing, and is now reviewing a draft brief to be filed jointly on February 1. The remaining issue between the parties concerns implementation of the settlement rates, specifically whether they would be retroactive to 1/1/11. The PSB has never allowed a retroactive rate increase, though the alternative regulation statute appears to allow the Board to do so. DPS expects that CV will lobby for DPS agreement to retroactivity.

Burlington Telecom – Docket 7044 – On January 25 the City of Burlington issued a report criticizing the audit of Burlington Telecom (BT) done for the DPS. DPS and its auditor believe that the City's critique misses the mark, and fails to invalidate the conclusions of the DPS's audit. Mayor Kiss is scheduled to meet with Commissioner Miller on February 1.

FairPoint Change of Control Proceeding – Docket No. 7599 – FairPoint's Plan of Reorganization ("Plan") was approved by the bankruptcy court on January 13, 2011. The effective date of the Plan is January 24, 2011.

FairPoint Alt Reg Successor Plan – No Docket No. – FairPoint's AFOR expires March 31, 2011. A meeting has been scheduled for February 4, 2011, at which Department and FairPoint staff will discuss a successor AFOR that hopefully will be mutually agreeable. The Department seeks to have a successor plan filed with the Board as soon as possible, in part, to possibly obviate the need for Senator Illuzi's deregulation bill.

Central Vermont Public Service Smart Power Plan Proceeding – Docket 7612 -

At the Board workshop on "intermediate network" issues, CVPS announced that it would be pursuing the VTEL solution which would leverage federal grant money to both entities, which will not only provide a capable communications link between customer meters and the utility, but will also promote deployment of broadband throughout Vermont. CVPS will file an amended business plan to reflect this approach. The Board and the Department were very supportive of this solution.

Beaver Wood Energy Biomass Plants- Fair Haven/Pownal –Dockets 7878/7679 -

Attorneys for all state agencies involved in these two dockets are meeting on 1/28 to discuss the various agency positions on whether the combined generation/manufacturing facility (biomass/wood pellet) should be permitted under a single Section 248 permit, or should be required to obtain a section 248 permit for the generation portion of the plant and an Act 250 permit for the manufacturing facility. The draft legal arguments by the Natural Resource Board lawyer opposing the elimination of Act 250 jurisdiction on the facility are very compelling. Briefs are due 2/7.

CVPS acquisition of VMPD—Docket 7660— The Department filed testimony in opposition to the Petition last week and emphasized that the purchase price of the hydros was far above CVPS's own analysis of their worth. The contract price for the hydros is \$32 million, but CVPS's analysis indicates that the hydros should be worth only approximately \$19 million. The Department left open a door in its testimony for settlement by indicating that an acquisition premium might appropriate if a utility could demonstrate that its purchase would either provide a benefit to ratepayers or promote the state's energy policy. In negotiations, CVPS has indicated a willingness to bring some of the above-market cost below the line to be borne solely by the shareholders. VMPD has indicated a willingness to reduce the price of the hydros to \$27.5 million, but only with a discount on its electric rate, which the Board is unlikely to allow. Discovery questions will be filed on Proctor and the Department on January 28 with responses due February 12. Technical hearings will take place the week of March 7, if no settlement is reached.

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

Petition of SunGen Sharon I, LLC for a CPG for a 2.2MW Solar Generating Facility in Sharon, Vermont – Docket No. 7700 - The proposed project will encompass 7.75 acres, some of which will be visible from Interstate 89. A prehearing conference was held January 26, 2011, and a schedule was established. Technical hearings are tentatively scheduled for May 6, 2011. The Department will require an aesthetics expert for this project which will be a billback to the developer.

Sovernet-Petition for ETC designation - Docket 7619 - Sovernet petitioned the Board for designation as an Eligible Telecommunications Carrier, which designation would entitle it to receive Federal Universal Support. The independent phone companies and FairPoint were granted intervenor status in the docket. Sovernet, the Department and the independent phone companies negotiated a settlement, which has been presented to the Board.

Southern Vermont Cable Company CPG Renewal - Docket 7633 - The Department has recommended that the CPG be renewed. SVCC and Brattleboro Community TV (BCTV) have been unable to reach an agreement regarding BCTV remaining the public access provider for the Southern Vermont service territory. Southern Vermont filed an amended petition to be recognized as a “small cable system” under the Board’s rule, which recognition would entitle it to more relaxed Public Access Obligations. BCTV objected to this approach and Southern Vermont has responded to these objections. The Department has taken the position that Southern Vermont should have the right to prove it can meet the community needs on its own.

Jeffersonville Cable CPG Renewal - Docket 7668 – The Department recommends renewal of the CPG. A Memorandum of Understanding between Jeffersonville and the Department, together with a proposed CPG and Findings of Fact, have been filed with the Board.

CVPS acquisition of Readsboro Electric—Docket 7688— Two years ago Readsboro voters failed to accept by an adequate margin an offer from CVPS to purchase Readsboro’s Electric Department. Last year, voters supported a proposal to solicit bids on the utility and sell it. CVPS again presented an offer to purchase Readsboro. The Department is reviewing the petition; it appears that CVPS has offered to pay approximately \$88,000 above net book value for the Transmission and Distribution System, and that provides some cause for concern. The deadline for motions to intervene is January 28; if no motions to intervene are filed, the parties will either file a stipulation or a proposed litigation schedule by February 4. It is likely that the parties will ask for an extension, if the Department cannot take its position in that tight timeframe.

Investigation into the Complaint of Mark Tucker Concerning Verizon Wireless' INpulse Prepaid Telephone Service Plan - Docket 7701 - After initially turning Tucker away based on a perceived lack of jurisdiction, the Board has opened an investigation citing the FCC's refusal to act. A prehearing conference, initially scheduled for 1/27, has been rescheduled at Verizon's request for 2/15. Verizon objects to any claim of jurisdiction by the Board and has asked that the matter be dismissed. The Department is analyzing the relevant rules and statutes in order to formulate its position and recommendation. This will be a major case for the wireless companies.

Request by Carl and Sherie Stariknok for service from CVPS—Docket 7697-- Petitioners in Reading want service at their camp from CVPS, who says that it cannot be provided on the Town's Right of Way. The power line will need to travel across the neighbor's property; CVPS would have to condemn an easement. The neighbor is Andrew Hall, who has a 2500 acre farm/estate and opposes the proposal on aesthetics grounds. The Department is in the process of investigating.

Commercial Building Codes Rulemaking—No Docket— The public hearing on the rule will take place on January 27, 2011.

Financing Petitions:

PSNH request for approval to issue new bonds for refinancing, to mortgage certain property, and to execute interest rate transactions—The Department is reviewing the request.

GMP request for up to \$45 million in First Mortgage Bonds with up to a \$15 million accordion feature—the Department is reviewing this request. Its recommendation is due on February 4.

Planning and Energy Resources:

Energy Efficiency Utility Demand Resources Plan (DRP) Proceeding:

- Electric EE Resource Track –
 - Efficiency Potential Assessment – Staff received draft final potential study and is reviewing.
- Non-Resource Acquisition Track – Staff met with VEIC regarding NRA track proposal. Staff received and began review of BED NRA track revised proposal

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

- Staff reviewed proposals under TAG for inclusion into the TRM, comments and queries passed onto EVT for resolution. This includes the following:
 - Continued discussion and review concerning snowmaking efficiency measures – specifically if and how projects should be treated prescriptively.
 - Review of proposed baselines for Injection Molding Machines. EVT has a number of potential projects related to this technology, the amount of incentive available is somewhat dependent on the determination of the appropriate baseline.
 - Review of a new Industrial Processes Project Proposal for implementation of efficiency measures

- Review of EVT's response to DPS concerns about their retro-commissioning proposal.

PSB Workshop to discuss certain elements of cost-effectiveness screening:

- Efficiency Vermont had initiated a workshop to discuss its proposal to adopt an interim value for "externalities" benefits and a "DRIPE" adjustment to be counted as a benefit in the societal cost-effectiveness efficiency measure screening tool.
- Department staff, along with Board staff, were concerned about adopting any interim value that had not been fully vetted, given the difficulties in developing values previously, the upcoming changes to overall avoided costs, and the relatively minor impact on Efficiency Vermont operations that making a change would have
- A workshop process was developed to further discuss the issues
- VEIC, despite its request for this workshop and a decision to be expedited, requested the next workshop not be held prior to March 15.

Misc:

- Staff continues evaluation of IBM's participation in the Self managed Energy Efficiency Program
- Staff approved EVT's plan for partnering with NeighborWorks of Western Vermont, in terms of allocating costs and savings. The partnership utilizes NeighborWorks innovative low-risk financing approach to make efficiency retrofits possible for low income households in Rutland County.
- Staff commented on GMP/ EVT's Energy Efficiency Fund plan for 2011. The plan proposes to provide incentives for LED street lighting.

EEU Evaluation:

- Staff continued development of EEU Evaluation Plan due Jan 31st.
- EE Market Characterization – Staff reviewed proposals in response to the energy efficiency market characterization and assessment study RFP's. This study will characterize and document Vermont's current appliance, equipment, lighting, HVAC, building shell and adherence to building energy codes in residential, commercial and industrial markets statewide.

Residential Building Energy Standards (RBES):

- Final rule documents have been filed with the Secretary of State and LCAR (Legislative Committee on Administrative Rules). LCAR has not yet set the hearing date for the final rule. If LCAR approves the rule at the hearing it will be adopted and an effective date will be set.

Clean Energy Development Fund:

- The CEDF Director testified in House Natural Resources & Energy Committee on the Omni-bus energy bill.
- The CEDF Director attended a "ribbon-cutting" event at Advance Transit celebrating their PV system that was one of the first Standard Offer PV project to come on line.
- Held monthly CED Board meeting

- The final draft of the Annual Legislative report was approved.
- Staff drafted initial work plan and action items for public involvement process for the Comprehensive Energy Plan and began review of plan for revisions.
- Processed a \$1,398 invoice from Northwoods Stewardship Center in East Charleston for their small hydro project.

ARRA:

- Quarterly reporting (including program metric and narrative information) and annual National Historic Preservation report has been completed and submitted to DOE.
- Staff finalized guidance document for apprentice wage determination under Davis Bacon with input from VT DOL Apprenticeship Program.

Energy Efficiency and Conservation Grant Program (EECBG):

- The All-Fuels program funded under EECBG has reported beginning construction on their first project this quarter (an 8-building scattered-site project). CVCAC also continues to increase staff to assist with this program. They held a statewide meeting with VHCB, housing partners, and Weatherization Program energy auditors to launch the next set of projects, review successes and challenges, and lessons learned since the first meeting last fall. The requirements of this contract have necessitated significant lead time to implement.
- Worked with the Town of Middlesex to develop draft concept for revised financial incentive program option.
- The Village of Morrisville Water & Light's EECBG agreement was executed for \$38,307 to replace streetlights with Beta LED luminaries in the center of the Village and on main arteries leading to the center. In addition to saving energy, the new lights create a better light distribution and are Dark Sky compliant.
- Two EECBG invoices totaling \$44,400 were paid to the Town of Townsend for their retrofit project which entails a total thermal transformation of their historic 1921 building. The final work on the project will be completed in the spring. The project will save the town 1,570 gallons of fuel or \$5,000 per year and will reduce emissions by 35,200 per year.
- The final payment of \$1,102.40 was paid for Highgate Elementary School's EECBG Interior Lighting project. The project will save 85,000 kWh per year which creates a Co2 emissions savings of 86,100 per year and a cost savings to the school of \$8,500 per year!
- Assisted Town of Plainfield, Town of East Montpelier, Town of Charlotte and Randolph Union High School with revised scope of work/budget challenges.
- Assisted BFA St. Albans, Harwood Union High School, Warren Elementary School, Waitsfield Elementary School, Underhill Central School and Mt Mansfield Union High School with final grant reporting requirements, including completion of property close-out certifications.
- Working with Town of Sharon, Town of Corinth, Town of Shaftsbury, Town of Granville, West Rutland School and Woodbury Elementary School to resolve invoicing problems and Davis-Bacon issues.
- Processed \$50,000 final invoice for BFA St. Albans who completed their HVAC retrofit at the Collins Perley Campus.

State Energy Program (SEP):

- Completed SEP invoice template revisions and sent out to grantees to assist with submitting and processing of invoices.
- Spending plan workbook was updated for DOE.
- We paid about \$7,898 for the VT Sustainable Jobs Fund Energy Atlas work

Appliance Rebate Program:

- Efficiency Vermont is currently in the process of planning for the re-launch of the ARRA funded SEEARP in Vermont, and the disbursement of the remaining funds (approximately \$100,000). A re-launch date has yet to be selected, but Efficiency Vermont is looking to leverage an existing event, and the resources that may already be planned for an existing event. Towards this end, Earth Day 2011 is a likely candidate for the re-launch.

Sustainable Energy For Homes & Business Project (Sanders DOE Earmark):

- Completed quarterly report and submitted to DOE.
- Worked with DOE and Housing VT to obtain approval for the second of four solar hot water systems; hope to have resolution by end of week.
- Processed invoice from Camel's Hump Middle School for 116 kW PV project for \$153,798.86.
- Reviewed invoice and budget from VTC for pellet boiler project.

Telecom:

Legislative hearings – Senate hearings with various service providers with significant plans for the next construction season have focused on whether there has been sufficient coordination between these operators and the owners of the poles on which they will be attached. While the providers have generally presented positive remarks, CVPS's remarks seem apropos: The sooner the attaching entities submit their plans and attachment requests, the better the pole owners will be able to respond.

Smartgrid Intermediate Network Interim Solution – GIS analysis performed by the Department suggests that approximately 94% of the AMI collector points proposed for CVPS and GMP can be reached by existing high-speed networks. This indicates that these networks will likely be able to provide service adequate to support the demands of the smartgrid network, at least until a long term solution comes into place.

Smartgrid Intermediate network – CVPS and GMP have decided to negotiate to partner with VTEL to improve the VTEL network such that it will reach all 700 collector points. With this capital infusion, the VTEL network would be more robust and have a wider reach than it would have without it.

Smart Grid "Technical Capabilities" to support Real-time pricing – The Board held a workshop in which the Department and the utilities discussed the technical capabilities that the smartgrid

networks should have in order to support real-time pricing tariff plans. The Department had offered a set of Functional Requirements in October, and had previously suggested that these be considered for inclusion in the list of mandatory requirements. Subsequent to the workshop, Department representatives have been working with select utility personnel on revising these as “Desired Technical Capabilities”.

Vermont Broadband Consortium - DPS and VTA are continuing to move forward with the content pieces of the website. It appears that the web site may be available for Beta testing by select individuals today. Comment will be sought from providers and CAPI among other interested groups. The Disclaimer language appears to be resolved with one exception. There is a blank in the text that calls for insertion of the name of the Copyright agent. It is not clear who this is but the contract attorney relates that it must be someone who is registered with the Copyright office in Washington, DC. VCGI is trying to determine who that might be or if the clause is needed in the Disclaimer.

BMI Data Collection – All Vermont providers have been contacted by e-mail, telephone or USPS asking for their assistance in updating the map to December 31, 2010. The responses have begun to come in.

VCRD e-Vermont – Additional calculations were requested of DPS in order to file additional material with the federal government on the VCRD grant. Requested were statewide penetration rates for commencement of the study and for the last available data request as well as a percentage of change over the course of the project (to date). These calculations were done and provided to VCRD.

CAPI Assist – Assisted CAPI with an AG inquiry about Telecom penetration rates and with understanding a toll fraud issue using PBX

Docket 7701 – Discussed this case with Legal and scheduled PreHearing in Calendar

FCC Tracking – The FCC issued an Order this week that deviates from their normal technological neutral stance. Having established the National Public Safety network in the 700 Mhz band, this Order now requires the use of LTE as the technology needed to use the network. This was done on the grounds of interoperability and with the urging of many public safety agencies. The Order also stays some of the public/private mandate rules. Additionally, The FCC issued a FNPRM in this arena which seeks comment on (among other things) network robustness and architecture as well as Security and interconnectivity without interference.

Engineering:

Inter-Regional Interchange Scheduling (IRIS): ISO-NE and NY-ISO have initiated stakeholder discussions to modify market rules to allow for better scheduling of energy across the interface. Several informational meetings are scheduled among NE and NY stakeholders that will lead to a joint design basis document for future implementation. Research revealed that if more optimized scheduling were implemented from 2006-2010 “there may have been as much as \$750M in

savings” in the region. Incremental improvements have already been made. Each of the additional modifications being considered improves market transparency by signaling stakeholders when to act and thereby improving market efficiency.

- a. New RT Inter-Regional Interchange System (IRIS). Two design options for real-time interface scheduling are being offered:
 - Tie Optimization (TO)
 - Coordinated Transaction Scheduling (CTS)
- b. Other improvements:
 - Higher-frequency schedule changes (15 min)
 - Eliminate fees on external transactions
 - Enhance the DA market and provide:
 - Congestion pricing (DA & RT) at external nodes
 - FTRs at external interfaces (NY/NE)

The Potomac Economics – the External Market Monitor that serves both NE and NY, made the presentation about the inefficiencies associated with the current market structure. Today, without appropriate signals, interface transactions are not flowing from the low cost to high cost LMP’s. His review indicated, most of the time transactions are going the wrong direction. Preliminary estimates are that this software application effort would cost around \$2-3M and yield a \$17-20M annually savings as a result of a more efficient energy dispatch.

Washington Electric Cooperative (WEC) Smart Grid: WEC reported they have received DOE approval for cofounding their Smart Grid effort which includes advance metering infrastructure (AMI) and meter data management system (MDMS). WEC informed the Department of their powerline carrier (PLC) solution for AMI, instead of the radio frequency (RF) solution chosen by CVPS and GMP. PLC is the same approach that VEC chose. A detailed review will be scheduled in the near future. WEC has been asked to provide an overview of the PLC technology and confirm it meets the core functionality the parties have agreed too. We will also review their business case for the PLC versus RF technologies. The recent choice by CVPS and GMP to pursue intermediate backhaul through VTEL will also be considered as we evaluate WEC’s AMI plans. WEC’s has requested the Department’s support but has not expressed an interest in requesting an MOU.

Vermont Yankee Operation: The Vermont Yankee nuclear station operated at 100% power with no known operational issues. We are monitoring with DOH new tritium level hits on monitoring wells and are also awaiting reports on the SRV failures.

Since December 2010, VY has been overseeing warranty repair work on the cooling towers performed by contractor Midwest Towers Inc (MTI). In 2008, work by MTI was deficient when they replaced wood columns with fiberglass reinforced elements. Additional maintenance work on the cooling towers involving the repair of a large header pipe will begin in February. Work includes the permanent repair of a crack that was discovered in the spring of 2010 and was fitted with a temporary patch. The integrity of the cooling towers affects the reliability of the nuclear station to generate electricity and is monitored by the Department.

Underground Facility Damage Prevention Program (Dig Safe): Dig Safe is designed to protect underground utility facilities from damage caused by excavation activity, ensure continued utility service and promote public safety related to utility damage incidents. The Department performs various duties related to education and enforcement of the Program, which is described in 30 V.S.A. §7001-7008 and Public Service Board Rules 3.800.

To allow activity during the winter months the Pipeline and Hazardous Materials Safety Administration (PHMSA) has agreed to extend the allowable performance period of the Federal grant related to the Vermont Dig Safe Program through April. The Department retains a contractor to investigate alleged Dig Safe violations and engage with stakeholder groups about Dig Safe. Historically, these activities have been suspended during the first quarter of the calendar year because of the lag in PMHSA funding. The change will enable program activities to continue without a disruption caused by funding uncertainty. We believe this will improve our performance related to education, outreach and enforcement.

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State of Vermont...

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

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

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

www.bishca.state.vt.us

Memo from Commissioner Steve Kimbell

CONFIDENTIAL AND PRIVILEGED – NO SHARING Report to the Governor for Week Ending 01/28/2011

Governor's Priorities

Single-payer: John Franco retained to assist Robin Lunge and Anya Rader with legal research, advice and analysis in support of the initiative.

Continuing efforts to increase efficiency of regulation and accessibility/responsiveness to regulated community.

Evolving Issues

(Captives) Company Seized: The Department seized US Rail RRG due to insolvency (less than minimum capital level). Company insured short line railroads in most states, expect to be able to pay all claims and return remainder to shareholders.

(Insurance) New Deputy: Susan Donegan hired and starts as Deputy 2/14.

(Insurance) AIG Settlement: National settlement reviewed, VT will be joining ultimately resulting in revenue to state of approx. \$500K.

(General Counsel's Office): Continuing research support for single-payer initiative. Beth Novotny hired as Assistant General Counsel; Judy Henkin arrives on 1/31 as Assistant General Counsel.

Issue Updates

Legislative

Housekeeping bill for all Divisions to be submitted shortly.

General Information

To Do

Richards, Alyson

From: Gaidys, Maureen
Sent: Friday, January 28, 2011 3:42 PM
To: Richards, Alyson
Cc: 'sbe@list.education.state.vt.us'
Subject: Commissioner Vilaseca's Weekly Report

To: Governor Peter Shumlin
Cc: State Board of Education
From: Armando Vilaseca, Commissioner
Re: Commissioner's Weekly Report
Date: January 28, 2010

Addison Rutland S: Vaughn Altemus and I attended a meeting of the Addison Rutland SU Board and community members to talk about Act 153 and virtual mergers. Following our discussion, those in attendance had a more in-depth understanding of the law and an appreciation for the benefits to be derived, for the supervisory union and for their students.

Franklin Northwest SU: On Thursday I visited the Franklin Northwest Supervisory Union to present them with the Colin Powell *America's Promise* Award, given annually to 50 communities nationally for their efforts to provide supports to children outside of school. Representatives also attended on behalf of Senators Leahy and Sanders.

Fred Tuttle Middle School, South Burlington: This morning I participated in the Tuttle School's SBNN show. SBNN is a student run television network in the South Burlington system. Today's topic focused on preventing exploitation of young children and young adults. This show can also be viewed on *YouTube*.

Adherence to statutes and regulations: We continue to struggle with insuring that schools and districts are following statutes and regulations. A particular example is the refusal of several districts to comply with the required truancy policy. You may hear more from us about this.

Concord School District: Next week, I will be visiting the Concord School to meet with administrators and tour the school. We continue to receive complaints about the school and I will be meeting with them directly to gather information and address concerns.

FY 2012 Budget: On Thursday, I presented the Board/Department's FY 2012 budget to the House Appropriations Committee.

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.

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Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin

FROM: Secretary Jeb Spaulding

DATE: January 28, 2011

SUBJECT: Confidential Report to the Governor

STATUS OF GOVERNOR'S PRIORITIES:

- **Connect VT:** Karen Marshall appointed Chief of Connect VT. She starts on payroll January 31st.
- **DII Commissioner/CIO:** Job description is complete and available upon request. Recruitment process, with advertising, to begin the week of January 31st.
- **BGS Priorities:** Governor's priorities intact.
 - Space utilization project and energy efficiency in staff analysis and recommendation phase.
 - BGS met with Speaker Smith regarding his 20% energy reduction challenge with Lt. Gov Scott in attendance. Tony Klein has been invited to all energy related meetings.
 - Two year Capital Bill may have problems. Two year authorization and appropriation, absence of 15 bed State Hospital and Shelburne Museum match.
 - BGS continues to meet with Montpelier City regarding the district heating initiative.
 - Working on Governor's request for windows that open in 5th floor office.
- **Workforce Diversity and Equity:** DHR Commissioner Duffy attended the annual retreat of the Governor's Workforce Equity and Diversity Council. The Council reviewed accomplishments from the prior year, and set a course for the upcoming year. The Council reaffirmed its commitment to increasing ethnic and racial minorities in the state workforce, discussed barriers to recruitment and retention, and created an agenda for the coming year to improve the

recruitment and retention of racial and ethnic minorities. At present, there are four vacancies on the Council, which the Council would like to fill as soon as possible. Commissioner Duffy will reach out to state and community leaders to request that they apply to be appointed by the Governor to the Council.

- **Vermont Yankee:** Tax Commissioner Peterson and Susan Messner are exploring taxation/revenue issues related to the anticipated closure of VY. The work is being coordinated with the DPS and ANR, with a preliminary report possible late this week or early next.
- **Possible Credit for Education Debt:** Commissioner Peterson and Ken Jones are exploring the idea advanced by the Governor in the Budget Address for a sustainable, meaningful initiative to enable/incentivize a younger cohort to live in Vermont. We intend to tap into the knowledge base of those involved in higher ed, finance, workforce development and build on ideas from previous work such as Next Gen and Futures Commission.
- **Misc. Tax:** Tax Commissioner Peterson and Molly Bachman gave as final presentation of the department's draft to Secretary Spaulding, and will present the bill to Ways & Means on Friday. The bill includes a provision for limiting the sales tax on entertainment tickets sold by non-profits, which tracks closely to language in a draft legislative bill, with the Dept's revisions for clarity. Other highlights include composite filings for certain S Corps and LLCs with numerous non-resident investors, a more favorable rule for manufacturers on sales tax for packaging, reauthorization of the fuel gross receipts tax for weatherization, and a fix to last year's Cigar tax (which does meet a request by the Grocers). Tax did not include provisions on Current Use and 529 Plans.

EVOLVING ISSUES:

- **BGS Issue Updates:**
 - The possible participation of Green Mountain Power Corp and IBM in energy efficiency efforts.
 - The possibility of generating electricity for the Montpelier complex's use via the boiler upgrades.
 - The boiler upgrades associated with the Montpelier district heating project.
 - Met with Mayor Louras and Board chair Allaire regarding the Rutland Parking Garage, Bloomer Building as well as 62 Pierpoint Avenue.
- **Netting of Household Income:** Tax Preparers made spirited presentations to Ways and Means as well as Senate Finance on this issue, and Senator Cummings indicated to Commissioner Peterson that her Committee intends to address this – the Tax Dept. continues to work on this.

EVOLVING ISSUES:

- **IT Concerns:** I-TOP and PeopleSoft projects have both identified staff resources as a concern. PeopleSoft Steering Committee meets Thursday 27th so I hope to have more information. I-TOP is looking to re-launch as Administration suggested and may be requesting a memo or meeting to do just that.

- **Employee Cost Savings Proposals:** DHR Commissioner Duffy has reviewed the status of the state's cost savings incentive program, which is designed to encourage state employees to submit cost saving ideas to agencies and departments for their consideration. DHR is aware of only a few proposals, none of which have been implemented. Therefore, DHR is taking steps to increase awareness of the program and encourage state employees to submit proposals. DHR will also provide greater support to agencies and departments in evaluating and implementing proposals. In particular, the Commissioner will send information on the program to agency secretaries, commissioners and business managers to encourage them to publicize and promote the program. DHR will also feature the program on its website.

ISSUES UPDATES:

- **FY 2012 Governors Budget:** Commissioner Jim Reardon, Deputy Sue Zeller, Budget Director Matt Riven and the Budget and Management analysts finalized the FY 2012 Governor's Recommend Budget submission in support of the Governor's Budget Address. The budget data from the Budget Development System (BDS) was transmitted to the Joint Fiscal Office to load into JFO's Budget Tracking System. One goal for the proposed new Budget System is the system capabilities to allow automatic generation for the majority of the spreadsheets, charts, tables and graphs that are now created manually for the Executive Budget Recommendations Summary (a.k.a. "Little Budget Book"). This would alleviate a portion of the closing hours' crunch and ensure accuracy.
- **Budget Testimony:** The Budget Analysts continue to monitor agencies' and departments' FY 2012 Budget testimony before both Appropriations Committees and committees of jurisdiction, such as Transportation and Institutions. This monitoring will continue throughout the legislative session.
- **Unified Economic Budget (UEDB):** Deputy Commissioner Zeller is now working on the next major report submission for Budget and Management – the Unified Economic Budget (UEDB). The UEDB is not actually a "budget" – rather it is a multi-year look-back at programs and grants determined to be part of the State's overall economic development efforts. This report is consolidated by Budget and Management from submissions from agencies and departments across state government. Performance measures, such as departments were able to provide, were included for the first time last year.
- **Press Interview on Challenges for Change:** Commissioner Reardon and Deputy Zeller met with Peter Hirschfeld, of the Vermont Press Bureau this morning about Challenges for Change. The discussion was about the impact of Challenges in the FY 2011 Budget Adjustment and FY 2012 Budget. He will likely be speaking with Human Services Deputy Secretary Patrick Flood and Senator Diane Snelling next.
- **Vermont FiberConnect Broadband Project:** The Department of Libraries is a partner in this federal stimulus project (Vermont Telecommunications Authority/VTA and Sovernet) that will bring fiber optic connectivity to over 300 "community anchor institutions" including 53 public libraries. Libraries received a \$550,000 grant from the Bill & Melinda Gates Foundation to support this project.
 - The AG's office is currently reviewing a draft MOU from Libraries to the VTA to ensure that the fiber connection reaches all 53 libraries before the end of 2013.

- This week Libraries will finalize a contract with E-Rate Elite, Inc. a MD firm that will work with these 53 libraries to do required filings to receive 2011 federal E-Rate discounts (funded by the Gates Foundation).
- Chris Campbell (VTA) supports my goal to create a Wide Area Network (WAN) that connects these 53 libraries with one another and with our department. The network would operate in a fashion similar to our current state network with state funding supporting the costs of internet service for connected public libraries. This week Marty Reid will contact: Ruthann Sullivan (CIO), Lawrence Miller (Commerce) and Susan Bartlett to discuss this idea and to share with them her vision for services to Vermonters via public libraries that offer high-speed, high-capacity broadband.

AGENCY/DEPARTMENT REQUESTS:

- **DPS Fire Safety:** DPS Fire Safety wants to consolidate Springfield and Rutland offices in Ludlow, saving \$200,000. Rutland City objects to the move.
- **Research Lab:** BGS indicates AOT wants the search in Barre for materials research lab space taken off the back burner.
- **Public Records Officer** - Department of Information and Innovation Public Records Officer renewed Heather Matott.
- **VTA Meeting:** DII's Ruthann Sullivan is meeting with VTA's Chris Campbell regarding the Libraries WAN request this Friday, January 28th.

LEGISLATIVE CONTACTS:

- **Finance Testimony:** Commissioner Reardon testifies before the legislative "money" committee – Senate Finance – on the FY 2012 Governor's Recommended Budget submission later today. He has already testified before both the House and Senate Appropriations Committees.
- **Libraries Testimony:**
 - House Approps: Friday, 1/28 - 1:30 pm
 - Senate Approps: Tuesday, February, 2/1 – 4:30 pm
- **BGS Testimony:** BGS briefed House and Senate Institutions and Appropriations committees on the Capital Bill. Prior to those briefings, they briefed chairs and vice chairs Tuesday morning. BGS is trying to be responsive to legislative request.
- **DII Testimony:**
 - January 27 - scheduled to testify at Senate Judiciary Committee - Senator Lucenti wants to discuss Corrections IT concerns. Angela Rouelle, AHS CIO and Pat Flood, AHS Deputy Secretary are invited in addition to Ruthann Sullivan.
 - January 27 - House Corrections and Institutions requested Ruthann Sullivan speak to the group about the IT projects as it relates to the Capital Construction budget (FY'11). They would like to know what has and has not been spent to date. Ruthann has asked the following to attend as subject matter experts on the initiatives in question.

Angela Rouelle, CIO AHS
Patrick Flood, Deputy Sec for AHS
Darwin Thompson, Director PMO, DII
Chris Campbell, Executive Director VTA

- January 27 - House Corrections and Institutions regarding Financing options Summer Study with Jim Reardon.
- January 31 - House Appropriations to testify on the DII budget for 2012.
- February 2 - Senate Appropriations (tentative on Paul Rousseau currently) to testify on the DII budget for 2012.

- **DHR Testimony:**

- Commissioner Duffy testified before the House Appropriations Committee on the Department's FY12 budget. The testimony went well. The Commissioner has a meeting scheduled with Representative Winters, DHR's liaison to the House Appropriations Committee, to discuss DHR's proposed FY12 budget. The Commissioner will also respond to a few outstanding requests from the Committee for additional information.
- Commissioner Duffy is scheduled to appear before the Senate Appropriations Committee on the FY12 budget on February 1, 2011.

IDEAS:

- **Move of Prisoners and Parent/Child Visitation – (Governor's Budget Address):** Any planning for a parent/child visitation center(s) for prisoners must include a library with children's books and realia (e.g. puppets) that encourages conversation, bonding, and rewarding experiences between parents and their children. The Special Services Unit (located at the Midstate Library Service Center in Berlin) provides library materials to six state institutions, but does not currently work with any of the correctional centers. State Librarian Marty Reid would like to propose that Libraries (working with the Department of Corrections and others) assist in making sure that library materials are available to parents who will be visiting with children in correctional institutions. 22 VSA 605 (6) gives the department responsibility for "all libraries in state correctional and all state institutions." She will direct their Special Services Librarian (who will be out for the next couple of weeks on medical leave) to determine current status of library services available to inmates. She is trying to track down research that may show that child reading rates can be an early predictor of the necessary number of prison beds. *Who should she speak with concerning this issue? Susan Bartlett? Commissioner Pallito?*
- **BGS Ideas:**
 - You and the Governor should consider attending a Dem caucus dinner for private, off the record conversation regarding the budgets and possibly health care. The dinner is scheduled for February 22nd.
 - Establish a VT talent fund to capture for State service below market rate, talented individuals who are presently under or unemployed.

GENERAL INFORMATION/OTHER:

- **Dental Program:** Based upon the financial status of the dental program, at the end of last year DHR put into place a dental premium holiday. Unfortunately, that premium holiday was only reflected in executive branch employees' salaries, and legislative and judicial branch employees were not credited for the premium holiday. DHR is correcting this oversight and will provide notice to individuals to explain the credit they will soon see in their paychecks.
- **DII Mainframe:** Sunday Jan 23 the MIPS (million instructions per second) threshold was increased by 20,000 to support increased caseload by DCFS. Laurie Sabens reports her customers are indicating increased performance and are happy. Joe Ng reported the real test will be the processing load requirements on month end – Feb 1st. This weekend the DII Mainframe is scheduled for an operating system upgrade. Customers have been notified, Footprint ticket 34735 is in place.
- **Web Portal Board:** Web Portal appointments have started to flow in. DII's Harry Bell would like to meet with Sec. of Admin representative(s) in order to review the history of the board and prepare new members prior to the first board meeting anticipated for mid to late February.
- **IT Space at National Life:** Space planning at National Life is continuing along. FYI – 2900 sq feet at \$15.57.
- **Early Literacy Initiative:** The Vermont Public Library Foundation, a non-profit administered by the Department of Libraries (22 VSA 610), includes monies in the Winnie Belle Learned Fund for grants to public libraries to support services to children and teens. The fund was created and funded by Dr. Burnett Rawson, a retired physician who lives in Essex. Libraries will announce the 2011 competitive grant awards in February. In 2010 Libraries launched an Early Literacy Initiative (funded by the Winnie Belle Learned Fund) to train public librarians to use specific techniques in library story time programs that support the early adoption of literacy and pre-reading skills for participating children, and to teach/model these techniques for parents and childcare providers. Next Monday Marty Reid will attend the Pre-K-16 Council meeting to learn about their work and will provide Council members with information about their project. She would like to encourage the Governor to remember the important role of public libraries in early literacy. Reid recognizes that for many children and parents, the local public library is the first place where they make connection with books and information about the importance of reading aloud and early language development. Vermont has 183 public libraries that offer free access to books and programs for young children. Reid believes that the Department of Libraries, representing Vermont's public libraries, must be part of any discussion and planning that takes place about pre-K learning in Vermont.

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: January 28, 2011

Vermont Department of Health (VDH)

Legislative Issues/Contacts:

H. 99, an act relating to vital records, is one of VDH's key legislative initiatives this year

- It has been referred to House Government Operations
- Committee has invited VDH to testify on the bill on 2/2/11
- Sponsor Rep. Lippert has expressed strong interest in seeing this bill pass

Status of Governor's Priorities

Entergy Vermont Yankee. The Department of Health was notified on January 21st by Entergy Vermont Yankee officials that another groundwater monitoring well is contaminated with tritium. The source of this tritium contamination is not yet known; however, the presence of tritium in the well points to either a completely new source of groundwater contamination on-site or a very significant new force on tritium-contaminated groundwater that allows movement of the plume. Entergy is sampling this well daily and VDH has requested split samples for independent analysis. VDH also submitted a formal request to Entergy pursuant to the VDH Radiological Health Rule that Entergy provide daily reports of results of Entergy's groundwater monitoring activities to assure that we receive the information as soon as it is available. Full reports of VDH independent monitoring of the tritium leak at Vermont Yankee are posted on the VDH website.

Evolving Issues

Influenza Update. Vermont reported geographically "widespread" influenza activity to the Centers for Disease Control & Prevention (CDC) for the week ending January 22nd. One institutional outbreak was reported. The Vermont Department of Health Laboratory has confirmed influenza A (seasonal H3 and 2009 H1N1) and influenza B in specimens submitted by medical providers in the Vermont sentinel flu network and the Early Aberration Reporting System hospitals.

Cortina Inn. The Cortina Inn (Mendon) was issued a food establishment license to operate the kitchen and restaurant on January 21st. A 60 day temporary lodging license was issued on December 29, 2010 to operate a portion of the building where the heating and water systems have been replaced, the rooms have been renovated, and pre-opening water sampling results were acceptable. The pool and spa remain closed to the public at this time.

Department of Mental Health (DMH)

Legislative Issues/Contacts:

Vermont State Hospital. Speaker Smith and Representative Fisher toured the Vermont State Hospital (VSH). I believe Representative Fisher's goal was to have the Speaker see the facility so he will have an urgency about moving forward with some type of replacement. The Speaker is appreciative of the hold on the secure facility and agreed with the idea of having a plan for the replacement of all of the VSH beds before moving forward with a partial plan.

We met with Representative Johnson to review the DMH budget. The main issues of concern are:

- Budgeting for recertification for VSH; and
- The impact of the cuts to the community mental health system

Press Issues/Releases/Contacts:

WCAX Channel 3. Commissioner Oliver was interviewed by Channel 3 regarding the budget cuts to the community mental health system. She attempted to stress that we are continuing to work with the Designated Agencies to find additional funding sources (ex. Health Information Technology Funds) and that they are interested in continuing these conversations. The main point they used for the broadcast were that we know these cuts will affect Vermonters and our goal is to spread the cuts wide enough so that the impact to any particular individual can be minimized.

Evolving Issues:

General Information – Substance Abuse and Mental Health Administration (SAMHSA) Grant. DMH received an Employment Development Initiative grant from SAMHSA for \$100,000. Vermont was one of nine states to receive this grant opportunity. The purpose of the grant is to enhance the use of Evidence-Based Supported Employment (SE) for adults with serious mental illness at Vermont's ten Designated Agencies (DA's) by increasing the degree to which non-employment staff (e.g. case managers) support and refer their clients to SE services and increasing integration of SE programming and employment outcomes within these teams.

Department of Disabilities, Aging and Independent Living (DAIL)

Legislative Issues/Contacts:

Commissioner Wehry spoke with Senator Kitchell regarding the recipients of DS known as High School Grad in FY11 BAA. She assured her there was no change from previous years and that our budget would cover this group.

Press Issues/Releases/Contacts:

Here is an excerpt from a press website known as VT Digger. It is typical of the feedback we are getting from the advocacy community at large.

Though the Shumlin administration has eliminated the freeze, officials want to cut about \$2 million worth of General Fund support for services to seniors. In so doing, the state would lose about \$3 million in federal matching funds. In all, seniors would be out \$5 million worth of services, according to Michael Sirotkin, a partner in Sirotkin and Necrason, a lobbying firm that represents the Community of Vermont Elders.

The cuts include a \$1 million General Fund reduction in services for seniors who are having trouble taking care of household chores. The idea is that if the state pays for assistance, such as grocery shopping, snow shoveling and housecleaning, elderly Vermonters will be able to stay in their homes longer. Under Shumlin's plan those services will be cut in half. Another \$1 million in General Fund money would be cut from respite programs for families.

Both programs help the state save money. Nursing home stays cost about \$70,000 a year. Home-based services, on the other hand, which includes some light nursing care, costs about \$30,000 a year.

Sirotkin says on average the cuts amount to about \$2,000 worth of services to Vermonters in the program, many of whom live alone on incomes of \$1,000 per month. About 2,500 elderly residents of the state rely on Choices for Care.

"All the fears we have had about statements of protecting the most vulnerable citizens turning into platitudes, are now being realized," Sirotkin wrote in an e-mail. "Seniors and the disabled on our low-income long term care program are our most vulnerable citizens — needing assistance with such things as toileting, bathing, dressing and feeding themselves. What is being proposed in the new budget are dramatic, if not draconian, cuts to the supportive services that allow our seniors and persons with disabilities to remain in their homes and communities and not be forced into nursing homes."

Sirotkin said the proposed cuts "flies straight in the face of the Choices for Care Waiver itself." He said the point of the program was to provide elderly Vermonters a choice to stay at home if they wanted to. He said the "short sightedness" of the proposal will "clearly result in more folks needing institutional care."

"Clearly the promises made under this program by the legislature and past Administrations to reinvest savings from reduced nursing home admissions back in the community has been dishonored," Sirotkin wrote. "The program has withered over the past few years with suspensions of new admissions to half the program. The cuts now being proposed add insult to injury."

http://vtdigger.org/2011/01/27/digger-tidbits-dentists-blindsided-by-tax-seniors-see-budget-cuts-battle-of-the-wilderness-is-over-photo-op-goes-to-the-dogs/?utm_source=twitterfeed&utm_medium=twitter

Here are Susan Wehry's comments to the article:

- 1) Overstates the problem
 - a. Seniors will not be left without any assistance, just some less for activities such as snow shoveling – there are other service supports for such activities through the United way. We'll be looking for ways to mitigate the impact on a case by case basis
 - b. There is no evidence to suggest this will result in more seniors going into nursing homes.

- 2) Misrepresents the problem: Activities such as bathing, dressing and eating are considered basic activities of daily living (ADLs), not instrumental activities of daily living (IADLs) and are not affected by this proposed cut.

Evolving Issues:

One of the retired state police investigators hired for APS has already resigned saying the work is “too complex and challenging”.

Department of Corrections (DOC)

Legislative Issues/Contacts:

Deputy Commissioner Lisa Menard testified before the House Committee on Institutions and Corrections regarding outcomes of Challenges for Change.

Deputy Commissioner Menard also testified before the Senate Committee on Judiciary regarding DOCs Facts and Figures.

Community High school of Vermont Director Wilhelmina Picard will testify in front of House Committee on Institutions and Corrections on the CHSVT annual report.

Press Issues/Releases/Contacts:

Former Probation and Parole Officer Charged with Sexual Exploitation of an Inmate. Steve Hoke, a former Probation Officer was charged this week with Sexual Exploration of an inmate. Mr. Hoke, a 35+ year employee with the DOC, retired in December 2010, immediately after being placed under investigation. The DOC was alerted by the alleged victim in late December and immediately began an investigation. Upon Mr. Hoke’s retirement, the DOC turned over all relevant information to the Vermont State Police.

Mark Hulett Released. Inmate Mark Hulett was released this week on Conditional Re-entry/Electronic Monitoring. He will reside in Waltham. Hulett was convicted in January 2006 for Aggravated Sexual Assault; he received a sentence of 3 years to 10 years.

Armed Robbery. Inmate Michael Haines and Timothy Bentley were arrested this week as suspects of the bank robbery in Georgia. They were both on Conditional Re-entry. Haines was on Escape Status resulting from his removal of his Electronic Monitoring equipment. Haines was serving a sentence of 75 days to 10 years 9 month 77 days for Sale of Regulated Drugs; Operating Vehicle w/o Consent; Grossly Negligent Operation of Vehicle; Grand Larceny; Escape; Attempting to Elude; and Resisting Arrest – these charges date back to 2004. He is due to max out these charges in August of 2011. Bentley was serving a sentence of 0 days to 7 years 12 months; 120 days for Retail Theft; Driving License Suspended; Attempting to elude; Violation of Conditions of Release – these changes date back to 2008. He is due to max out these changes in July 2015.

High Risk Offender Maxing out his Sentence. Inmate Christopher Shaimas was convicted on January 5, 1995 for Sexual Assault; Aggravated Sexual Assault on a child, he received a

sentence of 15 years to 25 years. Inmate Shaimas is nearing the end of his maximum sentence. Inmate Shaimas was given the opportunity to enter Sex Offender Treatment two years prior to his maximum release date; however Shaimas refused to participate in treatment. Shaimas is considered a High Risk case. The Department is in the planning stages of his release notifying law enforcement agencies to assist them in preparing for his release April 8th. Shaimas will be located in Claremont, NH.

Significant Events/Meetings:

- Commissioner Pallito was invited to participate as an advisor on the National Review Panel for National Institute of Corrections'.

Population Review as of 01/27/2011

Population	Last Week (01/20/2011)	Change	This Week (01/27/2011)
INCARCERATION			
Women in Prison	157	-1	156
Men (Instate)	1387	6	1393
Men (out of state)	549	-7	542
Total Incarceration	2093	-2	2091
Category of Incarceration - cascading filter (mutually exclusive)			
Detainees	320	-2	318
Sex Offenders	488	2	490
Other Violent felons	512	-1	511
Other PreMin	433	5	438
Other PastMin-Housing	89	4	93
Other PastMin-Violators	160	-4	156
Other PastMin-Risk	91	-6	85
Total Incarceration	2093	-2	2091
COMMUNITY SUPERVISION			
Form of Release - cascading filter (mutually exclusive)			
Men on Furlough	774	3	777
Women on Furlough	143	-4	139
Total on Furlough	917	-1	916
Men on Intern. Sanct.	847	7	854
Women on Intern. Sanct.	236	6	242
Total on Intern. Sanct.	1083	13	1096
Men on Parole	867	-5	862
Women on Parole	162	-1	161
Total on Parole	1029	-6	1023
Men on Probation	4395	8	4403
Women on Probation	1429	-5	1424
Total on Probation	5824	3	5827
Total in Community	8853	9	8862
Electronic Monitoring	153	14	167

Department for Children and Families (DCF)

Status of Governor's Priorities:

Update on Proposal to Centralize Eligibility Determination For The DCF Child Care Financial Assistance Program (CC FAP). As part of Challenges for Change legislation, the Child Development Division (CDD) of DCF planned to centralize responsibility for eligibility determination for the Child Care Financial Assistance Program on February 1, 2010. CDD developed a transition plan that created a bridge between the current externally contracted process and a long range goal of integrating CC eligibility determination into DCF's modernized benefits process. It was agreed that integration into the modernized benefits process would not

occur until that process was working smoothly for other programs. In the transition plan, a specialized unit of Benefit Eligibility Specialists is created and supervised jointly by the CDD and by the Economic Services Division (ESD) to process CC FAP applications and work with families and CC providers around CC assistance.

With the formation of a new administration, both Commissioner Yacovone and I decided, with your concurrence, to delay centralization and take time for a thorough re-examination and analysis of the proposed change. Community Child Care Support Agencies were given an opportunity to either continue to determine eligibility for CC FAP through June 2011 or work with CDD on piloting the centralization transition plan during that same period. Eligibility determination in the St. Johnsbury region was centralized in November 2010. Eligibility determination for the Lamoille region will be centralized on February 1st. All other regions will retain eligibility determination in Community CC Support Agencies. CDD is communicating with families and child care providers in those regions about the change. Kingdom Child Care Connection at Umbrella staff in St. Johnsbury and Lamoille Family Center staff in Lamoille are working with CDD to implement and understand transition and on-going support in accessing assistance between February and June 2011. We plan to make an informed decision about CC FAP eligibility determination by May 1st and the model we propose will be implemented in July.

Press Issues/Releases/Contacts:

Child Care Licensing Issues at Burlington Kids Afterschool Program at Flynn School. The Burlington Free Press recently reported on licensing issues at an elementary school in Burlington. On a January 3rd visit to the afterschool program at Flynn Elementary School in Burlington operated by Burlington Kids, a collaboration between Burlington School District and Burlington Parks and Recreation, CDD Licensing Field Specialists observed a number of violations to afterschool regulations including two serious violations related to group size and lack of supervision. Serious violations of this type require a Parental Notification Letter and corrective action. Burlington Kids acknowledged the violations and acted cooperatively and responsibly to inform parents and take corrective action. Several leadership staff in the program have resigned or been re-assigned as a result of the licensing problems. This was a decision made by Burlington Kids and was not mandated by CDD licensing staff as part of corrective action. Responsibility for afterschool programs in Burlington has been a controversial political topic since last summer when the Mayor's office proposed changing administrative responsibility from Parks and Recreation to the Schools Department – a proposal rejected by the City Council. The Flynn School program was a pilot intended to implement a collaborative model. CDD Licensing and Financial Assistance Unit staff has worked cooperatively with the city of Burlington as a licensee as it works through what department in city government has responsibility for programming and receives subsidy for services. The January visit was a follow up from a November visit to the same program when less serious violations were noted that remained uncorrected. The Burlington Free Press quoted sections of the Licensing Site Visit Report which CDD does not generally release to the public but which Burlington Kids published voluntarily on its website. They did not contact division staff for comment. CDD does post all major program violations on the CDD website as part of program compliance history. Once recorded, these are a matter of public record and available to parents.

Licensing Complaint Investigation at Family Center of Washington County. CDD CC Licensing Unit staff are investigating a complaint related to supervision of children at the Family Center of Washington County (FCWC) that was received from the Intake Unit in the Family Services Division. An incident occurred on January 4th involving two four year old children in child care at FCWC allegedly discovered walking unsupervised in a nearby neighborhood. Witnesses who helped to return the children to the program did not immediately report the incident nor did the program self report. The complaint came into CDD January 10th and Senior Licensing Supervisor Kelly Lyford began contacting witnesses and the Program Director to determine what occurred. We are collecting statements and verifying information and will be visiting the program next week once the investigation is completed to issue a serious violation if the allegations are verified as accurate. It appears that the children were out on a walking field trip with their class and may have wandered away from the group. The incident was not reported to police and there has been no press activity around the incident thus far.

Do Not Resuscitate (DNR) Order For Child In DCF Custody. Mark Therrien is an 8-month old child in DCF custody who suffered irreversible brain trauma as the result of abuse by either or both of his parents when he was 5 weeks old. He has only brain stem functioning and receives nutrition through a feeding tube.

Both his emergency medical team at Dartmouth Hitchcock in June 2010 and his treatment providers at the pediatric nursing home he was discharged to in July 2010 recommended the placement of a DNR ("Do Not Resuscitate") order in Mark's medical chart in the event he suffered an acute medical event.

DCF obtained a second opinion from the department's medical advisor, Dr. Joseph Hagan, and sought family court review of this aspect of Mark's case plan. In September 2010, the family court approved DCF's consenting to a DNR order on behalf of Mark. The court also terminated parental rights to Mark in August 2010.

In November 2010, Mark was moved from the pediatric nursing facility to a foster home in Colchester. Mark's change in care setting and change in health care providers necessitates that the DNR order be reviewed. Dr. Joseph Hagan has assumed the role of Mark's primary physician. A team of medical providers involved in Mark's care, his foster parents and DCF personnel reviewed the DNR order at a care conference in early January. Dr. Hagan continues to recommend that the DNR order remain in Mark's medical file, with some changes that take into account his foster care living situation and the use of antibiotics to treat common childhood illnesses. The DCF Commissioner intends to follow the recommendation of Mark's treating physician.

Significant Events/Meetings:

National Survey of Early Care and Education (NSECE). The Administration for Children and Families in the U.S. Department of Health and Human Services has recently announced that it will sponsor a **National Survey of Early Care and Education (NSECE)** to document availability and utilization of early childhood and after school services (for children through age 13). The National Opinion Research Center (NORC) and Chapin Hall at the University of Chicago have been contracted to administer and conduct the survey. The study is the first in-

depth look at supply and demand of these services in the U.S. in 20 years. Samples will be drawn in every state using a sampling design related to census tracts and related markets. States will be allowed to supplement the federally supported sample to expand the number of households and providers surveyed in their states at a reasonable cost. As a small rural state, Vermont may have a relatively small overall sample but with investment in an expanded sample could gain valuable information about supply and demand in our state. Data will be collected between December, 2011 and May, 2012 with preliminary data available in January, 2013 and a final report issued in Spring, 2014. In Vermont, the Child Development Division in DCF is sharing information about the NSECE with a variety of private and philanthropic partners who may be interested in working collaboratively to fund a robust sample in Vermont.

Child Care Liaison For Military Reserve Component Families In Vermont. Vermont has been selected as one of thirteen states to receive special assistance to help Military Families access quality child care. Through this DoD-funded pilot program, the National Association of Child Care Resource & Referral Agencies (NACCRRA) will place a Military Child Care Liaison in 13 states, including Vermont, who will work with child care stakeholders within the state to promote and support quality child care policies, best practices and provider training. Partners will include state child care administrators, licensing bureaus, early childhood councils, Child Care Resource and Referral agencies, National Guard offices and military installations.

The Child Development Division of DCF has collaborated with NACCRRA to establish this project in Vermont. Dianne Carter has been selected as the liaison for Vermont. She began work on January 10th and is settling into her office space in Waterbury. We've invited Dianne to meet CDD staff at our all-staff meeting this month and will arrange for her to introduce herself and her project to department and agency leadership and the BBF Statewide Advisory Council in the near future.

Evolving Issues:

Foster parent arrested for selling drugs. The Vermont Drug Task Force recently arrested Paul Andrews of Perkinsville, VT for possession and sale or delivery of cocaine. Paul and Susan Andrews are licensed foster parents for the Department for Children & Families. They were not caring for any state custodial youth at the time of the arrest. In fact, the district was recommending closure of their foster care license. The family had only provided short term placements for teenage females on four separate instances in 2009 and one time during the summer of 2010.

Mr. Andrews is now under investigation by DCF Family Services for placing his own children, ages 4 and 7, at risk of harm due to the potential access they had to the drugs. The foster care license is on hold and will likely be revoked.

Department of Vermont Health Access (DVHA)

Legislative Issues/Contacts:

- 1/25 Susan Besio, House Appropriations, "DSH and Provider Tax Overview"

- 1/25 Richard Slusky, House Health Care and Senate Health & Welfare, "Payment Reform"
- 1/26 Hunt Blair, House Health Care and Senate Health & Welfare, "Blueprint Overview"
- 1/27 Hunt Blair, House Human Services, "Blueprint/SASH"
- 1/28 Betsy Forrest, House Health Care, "proposed shift of Catamount enrollees to VHAP"

Evolving Issues:

Health Care Ombudsman (HCO). The Department of Vermont Health Access (DVHA) has received the quarterly report for October 1, 2010 through December 31, 2010. The HCO received 377 calls (42% of a total call volume of 889) from DVHA beneficiaries this quarter; this was the highest quarterly call volume ever. In 2010, 3,079 calls were received, compared to 2,616 calls in 2009. The HCO attributes this increase to the modernization processing system that the Department of Children and Families (DCF) has put into place together with increased demand. In addition, access to substance abuse treatment, specifically methadone treatment, is a growing concern of callers. The HCO reported *access to care* was the most frequently cited issue at 37.4% for this quarter and 34.98% total for 2010. *Access to care* involves situations where the person may be seeking care and is having difficulty obtaining a provider, services or coverage. Prescription drugs/pharmacy is the most frequently cited *access to care* issue.